

109TH CONGRESS
1ST SESSION

H. R. 2828

To ensure that the United States leads the world in developing and manufacturing next generation energy technologies, to grow the economy of the United States, to create new highly trained, highly skilled American jobs, to eliminate American overdependence on foreign oil, and to address the threat of global warming.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2005

Mr. INSLEE (for himself, Mr. VAN HOLLEN, Mr. HOLT, Mr. ISRAEL, Mr. HONDA, Mr. McDERMOTT, Mr. LARSEN of Washington, Mr. JACKSON of Illinois, Ms. SCHAKOWSKY, Mr. LANGEVIN, Mr. GRIJALVA, Mr. EMANUEL, Ms. BALDWIN, Mr. GEORGE MILLER of California, and Mr. SMITH of Washington) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Science, Ways and Means, Financial Services, Transportation and Infrastructure, Education and the Workforce, Government Reform, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that the United States leads the world in developing and manufacturing next generation energy technologies, to grow the economy of the United States, to create new highly trained, highly skilled American jobs, to eliminate American overdependence on foreign oil, and to address the threat of global warming.

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 “New Apollo Energy Act of 2005”.

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

Sec. 1. Short title; table of contents.

TITLE I—FINDINGS AND PERFORMANCE GOALS

Sec. 101. Findings.

Sec. 102. Performance goals.

**TITLE II—FEDERAL RESEARCH AND DEVELOPMENT
 PARTNERSHIPS WITH INDUSTRY FOR NEW TECHNOLOGY**

Subtitle A—General provisions

Sec. 201. Authorization of appropriations.

Sec. 202. Participation.

Sec. 203. Cost sharing.

Sec. 204. Education and outreach.

Sec. 205. Definition.

Subtitle B—Clean energy technology research program

Sec. 211. Definitions.

Sec. 212. Enhanced clean energy research, development, and demonstration.

**Subtitle C—Energy efficiency research, development, and demonstration
 program**

Sec. 221. Enhanced energy efficiency research, development, and demonstra-
 tion.

Sec. 222. Enhanced aeronautical system energy efficiency research, develop-
 ment, and public-private partnership.

Sec. 223. Next Generation Lighting Initiative.

Sec. 224. National Building Performance Initiative.

Subtitle D—Additional research programs

PART 1—FUSION

Sec. 231. Plan for fusion experiment.

Sec. 232. Definitions.

**PART 2—ULTRA-DEEPWATER AND EXTENDED REACH DRILLING AND CARBON
 SEQUESTRATION TECHNOLOGIES**

- Sec. 241. Program authority.
- Sec. 242. Ultra-deepwater and extended reach drilling and carbon sequestration and unconventional technologies program.
- Sec. 243. Sunset.
- Sec. 244. Definitions.

TITLE III—TAX INCENTIVES FOR NEW TECHNOLOGIES

- Sec. 301. References.
- Sec. 302. Administration of title.

Subtitle A—Near term tax incentives

- Sec. 311. Extension through 2015 for placing qualified facilities in service for producing renewable electric energy.
- Sec. 312. Expansion and modification of renewable resource credit.
- Sec. 313. Tradable renewable resource credit for public utilities and other tax exempt organizations.
- Sec. 314. Alternative motor vehicle credit.
- Sec. 315. Modification of credit for qualified electric vehicles.
- Sec. 316. Extension of biodiesel tax credits.
- Sec. 317. Credit for retail sale of alternative fuels as motor vehicle fuel.
- Sec. 318. Study of effectiveness of certain provisions by GAO.
- Sec. 319. Extension of deduction for certain refueling property.
- Sec. 320. Credit for installation of alternative fueling stations.
- Sec. 321. Incentive for certain energy efficient property used in business.
- Sec. 322. Energy efficient commercial buildings deduction.
- Sec. 323. Credit for construction of new highly energy-efficient homes.
- Sec. 324. Credit for energy efficient appliances.
- Sec. 325. Credit for distributed energy generation and demand management property.
- Sec. 326. Credit for energy efficient recycling or remanufacturing equipment.
- Sec. 327. Credit for distributed energy generation and demand management property used in residences.
- Sec. 328. Credit for energy management systems using residential real time metering systems.
- Sec. 329. Credit for flywheel property.
- Sec. 330. Credits for clean coal.

Subtitle B—Long Term Incentives

- Sec. 331. Tax incentives for retooling and investment in new facilities and assets to produce energy efficiency technologies and domestic clean energy production technologies.
- Sec. 332. Special rules for automotive industry.
- Sec. 333. Special rules for high-capacity airplanes.
- Sec. 334. New electricity transmission lines designed primarily to carry electricity from renewable energy resources.
- Sec. 335. New energy technologies commission.
- Sec. 336. Expenditure limitation.

TITLE IV—FEDERAL GOVERNMENT LEVERAGE TO MOVE NEW TECHNOLOGIES TO MARKET

- Sec. 401. Improved coordination of technology transfer activities.
- Sec. 402. Federal support for commercialization of new technologies.
- Sec. 403. Clean energy technology exports program.

- Sec. 404. International energy technology deployment program.
- Sec. 405. Risk pool for qualifying advanced clean energy technology.
- Sec. 406. Federal renewable and clean energy use.
- Sec. 407. Require the Export-Import Bank of the United States to meet renewable energy targets in its lending practices.
- Sec. 408. Grants for transit programs.
- Sec. 409. Grants for water and sewer improvement programs.
- Sec. 410. Loans for high-efficiency vehicles.
- Sec. 411. Requirement regarding purchase of motor vehicles by Executive agencies.
- Sec. 412. Federal energy efficiency.
- Sec. 413. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.
- Sec. 414. Permitting of wind energy development projects on public lands.
- Sec. 415. Energy savings performance contracts.
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TITLE V—CONSUMER PROTECTION AND ASSISTANCE

- Sec. 501. Strategic Petroleum Reserve.
- Sec. 502. Regulatory oversight over energy trading markets and metals trading markets.
- Sec. 503. Increased funding for liheap, weatherization assistance.
- Sec. 504. National energy efficient housing.
- Sec. 505. National net metering requirement for utilities and interconnection standards for distributive energy generation.
- Sec. 506. Appliance standards.
- Sec. 507. Energy Star certification for solar water heaters.
- Sec. 508. Electric reliability standards.

TITLE VI—MARKET-BASED INITIATIVES TO REDUCE GREENHOUSE GASES

- Sec. 600. Definitions.

Subtitle A—Federal climate change research and related activities

- Sec. 601. National Science Foundation fellowships.
- Sec. 602. Research grants.
- Sec. 603. Abrupt climate change research.
- Sec. 604. NIST greenhouse gas functions.
- Sec. 605. Development of new measurement technologies.
- Sec. 606. Enhanced environmental measurements and standards.
- Sec. 607. Technology development and diffusion.
- Sec. 608. Agricultural outreach program.
- Sec. 609. NOAA report on climate change effects; preparation assistance.

Subtitle B—National Greenhouse Gas Database

- Sec. 611. National Greenhouse Gas Database and registry established.
- Sec. 612. Inventory of greenhouse gas emissions for covered entities.
- Sec. 613. Greenhouse gas reduction reporting.
- Sec. 614. Measurement and verification.

Subtitle C—Market-driven greenhouse gas reductions

CHAPTER 1—EMISSION REDUCTION REQUIREMENTS; USE OF TRADEABLE
ALLOWANCES

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- Sec. 622. Compliance.
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CHAPTER 2—ESTABLISHMENT AND ALLOCATION OF TRADEABLE
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- Sec. 632. Determination of tradeable allowance allocations.
- Sec. 633. Allocation of tradeable allowances.
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- Sec. 635. Initial allocations for early participation and accelerated participation.
- Sec. 636. Bonus for accelerated participation.

CHAPTER 3—CLIMATE CHANGE CREDIT CORPORATION

- Sec. 641. Establishment.
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TITLE VII—ENERGY INDEPENDENCE

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- Sec. 701. Renewable fuels standard.
- Sec. 702. Elimination of oxygen content requirement for reformulated gasoline.
- Sec. 703. Public health and environmental impacts of fuels and fuel additives.
- Sec. 704. Analyses of motor vehicle fuel changes.
- Sec. 705. Additional Opt-in areas under reformulated gasoline program.
- Sec. 706. Federal enforcement of State fuels requirements.
- Sec. 707. Fuel system requirements harmonization study.
- Sec. 708. Report on renewable motor fuel.

Subtitle B—Renewable portfolio standard

- Sec. 711. Renewable portfolio standard.

Subtitle C—Oil Savings

- Sec. 721. Oil savings.
- Sec. 722. Determination of Equivalency between CAFE credits and greenhouse
gas credits.
- Sec. 723. Elimination of 2-FLEET rule.

Subtitle D—Loan guarantees for biorefineries and renewable electricity
generation facilities

- Sec. 731. Loan guarantees for biorefineries and renewable energy production
facilities.

TITLE VIII—TAX OFFSETS

Sec. 801. References.

Subtitle A—Budget neutrality

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1 **TITLE I—FINDINGS AND**
 2 **PERFORMANCE GOALS**

3 **SEC. 101. FINDINGS.**

4 (a) FINDINGS.—The Congress finds the following:

5 (1) The United States imports over half the oil
 6 it consumes and consumes about one fourth of the
 7 world's daily oil production.

8 (2) According to present trends, the United
 9 States reliance on foreign oil will increase to 68 per-
 10 cent of total consumption by 2025.

11 (3) Having only 3 percent of the world's known
 12 oil reserves, the health of the United States economy
 13 is dependent on world oil prices.

14 (4) World oil prices are overwhelmingly dictated
 15 by countries other than the United States, particu-

1 larly by the member countries of the Organization of
2 Petroleum Exporting Countries.

3 (5) A major portion of the world's oil supply is
4 controlled by unstable governments and countries
5 that are known to finance, harbor, or otherwise sup-
6 port terrorists and terrorist activities.

7 (6) Since World War II, the United States has
8 made significant expenditures of American taxpayer
9 dollars in attempts to stabilize governments and pro-
10 tect American interests in the Middle East.

11 (7) Countries such as Japan, Germany, Den-
12 mark, and Great Britain lead the United States in
13 manufacturing alternative energy technologies that
14 both decrease reliance on fossil fuels and do not con-
15 tribute to global warming.

16 (8) The United States has led the world in the
17 development of a wide array of technological ad-
18 vances and is now poised to lead the world, using its
19 unique national genius for innovation, in the devel-
20 opment of a host of new energy technologies.

21 (9) Development of renewable energy resources
22 in the United States offers a substantial opportunity
23 for economic development in rural, agriculture-de-
24 pendent areas.

1 (10) A bold new national energy plan can lead
2 to a surge of investment in, development of, and de-
3 ployment of clean energy and energy efficient tech-
4 nologies that would result in the creation of millions
5 of highly trained manufacturing and technical jobs
6 throughout the American economy.

7 (11) Innovative uses of tax incentives to encour-
8 age the manufacturing of new clean energy tech-
9 nologies in the United States will help create Amer-
10 ican jobs, decrease America’s dependence on foreign
11 oil, and address pressing environmental concerns,
12 and are preferable to large tax breaks for the
13 wealthiest in society.

14 (12) Human activities have caused rapid in-
15 creases in atmospheric concentrations of carbon di-
16 oxide and other greenhouse gases in the last century.

17 (13) According to the Intergovernmental Panel
18 on Climate Change and the National Research
19 Council—

20 (A) the Earth has warmed in the last cen-
21 tury; and

22 (B) the majority of the observed warming
23 is attributable to human activities, including
24 fossil fuel-generated carbon dioxide emissions.

1 (14) Despite the fact that many uncertainties
2 in climate science remain, the potential impacts from
3 human-induced climate change pose a substantial
4 risk that should be managed in a responsible man-
5 ner.

6 (15) The United States has ratified the
7 UNFCCC (United Nations Framework Convention
8 on Climate Change), which states, in part, “the Par-
9 ties to the Convention are to implement policies with
10 the aim of returning to their 1990 levels anthropo-
11 genic emissions of carbon dioxide and other green-
12 house gases”.

13 (16) Global warming poses a significant threat
14 to national security, the American economy, public
15 health and welfare, and the global environment. Ac-
16 cording to a report commissioned by the Department
17 of Defense in 2003 entitled “An Abrupt Climate
18 Change Scenario and its Implications for United
19 States National Security”, the risk of abrupt climate
20 change due to global warming should be elevated be-
21 yond a scientific debate to a US national security
22 concern.

23 **SEC. 102. PERFORMANCE GOALS.**

24 (a) NEW APOLLO ENERGY ACT PERFORMANCE
25 GOALS.—In order to ensure that the national energy pol-

1 icy of the United States is the most effective policy for
2 protecting national and homeland security, expanding our
3 economy and creating jobs, addressing global warming and
4 environmental health concerns, and protecting the inter-
5 ests of American consumers, Congress establishes the New
6 Apollo Energy Act Performance Goals, which the Presi-
7 dent shall consider when formulating and enforcing na-
8 tional energy policy. These goals are to—

9 (1) reduce demand for oil in the United States
10 by at least 600,000 barrels per day from the de-
11 mand for oil projected by the Energy Information
12 Administration for 2010, 1,700,000 barrels per day
13 from projected demand for oil in 2015, and
14 3,000,000 barrels per day from projected demand
15 for oil in 2020;

16 (2) create and retain 3,000,000 new highly
17 skilled, high-waged jobs in the United States by
18 2015;

19 (3) meet 15 percent of the country's electricity
20 needs from electricity generated from renewable re-
21 sources by 2015, and 5 percent of the country's elec-
22 tricity needs from electricity generated from carbon-
23 based zero emission carbon dioxide sources by 2015;

24 (4) produce 8,100,000,000 gallons per year of
25 renewable fuels, including traditional ethanol, cel-

1 lulose ethanol, and biodiesel by 2013 without cre-
2 ating regional cost disparities for fuel;

3 (5) lower energy costs for consumers by meet-
4 ing 25 percent of energy supply needs, as projected
5 for the year 2013 by the Energy Information Ad-
6 ministration, through increased conservation and im-
7 proved energy efficiency;

8 (6) maximize long-term production of existing
9 domestic marginal and stripper oil reserves;

10 (7) encourage stable energy prices and markets
11 by promoting energy production and energy infra-
12 structure modernization, while maintaining existing
13 environmental protections;

14 (8) reduce total carbon dioxide emissions in the
15 United States to 5,806,100,000 metric tons per year
16 by 2015;

17 (9) encourage domestic manufacturing and pro-
18 duction of new energy and energy efficient tech-
19 nologies;

20 (10) redevelop and enhance existing industrial
21 facilities in areas of the country adversely impacted
22 by manufacturing job losses; and

23 (11) promote rural economic development.

1 **TITLE II—FEDERAL RESEARCH**
2 **AND DEVELOPMENT PART-**
3 **NERSHIPS WITH INDUSTRY**
4 **FOR NEW TECHNOLOGY**
5 **Subtitle A—General Provisions**

6 **SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated for carrying
8 out this title \$36,000,000,000.

9 **SEC. 202. PARTICIPATION.**

10 The Secretary of Energy, in collaboration with the
11 Secretary of Commerce, shall coordinate the participation
12 of National Laboratories, universities, commercial indus-
13 try, and other organizations in carrying out this title.

14 **SEC. 203. COST SHARING.**

15 (a) **IN GENERAL.**—Unless otherwise specified, the
16 Secretary shall require a commitment from non-Federal
17 sources of at least 20 percent of the cost of proposed re-
18 search and development projects under this title.

19 (b) **REDUCTION OR ELIMINATION.**—The Secretary
20 may reduce or eliminate the cost sharing requirement
21 under subsection (a)—

22 (1) if the Secretary determines that the re-
23 search and development is of a basic or fundamental
24 nature; or

1 (2) for technical analyses, outreach activities,
2 and educational programs that the Secretary does
3 not expect to result in a marketable product.

4 **SEC. 204. EDUCATION AND OUTREACH.**

5 (a) PROGRAM.—The Secretary of Energy shall estab-
6 lish a program of education and outreach, including inno-
7 vative education and outreach techniques, on renewable
8 energy and energy efficiency technologies to manufactur-
9 ers, consumers, engineers, architects, builders, energy
10 service companies, universities, facility planners and man-
11 agers, State and local governments, and other appropriate
12 entities.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary of En-
15 ergy for carrying out this section \$100,000,000 for each
16 of the fiscal years 2006 through 2009, and such sums as
17 may be necessary for each of the fiscal years 2010 through
18 2022.

19 **SEC. 205. DEFINITION.**

20 For purposes of this title, the term “National Lab-
21 oratory” means any of the following laboratories owned
22 by the Department of Energy:

- 23 (1) Ames National Laboratory.
24 (2) Argonne National Laboratory.
25 (3) Brookhaven National Laboratory.

1 (4) Fermi National Laboratory.

2 (5) Idaho National Engineering and Environ-
3 mental Laboratory.

4 (6) Lawrence Berkeley National Laboratory.

5 (7) Lawrence Livermore National Laboratory.

6 (8) Los Alamos National Laboratory.

7 (9) National Energy Technology Laboratory.

8 (10) National Renewable Energy Laboratory.

9 (11) Oak Ridge National Laboratory.

10 (12) Pacific Northwest National Laboratory.

11 (13) Princeton Plasma Physics Laboratory.

12 (14) Sandia National Laboratories.

13 (15) Savannah River National Laboratory.

14 (16) Stanford Linear Accelerator Center.

15 (17) Thomas Jefferson National Accelerator
16 Facility.

17 **Subtitle B—Clean Energy**
18 **Technology Research Program**

19 **SEC. 211. DEFINITIONS.**

20 For purposes of this subtitle—

21 (1) the term “biomass” means any organic
22 matter that is available on a renewable or recurring
23 basis, including agricultural crops and trees, wood
24 and wood wastes and residues, plants (including

1 aquatic plants), grasses, residues, fibers, animal
2 wastes, and municipal wastes;

3 (2) the term “clean energy source” means—

4 (A) wind;

5 (B) biomass;

6 (C) a geothermal source;

7 (D) ocean waves;

8 (E) a solar source;

9 (F) a photovoltaic source;

10 (G) additional hydroelectric generation ca-
11 pacity achieved from increased efficiency at an
12 existing hydroelectric dam; or

13 (H) minimal emission coal; and

14 (3) the term “minimal emission coal” means
15 coal resources that result in zero or near zero emis-
16 sions of sulfur dioxide, nitrogen oxides, and mercury,
17 and 90 percent or more sequestration of carbon di-
18 oxide emissions.

19 **SEC. 212. ENHANCED CLEAN ENERGY RESEARCH, DEVEL-**
20 **OPMENT, AND DEMONSTRATION.**

21 (a) GOALS.—In order to achieve the goals stated in
22 section 102 of this Act, the United States shall have an
23 energy research, development, and demonstration program
24 to enhance clean energy with the following goals:

1 (1) For wind power, the program should reduce
2 the cost of wind-generated electricity by 40 percent
3 by 2015, compared to the cost as of the date of the
4 enactment of this Act, with concentration within the
5 program on a variety of advanced wind turbine con-
6 cepts, manufacturing technologies, and optimal dem-
7 onstration locations.

8 (2) For photovoltaics, the programs should pur-
9 sue research, development, and demonstration that
10 would lead to photovoltaic systems with generation
11 costs of 10 cents kWh by 2015, and 7 cents kWh
12 by 2020. Program activities should include assisting
13 industry in developing manufacturing technologies,
14 giving greater attention to balance of system issues,
15 and expanding fundamental research on relevant ad-
16 vanced materials.

17 (3) For solar thermal electric systems the pro-
18 gram should strengthen ongoing research, develop-
19 ment, and demonstration combining high-efficiency
20 and high-temperature receivers with advanced ther-
21 mal storage and power cycles, with the goal of mak-
22 ing solar-only power (including baseload solar power)
23 widely competitive with fossil fuel power by 2017.

24 (4) For geothermal energy, the program should
25 continue work on hydrothermal systems, and reac-

1 tivate research, development, and demonstration of
2 advanced concepts, giving top priority to hot dryrock
3 geothermal energy.

4 (5) For ocean wave energy, the program should
5 reactivate and strengthen ongoing research, develop-
6 ment, and demonstration programs that would lead
7 to generating technologies for deriving electrical
8 power from the ocean, including tidal power, wave
9 power, and ocean thermal energy conversion.

10 (6) For stationary power generation, the Sec-
11 retary shall work with domestic manufacturers and
12 the utilities to encourage commercial production of
13 cost-competitive, fuel cell power generating facilities.
14 The program should provide new technologies that
15 achieve an efficiency of 70–80 percent Lower Heat-
16 ing Value with an average cost of \$400 per kilowatt
17 by 2015.

18 (7) For biomass energy—

19 (A) the program should enable the United
20 States to triple biomass energy use by 2010;

21 (B) for biomass-based power systems, the
22 program should enable commercialization, with-
23 in five years after the date of the enactment of
24 this Act, of integrated power-generating tech-

1 nologies that employ gas turbines and fuel cells
2 integrated with biomass gasifiers; and

3 (C) for biofuels, the program should accel-
4 erate research, development, and demonstration
5 on advanced cellulosic conversion, including re-
6 calcitrance of biomass, feedstock development,
7 and co-products development.

8 (8) For hydropower, the program should pro-
9 vide for a new generation of turbine technologies
10 that will increase generating capacity and will be
11 less damaging to fish and aquatic ecosystems.

12 (9) For electric energy systems and storage, the
13 program should develop—

14 (A) technologies for generators and trans-
15 mission, distribution, and storage systems that
16 combine high capacity with high efficiency (par-
17 ticularly for electric transmission facilities in
18 rural and remote areas);

19 (B) new transmission and distribution
20 technologies, including flexible alternating cur-
21 rent transmission systems, composite conductor
22 materials, advanced protection devices, and con-
23 trollers;

1 (C) technologies for interconnection of dis-
2 tributed energy resources with electric power
3 systems;

4 (D) technologies to sequester 90 percent or
5 more of carbon dioxide emissions;

6 (E) high-temperature superconducting ma-
7 terials for power delivery equipment such as
8 transmission and distribution cables, trans-
9 formers, and generators; and

10 (F) real-time transmission and distribution
11 system control technologies that provide for
12 continual exchange of information between gen-
13 eration, transmission, distribution, and end-user
14 facilities.

15 (10) For minimum emission coal, the program
16 shall pursue research that develops and dem-
17 onstrates facilities generating electricity from coal,
18 in a cost-competitive manner, that by 2020—

19 (A) remove 99 percent of total sulfur diox-
20 ide emissions;

21 (B) emit no more than .05 lbs of NO_x per
22 million BTU;

23 (C) achieve a 90 percent reduction in mer-
24 cury emissions;

1 (D) sequester 90 percent or more of car-
2 bon dioxide emissions; and

3 (E) achieve a thermal efficiency of—

4 (i) 60 percent for coal of more than
5 9,000 Btu;

6 (ii) 59 percent for coal of 7,000 to
7 9,000 Btu; and

8 (iii) 57 percent for coal of less than
9 7,000 Btu.

10 (11) The Secretary shall work to maximize the
11 production of hydrogen from clean energy sources.

12 (12) The Secretary shall support under this
13 section any other technology that may help achieve
14 the goals stated in section 102.

15 (b) TECHNICAL CRITERIA FOR GASIFICATION.—In
16 allocating the funds made available for minimum emission
17 coal, the Secretary shall ensure that at least 80 percent
18 of the funds are used for coal-based gasification tech-
19 nologies or coal-based projects that include gasification
20 combined cycle, gasification fuel cells, gasification co-pro-
21 duction, or hybrid gasification/combustion. The Secretary
22 shall set technical milestones specifying emissions levels
23 that coal gasification projects must be designed to, and
24 can reasonably be expected to, achieve. The milestones
25 shall get more restrictive through the life of the program.

1 (c) COORDINATION WITH OTHER BENEFITS.—The
2 Secretary shall not provide assistance under this section
3 to any person if such person has received assistance under
4 section 642 or 731.

5 **Subtitle C—Energy Efficiency Re-**
6 **search, Development, and Dem-**
7 **onstration Program**

8 **SEC. 221. ENHANCED ENERGY EFFICIENCY RESEARCH, DE-**
9 **VELOPMENT, AND DEMONSTRATION.**

10 (a) GOALS.—In order to achieve the goal stated in
11 section 102 of this Act, the United States shall have an
12 energy research, development, and demonstration program
13 to enhance energy efficiency with the following goals:

14 (1) For energy efficiency in housing, the pro-
15 gram should develop technologies, housing compo-
16 nents, designs, and production methods that will, by
17 2010—

18 (A) reduce the time needed to move en-
19 ergy-efficient technologies to market by 50 per-
20 cent, compared to the time needed as of the
21 date of the enactment of this Act;

22 (B) reduce the monthly cost of new hous-
23 ing by 20 percent, compared to the cost as of
24 the date of the enactment of this Act;

1 (C) cut the environmental impact and en-
2 ergy use of new housing by 50 percent, com-
3 pared to the impact and use as of the date of
4 the enactment of this Act;

5 (D) ensure that at least 15,000,000 homes
6 existing as of the date of the enactment of this
7 Act reduce their total energy consumption by
8 30 percent, compared to the use as of the date
9 of the enactment of this Act; and

10 (E) improve the durability and reduce
11 maintenance costs of housing technology com-
12 ponents by 50 percent compared to the dura-
13 bility and costs as of the date of the enactment
14 of this Act.

15 (2) For industrial energy efficiency, the pro-
16 gram should, in cooperation with the affected indus-
17 tries—

18 (A) develop a microturbine (40 to 300 kilo-
19 watt) that is greater than 40 percent more effi-
20 cient by 2008, compared to the efficiency as of
21 the date of the enactment of this Act;

22 (B) develop a microturbine that is greater
23 than 50 percent more efficient by 2012, com-
24 pared to the efficiency as of the date of the en-
25 actment of this Act;

1 (C) develop advanced materials for com-
2 bustion systems that reduce emissions of nitro-
3 gen oxides by 30 to 50 percent while increasing
4 efficiency 5 to 10 percent by 2010, compared to
5 such emissions as of the date of the enactment
6 of this Act; and

7 (D) improve the energy intensity of the
8 major energy-consuming industries by at least
9 25 percent by 2012, compared to the energy in-
10 tensity as of the date of the enactment of this
11 Act.

12 (3) For transportation energy efficiency, the
13 Secretary shall work with domestic automobile man-
14 ufacturers to encourage commercial production of
15 cost-competitive, highly fuel-efficient vehicles. In de-
16 veloping these public-private partnerships, the Sec-
17 retary shall take into consideration the following:

18 (A) Hybrid gas/electric vehicles.

19 (B) Fuel cells.

20 (C) Alternative fuel driven engines.

21 (D) Maximizing the production of hydro-
22 gen from clean energy sources.

23 (4) The Secretary shall support under this sec-
24 tion any other technology that may help achieve the
25 goals stated in section 102.

1 (b) DEFINITIONS.—For purposes of this section—

2 (1) the term “alternative fuel” has the meaning
3 given that term in section 301(2) of the Energy Pol-
4 icy Act of 1992; and

5 (2) the term “major energy-consuming indus-
6 tries” means—

7 (A) the forest product industry;

8 (B) the steel industry;

9 (C) the aluminum industry;

10 (D) the metal casting industry;

11 (E) the chemical industry;

12 (F) the petroleum refining industry; and

13 (G) the glass-making industry.

14 (c) LIMITS ON USE OF FUNDS.—None of the funds
15 authorized to be appropriated under this section may be
16 used for—

17 (1) the promulgation and implementation of en-
18 ergy efficiency regulations;

19 (2) the Weatherization Assistance Program
20 under part A of title IV of the Energy Conservation
21 and Production Act;

22 (3) the State Energy Program under part D of
23 title III of the Energy Policy and Conservation Act;

24 or

1 (4) the Federal Energy Management Program
2 under part 3 of title V of the National Energy Con-
3 servation Policy Act.

4 **SEC. 222. ENHANCED AERONAUTICAL SYSTEM ENERGY EF-**
5 **FICIENCY RESEARCH, DEVELOPMENT, AND**
6 **PUBLIC-PRIVATE PARTNERSHIP.**

7 (a) GOALS.—For aeronautical system energy effi-
8 ciency, the Secretary of Energy, the Secretary of the
9 Treasury, and the Secretary of Transportation shall de-
10 velop for commercial production by 2008 a superefficient,
11 high-capacity commercial airplane. To carry out this sec-
12 tion, the Secretaries shall form a public-private partner-
13 ship research and development loan program such that—

14 (1) the Federal Government enters into an
15 agreement with a domestic commercial airplane
16 manufacturer in which the Federal Government pro-
17 vides loans for up to 49 percent of the research and
18 development cost; and

19 (2) the Federal Government receives repayment
20 for loans under paragraph (1) from the commercial
21 airplane manufacturer through a royalty system
22 agreed upon by the Secretary of the Treasury.

23 (b) DEFINITION.—For purposes of this section, the
24 term “superefficient, high-capacity commercial airplane”
25 means a commercial airplane with a passenger seating ca-

1 capacity of no less than 200 people with a range of at least
2 7,200 nautical miles which consumes at least 15 percent
3 less fuel than comparable airplanes.

4 **SEC. 223. NEXT GENERATION LIGHTING INITIATIVE.**

5 (a) IN GENERAL.—The Secretary shall carry out a
6 Next Generation Lighting Initiative in accordance with
7 this section to support research, development, demonstra-
8 tion, and commercial application activities related to ad-
9 vanced solid-state lighting technologies based on white
10 light emitting diodes.

11 (b) OBJECTIVES.—The objectives of the initiative
12 shall be—

13 (1) to develop, by 2012, advanced solid-state
14 lighting technologies based on white light emitting
15 diodes that, compared to incandescent and fluores-
16 cent lighting technologies, are—

17 (A) longer lasting;

18 (B) more energy-efficient; and

19 (C) cost-competitive;

20 (2) to develop an inorganic white light emitting
21 diode that has an efficiency of 160 lumens per watt
22 and a 10-year lifetime; and

23 (3) to develop an organic white light emitting
24 diode with an efficiency of 100 lumens per watt with
25 a 5-year lifetime that—

1 (A) illuminates over a full color spectrum;

2 (B) covers large areas over flexible sur-
3 faces; and

4 (C) does not contain harmful pollutants,
5 such as mercury, typical of fluorescent lamps.

6 (c) FUNDAMENTAL RESEARCH.—

7 (1) CONSORTIUM.—The Secretary shall carry
8 out the fundamental research activities of the Next
9 Generation Lighting Initiative through a private
10 consortium (which may include private firms, trade
11 associations and institutions of higher education),
12 which the Secretary shall select through a competi-
13 tive process. Each proposed consortium shall submit
14 to the Secretary such information as the Secretary
15 may require, including a program plan agreed to by
16 all participants of the consortium.

17 (2) JOINT VENTURE.—The consortium shall be
18 structured as a joint venture among the participants
19 of the consortium. The Secretary shall serve on the
20 governing council of the consortium.

21 (3) ELIGIBILITY.—To be eligible to be selected
22 as the consortium under paragraph (1), an applicant
23 must be broadly representative of United States
24 solid-state lighting research, development, and man-
25 ufacturing expertise as a whole.

1 (4) GRANTS.—(A) The Secretary shall award
2 grants for fundamental research to the consortium,
3 which the consortium may disburse to researchers,
4 including those who are not participants of the con-
5 sortium.

6 (B) To receive a grant, the consortium must
7 provide a description to the Secretary of the pro-
8 posed research and list the parties that will receive
9 funding.

10 (C) At least 20 percent of the cost of a research
11 and development project for which a grant is made
12 under this section shall be matched by the consor-
13 tium, and at least 50 percent of the cost of a dem-
14 onstration or commercial application project for
15 which a grant is made under this section shall be
16 matched by the consortium.

17 (5) NATIONAL LABORATORIES.—National Lab-
18 oratories may participate in the research described
19 in this section, and may receive funds from the con-
20 sortium.

21 (6) INTELLECTUAL PROPERTY.—Participants in
22 the consortium and the Federal Government shall
23 have royalty-free nonexclusive rights to use intellec-
24 tual property derived from research funded pursuant
25 to this subsection.

1 (d) DEVELOPMENT, DEMONSTRATION, AND COM-
2 MERCIAL APPLICATION.—The Secretary shall carry out
3 the development, demonstration, and commercial applica-
4 tion activities of the Next Generation Lighting Initiative
5 through awards to private firms, trade associations, and
6 institutions of higher education. In selecting awardees, the
7 Secretary may give preference to members of the consor-
8 tium selected pursuant to subsection (c).

9 (e) PLANS AND ASSESSMENTS.—(1) The consortium
10 shall formulate an annual operating plan which shall in-
11 clude research priorities, technical milestones, and plans
12 for technology transfer, and which shall be subject to ap-
13 proval by the Secretary.

14 (2) The Secretary shall enter into an arrangement
15 with the National Academy of Sciences to conduct periodic
16 reviews of the Next Generation Lighting Initiative. The
17 Academy shall review the research priorities, technical
18 milestones, and plans for technology transfer established
19 under paragraph (1) and evaluate the progress toward
20 achieving them. The Secretary shall consider the results
21 of such reviews in evaluating the plans submitted under
22 paragraph (1).

23 (f) AUDIT.—The Secretary shall retain an inde-
24 pendent, commercial auditor to perform an audit of the
25 consortium to determine the extent to which the funds au-

1 thORIZED by this section have been expended in a manner
2 consistent with the purposes of this section. The auditor
3 shall transmit a report annually to the Secretary, who
4 shall transmit the report to the Congress, along with a
5 plan to remedy any deficiencies cited in the report.

6 (g) SUNSET.—The Next Generation Lighting Initia-
7 tive shall terminate no later than September 30, 2013.

8 (h) DEFINITIONS.—As used in this section:

9 (1) ADVANCED SOLID-STATE LIGHTING.—The
10 term “advanced solid-state lighting” means a
11 semiconducting device package and delivery system
12 that produces white light using externally applied
13 voltage.

14 (2) FUNDAMENTAL RESEARCH.—The term
15 “fundamental research” includes basic research on
16 both solid-state materials and manufacturing proc-
17 esses.

18 (3) INORGANIC WHITE LIGHT EMITTING
19 DIODE.—The term “inorganic white light emitting
20 diode” means an inorganic semiconducting package
21 that produces white light using externally applied
22 voltage.

23 (4) ORGANIC WHITE LIGHT EMITTING DIODE.—
24 The term “organic white light emitting diode”

1 means an organic semiconducting compound that
2 produces white light using externally applied voltage.

3 **SEC. 224. NATIONAL BUILDING PERFORMANCE INITIATIVE.**

4 (a) INTERAGENCY GROUP.—Not later than 3 months
5 after the date of enactment of this Act, the Director of
6 the Office of Science and Technology Policy shall establish
7 an interagency group to develop, in coordination with the
8 advisory committee established under subsection (e), a
9 National Building Performance Initiative (in this section
10 referred to as the “Initiative”). The interagency group
11 shall be cochaired by appropriate officials of the Depart-
12 ment and the Department of Commerce, who shall jointly
13 arrange for the provision of necessary administrative sup-
14 port to the group.

15 (b) INTEGRATION OF EFFORTS.—The Initiative shall
16 integrate Federal, State, and voluntary private sector ef-
17 forts to reduce the costs of construction, operation, main-
18 tenance, and renovation of commercial, industrial, institu-
19 tional, and residential buildings.

20 (c) PLAN.—Not later than 1 year after the date of
21 enactment of this Act, the interagency group shall submit
22 to Congress a plan for carrying out the appropriate Fed-
23 eral role in the Initiative. The plan shall include—

24 (1) research, development, demonstration, and
25 commercial application of systems and materials for

1 new construction and retrofit relating to the building
2 envelope and building system components; and

3 (2) the collection, analysis, and dissemination of
4 research results and other pertinent information on
5 enhancing building performance to industry, govern-
6 ment entities, and the public.

7 (d) DEPARTMENT OF ENERGY ROLE.—Within the
8 Federal portion of the Initiative, the Department shall be
9 the lead agency for all aspects of building performance re-
10 lated to use and conservation of energy.

11 (e) ADVISORY COMMITTEE.—

12 (1) ESTABLISHMENT.—The Director of the Of-
13 fice of Science and Technology Policy shall establish
14 an advisory committee to—

15 (A) analyze and provide recommendations
16 on potential private sector roles and participa-
17 tion in the Initiative; and

18 (B) review and provide recommendations
19 on the plan described in subsection (c).

20 (2) MEMBERSHIP.—Membership of the advisory
21 committee shall include representatives with a broad
22 range of appropriate expertise, including expertise
23 in—

24 (A) building research and technology;

1 (B) architecture, engineering, and building
2 materials and systems; and

3 (C) the residential, commercial, and indus-
4 trial sectors of the construction industry.

5 (f) CONSTRUCTION.—Nothing in this section provides
6 any Federal agency with new authority to regulate build-
7 ing performance.

8 **Subtitle D—Additional Research** 9 **Programs**

10 **PART 1—FUSION**

11 **SEC. 231. PLAN FOR FUSION EXPERIMENT.**

12 (a) IN GENERAL.—

13 (1) PRIORITY FOR INTERNATIONAL BURNING
14 PLASMA PROJECT.—The Secretary of Energy (in
15 this part referred to as “the Secretary”) is author-
16 ized to undertake full scientific and technological co-
17 operation in the international burning plasma
18 project known as ITER.

19 (2) ALTERNATIVE PROJECT.—If at any time
20 during the negotiations on the ITER project, the
21 Secretary determines that construction and oper-
22 ation of the ITER project is unlikely or infeasible,
23 the Secretary shall send to Congress, as part of the
24 budget request for the following year, a plan for im-
25 plementing an alternative plan, such as the domestic

1 burning plasma experiment known as FIRE, includ-
2 ing costs and schedules for such a plan. The Sec-
3 retary shall refine such plan in full consultation with
4 the Fusion Energy Sciences Advisory Committee
5 and shall also transmit such plan to the National
6 Research Council for review.

7 (b) UNITED STATES POLICY WITH RESPECT TO FU-
8 SION ENERGY SCIENCE.—

9 (1) DECLARATION OF POLICY.—It shall be the
10 policy of the United States to develop the scientific,
11 engineering, and commercial infrastructure nec-
12 essary to ensure that the United States is competi-
13 tive with other nations in providing fusion energy for
14 its own needs and the needs of other nations, includ-
15 ing demonstrating electric hydrogen power produc-
16 tion for national power grid utilizing fusion energy
17 by the earliest date possible.

18 (2) FUSION ENERGY PLAN.—

19 (A) REQUIREMENT.—Within 6 months of
20 the date of enactment of this Act, the Secretary
21 shall transmit to Congress a plan for carrying
22 out the policy set forth in paragraph (1), in-
23 cluding cost estimates, proposed budgets, poten-
24 tial international partners, and specific pro-
25 grams for implementing such policy.

1 (B) REQUIREMENTS OF PLAN.—Such plan
2 shall also ensure that—

3 (i) existing fusion research facilities
4 are more fully utilized;

5 (ii) fusion science, technology, theory,
6 advanced computation, modeling, and sim-
7 ulation are strengthened;

8 (iii) new magnetic and inertial fusion
9 research facilities are selected based on sci-
10 entific innovation, cost effectiveness, and
11 their potential to advance the goal of prac-
12 tical fusion energy at the earliest date pos-
13 sible;

14 (iv) such facilities that are selected
15 are funded at a cost-effective rate;

16 (v) communication of scientific results
17 and methods between the fusion energy
18 science community and the broader sci-
19 entific and technology communities is im-
20 proved;

21 (vi) inertial confinement fusion facili-
22 ties are utilized to the extent practicable
23 for the purpose of inertial fusion energy re-
24 search and development; and

1 (vii) attractive alternative inertial and
2 magnetic fusion energy approaches are
3 more fully explored.

4 (C) REPORT ON FUSION MATERIALS AND
5 TECHNOLOGY PROJECT.—In addition, the plan
6 required by this section shall also address the
7 status of, and to the degree possible, the costs
8 and schedules for—

9 (i) the design and implementation of
10 international or national facilities for the
11 testing of fusion materials; and

12 (ii) the design and implementation of
13 international or national facilities for the
14 testing and development of key fusion tech-
15 nologies.

16 **SEC. 232. DEFINITIONS.**

17 As used in this part, the following definitions apply:

18 (1) The term “ITER” refers to the inter-
19 national fusion research project whose design is
20 complete and whose location and financing is cur-
21 rently being negotiated between Japan, Europe, the
22 Russian Federation, Canada, China, and the United
23 States.

24 (2) The term “FIRE” refers to the Fusion Ig-
25 nition Research Experiment, the fusion research ex-

1 periment for which design work has been supported
2 by the Department of Energy as a possible alter-
3 native burning plasma experiment in the event that
4 the ITER project fails to move forward.

5 **PART 2—ULTRA-DEEPWATER AND EXTENDED**
6 **REACH DRILLING AND CARBON SEQUESTRA-**
7 **TION TECHNOLOGIES**

8 **SEC. 241. PROGRAM AUTHORITY.**

9 (a) IN GENERAL.—The Secretary shall carry out a
10 program under this part of research, development, dem-
11 onstration, and commercial application of technologies for
12 ultra-deepwater and extended reach drilling and carbon
13 sequestration.

14 (b) PROGRAM.—The program under this part shall
15 address the following areas, including improving safety
16 and minimizing environmental impacts of activities within
17 each area:

- 18 (1) Ultra-deepwater technology.
19 (2) Ultra-deepwater architecture.
20 (3) Extended reach drilling.
21 (4) Sequestration of carbon.

22 (c) LIMITATION ON LOCATION OF FIELD ACTIVI-
23 TIES.—Field activities under the program under this part
24 shall be carried out only—

- 25 (1) in—

1 (A) areas in the territorial waters of the
2 United States not under any Outer Continental
3 Shelf moratorium as of September 30, 2002;

4 (B) areas onshore in the United States on
5 public land administered by the Secretary of the
6 Interior available for oil and gas leasing, where
7 consistent with applicable law and land use
8 plans; and

9 (C) areas onshore in the United States on
10 State or private land, subject to applicable law;
11 and

12 (2) with the approval of the appropriate Fed-
13 eral or State land management agency or private
14 land owner.

15 (d) RESEARCH AT NATIONAL ENERGY TECHNOLOGY
16 LABORATORY.—The Secretary, through the National En-
17 ergy Technology Laboratory, shall carry out research com-
18 plementary to research under subsection (b).

19 (e) CONSULTATION WITH SECRETARY OF THE INTE-
20 RIOR.—In carrying out this part, the Secretary shall con-
21 sult regularly with the Secretary of the Interior.

1 **SEC. 242. ULTRA-DEEPWATER AND EXTENDED REACH**
2 **DRILLING AND CARBON SEQUESTRATION**
3 **AND UNCONVENTIONAL TECHNOLOGIES PRO-**
4 **GRAM.**

5 (a) IN GENERAL.—The Secretary shall carry out the
6 activities under section 241(b), to—

7 (1) maximize the value of the ultra-deepwater
8 natural gas and other petroleum resources of the
9 United States by increasing the supply of such re-
10 sources and by reducing the cost and increasing the
11 efficiency of exploration for and production of such
12 resources, while improving safety and minimizing en-
13 vironmental impacts;

14 (2) maximize the value of existing natural gas
15 and petroleum production on existing lease sites by
16 utilizing long range extended reach drilling tech-
17 nology;

18 (3) maximize the value of the onshore uncon-
19 ventional natural gas resources of the United States
20 by increasing supply of such resources and improv-
21 ing efficiencies; and

22 (4) develop commercial carbon sequestration
23 and carbon recapture methods with the goal of—

24 (A) sequestering 20 percent of the total
25 quantity of direct greenhouse gas emissions
26 from stationary sources in the United States

1 per year, expressed in units of carbon dioxide
2 equivalence, by 2010;

3 (B) sequestering 40 percent of the total
4 quantity of direct greenhouse gas emissions
5 from stationary sources in the United States
6 per year, expressed in units of carbon dioxide
7 equivalence, by 2015; and

8 (C) sequestering 60 percent of the total
9 quantity of direct greenhouse gas emissions
10 from stationary sources in the United States
11 per year, expressed in units of carbon dioxide
12 equivalence, by 2020.

13 (b) ROLE OF THE SECRETARY.—The Secretary shall
14 have ultimate responsibility for, and oversight of, all as-
15 pects of the program under this section.

16 (c) ROLE OF THE PROGRAM CONSORTIUM.—

17 (1) IN GENERAL.—The Secretary shall contract
18 with a consortium to—

19 (A) manage awards pursuant to subsection
20 (f)(4);

21 (B) make recommendations to the Sec-
22 retary for project solicitations;

23 (C) disburse funds awarded under sub-
24 section (f) as directed by the Secretary in ac-

1 cordance with the annual plan under subsection
2 (e); and

3 (D) carry out other activities assigned to
4 the program consortium by this section.

5 (2) LIMITATION.—The Secretary may not as-
6 sign any activities to the program consortium except
7 as specifically authorized under this section.

8 (3) CONFLICT OF INTEREST.—

9 (A) The Secretary shall establish proce-
10 dures—

11 (i) to ensure that each board member,
12 officer, or employee of the program consor-
13 tium who is in a decisionmaking capacity
14 under subsection (f)(3) or (4) shall disclose
15 to the Secretary any financial interests in,
16 or financial relationships with, applicants
17 for or recipients of awards under this sec-
18 tion, including those of his or her spouse
19 or minor child, unless such relationships or
20 interests would be considered to be remote
21 or inconsequential; and

22 (ii) to require any board member, offi-
23 cer, or employee with a financial relation-
24 ship or interest disclosed under clause (i)
25 to recuse himself or herself from any re-

1 view under subsection (f)(3) or oversight
2 under subsection (f)(4) with respect to
3 such applicant or recipient.

4 (B) The Secretary may disqualify an appli-
5 cation or revoke an award under this section if
6 a board member, officer, or employee has failed
7 to comply with procedures required under sub-
8 paragraph (A)(ii).

9 (d) SELECTION OF THE PROGRAM CONSORTIUM.—

10 (1) IN GENERAL.—The Secretary shall select
11 the program consortium through an open, competi-
12 tive process.

13 (2) MEMBERS.—The program consortium may
14 include corporations, institutions of higher edu-
15 cation, National Laboratories, or other research in-
16 stitutions. After submitting a proposal under para-
17 graph (4), the program consortium may not add
18 members without the consent of the Secretary.

19 (3) TAX STATUS.—The program consortium
20 shall be an entity that is exempt from tax under sec-
21 tion 501(c)(3) of the Internal Revenue Code of
22 1986.

23 (4) SCHEDULE.—Not later than 90 days after
24 the date of enactment of this Act, the Secretary
25 shall solicit proposals for the creation of the pro-

1 gram consortium, which must be submitted not less
2 than 180 days after the date of enactment of this
3 Act. The Secretary shall select the program consor-
4 tium not later than 240 days after such date of en-
5 actment.

6 (5) APPLICATION.—Applicants shall submit a
7 proposal including such information as the Secretary
8 may require. At a minimum, each proposal shall—

9 (A) list all members of the consortium;

10 (B) fully describe the structure of the con-
11 sortium, including any provisions relating to in-
12 tellectual property; and

13 (C) describe how the applicant would carry
14 out the activities of the program consortium
15 under this section.

16 (6) ELIGIBILITY.—To be eligible to be selected
17 as the program consortium, an applicant must be an
18 entity whose members collectively have demonstrated
19 capabilities in planning and managing research, de-
20 velopment, demonstration, and commercial applica-
21 tion programs in natural gas or other petroleum ex-
22 ploration or production.

23 (7) CRITERION.—The Secretary may consider
24 the amount of the fee an applicant proposes to re-

1 ceive under subsection (g) in selecting a consortium
2 under this section.

3 (e) ANNUAL PLAN.—

4 (1) IN GENERAL.—The program under this sec-
5 tion shall be carried out pursuant to an annual plan
6 prepared by the Secretary in accordance with para-
7 graph (2).

8 (2) DEVELOPMENT.—(A) Before drafting an
9 annual plan under this subsection, the Secretary
10 shall solicit specific written recommendations from
11 the program consortium for each element to be ad-
12 dressed in the plan, including those described in
13 paragraph (4). The Secretary may request that the
14 program consortium submit its recommendations in
15 the form of a draft annual plan.

16 (B) The Secretary shall consult regularly with
17 the program consortium throughout the preparation
18 of the annual plan. The Secretary may also solicit
19 comments from any other experts.

20 (3) PUBLICATION.—The Secretary shall trans-
21 mit to the Congress and publish in the Federal Reg-
22 ister the annual plan, along with any written com-
23 ments received under paragraph (2). The annual
24 plan shall be transmitted and published not later
25 than 60 days after the date of enactment of an Act

1 making appropriations for a fiscal year for the pro-
2 gram under this section.

3 (4) CONTENTS.—The annual plan shall describe
4 the ongoing and prospective activities of the pro-
5 gram under this section and shall include—

6 (A) a list of any solicitations for awards
7 that the Secretary plans to issue to carry out
8 research, development, demonstration, or com-
9 mercial application activities, including the top-
10 ics for such work, who would be eligible to
11 apply, selection criteria, and the duration of
12 awards; and

13 (B) a description of the activities expected
14 of the program consortium to carry out sub-
15 section (f)(4).

16 (f) AWARDS.—

17 (1) IN GENERAL.—The Secretary shall make
18 awards to carry out research, development, dem-
19 onstration, and commercial application activities
20 under the program under this section. The program
21 consortium shall not be eligible to receive such
22 awards, but members of the program consortium
23 may receive such awards.

24 (2) PROPOSALS.—The Secretary shall solicit
25 proposals for awards under this subsection in such

1 manner and at such time as the Secretary may pre-
2 scribe, in consultation with the program consortium.

3 (3) REVIEW.—The Secretary shall make awards
4 under this subsection through a competitive process,
5 which shall include a review by individuals selected
6 by the Secretary. Such individuals shall include, for
7 each application, Federal officials, the program con-
8 sortium, and non-Federal experts who are not board
9 members, officers, or employees of the program con-
10 sortium or of a member of the program consortium.

11 (4) OVERSIGHT.—(A) The program consortium
12 shall oversee the implementation of awards under
13 this subsection, consistent with the annual plan
14 under subsection (e), including disbursing funds and
15 monitoring activities carried out under such awards
16 for compliance with the terms and conditions of the
17 awards.

18 (B) Nothing in subparagraph (A) shall limit the
19 authority or responsibility of the Secretary to over-
20 see awards, or limit the authority of the Secretary
21 to review or revoke awards.

22 (C) The Secretary shall provide to the program
23 consortium the information necessary for the pro-
24 gram consortium to carry out its responsibilities
25 under this paragraph.

1 (g) FEE.—

2 (1) IN GENERAL.—To compensate the program
3 consortium for carrying out its activities under this
4 section, the Secretary shall provide to the program
5 consortium a fee in an amount not to exceed 7.5
6 percent of the amounts awarded under subsection (f)
7 for each fiscal year.

8 (2) ADVANCE.—The Secretary shall advance
9 funds to the program consortium upon selection of
10 the consortium, which shall be deducted from
11 amounts to be provided under paragraph (1).

12 (h) AUDIT.—The Secretary shall retain an inde-
13 pendent, commercial auditor to determine the extent to
14 which funds provided to the program consortium, and
15 funds provided under awards made under subsection (f),
16 have been expended in a manner consistent with the pur-
17 poses and requirements of this part. The auditor shall
18 transmit a report annually to the Secretary, who shall
19 transmit the report to Congress, along with a plan to rem-
20 edy any deficiencies cited in the report.

21 **SEC. 243. SUNSET.**

22 The authority provided by this part shall terminate
23 on September 30, 2010.

24 **SEC. 244. DEFINITIONS.**

25 In this part:

1 (1) CARBON SEQUESTRATION.—The term “car-
2 bon sequestration” means the capture and secure
3 storage of carbon dioxide emitted from the combus-
4 tion of fossil fuels or other organic matter.

5 (2) EXTENDED REACH DRILLING.—The term
6 “extended reach drilling” means technology designed
7 to achieve a range up to 50,000 feet, so that more
8 energy resources can be realized with fewer drilling
9 facilities.

10 (3) PROGRAM CONSORTIUM.—The term “pro-
11 gram consortium” means the consortium selected
12 under section 242(d).

13 (4) REMOTE OR INCONSEQUENTIAL.—The term
14 “remote or inconsequential” has the meaning given
15 that term in regulations issued by the Office of Gov-
16 ernment Ethics under section 208(b)(2) of title 18,
17 United States Code.

18 (5) ULTRA-DEEPWATER.—The term “ultra-
19 deepwater” means a water depth that is equal to or
20 greater than 1,500 meters.

21 (6) ULTRA-DEEPWATER ARCHITECTURE.—The
22 term “ultra-deepwater architecture” means the inte-
23 gration of technologies for the exploration for, or
24 production of, natural gas or other petroleum re-
25 sources located at ultra-deepwater depths.

1 (7) ULTRA-DEEPWATER TECHNOLOGY.—The
2 term “ultra-deepwater technology” means a discrete
3 technology that is specially suited to address one or
4 more challenges associated with the exploration for,
5 or production of, natural gas or other petroleum re-
6 sources located at ultra-deepwater depths.

7 (8) UNCONVENTIONAL NATURAL GAS AND
8 OTHER PETROLEUM RESOURCE.—The term “uncon-
9 ventional natural gas and other petroleum resource”
10 means natural gas and other petroleum resource lo-
11 cated onshore in an economically inaccessible geo-
12 logical formation.

13 **TITLE III—TAX INCENTIVES FOR** 14 **NEW TECHNOLOGIES**

15 **SEC. 301. REFERENCES.**

16 Except as otherwise expressly provided, whenever in
17 this title an amendment or repeal is expressed in terms
18 of an amendment to, or repeal of, a section or other provi-
19 sion, the reference shall be considered to be made to a
20 section or other provision of the Internal Revenue Code
21 of 1986.

22 **SEC. 302. ADMINISTRATION OF TITLE.**

23 (a) IN GENERAL.—Notwithstanding any other provi-
24 sion of law, the Secretary of the Treasury shall allocate
25 the tax incentives provided in subtitles A and B among

1 taxpayers in accordance with regulations promulgated by
2 the Secretary.

3 (b) **LIMITATION ON TOTAL ALLOCATED.**—The total
4 amount of incentives allocated under subsection (a) shall
5 not exceed—

6 (1) \$14,000,000,000 in the case of the tax in-
7 centives provided in subtitle A for the 10-year period
8 beginning with taxable years beginning after the
9 date of the enactment of this Act, and

10 (2) \$22,000,000,000 in the case of the tax in-
11 centives provided in subtitle B for the 10-year period
12 beginning with taxable years beginning after the
13 date of the enactment of this Act.

14 **Subtitle A—Near Term Tax**
15 **Incentives**

16 **SEC. 311. EXTENSION THROUGH 2015 FOR PLACING QUALI-**
17 **FIED FACILITIES IN SERVICE FOR PRO-**
18 **DUCING RENEWABLE ELECTRIC ENERGY.**

19 (a) **IN GENERAL.**—Subsection (d) of section 45 is
20 amended by striking “January 1, 2006” each place it ap-
21 pears and inserting “January 1, 2015”.

22 (b) **EFFECTIVE DATE.**—The amendments made by
23 this section shall apply to property originally placed in
24 service on or after January 1, 2006.

1 **SEC. 312. EXPANSION AND MODIFICATION OF RENEWABLE**
2 **RESOURCE CREDIT.**

3 (a) **ADDITIONAL QUALIFIED ENERGY RESOURCES.—**

4 (1) **IN GENERAL.—**Section 45(c)(1) is amended
5 by striking “and” at the end of subparagraph (F),
6 by striking the period at the end of subparagraph
7 (G), and by adding at the end the following new sub-
8 paragraphs:

9 “(H) incremental hydropower,

10 “(I) incremental geothermal, and

11 “(J) ocean (tidal, wave, current, or ther-
12 mal).”.

13 (2) **DEFINITION OF RESOURCES.—**Section 45(c)
14 is amended by adding at the end the following new
15 paragraphs:

16 “(8) **INCREMENTAL HYDROPOWER.—**The term
17 ‘incremental hydropower’ means additional gener-
18 ating capacity achieved at a qualified facility before
19 January 1, 2015, from increased efficiency .

20 “(9) **INCREMENTAL GEOTHERMAL.—**The term
21 ‘incremental geothermal’ means additional gener-
22 ating capacity achieved at a qualified facility before
23 January 1, 2015, from—

24 “(A) increased efficiency, or

25 “(B) additions of new capacity.”.

1 (3) DEFINITION OF FACILITIES.—Section 45(d)
2 is amended by adding at the end the following new
3 paragraphs:

4 “(9) INCREMENTAL HYDOPOWER FACILITIES.—
5 In the case of a facility producing electricity from
6 incremental hydropower, the term ‘qualified facility’
7 means any facility which is—

8 “(A) owned by the taxpayer,

9 “(B) originally placed in service before the
10 date of the enactment of this paragraph, and

11 “(C) licensed by the Federal Energy Regu-
12 latory Commission.

13 “(10) INCREMENTAL GEOTHERMAL FACILI-
14 TIES.—In the case of a facility producing electricity
15 from incremental geothermal, the term ‘qualified fa-
16 cility’ means any facility owned by the taxpayer
17 which is originally placed in service before the date
18 of the enactment of this paragraph.

19 “(11) OCEAN FACILITIES.—In the case of a fa-
20 cility producing electricity from the ocean, the term
21 ‘qualified facility’ means any facility owned by the
22 taxpayer which is originally placed in service after
23 the date of the enactment of this paragraph and be-
24 fore January 1, 2015.”.

1 (b) MODIFICATIONS REGARDING OPEN-LOOP BIO-
2 MASS.—

3 (1) Subclause (I) of section 45(c)(3)(A)(ii) is
4 amended by adding at the end “but not including
5 old-growth timber or black liquor,”.

6 (2) Subclause (II) of section 45(c)(3)(A)(ii) is
7 amended by striking “municipal solid waste, gas de-
8 rived from the biodegradation of solid waste, or
9 paper which is commonly recycled” and inserting
10 “unsegregated municipal solid waste (garbage) or
11 postconsumer wastepaper which can be recycled
12 affordably”.

13 (c) QUALIFIED FACILITIES WITH CO-PRODUC-
14 TION.—Section 45(b) is amended by striking paragraph
15 (4) and inserting the following new paragraph:

16 “(4) INCREASED CREDIT FOR CO-PRODUCTION
17 FACILITIES.—

18 “(A) IN GENERAL.—In the case of a quali-
19 fied facility described in paragraph (2) or (3) of
20 subsection (c) which adds a co-production facil-
21 ity after the date of the enactment of this para-
22 graph, the amount in effect under subsection
23 (a)(1) for an eligible taxable year of the tax-
24 payer shall (after adjustment under paragraphs
25 (1), (2), and (3)) be increased by .25 cents.

1 “(B) CO-PRODUCTION FACILITY.—For
2 purposes of subparagraph (A), the term ‘co-pro-
3 duction facility’ means a facility which—

4 “(i) enables a qualified facility to
5 produce heat, mechanical power, or min-
6 erals from qualified energy resources in ad-
7 dition to electricity, and

8 “(ii) produces such energy on a con-
9 tinuous basis.

10 “(C) ELIGIBLE TAXABLE YEAR.—For pur-
11 poses of subparagraph (A), the term ‘eligible
12 taxable year’ means any taxable year in which
13 the amount of gross receipts attributable to the
14 co-production facility of a qualified facility are
15 at least 10 percent of the amount of gross re-
16 cepts attributable to electricity produced by
17 such facility.”.

18 (d) QUALIFIED FACILITIES LOCATED WITHIN
19 QUALIFIED INDIAN LANDS.—Section 45(b) is amended by
20 adding at the end the following new paragraph:

21 “(5) INCREASED CREDIT FOR QUALIFIED FA-
22 CILITY LOCATED WITHIN QUALIFIED INDIAN
23 LAND.—In the case of a qualified facility described
24 in subsection (d)(2)(A) which—

25 “(A) is located within—

1 “(i) qualified Indian lands (as defined
2 in section 7871(c)(3)), or

3 “(ii) lands which are held in trust by
4 a Native Corporation (as defined in section
5 3(m) of the Alaska Native Claims Settle-
6 ment Act (43 U.S.C. 1602(m))) for Alaska
7 Natives, and

8 “(B) is operated with the explicit written
9 approval of the Indian tribal government or Na-
10 tive Corporation (as so defined) having jurisdic-
11 tion over such lands, the amount in effect under
12 subsection (a)(1) for a taxable year shall (after
13 adjustment under paragraphs (1), (2), (3), and
14 (4)) be increased by .25 cents.”.

15 (e) TREATMENT OF QUALIFIED FACILITIES NOT IN
16 COMPLIANCE WITH POLLUTION LAWS.—Section 45(c) is
17 further amended by adding at the end the following new
18 paragraph:

19 “(10) NONCOMPLIANCE WITH POLLUTION
20 LAWS.—A facility which is not in compliance with
21 the applicable State and Federal pollution preven-
22 tion, control, and permit requirements for any period
23 of time shall not be treated as a qualified facility
24 during such period.”.

1 (f) COORDINATION WITH OTHER CREDITS.—Section
 2 45(e) is amended by adding at the end the following new
 3 paragraph:

4 “(10) COORDINATION WITH OTHER CREDITS.—
 5 This section shall not apply to any qualified facility
 6 with respect to which a credit under any other sec-
 7 tion is allowed for the taxable year unless the tax-
 8 payer elects to waive application of such credit to
 9 such facility.”.

10 (g) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to electricity and other energy pro-
 12 duced in taxable years beginning after the date of the en-
 13 actment of this Act.

14 **SEC. 313. TRADABLE RENEWABLE RESOURCE CREDIT FOR**
 15 **PUBLIC UTILITIES AND OTHER TAX EXEMPT**
 16 **ORGANIZATIONS.**

17 (a) CREDITS FOR CERTAIN TAX-EXEMPT ORGANIZA-
 18 TIONS AND GOVERNMENTAL UNITS.—

19 (1) IN GENERAL.—Section 45(d) (relating to
 20 definitions and special rules), as amended by section
 21 312, is amended by adding at the end the following:

22 “(10) CREDITS FOR CERTAIN TAX-EXEMPT OR-
 23 GANIZATIONS AND GOVERNMENTAL UNITS.—

24 “(A) ALLOWANCE OF CREDIT.—Any credit
 25 which would be allowable under subsection (a)

1 with respect to a qualified facility of an entity
2 if such entity were not exempt from tax under
3 this chapter shall be treated as a credit allow-
4 able under subpart D to such entity if such en-
5 tity is—

6 “(i) an organization described in sec-
7 tion 501(c)(12)(C) and exempt from tax
8 under section 501(a),

9 “(ii) an organization described in sec-
10 tion 1381(a)(2)(C),

11 “(iii) an entity the income of which is
12 excludable from gross income under section
13 115, or

14 “(iv) a State, the District of Colum-
15 bia, any territory or possession of the
16 United States, or any political subdivision
17 thereof.

18 “(B) USE OF CREDIT.—

19 “(i) TRANSFER OF CREDIT.—An enti-
20 ty described in subparagraph (A) may as-
21 sign, trade, sell, or otherwise transfer any
22 credit allowable to such entity under sub-
23 paragraph (A) to any taxpayer.

24 “(ii) USE OF CREDIT AS AN OFF-
25 SET.—Notwithstanding any other provision

1 of law, in the case of an entity described
2 in clause (i) or (ii) of subparagraph (A),
3 any credit allowable to such entity under
4 subparagraph (A) may be applied by such
5 entity, without penalty, as a prepayment of
6 any loan, debt, or other obligation the enti-
7 ty has incurred under subchapter I of
8 chapter 31 of title 7 of the Rural Elec-
9 trification Act of 1936 (7 U.S.C. 901 et
10 seq.).

11 “(C) CREDIT NOT INCOME.—Neither a
12 transfer under clause (i) nor a use under clause
13 (ii) of subparagraph (B) of any credit allowable
14 under subparagraph (A) shall result in income
15 for purposes of section 501(c)(12).

16 “(D) TRANSFER PROCEEDS TREATED AS
17 ARISING FROM ESSENTIAL GOVERNMENT FUNC-
18 TION.—Any proceeds derived by an entity de-
19 scribed in subparagraph (A)(iii) from the trans-
20 fer of any credit under subparagraph (B)(i)
21 shall be treated as arising from an essential
22 government function.

23 “(E) CREDITS NOT REDUCED BY TAX-EX-
24 EMPT BONDS OR CERTAIN OTHER SUBSIDIES.—
25 Subsection (b)(3) shall not apply to reduce any

1 credit allowable under subparagraph (A) with
2 respect to—

3 “(i) proceeds described in subpara-
4 graph (A)(ii) of such subsection, or

5 “(ii) any loan, debt, or other obliga-
6 tion incurred under subchapter I of chap-
7 ter 31 of title 7 of the Rural Electrification
8 Act of 1936 (7 U.S.C. 901 et seq.), used
9 to provide financing for any qualified facil-
10 ity.

11 “(F) TREATMENT OF UNRELATED PER-
12 SONS.—For purposes of this paragraph, sales
13 among and between entities described in sub-
14 paragraph (A) shall be treated as sales between
15 unrelated parties.”.

16 (2) INCLUSION OF INDIAN TRIBAL GOVERN-
17 MENTS.—Section 7871(a)(7) is amended by striking
18 “and” at the end of subparagraph (A), by striking
19 the period at the end of subparagraph (B), and by
20 adding at the end the following:

21 “(C) section 45 (relating to credit for elec-
22 tricity produced from certain renewable re-
23 sources).”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to electricity and other energy pro-

1 duced in taxable years beginning after the date of the en-
2 actment of this Act.

3 **SEC. 314. ALTERNATIVE MOTOR VEHICLE CREDIT.**

4 (a) IN GENERAL.—Subpart B of part IV of sub-
5 chapter A of chapter 1 (relating to foreign tax credit, etc.)
6 is amended by adding at the end the following new section:

7 **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

8 “(a) ALLOWANCE OF CREDIT.—There shall be al-
9 lowed as a credit against the tax imposed by this chapter
10 for the taxable year an amount equal to the sum of—

11 “(1) the new qualified fuel cell motor vehicle
12 credit determined under subsection (b),

13 “(2) the new qualified hybrid motor vehicle
14 credit determined under subsection (c),

15 “(3) the new qualified alternative fuel motor ve-
16 hicle credit determined under subsection (d), and

17 “(4) the new qualified advanced diesel motor
18 vehicle credit determined under subsection (e).

19 “(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE
20 CREDIT.—

21 “(1) IN GENERAL.—For purposes of subsection
22 (a), the new qualified fuel cell motor vehicle credit
23 determined under this subsection with respect to a
24 new qualified fuel cell motor vehicle placed in service
25 by the taxpayer during the taxable year is—

1 “(A) \$8,000 (\$4,000 in the case of vehicles
2 placed in service after December 31, 2008), if
3 such vehicle has a gross vehicle weight rating of
4 not more than 8,500 pounds,

5 “(B) \$10,000, if such vehicle has a gross
6 vehicle weight rating of more than 8,500
7 pounds but not more than 14,000 pounds,

8 “(C) \$20,000, if such vehicle has a gross
9 vehicle weight rating of more than 14,000
10 pounds but not more than 26,000 pounds, and

11 “(D) \$40,000, if such vehicle has a gross
12 vehicle weight rating of more than 26,000
13 pounds.

14 “(2) INCREASE FOR FUEL EFFICIENCY.—

15 “(A) IN GENERAL.—The amount deter-
16 mined under paragraph (1)(A) with respect to
17 a new qualified fuel cell motor vehicle which is
18 a passenger automobile or light truck shall be
19 increased by—

20 “(i) \$1,000, if such vehicle achieves at
21 least 150 percent but less than 175 per-
22 cent of the 2002 model year city fuel econ-
23 omy,

24 “(ii) \$1,500, if such vehicle achieves
25 at least 175 percent but less than 200 per-

1 cent of the 2002 model year city fuel econ-
2 omy,

3 “(iii) \$2,000, if such vehicle achieves
4 at least 200 percent but less than 225 per-
5 cent of the 2002 model year city fuel econ-
6 omy,

7 “(iv) \$2,500, if such vehicle achieves
8 at least 225 percent but less than 250 per-
9 cent of the 2002 model year city fuel econ-
10 omy,

11 “(v) \$3,000, if such vehicle achieves
12 at least 250 percent but less than 275 per-
13 cent of the 2002 model year city fuel econ-
14 omy,

15 “(vi) \$3,500, if such vehicle achieves
16 at least 275 percent but less than 300 per-
17 cent of the 2002 model year city fuel econ-
18 omy, and

19 “(vii) \$4,000, if such vehicle achieves
20 at least 300 percent of the 2002 model
21 year city fuel economy.

22 “(B) 2002 MODEL YEAR CITY FUEL ECON-
23 OMY.—For purposes of subparagraph (A), the
24 2002 model year city fuel economy with respect

1 to a vehicle shall be determined in accordance
2 with the following tables:

3 “(i) In the case of a passenger auto-
4 mobile:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

5 “(ii) In the case of a light truck:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

6 “(C) VEHICLE INERTIA WEIGHT CLASS.—

7 For purposes of subparagraph (B), the term
8 ‘vehicle inertia weight class’ has the same
9 meaning as when defined in regulations pre-
10 scribed by the Administrator of the Environ-

1 mental Protection Agency for purposes of the
2 administration of title II of the Clean Air Act
3 (42 U.S.C. 7521 et seq.).

4 “(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-
5 CLE.—For purposes of this subsection, the term
6 ‘new qualified fuel cell motor vehicle’ means a motor
7 vehicle—

8 “(A) which is propelled by power derived
9 from one or more cells which convert chemical
10 energy directly into electricity by combining ox-
11 ygen with hydrogen fuel which is stored on
12 board the vehicle in any form and may or may
13 not require reformation prior to use,

14 “(B) which, in the case of a passenger
15 automobile or light truck—

16 “(i) for 2002 and later model vehicles,
17 has received a certificate of conformity
18 under the Clean Air Act and meets or ex-
19 ceeds the equivalent qualifying California
20 low emission vehicle standard under sec-
21 tion 243(e)(2) of the Clean Air Act for
22 that make and model year, and

23 “(ii) for 2004 and later model vehi-
24 cles, has received a certificate that such ve-
25 hicle meets or exceeds the Bin 5 Tier II

1 emission level established in regulations
2 prescribed by the Administrator of the En-
3 vironmental Protection Agency under sec-
4 tion 202(i) of the Clean Air Act for that
5 make and model year vehicle,

6 “(C) the original use of which commences
7 with the taxpayer,

8 “(D) which is acquired for use or lease by
9 the taxpayer and not for resale, and

10 “(E) which is made by a manufacturer.

11 “(c) NEW QUALIFIED HYBRID MOTOR VEHICLE
12 CREDIT.—

13 “(1) IN GENERAL.—For purposes of subsection
14 (a), the new qualified hybrid motor vehicle credit de-
15 termined under this subsection with respect to a new
16 qualified hybrid motor vehicle placed in service by
17 the taxpayer during the taxable year is the credit
18 amount determined under paragraph (2).

19 “(2) CREDIT AMOUNT.—

20 “(A) IN GENERAL.—The credit amount de-
21 termined under this paragraph shall be deter-
22 mined in accordance with the following tables:

23 “(i) In the case of a new qualified hy-
24 brid motor vehicle which is a passenger
25 automobile, medium duty passenger vehi-

1 cle, or light truck and which provides the
2 following percentage of the maximum
3 available power:

“If percentage of the maximum available power is:	The credit amount is:
At least 5 percent but less than 10 percent	\$250
At least 10 percent but less than 20 percent	\$500
At least 20 percent but less than 30 percent	\$750
At least 30 percent	\$1,000.

4 “(ii) In the case of a new qualified hy-
5 brid motor vehicle which is a heavy duty
6 hybrid motor vehicle and which provides
7 the following percentage of the maximum
8 available power:

9 “(I) If such vehicle has a gross
10 vehicle weight rating of not more than
11 14,000 pounds:

“If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	\$1,000
At least 30 percent but less than 40 percent	\$1,750
At least 40 percent but less than 50 percent	\$2,000
At least 50 percent but less than 60 percent	\$2,250
At least 60 percent	\$2,500.

12 “(II) If such vehicle has a gross
13 vehicle weight rating of more than
14 14,000 but not more than 26,000
15 pounds:

“If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	\$4,000
At least 30 percent but less than 40 percent	\$4,500
At least 40 percent but less than 50 percent	\$5,000
At least 50 percent but less than 60 percent	\$5,500
At least 60 percent	\$6,000.

1 “(III) If such vehicle has a gross
2 vehicle weight rating of more than
3 26,000 pounds:

““If percentage of the maximum available power is:	The credit amount is:
At least 20 percent but less than 30 percent	\$6,000
At least 30 percent but less than 40 percent	\$7,000
At least 40 percent but less than 50 percent	\$8,000
At least 50 percent but less than 60 percent	\$9,000
At least 60 percent	\$10,000.

4 “(B) INCREASE FOR FUEL EFFICIENCY.—

5 “(i) AMOUNT.—The amount deter-
6 mined under subparagraph (A)(i) with re-
7 spect to a new qualified hybrid motor vehi-
8 cle which is a passenger automobile or
9 light truck shall be increased by—

10 “(I) \$500, if such vehicle
11 achieves at least 125 percent but less
12 than 150 percent of the 2002 model
13 year city fuel economy,

14 “(II) \$1,000, if such vehicle
15 achieves at least 150 percent but less
16 than 175 percent of the 2002 model
17 year city fuel economy,

18 “(III) \$1,500, if such vehicle
19 achieves at least 175 percent but less
20 than 200 percent of the 2002 model
21 year city fuel economy,

1 “(IV) \$2,000, if such vehicle
2 achieves at least 200 percent but less
3 than 225 percent of the 2002 model
4 year city fuel economy,

5 “(V) \$2,500, if such vehicle
6 achieves at least 225 percent but less
7 than 250 percent of the 2002 model
8 year city fuel economy, and

9 “(VI) \$3,000, if such vehicle
10 achieves at least 250 percent of the
11 2002 model year city fuel economy.

12 “(ii) 2002 MODEL YEAR CITY FUEL
13 ECONOMY.—For purposes of clause (i), the
14 2002 model year city fuel economy with re-
15 spect to a vehicle shall be determined on a
16 gasoline gallon equivalent basis as deter-
17 mined by the Administrator of the Envi-
18 ronmental Protection Agency using the ta-
19 bles provided in subsection (b)(2)(B) with
20 respect to such vehicle.

21 “(C) INCREASE FOR ACCELERATED EMIS-
22 SIONS PERFORMANCE.—The amount deter-
23 mined under subparagraph (A)(ii) with respect
24 to an applicable heavy duty hybrid motor vehi-
25 cle shall be increased by the increased credit

1 amount determined in accordance with the fol-
2 lowing tables:

3 “(i) In the case of a vehicle which has
4 a gross vehicle weight rating of not more
5 than 14,000 pounds:

““If the model year is:	The increased credit amount is:
2005	\$3,000
2006	\$2,500
2007	\$2,000
2008	\$1,500.

6 “(ii) In the case of a vehicle which
7 has a gross vehicle weight rating of more
8 than 14,000 pounds but not more than
9 26,000 pounds:

““If the model year is:	The increased credit amount is:
2005	\$7,750
2006	\$6,500
2007	\$5,250
2008	\$4,000.

10 “(iii) In the case of a vehicle which
11 has a gross vehicle weight rating of more
12 than 26,000 pounds:

““If the model year is:	The increased credit amount is:
2005	\$12,000
2006	\$10,000
2007	\$8,000
2008	\$6,000.

13 “(D) DEFINITIONS RELATING TO CREDIT
14 AMOUNT.—

15 “(i) APPLICABLE HEAVY DUTY HY-
16 BRID MOTOR VEHICLE.—For purposes of
17 subparagraph (C), the term ‘applicable
18 heavy duty hybrid motor vehicle’ means a
19 heavy duty hybrid motor vehicle which is

1 powered by an internal combustion or heat
2 engine which is certified as meeting the
3 emission standards set in the regulations
4 prescribed by the Administrator of the En-
5 vironmental Protection Agency for 2007
6 and later model year diesel heavy duty en-
7 gines, or for 2008 and later model year
8 ottocycle heavy duty engines, as applicable.

9 “(ii) MAXIMUM AVAILABLE POWER.—

10 “(I) PASSENGER AUTOMOBILE,
11 MEDIUM DUTY PASSENGER VEHICLE,
12 OR LIGHT TRUCK.—For purposes of
13 subparagraph (A)(i), the term ‘max-
14 imum available power’ means the
15 maximum power available from the re-
16 chargeable energy storage system,
17 during a standard 10 second pulse
18 power or equivalent test, divided by
19 such maximum power and the SAE
20 net power of the heat engine.

21 “(II) HEAVY DUTY HYBRID
22 MOTOR VEHICLE.—For purposes of
23 subparagraph (A)(ii), the term ‘max-
24 imum available power’ means the
25 maximum power available from the re-

1 chargeable energy storage system,
2 during a standard 10 second pulse
3 power or equivalent test, divided by
4 the vehicle's total traction power. The
5 term 'total traction power' means the
6 sum of the peak power from the re-
7 chargeable energy storage system and
8 the heat engine peak power of the ve-
9 hicle, except that if such storage sys-
10 tem is the sole means by which the ve-
11 hicle can be driven, the total traction
12 power is the peak power of such stor-
13 age system.

14 “(3) NEW QUALIFIED HYBRID MOTOR VEHI-
15 CLE.—For purposes of this subsection, the term
16 ‘new qualified hybrid motor vehicle’ means a motor
17 vehicle—

18 “(A) which draws propulsion energy from
19 onboard sources of stored energy which are
20 both—

21 “(i) an internal combustion or heat
22 engine using combustible fuel, and

23 “(ii) a rechargeable energy storage
24 system,

1 “(B) which, in the case of a passenger
2 automobile, medium duty passenger vehicle, or
3 light truck—

4 “(i) for 2002 and later model vehicles,
5 has received a certificate of conformity
6 under the Clean Air Act and meets or ex-
7 ceeds the equivalent qualifying California
8 low emission vehicle standard under sec-
9 tion 243(e)(2) of the Clean Air Act for
10 that make and model year, and

11 “(ii) for 2004 and later model vehi-
12 cles, has received a certificate that such ve-
13 hicle meets or exceeds the Bin 5 Tier II
14 emission level established in regulations
15 prescribed by the Administrator of the En-
16 vironmental Protection Agency under sec-
17 tion 202(i) of the Clean Air Act for that
18 make and model year vehicle,

19 “(C) which, in the case of a heavy duty hy-
20 brid motor vehicle, the internal combustion or
21 heat engine of which has received a certificate
22 of conformity under the Clean Air Act as meet-
23 ing the emission standards set in the regula-
24 tions prescribed by the Administrator of the
25 Environmental Protection Agency for 2004

1 through 2007 model year diesel heavy duty en-
2 gines or ottocycle heavy duty engines, as appli-
3 cable,

4 “(D) the original use of which commences
5 with the taxpayer,

6 “(E) which is acquired for use or lease by
7 the taxpayer and not for resale, and

8 “(F) which is made by a manufacturer.

9 “(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—

10 For purposes of this subsection, the term ‘heavy
11 duty hybrid motor vehicle’ means a new qualified hy-
12 brid motor vehicle which has a gross vehicle weight
13 rating of more than 8,500 pounds. Such term does
14 not include a medium duty passenger vehicle.

15 “(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR
16 VEHICLE CREDIT.—

17 “(1) ALLOWANCE OF CREDIT.—Except as pro-
18 vided in paragraph (5), the new qualified alternative
19 fuel motor vehicle credit determined under this sub-
20 section is an amount equal to the applicable percent-
21 age of the incremental cost of any new qualified al-
22 ternative fuel motor vehicle placed in service by the
23 taxpayer during the taxable year.

24 “(2) APPLICABLE PERCENTAGE.—For purposes
25 of paragraph (1), the applicable percentage with re-

1 spect to any new qualified alternative fuel motor ve-
2 hicle is—

3 “(A) 50 percent, plus

4 “(B) 30 percent, if such vehicle—

5 “(i) has received a certificate of con-
6 formity under the Clean Air Act and meets
7 or exceeds the most stringent standard
8 available for certification under the Clean
9 Air Act for that make and model year vehi-
10 cle (other than a zero emission standard),
11 or

12 “(ii) has received an order certifying
13 the vehicle as meeting the same require-
14 ments as vehicles which may be sold or
15 leased in California and meets or exceeds
16 the most stringent standard available for
17 certification under the State laws of Cali-
18 fornia (enacted in accordance with a waiv-
19 er granted under section 209(b) of the
20 Clean Air Act) for that make and model
21 year vehicle (other than a zero emission
22 standard).

23 For purposes of the preceding sentence, in the case
24 of any new qualified alternative fuel motor vehicle
25 which weighs more than 14,000 pounds gross vehicle

1 weight rating, the most stringent standard available
2 shall be such standard available for certification in
3 2002.

4 “(3) INCREMENTAL COST.—For purposes of
5 this subsection, the incremental cost of any new
6 qualified alternative fuel motor vehicle is equal to
7 the amount of the excess of the manufacturer’s sug-
8 gested retail price for such vehicle over such price
9 for a gasoline or diesel fuel motor vehicle of the
10 same model, to the extent such amount does not ex-
11 ceed—

12 “(A) \$5,000, if such vehicle has a gross ve-
13 hicle weight rating of not more than 8,500
14 pounds,

15 “(B) \$10,000, if such vehicle has a gross
16 vehicle weight rating of more than 8,500
17 pounds but not more than 14,000 pounds,

18 “(C) \$25,000, if such vehicle has a gross
19 vehicle weight rating of more than 14,000
20 pounds but not more than 26,000 pounds, and

21 “(D) \$40,000, if such vehicle has a gross
22 vehicle weight rating of more than 26,000
23 pounds.

1 “(4) NEW QUALIFIED ALTERNATIVE FUEL
2 MOTOR VEHICLE.—For purposes of this sub-
3 section—

4 “(A) IN GENERAL.—The term ‘new quali-
5 fied alternative fuel motor vehicle’ means any
6 motor vehicle—

7 “(i) which is only capable of operating
8 on an alternative fuel,

9 “(ii) the original use of which com-
10 mences with the taxpayer,

11 “(iii) which is acquired by the tax-
12 payer for use or lease, but not for resale,
13 and

14 “(iv) which is made by a manufac-
15 turer.

16 “(B) ALTERNATIVE FUEL.—The term ‘al-
17 ternative fuel’ means compressed natural gas,
18 liquefied natural gas, liquefied petroleum gas,
19 hydrogen, and any liquid at least 85 percent of
20 the volume of which consists of methanol or
21 ethanol.

22 “(5) CREDIT FOR MIXED-FUEL VEHICLES.—

23 “(A) IN GENERAL.—In the case of a
24 mixed-fuel vehicle placed in service by the tax-
25 payer during the taxable year, the credit deter-

1 mined under this subsection is an amount equal
2 to—

3 “(i) in the case of a 75/25 mixed-fuel
4 vehicle, 70 percent of the credit which
5 would have been allowed under this sub-
6 section if such vehicle was a qualified alter-
7 native fuel motor vehicle, and

8 “(ii) in the case of a 90/10 mixed-fuel
9 vehicle, 90 percent of the credit which
10 would have been allowed under this sub-
11 section if such vehicle was a qualified alter-
12 native fuel motor vehicle.

13 “(B) MIXED-FUEL VEHICLE.—For pur-
14 poses of this subsection, the term ‘mixed-fuel
15 vehicle’ means any motor vehicle described in
16 subparagraph (C) or (D) of paragraph (3),
17 which—

18 “(i) is certified by the manufacturer
19 as being able to perform efficiently in nor-
20 mal operation on a combination of an al-
21 ternative fuel and a petroleum-based fuel,

22 “(ii) either—

23 “(I) has received a certificate of
24 conformity under the Clean Air Act,
25 or

1 “(II) has received an order certi-
2 fying the vehicle as meeting the same
3 requirements as vehicles which may be
4 sold or leased in California and meets
5 or exceeds the low emission vehicle
6 standard under section 88.105–94 of
7 title 40, Code of Federal Regulations,
8 for that make and model year vehicle,
9 “(iii) the original use of which com-
10 mences with the taxpayer,
11 “(iv) which is acquired by the tax-
12 payer for use or lease, but not for resale,
13 and
14 “(v) which is made by a manufac-
15 turer.
16 “(C) 75/25 MIXED-FUEL VEHICLE.—For
17 purposes of this subsection, the term ‘75/25
18 mixed-fuel vehicle’ means a mixed-fuel vehicle
19 which operates using at least 75 percent alter-
20 native fuel and not more than 25 percent petro-
21 leum-based fuel.
22 “(D) 90/10 MIXED-FUEL VEHICLE.—For
23 purposes of this subsection, the term ‘90/10
24 mixed-fuel vehicle’ means a mixed-fuel vehicle
25 which operates using at least 90 percent alter-

1 native fuel and not more than 10 percent petro-
2 leum-based fuel.

3 “(e) NEW QUALIFIED ADVANCED DIESEL MOTOR
4 VEHICLE CREDIT.—

5 “(1) IN GENERAL.—For purposes of subsection
6 (a), the new qualified advanced diesel motor vehicle
7 credit determined under this subsection with respect
8 to a new qualified advanced diesel motor vehicle
9 placed in service by the taxpayer during the taxable
10 year is—

11 “(A) \$3,000 for vehicles with a gross vehi-
12 cle weight rating of not more than 14,000
13 pounds, placed in service before December 31,
14 2009, if such vehicle has received a certificate
15 that such vehicle meets or exceeds the Bin 5
16 Tier II emission level established in regulations
17 prescribed by the Administrator of the Environ-
18 mental Protection Agency under section 202(i)
19 of the Clean Air Act for that make and model
20 year,

21 “(B) \$5,000 for vehicles with a gross vehi-
22 cle weight rating of not more than 14,000
23 pounds, placed in service before December 31,
24 2013, if such vehicle has received a certificate
25 that such vehicle meets or exceeds the Ultra

1 Low Emission Vehicle II (ULEV II) emission
2 level established in regulations prescribed by the
3 California Air Resources Board under chapter 1
4 of division 3 of title 13, California Code of Reg-
5 ulations, for that make and model year, and

6 “(C) zero in any other case.

7 “(2) DEFINITIONS.—

8 “(A) VEHICLE INERTIA WEIGHT CLASS.—

9 For purposes of this subsection, the term ‘vehi-
10 cle inertia weight class’ has the same meaning
11 as when defined in regulations prescribed by
12 the Administrator of the Environmental Protec-
13 tion Agency for purposes of the administration
14 of title II of the Clean Air Act (42 U.S.C. 7521
15 et seq.).

16 “(B) NEW QUALIFIED ADVANCED DIESEL
17 MOTOR VEHICLE.—For purposes of this sub-
18 section, the term ‘new qualified advanced diesel
19 motor vehicle’ means any motor vehicle—

20 “(i) with a direct-injection diesel en-
21 gine which achieves at least 20% increased
22 fuel efficiency over the comparably sized
23 gasoline engine, as determined by the Sec-
24 retary,

1 “(ii) the original use of which com-
2 mences with the taxpayer,

3 “(iii) which is acquired for use or
4 lease by the taxpayer and not for resale,
5 and

6 “(iv) which is made by a manufac-
7 turer.

8 “(f) APPLICATION WITH OTHER CREDITS.—The
9 credit allowed under subsection (a) for any taxable year
10 shall not exceed the excess (if any) of—

11 “(1) the regular tax for the taxable year re-
12 duced by the sum of the credits allowable under sub-
13 part A and sections 27, 29, and 30, over

14 “(2) the tentative minimum tax for the taxable
15 year.

16 “(g) OTHER DEFINITIONS AND SPECIAL RULES.—
17 For purposes of this section—

18 “(1) CONSUMABLE FUEL.—The term
19 ‘consumable fuel’ means any solid, liquid, or gaseous
20 matter which releases energy when consumed by an
21 auxiliary power unit.

22 “(2) MOTOR VEHICLE.—The term ‘motor vehi-
23 cle’ has the meaning given such term by section
24 30(c)(2).

1 “(3) CITY FUEL ECONOMY.—The city fuel econ-
2 omy with respect to any vehicle shall be measured in
3 a manner which is substantially similar to the man-
4 ner city fuel economy is measured in accordance
5 with procedures under part 600 of subchapter Q of
6 chapter I of title 40, Code of Federal Regulations,
7 as in effect on the date of the enactment of this sec-
8 tion.

9 “(4) OTHER TERMS.—The terms ‘automobile’,
10 ‘passenger automobile’, ‘medium duty passenger ve-
11 hicle’, ‘light truck’, and ‘manufacturer’ have the
12 meanings given such terms in regulations prescribed
13 by the Administrator of the Environmental Protec-
14 tion Agency for purposes of the administration of
15 title II of the Clean Air Act (42 U.S.C. 7521 et
16 seq.).

17 “(5) REDUCTION IN BASIS.—For purposes of
18 this subtitle, the basis of any property for which a
19 credit is allowable under subsection (a) shall be re-
20 duced by the amount of such credit so allowed (de-
21 termined without regard to subsection (e)).

22 “(6) NO DOUBLE BENEFIT.—The amount of
23 any deduction or other credit allowable under this
24 chapter—

1 “(A) for any incremental cost taken into
2 account in computing the amount of the credit
3 determined under subsection (d) shall be re-
4 duced by the amount of such credit attributable
5 to such cost, and

6 “(B) with respect to a vehicle described
7 under subsection (b) or (c), shall be reduced by
8 the amount of credit allowed under subsection
9 (a) for such vehicle for the taxable year.

10 “(7) PROPERTY USED BY TAX-EXEMPT ENTI-
11 TIES.—In the case of a credit amount which is al-
12 lowable with respect to a motor vehicle which is ac-
13 quired by an entity exempt from tax under this
14 chapter, the person which sells or leases such vehicle
15 to the entity shall be treated as the taxpayer with
16 respect to the vehicle for purposes of this section
17 and the credit shall be allowed to such person, but
18 only if the person clearly discloses to the entity at
19 the time of any sale or lease the specific amount of
20 any credit otherwise allowable to the entity under
21 this section.

22 “(8) RECAPTURE.—The Secretary shall, by reg-
23 ulations, provide for recapturing the benefit of any
24 credit allowable under subsection (a) with respect to
25 any property which ceases to be property eligible for

1 such credit (including recapture in the case of a
2 lease period of less than the economic life of a vehi-
3 cle).

4 “(9) PROPERTY USED OUTSIDE UNITED
5 STATES, ETC., NOT QUALIFIED.—No credit shall be
6 allowed under subsection (a) with respect to any
7 property referred to in section 50(b) or with respect
8 to the portion of the cost of any property taken into
9 account under section 179.

10 “(10) ELECTION TO NOT TAKE CREDIT.—No
11 credit shall be allowed under subsection (a) for any
12 vehicle if the taxpayer elects to not have this section
13 apply to such vehicle.

14 “(11) CARRYBACK AND CARRYFORWARD AL-
15 LOWED.—

16 “(A) IN GENERAL.—If the credit amount
17 allowable under subsection (a) for a taxable
18 year exceeds the amount of the limitation under
19 subsection (e) for such taxable year (in this
20 paragraph referred to as the ‘unused credit
21 year’), such excess shall be allowed as a credit
22 carryback for each of the 3 taxable years begin-
23 ning after the date of the enactment of this sec-
24 tion, which precede the unused credit year and

1 a credit carryforward for each of the 20 taxable
2 years which succeed the unused credit year.

3 “(B) RULES.—Rules similar to the rules of
4 section 39 shall apply with respect to the credit
5 carryback and credit carryforward under sub-
6 paragraph (A).

7 “(12) INTERACTION WITH AIR QUALITY AND
8 MOTOR VEHICLE SAFETY STANDARDS.—Unless oth-
9 erwise provided in this section, a motor vehicle shall
10 not be considered eligible for a credit under this sec-
11 tion unless such vehicle is in compliance with—

12 “(A) the applicable provisions of the Clean
13 Air Act for the applicable make and model year
14 of the vehicle (or applicable air quality provi-
15 sions of State law in the case of a State which
16 has adopted such provision under a waiver
17 under section 209(b) of the Clean Air Act), and

18 “(B) the motor vehicle safety provisions of
19 sections 30101 through 30169 of title 49,
20 United States Code.

21 “(h) REGULATIONS.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), the Secretary shall promulgate such regu-
24 lations as necessary to carry out the provisions of
25 this section.

1 “(2) COORDINATION IN PRESCRIPTION OF CER-
2 TAIN REGULATIONS.—The Secretary of the Treas-
3 ury, in coordination with the Secretary of Transpor-
4 tation and the Administrator of the Environmental
5 Protection Agency, shall prescribe such regulations
6 as necessary to determine whether a motor vehicle
7 meets the requirements to be eligible for a credit
8 under this section.

9 “(i) TERMINATION.—This section shall not apply to
10 any property purchased after—

11 “(1) in the case of a new qualified fuel cell
12 motor vehicle (as described in subsection (b)), De-
13 cember 31, 2013,

14 “(2) in the case of a new qualified advanced
15 diesel motor vehicle to which subsection (e)(1)(B)
16 applies, December 31, 2013, and

17 “(3) in the case of any other property, Decem-
18 ber 31, 2009.”.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Section 1016(a) is amended by striking
21 “and” at the end of paragraph (30), by striking the
22 period at the end of paragraph (31) and inserting “,
23 and”, and by adding at the end the following new
24 paragraph:

1 “(32) to the extent provided in section
2 30B(g)(5).”.

3 (2) Section 55(c)(3) is amended by inserting
4 “30B(f),” after “30(b)(3)”.

5 (3) Section 6501(m) is amended by inserting
6 “30B(g)(10),” after “30(d)(4),”.

7 (4) The table of sections for subpart B of part
8 IV of subchapter A of chapter 1 is amended by in-
9 serting after the item relating to section 30A the fol-
10 lowing new item:

“Sec. 30B. Alternative motor vehicle credit.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to property placed in service after
13 the date of the enactment of this Act, in taxable years
14 ending after such date.

15 **SEC. 315. MODIFICATION OF CREDIT FOR QUALIFIED ELEC-**
16 **TRIC VEHICLES.**

17 (a) AMOUNT OF CREDIT.—

18 (1) IN GENERAL.—Section 30(a) (relating to al-
19 lowance of credit) is amended by striking “10 per-
20 cent of”.

21 (2) LIMITATION OF CREDIT ACCORDING TO
22 TYPE OF VEHICLE.—Section 30(b) (relating to limi-
23 tations) is amended—

24 (A) by striking paragraphs (1) and (2) and
25 inserting the following new paragraph:

1 “(1) LIMITATION ACCORDING TO TYPE OF VE-
2 HICLE.—The amount of the credit allowed under
3 subsection (a) for any vehicle shall not exceed the
4 greatest of the following amounts applicable to such
5 vehicle:

6 “(A) In the case of a vehicle which con-
7 forms to the Motor Vehicle Safety Standard
8 500 prescribed by the Secretary of Transpor-
9 tation, as in effect on the date of the enactment
10 of the New Apollo Energy Act of 2005, the less-
11 er of—

12 “(i) 10 percent of the manufacturer’s
13 suggested retail price of the vehicle, or

14 “(ii) \$1,500.

15 “(B) In the case of a vehicle not described
16 in subparagraph (A) with a gross vehicle weight
17 rating not exceeding 8,500 pounds—

18 “(i) \$4,000, or

19 “(ii) \$6,000, if such vehicle is—

20 “(I) capable of a driving range of
21 at least 100 miles on a single charge
22 of the vehicle’s rechargeable batteries
23 as measured pursuant to the urban
24 dynamometer schedules under appen-

1 dix I to part 86 of title 40, Code of
2 Federal Regulations, or

3 “(II) capable of a payload capaci-
4 ty of at least 1,000 pounds.

5 “(C) In the case of a vehicle with a gross
6 vehicle weight rating exceeding 8,500 but not
7 exceeding 14,000 pounds, \$10,000.

8 “(D) In the case of a vehicle with a gross
9 vehicle weight rating exceeding 14,000 but not
10 exceeding 26,000 pounds, \$20,000.

11 “(E) In the case of a vehicle with a gross
12 vehicle weight rating exceeding 26,000 pounds,
13 \$40,000.”, and

14 (B) by redesignating paragraph (3) as
15 paragraph (2).

16 (3) CONFORMING AMENDMENTS.—

17 (A) Section 53(d)(1)(B)(iii) is amended by
18 striking “section 30(b)(3)(B)” and inserting
19 “section 30(b)(2)(B)”.

20 (B) Section 55(c)(3) is amended by strik-
21 ing “30(b)(3)” and inserting “30(b)(2)”.

22 (b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

23 (1) IN GENERAL.—Section 30(c)(1)(A) (defin-
24 ing qualified electric vehicle) is amended to read as
25 follows:

1 “(A) which is—

2 “(i) operated solely by use of a bat-
3 tery or battery pack, or

4 “(ii) powered primarily through the
5 use of an electric battery or battery pack
6 using a flywheel or capacitor which stores
7 energy produced by an electric motor
8 through regenerative braking to assist in
9 vehicle operation,”.

10 (2) LEASED VEHICLES.—Section 30(c)(1)(C) is
11 amended by inserting “or lease” after “use”.

12 (3) CONFORMING AMENDMENTS.—

13 (A) Subsections (a), (b)(2), and (c) of sec-
14 tion 30 are each amended by inserting “bat-
15 tery” after “qualified” each place it appears.

16 (B) The heading of subsection (c) of sec-
17 tion 30 is amended by inserting “BATTERY”
18 after “QUALIFIED”.

19 (C) The heading of section 30 is amended
20 by inserting “**BATTERY**” after “**QUALIFIED**”.

21 (D) The item relating to section 30 in the
22 table of sections for subpart B of part IV of
23 subchapter A of chapter 1 is amended by in-
24 serting “battery” after “qualified”.

1 (E) Section 179A(c)(3) is amended by in-
2 serting “battery” before “electric”.

3 (F) The heading of paragraph (3) of sec-
4 tion 179A(c) is amended by inserting “BAT-
5 TERY” before “ELECTRIC”.

6 (c) ADDITIONAL SPECIAL RULES.—

7 (1) IN GENERAL.—Section 30(d) (relating to
8 special rules) is amended by adding at the end the
9 following new paragraphs:

10 “(5) NO DOUBLE BENEFIT.—The amount of
11 any deduction or other credit allowable under this
12 chapter for any cost taken into account in com-
13 puting the amount of the credit determined under
14 subsection (a) shall be reduced by the amount of
15 such credit attributable to such cost.

16 “(6) PROPERTY USED BY TAX-EXEMPT ENTI-
17 TIES.—In the case of a credit amount which is al-
18 lowable with respect to a vehicle which is acquired
19 by an entity exempt from tax under this chapter, the
20 person which sells or leases such vehicle to the entity
21 shall be treated as the taxpayer with respect to the
22 vehicle for purposes of this section and the credit
23 shall be allowed to such person, but only if the per-
24 son clearly discloses to the entity at the time of any

1 sale or lease the specific amount of any credit other-
2 wise allowable to the entity under this section.

3 “(7) CARRYBACK AND CARRYFORWARD AL-
4 LOWED.—

5 “(A) IN GENERAL.—If the credit amount
6 allowable under subsection (a) for a taxable
7 year exceeds the amount of the limitation under
8 subsection (b)(2) for such taxable year (in this
9 paragraph referred to as the ‘unused credit
10 year’), such excess shall be allowed as a credit
11 carryback for each of the 3 taxable years begin-
12 ning after the date of the enactment of this
13 paragraph, which precede the unused credit
14 year and a credit carryforward for each of the
15 20 taxable years which succeed the unused
16 credit year.

17 “(B) RULES.—Rules similar to the rules of
18 section 39 shall apply with respect to the credit
19 carryback and credit carryforward under sub-
20 paragraph (A).”.

21 (2) CONFORMING AMENDMENT.—Section
22 179A(c) is amended by striking paragraph (3).

23 (d) EXTENSION OF CREDIT.—Section 30(e) (relating
24 to termination) is amended by striking “2006” and insert-
25 ing “2009”.

1 (e) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to property placed in service after
 3 the date of the enactment of this Act, in taxable years
 4 ending after such date.

5 **SEC. 316. EXTENSION OF BIODIESEL TAX CREDITS.**

6 (a) IN GENERAL.—Sections 40A(e), 6426(c)(6), and
 7 6427(e)(3)(B) are each amended by striking “2006” and
 8 inserting “2014”.

9 (b) EFFECTIVE DATE.—The amendments made by
 10 this section shall take effect on the date of the enactment
 11 of this Act.

12 **SEC. 317. CREDIT FOR RETAIL SALE OF ALTERNATIVE**
 13 **FUELS AS MOTOR VEHICLE FUEL.**

14 (a) IN GENERAL.—Subpart D of part IV of sub-
 15 chapter A of chapter 1 (relating to business related cred-
 16 its) is amended by inserting after section 40A the fol-
 17 lowing new section:

18 **“SEC. 40B. CREDIT FOR RETAIL SALE OF ALTERNATIVE**
 19 **FUELS AS MOTOR VEHICLE FUEL.**

20 “(a) GENERAL RULE.—For purposes of section 38,
 21 the alternative fuel retail sales credit for any taxable year
 22 is the applicable amount for each gasoline gallon equiva-
 23 lent of alternative fuel sold at retail by the taxpayer during
 24 such year as a fuel to propel any qualified motor vehicle.

25 “(b) DEFINITIONS.—For purposes of this section—

1 “(1) APPLICABLE AMOUNT.—The term ‘applica-
2 ble amount’ means as follows:

3 “(A) IN GENERAL.—Except as provided in
4 subparagraph (B), the amount determined in
5 accordance with the following table:

““In the case of any taxable year ending in—	The applicable amount is—
2006	30 cents
2007	40 cents
2008 and 2009	50 cents
2010	40 cents
2011	30 cents.

6 “(B) HYDROGEN FUEL.—In the case of an
7 alternative fuel which is hydrogen fuel, the
8 amount determined in accordance with the fol-
9 lowing table:

““In the case of any taxable year ending in—	The applicable amount is—
2006	30 cents
2007	40 cents
2008 through 2013	50 cents
2014	40 cents
2015	30 cents.

10 “(2) ALTERNATIVE FUEL.—The term ‘alter-
11 native fuel’ means compressed natural gas, liquefied
12 natural gas, liquefied petroleum gas, hydrogen, and
13 any liquid at least 85 percent of the volume of which
14 consists of methanol or ethanol.

15 “(3) GASOLINE GALLON EQUIVALENT.—The
16 term ‘gasoline gallon equivalent’ means, with respect
17 to any alternative fuel, the amount (determined by
18 the Secretary) of such fuel having a Btu content of
19 114,000.

1 “(4) QUALIFIED MOTOR VEHICLE.—The term
2 ‘qualified motor vehicle’ means any motor vehicle (as
3 defined in section 30(c)(2)) which meets any appli-
4 cable Federal or State emissions standards with re-
5 spect to each fuel by which such vehicle is designed
6 to be propelled.

7 “(5) SOLD AT RETAIL.—

8 “(A) IN GENERAL.—The term ‘sold at re-
9 tail’ means the sale, for a purpose other than
10 resale, after manufacture, production, or impor-
11 tation.

12 “(B) USE TREATED AS SALE.—If any per-
13 son uses alternative fuel (including any use
14 after importation) as a fuel to propel any quali-
15 fied alternative fuel motor vehicle (as defined in
16 section 30B(d)(4)) before such fuel is sold at
17 retail, then such use shall be treated in the
18 same manner as if such fuel were sold at retail
19 as a fuel to propel such a vehicle by such per-
20 son.

21 “(c) ELECTION TO PASS CREDIT.—A person which
22 sells alternative fuel at retail may elect to pass the credit
23 allowable under this section to the purchaser of such fuel
24 or, in the event the purchaser is a tax-exempt entity or
25 otherwise declines to accept such credit, to the person

1 which supplied such fuel, under rules established by the
2 Secretary.

3 “(d) NO DOUBLE BENEFIT.—The amount of any de-
4 duction or other credit allowable under this chapter for
5 any fuel taken into account in computing the amount of
6 the credit determined under subsection (a) shall be re-
7 duced by the amount of such credit attributable to such
8 fuel.

9 “(e) PASS-THRU IN THE CASE OF ESTATES AND
10 TRUSTS.—Under regulations prescribed by the Secretary,
11 rules similar to the rules of subsection (d) of section 52
12 shall apply.

13 “(f) TERMINATION.—

14 “(1) IN GENERAL.—Except as provided in para-
15 graph (2), this section shall not apply to any fuel
16 sold at retail after December 31, 2011.

17 “(2) HYDROGEN FUEL.—In the case of an al-
18 ternative fuel which is hydrogen fuel, this section
19 shall not apply to any fuel sold at retail after De-
20 cember 31, 2015.”.

21 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
22 tion 38(b) (relating to current year business credit) is
23 amended by striking “plus” at the end of paragraph (18),
24 by striking the period at the end of paragraph (19) and

1 inserting “, plus”, and by adding at the end the following
2 new paragraph:

3 “(20) the alternative fuel retail sales credit de-
4 termined under section 40B(a).”.

5 (c) CLERICAL AMENDMENT.—The table of sections
6 for subpart D of part IV of subchapter A of chapter 1
7 is amended by inserting after the item relating to section
8 40A the following new item:

 “Sec. 40B. Credit for retail sale of alternative fuels as motor vehicle fuel.”.

9 (d) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to fuel sold at retail after Decem-
11 ber 31, 2005, in taxable years ending after such date.

12 **SEC. 318. STUDY OF EFFECTIVENESS OF CERTAIN PROVI-**
13 **SIONS BY GAO.**

14 (a) STUDY.—The Comptroller General of the United
15 States shall undertake an ongoing analysis of—

16 (1) the effectiveness of the alternative motor ve-
17 hicles and fuel incentives provisions under this Act,
18 and

19 (2) the recipients of the tax benefits contained
20 in such provisions, including an identification of
21 such recipients by income and other appropriate
22 measurements.

23 Such analysis shall quantify the effectiveness of such pro-
24 visions by examining and comparing the Federal Govern-
25 ment’s forgone revenue to the aggregate amount of energy

1 actually conserved and tangible environmental benefits
2 gained as a result of such provisions.

3 (b) REPORTS.—The Comptroller General of the
4 United States shall report the analysis required under sub-
5 section (a) to Congress not later than December 31, 2006,
6 and annually thereafter.

7 **SEC. 319. EXTENSION OF DEDUCTION FOR CERTAIN RE-**
8 **FUELING PROPERTY.**

9 (a) IN GENERAL.—Section 179A(f) (relating to ter-
10 mination) is amended by striking “2006” and inserting
11 “2009”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to property placed in service after
14 December 31, 2005, in taxable years ending after such
15 date.

16 **SEC. 320. CREDIT FOR INSTALLATION OF ALTERNATIVE**
17 **FUELING STATIONS.**

18 (a) IN GENERAL.—Subpart B of part IV of sub-
19 chapter A of chapter 1 (relating to foreign tax credit, etc.),
20 as amended by this Act, is amended by adding at the end
21 the following new section:

22 **“SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY**
23 **CREDIT.**

24 “(a) CREDIT ALLOWED.—There shall be allowed as
25 a credit against the tax imposed by this chapter for the

1 taxable year an amount equal to 50 percent of the amount
2 paid or incurred by the taxpayer during the taxable year
3 for the installation of qualified clean-fuel vehicle refueling
4 property.

5 “(b) LIMITATION.—

6 “(1) IN GENERAL.—The credit allowed under
7 subsection (a)—

8 “(A) with respect to any retail clean-fuel
9 vehicle refueling property, shall not exceed
10 \$30,000, and

11 “(B) with respect to any residential clean-
12 fuel vehicle refueling property, shall not exceed
13 \$1,000.

14 “(2) PHASEOUT.—

15 “(A) IN GENERAL.—Except as provided in
16 subparagraph (B), in the case of any qualified
17 clean-fuel vehicle refueling property placed in
18 service after December 31, 2007, the limit oth-
19 erwise applicable under paragraph (1) shall be
20 reduced by—

21 “(i) 25 percent in the case of any ve-
22 hicle placed in service in calendar year
23 2008, and

1 “(ii) 50 percent in the case of any ve-
2 hicle placed in service in calendar year
3 2009.

4 “(B) HYDROGEN PROPERTY.—In the case
5 of any qualified clean-fuel vehicle refueling
6 property relating to hydrogen placed in service
7 after December 31, 2011, the limit otherwise
8 applicable under paragraph (1) shall be reduced
9 by—

10 “(i) 25 percent in the case of any ve-
11 hicle placed in service in calendar year
12 2012, and

13 “(ii) 50 percent in the case of any ve-
14 hicle placed in service in calendar year
15 2013.

16 “(c) YEAR CREDIT ALLOWED.—The credit allowed
17 under subsection (a) shall be allowed in the taxable year
18 in which the qualified clean-fuel vehicle refueling property
19 is placed in service by the taxpayer.

20 “(d) DEFINITIONS.—For purposes of this section—

21 “(1) QUALIFIED CLEAN-FUEL VEHICLE RE-
22 FUELING PROPERTY.—The term ‘qualified clean-fuel
23 vehicle refueling property’ has the same meaning
24 given such term by section 179A(d).

1 “(2) RESIDENTIAL CLEAN-FUEL VEHICLE RE-
2 FUELING PROPERTY.—The term ‘residential clean-
3 fuel vehicle refueling property’ means qualified
4 clean-fuel vehicle refueling property which is in-
5 stalled on property which is used as the principal
6 residence (within the meaning of section 121) of the
7 taxpayer.

8 “(3) RETAIL CLEAN-FUEL VEHICLE REFUELING
9 PROPERTY.—The term ‘retail clean-fuel vehicle re-
10 fueling property’ means qualified clean-fuel vehicle
11 refueling property which is installed on property
12 (other than property described in paragraph (2))
13 used in a trade or business of the taxpayer.

14 “(e) APPLICATION WITH OTHER CREDITS.—The
15 credit allowed under subsection (a) for any taxable year
16 shall not exceed the excess (if any) of—

17 “(1) the regular tax for the taxable year re-
18 duced by the sum of the credits allowable under sub-
19 part A and sections 27, 29, 30, and 30B, over

20 “(2) the tentative minimum tax for the taxable
21 year.

22 “(f) BASIS REDUCTION.—For purposes of this title,
23 the basis of any property shall be reduced by the portion
24 of the cost of such property taken into account under sub-
25 section (a).

1 “(g) NO DOUBLE BENEFIT.—No deduction shall be
2 allowed under section 179A with respect to any property
3 with respect to which a credit is allowed under subsection
4 (a).

5 “(h) REFUELING PROPERTY INSTALLED FOR TAX-
6 EXEMPT ENTITIES.—In the case of qualified clean-fuel ve-
7 hicle refueling property installed on property owned or
8 used by an entity exempt from tax under this chapter, the
9 person which installs such refueling property for the entity
10 shall be treated as the taxpayer with respect to the refuel-
11 ing property for purposes of this section (and such refuel-
12 ing property shall be treated as retail clean-fuel vehicle
13 refueling property) and the credit shall be allowed to such
14 person, but only if the person clearly discloses to the entity
15 in any installation contract the specific amount of the
16 credit allowable under this section.

17 “(i) CARRYFORWARD ALLOWED.—

18 “(1) IN GENERAL.—If the credit amount allow-
19 able under subsection (a) for a taxable year exceeds
20 the amount of the limitation under subsection (e) for
21 such taxable year (referred to as the ‘unused credit
22 year’ in this subsection), such excess shall be allowed
23 as a credit carryforward for each of the 20 taxable
24 years following the unused credit year.

1 “(2) RULES.—Rules similar to the rules of sec-
2 tion 39 shall apply with respect to the credit
3 carryforward under paragraph (1).

4 “(j) SPECIAL RULES.—Rules similar to the rules of
5 paragraphs (4) and (5) of section 179A(e) shall apply.

6 “(k) REGULATIONS.—The Secretary shall prescribe
7 such regulations as necessary to carry out the provisions
8 of this section.

9 “(l) TERMINATION.—This section shall not apply to
10 any property placed in service—

11 “(1) in the case of property relating to hydro-
12 gen, after December 31, 2013, and

13 “(2) in the case of any other property, after
14 December 31, 2009.”.

15 (b) INCENTIVE FOR PRODUCTION OF HYDROGEN AT
16 QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROP-
17 ERTY.—Section 179A(d) (defining qualified clean-fuel ve-
18 hicle refueling property) is amended by adding at the end
19 the following new flush sentence:

20 “In the case of clean-burning fuel which is hydrogen pro-
21 duced from another clean-burning fuel, paragraph (3)(A)
22 shall be applied by substituting “production, storage, or
23 dispensing” for “storage or dispensing” both places it ap-
24 pears.”.

1 (c) CONFORMING AMENDMENTS.—(1) Section
2 1016(a), as amended by this Act, is amended by striking
3 “and” at the end of paragraph (31), by striking the period
4 at the end of paragraph (32) and inserting “, and”, and
5 by adding at the end the following new paragraph:

6 “(33) to the extent provided in section
7 30C(f).”.

8 (2) Section 55(c)(3) is amended by inserting
9 “30C(e),” after “30B(e)”.

10 (3) The table of sections for subpart B of part IV
11 of subchapter A of chapter 1, as amended by this Act,
12 is amended by inserting after the item relating to section
13 30B the following new item:

“Sec. 30C. Clean-fuel vehicle refueling property credit.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to property placed in service after
16 the date of the enactment of this Act, in taxable years
17 ending after such date.

18 **SEC. 321. INCENTIVE FOR CERTAIN ENERGY EFFICIENT**
19 **PROPERTY USED IN BUSINESS.**

20 (a) IN GENERAL.—Part VI of subchapter B of chap-
21 ter 1 is amended by adding at the end the following new
22 section:

1 **“SEC. 200. ENERGY PROPERTY DEDUCTION.**

2 “(a) IN GENERAL.—There shall be allowed as a de-
 3 duction for the taxable year an amount equal to the sum
 4 of—

5 “(1) the amount determined under subsection
 6 (b) for each energy property of the taxpayer placed
 7 in service during such taxable year, and

8 “(2) the energy efficient residential rental
 9 building property deduction determined under sub-
 10 section (e).

11 **“(b) AMOUNT FOR ENERGY PROPERTY.—**

12 “(1) IN GENERAL.—The amount determined
 13 under this subsection for the taxable year for each
 14 item of energy property shall equal the amount spec-
 15 ified for such property in the following table:

Description of property:	Allowable amount is:
Elected solar hot water property	\$1.00 per each kwh/year of sav- ings.
Photovoltaic property	\$4.50 per peak watt.
Advanced main air circulating fan or a Tier 1 natural gas, propane, or oil water heater.	\$150.
Tier 2 energy-efficient building property	\$900.
Tier 1 energy-efficient building property (other than an advanced main air circulating fan or a natural gas, propane, or oil water heater).	\$450.”

16 “(2) ELECTED SOLAR HOT WATER PROP-
 17 erty.—In the case of elected solar hot water prop-
 18 erty, the taxpayer may elect to substitute ‘\$21 per
 19 annual Therm of natural gas savings’ for ‘\$1.00 per

1 each kwh/year of savings' in the table contained in
2 paragraph (1).

3 “(c) ENERGY PROPERTY DEFINED.—

4 “(1) IN GENERAL.—For purposes of this part,
5 the term ‘energy property’ means any property—

6 “(A) which is—

7 “(i) solar energy property,

8 “(ii) Tier 2 energy-efficient building
9 property, or

10 “(iii) Tier 1 energy-efficient building
11 property,

12 “(B)(i) the construction, reconstruction, or
13 erection of which is completed by the taxpayer,
14 or

15 “(ii) which is acquired by the taxpayer if
16 the original use of such property commences
17 with the taxpayer,

18 “(C) with respect to which depreciation (or
19 amortization in lieu of depreciation) is allow-
20 able, and

21 “(D) which meets the performance and
22 quality standards, and the certification require-
23 ments (if any), which—

24 “(i) have been prescribed by the Sec-
25 retary by regulations (after consultation

1 with the Secretary of Energy or the Ad-
2 ministrator of the Environmental Protec-
3 tion Agency, as appropriate),

4 “(ii) in the case of the energy effi-
5 ciency ratio (EER) for central air condi-
6 tioners and electric heat pumps—

7 “(I) require measurements to be
8 based on published data which is test-
9 ed by manufacturers at 95 degrees
10 Fahrenheit, and

11 “(II) may be based on certified
12 data of the Air Conditioning and Re-
13 frigeration Institute,

14 “(iii) in the case of geothermal heat
15 pumps—

16 “(I) shall be based on testing
17 under the conditions of ARI/ISO
18 Standard 13256–1 for Water Source
19 Heat Pumps or ARI 870 for Direct
20 Expansion GeoExchange Heat Pumps
21 (DX), as appropriate, and

22 “(II) shall include evidence that
23 water heating services have been pro-
24 vided through a desuperheater or inte-
25 grated water heating system con-

1 nected to the storage water heater
2 tank, and

3 “(iv) are in effect at the time of the
4 acquisition of the property.

5 “(2) SOLAR ENERGY PROPERTY.—In the case
6 of—

7 “(A) elected solar hot water property, the
8 regulations under paragraph (1)(D) shall be
9 based on the OG–300 Standard for the Annual
10 Performance of OG–300 Certified Systems of
11 the Solar Rating and Certification Corporation,
12 and

13 “(B) photovoltaics, such regulations shall
14 be based on the ASTM Standard E 1036 and
15 E 1036M–96 Standard Test Method for Elec-
16 tric Performance of Nonconcentrator Terres-
17 trial Photovoltaic Modules and Arrays Using
18 Reference Cells,

19 to the extent the Secretary determines such stand-
20 ards carry out the purposes of this section.

21 “(3) EXCEPTION.—Such term shall not include
22 any property which is public utility property (as de-
23 fined in section 46(f)(5) as in effect on the day be-
24 fore the date of the enactment of the Revenue Rec-
25 onciliation Act of 1990).

1 “(d) DEFINITIONS RELATING TO TYPES OF ENERGY
2 PROPERTY.—For purposes of this section—

3 “(1) SOLAR ENERGY PROPERTY.—

4 “(A) IN GENERAL.—The term ‘solar en-
5 ergy property’ means equipment which uses
6 solar energy—

7 “(i) to generate electricity, or

8 “(ii) to provide hot water for use in a
9 structure.

10 “(B) ELECTED SOLAR HOT WATER PROP-
11 erty.—

12 “(i) IN GENERAL.—The term ‘elected
13 solar hot water property’ means property
14 which is solar energy property by reason of
15 subparagraph (A)(ii) and for which an
16 election under this subparagraph is in ef-
17 fect.

18 “(ii) ELECTION.—For purposes of
19 clause (i), a taxpayer may elect to treat
20 property described in clause (i) as elected
21 solar hot water property.

22 “(C) PHOTOVOLTAIC PROPERTY.—The
23 term ‘photovoltaic property’ means solar energy
24 property which uses a solar photovoltaic process
25 to generate electricity.

1 “(D) SWIMMING POOLS, ETC., USED AS
2 STORAGE MEDIUM.—The term ‘solar energy
3 property’ shall not include a swimming pool,
4 hot tub, or any other energy storage medium
5 which has a function other than the function of
6 such storage.

7 “(E) SOLAR PANELS.—No solar panel or
8 other property installed as a roof (or portion
9 thereof) shall fail to be treated as solar energy
10 property solely because it constitutes a struc-
11 tural component of the structure on which it is
12 installed.

13 “(2) TIER 2 ENERGY-EFFICIENT BUILDING
14 PROPERTY.—The term ‘Tier 2 energy-efficient build-
15 ing property’ means—

16 “(A) an electric heat pump water heater
17 which yields an energy factor of at least 2.0 in
18 the standard Department of Energy test proce-
19 dure,

20 “(B) an electric heat pump which has a
21 heating seasonal performance factor (HSPF) of
22 at least 9, a seasonal energy efficiency ratio
23 (SEER) of at least 15, and an energy efficiency
24 ratio (EER) of at least 13,

25 “(C) a geothermal heat pump which—

1 “(i) in the case of a closed loop prod-
2 uct, has an energy efficiency ratio (EER)
3 of at least 14.1 and a heating coefficient of
4 performance (COP) of at least 3.3,

5 “(ii) in the case of an open loop prod-
6 uct, has an energy efficiency ratio (EER)
7 of at least 16.2 and a heating coefficient of
8 performance (COP) of at least 3.6, and

9 “(iii) in the case of a direct expansion
10 (DX) product, has an energy efficiency
11 ratio (EER) of at least 15 and a heating
12 coefficient of performance (COP) of at
13 least 3.5,

14 “(D) a central air conditioner which has a
15 seasonal energy efficiency ratio (SEER) of at
16 least 15 and an energy efficiency ratio (EER)
17 of at least 13, and

18 “(E) a natural gas, propane, or oil water
19 heater which has an energy factor of at least
20 0.80.

21 “(3) TIER 1 ENERGY-EFFICIENT BUILDING
22 PROPERTY.—The term ‘Tier 1 energy-efficient build-
23 ing property’ means—

24 “(A) an electric heat pump which has a
25 heating system performance factor (HSPF) of

1 at least 8.5, a cooling seasonal energy efficiency
2 ratio (SEER) of at least 14, and an energy effi-
3 ciency ratio (EER) of at least 12,

4 “(B) a central air conditioner which has a
5 cooling seasonal energy efficiency ratio (SEER)
6 of at least 14 and an energy efficiency ratio
7 (EER) of at least 12,

8 “(C) a natural gas, propane, or oil water
9 heater which has an energy factor of at least
10 0.65, and

11 “(D) an oil, natural gas, or propane fur-
12 nace or hot water boiler which achieves at least
13 95 percent annual fuel utilization efficiency
14 (AFUE).

15 “(4) ADVANCED MAIN AIR CIRCULATING FAN.—
16 The term ‘advanced main air circulating fan’ means
17 a fan used in a natural gas, propane, or oil furnace
18 originally placed in service by the taxpayer during
19 the taxable year, including a fan which uses a
20 brushless permanent magnet motor or another type
21 of motor which achieves similar or higher efficiency
22 at full and half speed, as determined by the Sec-
23 retary.

24 “(e) ENERGY EFFICIENT RESIDENTIAL RENTAL
25 BUILDING PROPERTY DEDUCTION.—

1 “(1) DEDUCTION ALLOWED.—For purposes of
2 subsection (a)—

3 “(A) IN GENERAL.—The energy efficient
4 residential rental building property deduction
5 determined under this subsection is an amount
6 equal to energy efficient residential rental build-
7 ing property expenditures made by a taxpayer
8 for the taxable year.

9 “(B) MAXIMUM AMOUNT OF DEDUC-
10 TION.—The amount of energy efficient residen-
11 tial rental building property expenditures taken
12 into account under subparagraph (A) with re-
13 spect to each dwelling unit shall not exceed—

14 “(i) \$6,000 in the case of a percent-
15 age reduction of 50 percent as determined
16 under paragraph (2)(B), and

17 “(ii) \$12,000 times the percentage re-
18 duction in the case of a percentage reduc-
19 tion of less than 50 percent as determined
20 under paragraph (2)(B).

21 “(C) YEAR DEDUCTION ALLOWED.—The
22 deduction under subparagraph (A) shall be al-
23 lowed in the taxable year in which the construc-
24 tion, reconstruction, erection, or rehabilitation
25 of the property is completed.

1 “(2) ENERGY EFFICIENT RESIDENTIAL RENTAL
2 BUILDING PROPERTY EXPENDITURES.—For pur-
3 poses of this subsection—

4 “(A) IN GENERAL.—The term ‘energy effi-
5 cient residential rental building property ex-
6 penditures’ means an amount paid or incurred
7 in connection with construction, reconstruction,
8 erection, or rehabilitation of energy efficient
9 residential rental building property—

10 “(i) for which depreciation is allow-
11 able under section 167,

12 “(ii) which is located in the United
13 States, and

14 “(iii) the construction, reconstruction,
15 erection, or rehabilitation of which is com-
16 pleted by the taxpayer.

17 Such term includes expenditures for labor costs
18 properly allocable to the onsite preparation, as-
19 sembly, or original installation of the property.

20 “(B) ENERGY EFFICIENT RESIDENTIAL
21 RENTAL BUILDING PROPERTY.—

22 “(i) IN GENERAL.—The term ‘energy
23 efficient residential rental building prop-
24 erty’ means any property which reduces
25 total annual energy and power costs with

1 respect to heating and cooling of the build-
2 ing by a percentage certified according to
3 clause (ii).

4 “(ii) PROCEDURES.—

5 “(I) IN GENERAL.—For purposes
6 of clause (i), energy usage and costs
7 shall be demonstrated by perform-
8 ance-based compliance.

9 “(II) PERFORMANCE-BASED COM-
10 PLIANCE.—Performance-based compli-
11 ance shall be demonstrated by calcu-
12 lating the percent energy cost savings
13 for heating and cooling, as applicable,
14 with respect to a dwelling unit when
15 compared to the original condition of
16 the dwelling unit.

17 “(III) COMPUTER SOFTWARE.—
18 Computer software shall be used in
19 support of performance-based compli-
20 ance under subclause (II) and such
21 software shall meet all of the proce-
22 dures and methods for calculating en-
23 ergy savings reductions which are pro-
24 mulgated by the Secretary of Energy.
25 Such regulations on the specifications

1 for software and verification protocols
2 shall be based on the 2005 California
3 Residential Alternative Calculation
4 Method Approval Manual.

5 “(IV) CALCULATION REQUIRE-
6 MENTS.—In calculating tradeoffs and
7 energy performance, the regulations
8 prescribed under this clause shall pre-
9 scribe for the taxable year the costs
10 per unit of energy and power, such as
11 kilowatt hour, kilowatt, gallon of fuel
12 oil, and cubic foot or Btu of natural
13 gas, which may be dependent on time
14 of usage. Where a State has developed
15 annual energy usage and cost reduc-
16 tion procedures based on time of
17 usage costs for use in the performance
18 standards of the State’s building en-
19 ergy code prior to the effective date of
20 this section, the State may use those
21 annual energy usage and cost reduc-
22 tion procedures in lieu of those adopt-
23 ed by the Secretary.

24 “(V) APPROVAL OF SOFTWARE
25 SUBMISSIONS.—The Secretary shall

1 approve software submissions which
2 comply with the requirements of sub-
3 clause (III).

4 “(VI) PROCEDURES FOR INSPEC-
5 TION AND TESTING OF HOMES.—The
6 Secretary shall ensure that procedures
7 for the inspection and testing for com-
8 pliance comply with the calculation re-
9 quirements under subclause (IV) of
10 this clause and clause (iv).

11 “(iii) DETERMINATIONS OF COMPLI-
12 ANCE.—A determination of compliance
13 with respect to energy efficient residential
14 rental building property made for the pur-
15 poses of this subparagraph shall be filed
16 with the Secretary not later than 1 year
17 after the date of such determination and
18 shall include the TIN of the certifier, the
19 address of the building in compliance, and
20 the identity of the person for whom such
21 determination was performed. Determina-
22 tions of compliance filed with the Secretary
23 shall be available for inspection by the Sec-
24 retary of Energy.

25 “(iv) COMPLIANCE.—

1 “(I) IN GENERAL.—The Sec-
2 retary, after consultation with the
3 Secretary of Energy, shall establish
4 requirements for certification and
5 compliance procedures after exam-
6 ining the requirements for energy con-
7 sultants and home energy ratings pro-
8 viders specified by the Mortgage In-
9 dustry National Home Energy Rating
10 Standards.

11 “(II) INDIVIDUALS QUALIFIED
12 TO DETERMINE COMPLIANCE.—The
13 determination of compliance may be
14 provided by a local building regulatory
15 authority, a utility, a manufactured
16 home production inspection primary
17 inspection agency (IPIA), or an ac-
18 credited home energy rating system
19 provider. All providers shall be accred-
20 ited, or otherwise authorized to use
21 approved energy performance meas-
22 urement methods, by the Residential
23 Energy Services Network (RESNET).

24 “(C) ALLOCATION OF DEDUCTION FOR
25 PUBLIC PROPERTY.—In the case of energy effi-

1 cient residential rental building property which
2 is public property, the Secretary shall promul-
3 gate a regulation to allow the allocation of the
4 deduction to the person primarily responsible
5 for designing the improvements to the property
6 in lieu of the public entity which is the owner
7 of such property. Such person shall be treated
8 as the taxpayer for purposes of this subsection.

9 “(f) SPECIAL RULES.—For purposes of this sec-
10 tion—

11 “(1) BASIS REDUCTION.—For purposes of this
12 subtitle, if a deduction is allowed under this section
13 with respect to any property, the basis of such prop-
14 erty shall be reduced by the amount of the deduction
15 so allowed.

16 “(2) DOUBLE BENEFIT.—Property which
17 would, but for this paragraph, be eligible for deduc-
18 tion under more than one provision of this section
19 shall be eligible only under one such provision, the
20 provision specified by the taxpayer.

21 “(g) REGULATIONS.—The Secretary shall promul-
22 gate such regulations as necessary to take into account
23 new technologies regarding energy efficiency and renew-
24 able energy for purposes of determining energy efficiency
25 and savings under this section.

1 “(h) TERMINATION.—This section shall not apply
2 with respect to—

3 “(1) any energy property placed in service after
4 December 31, 2010 (December 31, 2006, in the case
5 of Tier 1 energy-efficient building property), and

6 “(2) any energy efficient residential rental
7 building property expenditures in connection with
8 property—

9 “(A) placed in service after December 31,
10 2008, or

11 “(B) the construction, reconstruction, erec-
12 tion, or rehabilitation of which is not completed
13 on or before December 31, 2008.”.

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 48(a)(3)(A) is amended to read as
16 follows:

17 “(A) which is equipment used to produce,
18 distribute, or use energy derived from a geo-
19 thermal deposit (within the meaning of section
20 613(e)(2)), but only, in the case of electricity
21 generated by geothermal power, up to (but not
22 including) the electrical transmission stage,”.

23 (2) Subparagraph (B) of section 168(e)(3) is
24 amended—

25 (A) in clause (vi)(I)—

1 (i) by striking “section 48(a)(3)” and
2 inserting “section 200(d)(1)”, and

3 (ii) by striking “clause (i)” and in-
4 serting “such subparagraph (A)”, and

5 (B) in the last sentence, by striking “sec-
6 tion 48(a)(3)” and inserting “section
7 200(c)(3)”.

8 (3) Section 1016(a) is amended by striking
9 “and” at the end of paragraph (32), by striking the
10 period at the end of paragraph (33) and inserting “,
11 and”, and by inserting the following new paragraph:

12 “(34) for amounts allowed as a deduction under
13 section 200(a).”.

14 (c) CLERICAL AMENDMENT.—The table of sections
15 for part VI of subchapter B of chapter 1 is amended by
16 adding at the end the following new item:

“Sec. 200. Energy property deduction.”.

17 (d) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Department of
19 Energy out of amounts not already appropriated such
20 sums as necessary to carry out this section.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 December 31, 2005.

1 **SEC. 322. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
 2 **DUCTION.**

3 (a) IN GENERAL.—Part VI of subchapter B of chap-
 4 ter 1 (relating to itemized deductions for individuals and
 5 corporations) is amended by inserting after section 179B
 6 the following new section:

7 **“SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS**
 8 **DEDUCTION.**

9 “(a) IN GENERAL.—There shall be allowed as a de-
 10 duction an amount equal to the cost of energy efficient
 11 commercial building property placed in service during the
 12 taxable year.

13 “(b) MAXIMUM AMOUNT OF DEDUCTION.—The de-
 14 duction under subsection (a) with respect to any building
 15 for the taxable year and all prior taxable years shall not
 16 exceed an amount equal to the product of—

17 “(1) \$2.25, and

18 “(2) the square footage of the building.

19 “(c) DEFINITIONS.—For purposes of this section—

20 “(1) ENERGY EFFICIENT COMMERCIAL BUILD-
 21 ING PROPERTY.—The term ‘energy efficient commer-
 22 cial building property’ means property—

23 “(A) which is installed on or in any build-
 24 ing located in the United States,

25 “(B) which is installed as part of—

26 “(i) the interior lighting systems,

1 “(ii) the heating, cooling, ventilation,
2 and hot water systems, or

3 “(iii) the building envelope, and

4 “(C) which is certified in accordance with
5 subsection (d)(6) as being installed as part of
6 a plan designed to reduce the total annual en-
7 ergy and power costs with respect to the inte-
8 rior lighting systems, heating, cooling, ventila-
9 tion, and hot water systems of the building by
10 50 percent or more in comparison to a ref-
11 erence building which meets the minimum re-
12 quirements of Standard 90.1–2001 using meth-
13 ods of calculation under subsection (d)(2).

14 A building described in subparagraph (A) may in-
15 clude any residential rental property, including any
16 low-rise multifamily structure or single family hous-
17 ing property which is not within the scope of Stand-
18 ard 90.1–2001, but shall not include any highly en-
19 ergy-efficient principal residence (within the mean-
20 ing of section 45J(b)) for which a credit under sec-
21 tion 45J has been allowed.

22 “(2) STANDARD 90.1–2001.—The term ‘Stand-
23 ard 90.1–2001’ means Standard 90.1–2001 of the
24 American Society of Heating, Refrigerating, and Air
25 Conditioning Engineers and the Illuminating Engi-

1 neering Society of North America (as in effect on
2 April 2, 2003).

3 “(d) SPECIAL RULES.—

4 “(1) PARTIAL ALLOWANCE.—

5 “(A) IN GENERAL.—Except as provided in
6 subsection (f), if—

7 “(i) the requirement of subsection
8 (c)(1)(C) is not met, but

9 “(ii) there is a certification in accord-
10 ance with paragraph (6) that any system
11 referred to in subsection (c)(1)(B) satisfies
12 the energy-savings targets established by
13 the Secretary under subparagraph (B)
14 with respect to such system,

15 then the requirement of subsection (c)(1)(C)
16 shall be treated as met with respect to such sys-
17 tem, and the deduction under subsection (a)
18 shall be allowed with respect to energy efficient
19 commercial building property installed as part
20 of such system and as part of a plan to meet
21 such targets, except that subsection (b) shall be
22 applied to such property by substituting ‘\$.75’
23 for ‘\$2.25’.

24 “(B) REGULATIONS.—The Secretary, after
25 consultation with the Secretary of Energy, shall

1 establish a target for each system described in
2 subsection (c)(1)(B) which, if such targets were
3 met for all such systems, the building would
4 meet the requirements of subsection (c)(1)(C).

5 “(2) METHODS OF CALCULATION.—The Sec-
6 retary, after consultation with the Secretary of En-
7 ergy, shall promulgate regulations which describe in
8 detail methods for calculating and verifying energy
9 and power consumption and cost, based on the pro-
10 visions of the 2005 California Nonresidential Alter-
11 native Calculation Method Approval Manual or, in
12 the case of residential property, the 2005 California
13 Residential Alternative Calculation Method Approval
14 Manual. These regulations shall meet the following
15 requirements:

16 “(A) In calculating tradeoffs and energy
17 performance, the regulations shall prescribe the
18 costs per unit of energy and power, such as kil-
19 owatt hour, kilowatt, gallon of fuel oil, and
20 cubic foot or Btu of natural gas, which may be
21 dependent on time of usage. If a State has de-
22 veloped annual energy usage and cost calcula-
23 tion procedures based on time of usage costs for
24 use in the performance standards of the State’s
25 building energy code before the effective date of

1 this section, the State may use those annual en-
2 ergy usage and cost calculation procedures in
3 lieu of those adopted by the Secretary.

4 “(B) The calculation methods under this
5 paragraph need not comply fully with section
6 11 of Standard 90.1–2001.

7 “(C) The calculation methods shall be fuel
8 neutral, such that the same energy efficiency
9 features shall qualify a building for the deduc-
10 tion under this section regardless of whether
11 the heating source is a gas or oil furnace or an
12 electric heat pump. The reference building for
13 a proposed design which employs electric resist-
14 ance heating shall be modeled as using a heat
15 pump.

16 “(D) The calculation methods shall provide
17 appropriate calculated energy savings for design
18 methods and technologies not otherwise credited
19 in either Standard 90.1–2001 or in the 2005
20 California Nonresidential Alternative Calcula-
21 tion Method Approval Manual, including the
22 following:

23 “(i) Natural ventilation.

24 “(ii) Evaporative cooling.

1 “(iii) Automatic lighting controls such
2 as occupancy sensors, photocells, and time-
3 clocks.

4 “(iv) Daylighting.

5 “(v) Designs utilizing semi-condi-
6 tioned spaces which maintain adequate
7 comfort conditions without air conditioning
8 or without heating.

9 “(vi) Improved fan system efficiency,
10 including reductions in static pressure.

11 “(vii) Advanced unloading mecha-
12 nisms for mechanical cooling, such as mul-
13 tiple or variable speed compressors.

14 “(viii) The calculation methods may
15 take into account the extent of commis-
16 sioning in the building, and allow the tax-
17 payer to take into account measured per-
18 formance which exceeds typical perform-
19 ance.

20 “(ix) On-site generation of electricity,
21 including combined heat and power sys-
22 tems, fuel cells, and renewable energy gen-
23 eration such as solar energy.

24 “(x) Wiring with lower energy losses
25 than wiring satisfying Standard 90.1–2001

1 requirements for building power distribu-
2 tion systems.

3 “(3) COMPUTER SOFTWARE.—

4 “(A) IN GENERAL.—Any calculation under
5 paragraph (2) shall be prepared by qualified
6 computer software.

7 “(B) QUALIFIED COMPUTER SOFTWARE.—
8 For purposes of this paragraph, the term
9 ‘qualified computer software’ means software—

10 “(i) for which the software designer
11 has certified that the software meets all
12 procedures and detailed methods for calcu-
13 lating energy and power consumption and
14 costs as required by the Secretary,

15 “(ii) which provides such forms as re-
16 quired to be filed by the Secretary in con-
17 nection with energy efficiency of property
18 and the deduction allowed under this sec-
19 tion, and

20 “(iii) which provides a notice form
21 which documents the energy efficiency fea-
22 tures of the building and its projected an-
23 nual energy costs.

24 “(4) ALLOCATION OF DEDUCTION FOR PUBLIC
25 PROPERTY.—In the case of energy efficient commer-

1 cial building property installed on or in public prop-
2 erty, the Secretary shall promulgate a regulation to
3 allow the allocation of the deduction to the person
4 primarily responsible for designing the property in
5 lieu of the public entity which is the owner of such
6 property. Such person shall be treated as the tax-
7 payer for purposes of this section.

8 “(5) NOTICE TO OWNER.—Each certification
9 required under this section shall include an expla-
10 nation to the building owner regarding the energy
11 efficiency features of the building and its projected
12 annual energy costs as provided in the notice under
13 paragraph (3)(B)(iii).

14 “(6) CERTIFICATION.—

15 “(A) IN GENERAL.—The Secretary shall
16 prescribe the manner and method for the mak-
17 ing of certifications under this section.

18 “(B) PROCEDURES.—The Secretary shall
19 include as part of the certification process pro-
20 cedures for inspection and testing by qualified
21 individuals described in subparagraph (C) to
22 ensure compliance of buildings with energy-sav-
23 ings plans and targets. Such procedures shall
24 be comparable, given the difference between
25 commercial and residential buildings, to the re-

1 requirements in the Mortgage Industry National
2 Accreditation Procedures for Home Energy
3 Rating Systems.

4 “(C) QUALIFIED INDIVIDUALS.—Individ-
5 uals qualified to determine compliance shall be
6 only those individuals who are recognized by an
7 organization certified by the Secretary for such
8 purposes.

9 “(e) BASIS REDUCTION.—For purposes of this sub-
10 title, if a deduction is allowed under this section with re-
11 spect to any energy efficient commercial building property,
12 the basis of such property shall be reduced by the amount
13 of the deduction so allowed.

14 “(f) INTERIM RULES FOR LIGHTING SYSTEMS.—
15 Until such time as the Secretary issues final regulations
16 under subsection (d)(1)(B) with respect to property which
17 is part of a lighting system—

18 “(1) IN GENERAL.—The lighting system target
19 under subsection (d)(1)(A)(ii) shall be a reduction in
20 lighting power density of 25 percent (50 percent in
21 the case of a warehouse) of the minimum require-
22 ments in Table 9.3.1.1 or Table 9.3.1.2 (not includ-
23 ing additional interior lighting power allowances) of
24 Standard 90.1–2001.

1 “(2) REDUCTION IN DEDUCTION IF REDUCTION
2 LESS THAN 40 PERCENT.—

3 “(A) IN GENERAL.—If, with respect to the
4 lighting system of any building other than a
5 warehouse, the reduction in lighting power den-
6 sity of the lighting system is not at least 40
7 percent, only the applicable percentage of the
8 amount of deduction otherwise allowable under
9 this section with respect to such property shall
10 be allowed.

11 “(B) APPLICABLE PERCENTAGE.—For
12 purposes of subparagraph (A), the applicable
13 percentage is the number of percentage points
14 (not greater than 100) equal to the sum of—

15 “(i) 50, and

16 “(ii) the amount which bears the same
17 ratio to 50 as the excess of the reduction
18 of lighting power density of the lighting
19 system over 25 percentage points bears to
20 15.

21 “(C) EXCEPTIONS.—This subsection shall
22 not apply to any system—

23 “(i) the controls and circuiting of
24 which do not comply fully with the manda-
25 tory and prescriptive requirements of

1 Standard 90.1–2001 and which do not in-
2 clude provision for bilevel switching in all
3 occupancies except hotel and motel guest
4 rooms, store rooms, restrooms, and public
5 lobbies, or

6 “(ii) which does not meet the min-
7 imum requirements for calculated lighting
8 levels as set forth in the Illuminating Engi-
9 neering Society of North America Lighting
10 Handbook, Performance and Application,
11 Ninth Edition, 2000.

12 “(g) COORDINATION WITH OTHER TAX BENE-
13 FITS.—

14 “(1) NO DOUBLE BENEFIT.—No deduction
15 shall be allowed under subsection (a) with respect to
16 any building for which a credit under section 45J
17 has been allowed.

18 “(2) SPECIAL RULE WITH RESPECT TO BUILD-
19 INGS WITH ENERGY EFFICIENT PROPERTY.—In any
20 case in which a deduction under section 200 or a
21 credit under section 25C has been allowed with re-
22 spect to property in connection with a building, the
23 annual energy and power costs of the reference
24 building referred to in subsection (c)(1)(C) shall be
25 determined assuming such reference building con-

1 tains the property for which such deduction or credit
2 has been allowed.

3 “(h) REGULATIONS.—The Secretary shall promul-
4 gate such regulations as necessary—

5 “(1) to take into account new technologies re-
6 garding energy efficiency and renewable energy for
7 purposes of determining energy efficiency and sav-
8 ings under this section, and

9 “(2) to provide for a recapture of the deduction
10 allowed under this section if the plan described in
11 subsection (e)(1)(C) or (d)(1)(A) is not fully imple-
12 mented.

13 “(i) TERMINATION.—This section shall not apply
14 with respect to property placed in service after December
15 31, 2010.”.

16 (b) CONFORMING AMENDMENTS.—

17 (1) Section 1016(a) is amended by striking
18 “and” at the end of paragraph (33), by striking the
19 period at the end of paragraph (34) and inserting “,
20 and”, and by adding at the end the following new
21 paragraph:

22 “(35) to the extent provided in section
23 179C(e).”.

1 (2) Section 1245(a) is amended by inserting
2 “179C,” after “179B,” both places it appears in
3 paragraphs (2)(C) and (3)(C).

4 (3) Section 1250(b)(3) is amended by inserting
5 before the period at the end of the first sentence “or
6 by section 179C”.

7 (4) Section 263(a)(1) is amended by striking
8 “or” at the end of subparagraph (H), by striking
9 the period at the end of subparagraph (I) and in-
10 serting “, or”, and by inserting after subparagraph
11 (I) the following new subparagraph:

12 “(J) expenditures for which a deduction is
13 allowed under section 179C.”.

14 (5) Section 312(k)(3)(B) is amended by strik-
15 ing “section 179, 179A, or 179B” each place it ap-
16 pears in the heading and text and inserting “section
17 179, 179A, 179B, or 179C”.

18 (c) CLERICAL AMENDMENT.—The table of sections
19 for part VI of subchapter B of chapter 1 is amended by
20 inserting after the item relating to section 179B the fol-
21 lowing new item:

 “Sec. 179C. Energy efficient commercial buildings deduction.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to property placed in service after
24 the date of the enactment of this Act in taxable years end-
25 ing after such date.

1 **SEC. 323. CREDIT FOR CONSTRUCTION OF NEW HIGHLY EN-**
2 **ERGY-EFFICIENT HOMES.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
4 chapter A of chapter 1 (relating to business related cred-
5 its) is amended by inserting after section 45I the fol-
6 lowing:

7 **“SEC. 45J. NEW HIGHLY ENERGY-EFFICIENT HOME CREDIT.**

8 “(a) IN GENERAL.—For purposes of section 38, in
9 the case of an eligible contractor, the credit determined
10 under this section for the taxable year is an amount equal
11 to the credit amount specified in the following table for
12 a new, highly energy-efficient principal residence:

“New, highly energy-efficient principal residence:	Credit amount:
30 percent property	\$1,000
50 percent property	\$2,000

13 “(b) HIGHLY ENERGY-EFFICIENT PRINCIPAL RESI-
14 DENCE.—For purposes of this section—

15 “(1) IN GENERAL.—The term ‘highly energy-ef-
16 ficient principal residence’ means a dwelling—

17 “(A) located in the United States,

18 “(B) the construction of which is substan-
19 tially completed after December 31, 2005,

20 “(C) the original use of which is as a prin-
21 cipal residence (within the meaning of section
22 121) which commences with the person who ac-

1 quires such dwelling from the eligible con-
2 tractor, and

3 “(D) which is certified before such use
4 commences as being 50 percent property or 30
5 percent property.

6 “(2) 50 OR 30 PERCENT PROPERTY.—

7 “(A) IN GENERAL.—For purposes of para-
8 graph (1), property is 50 percent property or
9 30 percent property if the projected heating and
10 cooling energy usage of such property, meas-
11 ured in terms of average annual energy cost to
12 taxpayer, is reduced by 50 percent, or 30 per-
13 cent, respectively, in comparison to the energy
14 usage of the standard design reference house as
15 determined using the procedures under sub-
16 paragraph (D).

17 “(B) STANDARD DESIGN REFERENCE
18 HOUSE.—For purposes of this subsection, the
19 term ‘standard design reference house’ means a
20 dwelling which conforms with the standards of
21 chapter 4 of the 2000 International Energy
22 Conservation Code of the International Code
23 Council and the minimum equipment efficiency
24 standards promulgated by the Department of

1 Energy under the National Appliance Energy
2 Conservation Act.

3 “(C) ENERGY EFFICIENT REFERENCE
4 HOUSE.—For purposes of this paragraph, the
5 term ‘energy efficient reference house’ means a
6 design of a dwelling which uses the same heat-
7 ing fuel type as the proposed design and which
8 uses minimum standards equipment, as re-
9 quired by the Department of Energy under the
10 National Appliance Energy Conservation Act
11 and which achieves, on average over fuel type
12 and house geometry, the required 30 percent or
13 50 percent reductions in annual energy cost as
14 calculated using the procedures under subpara-
15 graph (D).

16 “(D) PROCEDURES.—

17 “(i) IN GENERAL.—For purposes of
18 subparagraph (A), energy usage shall be
19 demonstrated either by a component-based
20 approach or a performance-based ap-
21 proach.

22 “(ii) COMPONENT APPROACH.—Com-
23 pliance by the component approach is
24 achieved when all of the components of the
25 house comply with the requirements of pre-

1 scriptive packages established by the Sec-
2 retary of Energy, in consultation with the
3 Administrator of the Environmental Pro-
4 tection Agency, such that they are equiva-
5 lent, for the strong majority of houses
6 which can use this method, to the results
7 of using the performance-based approach
8 of clause (iii) to achieve the required re-
9 duction in energy usage.

10 “(iii) PERFORMANCE-BASED AP-
11 PROACH.—Performance-based compliance
12 shall be demonstrated in terms of equiva-
13 lent or less energy usage when compared
14 to the energy efficient reference house of
15 the same heating fuel type as the dwelling
16 concerned or through an alternate method
17 prescribed by the Secretary which yields
18 equivalent results.

19 “(iv) COMPUTER SOFTWARE.—Com-
20 puter software shall be used in support of
21 performance-based compliance under
22 clause (iii) and such software shall meet all
23 of the procedures and methods for calcu-
24 lating energy savings reductions that are
25 promulgated by the Secretary of Energy.

1 Such regulations on the specifications for
2 software and verification protocols shall be
3 based on the 2005 California Residential
4 Alternative Calculation Method Approval
5 Manual.

6 “(v) FUEL PARITY.—In the case of
7 both the component and the performance-
8 based approaches, and any software used
9 in support of either such approach, the
10 Secretary shall assure fuel parity by re-
11 quiring both the energy efficient reference
12 house and the prescriptive package under
13 clause (ii) to employ the same envelope en-
14 ergy efficiency measures for a house heat-
15 ed by a gas furnace as for a house heated
16 by an electric air source heat pump or by
17 an oil furnace or boiler; and, for equipment
18 efficiency, to employ electric, oil, or gas
19 equipment efficiency of corresponding effi-
20 ciency improvement. Such determination of
21 corresponding efficiency improvement shall
22 be made on a linear scale between the min-
23 imum standard equipment efficiency and
24 the best available marketplace technology
25 efficiency as determined by the Secretary

1 after considering the information provided
2 by the Air Conditioning and Refrigeration
3 Institute (ARI) and the Gas Appliance
4 Manufacturers Association (GAMA) guides
5 for the respective electric, oil, and natural
6 gas equipment of such type (such as heat-
7 ing and cooling).

8 “(vi) APPROVAL OF SOFTWARE SUB-
9 MISSIONS.—The Secretary shall approve
10 software submissions that comply with the
11 calculation requirements of clause (iv).

12 “(vii) PROCEDURES FOR INSPECTION
13 AND TESTING OF HOMES.—The Secretary
14 shall ensure that procedures for the inspec-
15 tion and testing for compliance comply
16 with the calculation requirements under
17 clause (iv).

18 “(3) DETERMINATIONS OF COMPLIANCE.—A
19 determination of compliance made for the purposes
20 of this subsection shall be filed with the Secretary
21 within 1 year after the date of such determination
22 and shall include the TIN of the certifier, the ad-
23 dress of the building in compliance, and the identity
24 of the person for whom such determination was per-
25 formed. Determinations of compliance filed with the

1 Secretary shall be available for inspection by the
2 Secretary of Energy.

3 “(4) COMPLIANCE.—

4 “(A) IN GENERAL.—The Secretary, in con-
5 sultation with the Secretary of Energy shall es-
6 tablish requirements for certification and com-
7 pliance procedures after examining the require-
8 ments for energy consultants and home energy
9 ratings providers specified by the Mortgage In-
10 dustry National Accreditation Procedures for
11 Home Energy Rating Systems.

12 “(B) INDIVIDUALS QUALIFIED TO DETER-
13 MINE COMPLIANCE.—Individuals qualified to
14 determine compliance shall be only those indi-
15 viduals who are recognized by an organization
16 certified by the Secretary for such purposes.
17 The Secretary may qualify a Home Energy
18 Rating Systems Organization, a local building
19 code agency, a State or local energy office, a
20 utility, or other organizations which meet the
21 requirements prescribed under this section.

22 “(5) FORM PROVIDED TO BUYER.—

23 “(A) IN GENERAL.—A form documenting
24 the energy-efficiency of the dwelling, including
25 the rated energy efficiency performance of

1 equipment installed in the dwelling, shall be
2 provided to the buyer of the dwelling. The form
3 shall include labeled R-value for insulation
4 products, NFRC-labeled U-factor and Solar
5 Heat Gain Coefficient for windows, skylights,
6 and doors, labeled AFUE ratings for furnaces
7 and boilers, labeled HSPF ratings for electric
8 heat pumps, and labeled SEER ratings for air
9 conditioners.

10 “(B) RATINGS LABEL AFFIXED IN DWELL-
11 ING.—A permanent label documenting the rat-
12 ings in subparagraph (A) shall be affixed to the
13 front of the electrical distribution panel of the
14 dwelling, or shall be otherwise permanently dis-
15 played in a readily inspectable location in the
16 dwelling.

17 “(c) ADDITIONAL DEFINITIONS.—For purposes of
18 this section—

19 “(1) ELIGIBLE CONTRACTOR.—The term ‘eligi-
20 ble contractor’ means the person who constructed
21 the new energy-efficient home, or in the case of a
22 manufactured home which conforms to Federal
23 Manufactured Home Construction and Safety Stand-
24 ards (24 C.F.R. 3280), the manufactured home pro-
25 ducer of such home.

1 “(2) CONSTRUCTION.—The term ‘construction’
2 includes reconstruction and rehabilitation.

3 “(3) ACQUIRE.—The term ‘acquire’ includes
4 purchase and, in the case of reconstruction and re-
5 habilitation, such term includes a binding written
6 contract for such reconstruction or rehabilitation.

7 “(4) MANUFACTURED HOME INCLUDED.—The
8 term ‘dwelling’ includes a manufactured home con-
9 forming to Federal Manufactured Home Construc-
10 tion and Safety Standards (24 C.F.R. 3280).

11 “(d) COORDINATION WITH OTHER CREDITS.—Prop-
12 erty which would, but for this paragraph, be eligible for
13 credit under more than one provision of this section shall
14 be eligible only under one such provision, the provision
15 specified by the taxpayer.

16 “(e) BASIS ADJUSTMENT.—For purposes of this sub-
17 title, if a credit is allowed under this section for any ex-
18 penditure with respect to any property, the increase in the
19 basis of such property which would (but for this sub-
20 section) result from such expenditure shall be reduced by
21 the amount of the credit so allowed.

22 “(f) TERMINATION.—Subsection (a) shall apply to
23 dwellings purchased during the period beginning on Janu-
24 ary 1, 2006, and ending on December 31, 2010.”.

1 (b) CREDIT MADE PART OF GENERAL BUSINESS
2 CREDIT.—Section 38(b) (relating to current year business
3 credit) is amended by striking “plus” at the end of para-
4 graph (19), by striking the period at the end of paragraph
5 (20) and inserting “, plus”, and by adding at the end the
6 following:

7 “(21) the new highly energy-efficient home
8 credit determined under section 45J.”.

9 (c) DENIAL OF DOUBLE BENEFIT.—Section 280C
10 (relating to certain expenses for which credits are allow-
11 able) is amended by adding at the end the following:

12 “(e) NEW ENERGY-EFFICIENT HOME EXPENSES.—
13 No deduction shall be allowed for that portion of expenses
14 for a new highly energy-efficient home otherwise allowable
15 as a deduction for the taxable year which is equal to the
16 amount of the credit determined for such taxable year
17 under section 45J.”.

18 (d) CREDIT ALLOWED AGAINST REGULAR AND MIN-
19 IMUM TAX.—

20 (1) IN GENERAL.—Section 38(c) (relating to
21 limitation based on amount of tax) is amended by
22 redesignating paragraph (5) as paragraph (6) and
23 by inserting after paragraph (4) the following new
24 paragraph:

1 “(5) SPECIAL RULES FOR NEW ENERGY EFFI-
2 CIENT HOME CREDIT.—

3 “(A) IN GENERAL.—In the case of the new
4 energy efficient home credit—

5 “(i) this section and section 39 shall
6 be applied separately with respect to the
7 credit, and

8 “(ii) in applying paragraph (1) to the
9 credit—

10 “(I) subparagraphs (A) and (B)
11 thereof shall not apply, and

12 “(II) the limitation under para-
13 graph (1) (as modified by subclause
14 (I)) shall be reduced by the credit al-
15 lowed under subsection (a) for the
16 taxable year (other than the new en-
17 ergy efficient home credit).

18 “(B) NEW HIGHLY ENERGY EFFICIENT
19 HOME CREDIT.—For purposes of this sub-
20 section, the term ‘new highly energy efficient
21 home credit’ means the credit allowable under
22 subsection (a) by reason of section 45J.”.

23 (2) CONFORMING AMENDMENT.—Subclause (II)
24 of section 38(c)(2)(A)(ii) is amended by inserting

1 “or the new highly energy efficient home credit”
2 after “employment credit”.

3 (e) DEDUCTION FOR CERTAIN UNUSED BUSINESS
4 CREDITS.—Subsection (c) of section 196 is amended by
5 striking “and” at the end of paragraph (11), by striking
6 the period at the end of paragraph (12) and inserting “,
7 and”, and by adding after paragraph (12) the following:

8 “(13) the new highly energy-efficient home
9 credit determined under section 45J.”.

10 (f) CLERICAL AMENDMENT.—The table of sections
11 for subpart D of part IV of subchapter A of chapter 1
12 is amended by inserting after the item relating to section
13 45I the following:

“Sec. 45J. New highly energy-efficient home credit.”.

14 (g) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to taxable years ending after De-
16 cember 31, 2005.

17 **SEC. 324. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

18 (a) IN GENERAL.—Subpart D of part IV of sub-
19 chapter A of chapter 1 (relating to business-related cred-
20 its) is amended by adding after section 45J the following:

21 **“SEC. 45K. ENERGY EFFICIENT APPLIANCE CREDIT.**

22 “(a) GENERAL RULE.—For purposes of section 38,
23 the energy efficient appliance credit determined under this
24 section for the taxable year is an amount equal to the ap-
25 plicable amount determined under subsection (b) with re-

1 spect to qualified energy efficient appliances produced by
2 the taxpayer during the calendar year ending with or with-
3 in the taxable year.

4 “(b) APPLICABLE AMOUNT.—For purposes of sub-
5 section (a), the applicable amount determined under this
6 subsection with respect to a taxpayer is the sum of—

7 “(1) in the case of an energy efficient clothes
8 washer described in subsection (d)(2)(A) or an en-
9 ergy efficient refrigerator described in subsection
10 (d)(3)(B)(i), an amount equal to—

11 “(A) \$50, multiplied by

12 “(B) the number of such washers and re-
13 frigerators produced by the taxpayer during
14 such calendar year, and

15 “(2) in the case of an energy efficient clothes
16 washer described in subsection (d)(2)(B) or an en-
17 ergy efficient refrigerator described in subsection
18 (d)(3)(B)(ii), an amount equal to—

19 “(A) \$100, multiplied by

20 “(B) the number of such washers and re-
21 frigerators produced by the taxpayer during
22 such calendar year.

23 “(c) LIMITATION ON MAXIMUM CREDIT.—

1 “(1) IN GENERAL.—The maximum amount of
2 credit allowed under subsection (a) with respect to
3 a taxpayer for all taxable years shall be—

4 “(A) \$30,000,000 with respect to the cred-
5 it determined under subsection (b)(1), and

6 “(B) \$30,000,000 with respect to the cred-
7 it determined under subsection (b)(2).

8 “(2) LIMITATION BASED ON GROSS RE-
9 CEIPTS.—The credit allowed under subsection (a)
10 with respect to a taxpayer for the taxable year shall
11 not exceed an amount equal to 2 percent of the aver-
12 age annual gross receipts of the taxpayer for the 3
13 taxable years preceding the taxable year in which
14 the credit is determined.

15 “(3) GROSS RECEIPTS.—For purposes of this
16 subsection, the rules of paragraphs (2) and (3) of
17 section 448(c) shall apply.

18 “(d) QUALIFIED ENERGY EFFICIENT APPLIANCE.—
19 For purposes of this section—

20 “(1) IN GENERAL.—The term ‘qualified energy
21 efficient appliance’ means—

22 “(A) an energy efficient clothes washer, or

23 “(B) an energy efficient refrigerator.

24 “(2) ENERGY EFFICIENT CLOTHES WASHER.—

25 The term ‘energy efficient clothes washer’ means a

1 residential clothes washer, including a residential
2 style coin operated washer, which is manufactured
3 with—

4 “(A) a 8.5 Water Factor (referred to in
5 this paragraph as ‘WF’) (as determined by the
6 Secretary) and a 1.60 Modified Energy Factor
7 (referred to in this paragraph as ‘MEF’) (as
8 determined by the Secretary of Energy) for cal-
9 endar years 2006 through 2008, or

10 “(B) a 7.5 WF (as determined by the Sec-
11 retary) and a 1.80 MEF (as determined by the
12 Secretary of Energy) for calendar years after
13 2008.

14 “(3) ENERGY EFFICIENT REFRIGERATOR.—The
15 term ‘energy efficient refrigerator’ means an auto-
16 matic defrost refrigerator-freezer which—

17 “(A) has an internal volume of at least
18 16.5 cubic feet, and

19 “(B) consumes—

20 “(i) 15 percent less kw/hr/yr than the
21 energy conservation standards promulgated
22 by the Department of Energy for such re-
23 frigerator for 2005, or

24 “(ii) 20 to 25 percent less kw/hr/yr
25 than such energy conservation standards.

1 “(e) SPECIAL RULES.—

2 “(1) IN GENERAL.—Rules similar to the rules
3 of subsections (c), (d), and (e) of section 52 shall
4 apply for purposes of this section.

5 “(2) AGGREGATION RULES.—All persons treat-
6 ed as a single employer under subsection (a) or (b)
7 of section 52 or subsection (m) or (o) of section 414
8 shall be treated as one person for purposes of sub-
9 section (a).

10 “(f) VERIFICATION.—The taxpayer shall submit such
11 information or certification as the Secretary, in consulta-
12 tion with the Secretary of Energy, determines necessary
13 to claim the credit amount under subsection (a).

14 “(g) TERMINATION.—This section shall not apply to
15 qualified energy efficient appliances produced in calendar
16 years beginning after 2010.”.

17 (b) CONFORMING AMENDMENT.—Section 38(b) (re-
18 lating to general business credit) is amended by striking
19 “plus” at the end of paragraph (20), by striking the period
20 at the end of paragraph (21) and inserting “, plus”, and
21 by adding at the end the following new paragraph:

22 “(22) the energy efficient appliance credit de-
23 termined under section 45K(a).”.

24 (c) CLERICAL AMENDMENT.—The table of sections
25 for subpart D of part IV of subchapter A of chapter 1

1 is amended by inserting after the item relating to section
2 45J the following new item:

“45K. Energy efficient appliance credit.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2005.

6 **SEC. 325. CREDIT FOR DISTRIBUTED ENERGY GENERATION**
7 **AND DEMAND MANAGEMENT PROPERTY.**

8 (a) **IN GENERAL.**—Subpart E of part IV of sub-
9 chapter A of chapter 1 (relating to rules for computing
10 investment credit) is amended by inserting after section
11 48 the following:

12 **“SEC. 48A. ENERGY CREDIT.**

13 “(a) **IN GENERAL.**—For purposes of section 46, the
14 energy credit for any taxable year is the energy percentage
15 of the basis of each energy property placed in service dur-
16 ing such taxable year.

17 “(b) **ENERGY PERCENTAGE.**—

18 “(1) **IN GENERAL.**—The energy percentage is—

19 “(A) except as otherwise provided in this
20 subparagraph, 10 percent,

21 “(B) in the case of energy property de-
22 scribed in clauses (ii), (iv), and (v) of sub-
23 section (c)(1)(A), 20 percent,

24 “(C) in the case of energy property de-
25 scribed in subsection (c)(1)(A)(vii), 15 percent,

1 “(D) in the case of energy property de-
2 scribed in subsection (c)(1)(A)(iii) relating to a
3 high risk geothermal well, 20 percent, and

4 “(E) in the case of energy property de-
5 scribed in subsection (c)(1)(A)(i), 50 percent.

6 “(2) COORDINATION WITH REHABILITATION.—
7 The energy percentage shall not apply to that por-
8 tion of the basis of any property which is attrib-
9 utable to qualified rehabilitation expenditures as de-
10 termined under section 47.

11 “(c) ENERGY PROPERTY DEFINED.—

12 “(1) IN GENERAL.—For purposes of this sub-
13 part, the term ‘energy property’ means any prop-
14 erty—

15 “(A) which is—

16 “(i) photovoltaic property,

17 “(ii) other solar energy property,

18 “(iii) geothermal energy property,

19 “(iv) energy-efficient building prop-
20 erty other than property described in
21 clauses (iii)(I) and (v)(I) of subsection
22 (d)(3)(A),

23 “(v) combined heat and power system
24 property,

1 “(vi) qualified anaerobic digester
2 property,

3 “(vii) waste conversion property, or

4 “(viii) adjustable speed drive property,

5 “(B)(i) the construction, reconstruction, or
6 erection of which is completed by the taxpayer,
7 or

8 “(ii) which is acquired by the taxpayer if
9 the original use of such property commences
10 with the taxpayer,

11 “(C) which can reasonably be expected to
12 remain in operation for at least 5 years,

13 “(D) with respect to which depreciation (or
14 amortization in lieu of depreciation) is allow-
15 able, and

16 “(E) which meets the performance and
17 quality standards (if any) which—

18 “(i) have been prescribed by the Sec-
19 retary by regulations (after consultation
20 with the Secretary of Energy), and

21 “(ii) are in effect at the time of the
22 acquisition of the property.

23 “(2) EXCEPTION FOR PUBLIC UTILITY PROP-
24 ERTY.—Such term shall not include any property
25 which is public utility property (as defined in section

1 46(f)(5) as in effect on the day before the date of
 2 the enactment of the Revenue Reconciliation Act of
 3 1990), except for property described in paragraph
 4 (1)(A)(iv).

5 “(d) LIMITATION ON CREDIT FOR PHOTOVOLTAIC
 6 PROPERTY.—

7 “(1) IN GENERAL.—The credit allowed under
 8 this section which is attributable to photovoltaic
 9 property shall not exceed the sum of—

10 “(A) the applicable low-wattage rate multi-
 11 plied by the number of watts of generating ca-
 12 pacity of the property which does not exceed 10
 13 kilowatts, plus

14 “(B) the applicable high-wattage rate mul-
 15 tiplied by the number of watts of generating ca-
 16 pacity of the property in excess of 10 kilowatts
 17 (if any).

18 “(2) APPLICABLE LOW- AND HIGH-WATTAGE
 19 RATES.—For purposes of this subsection, the appli-
 20 cable low- and high-wattage rates shall be deter-
 21 mined under the following table:

“In the case of taxable years begin- ning in calendar year:	The applicable low-watt- age rate is:	The applica- ble high- wattage rate is:
2006	\$3.00	\$2.00
2007	\$2.85	\$1.90
2008	\$2.70	\$1.80
2009	\$2.55	\$1.70
2010 and thereafter	\$2.40	\$1.60

1 “(3) GENERATING CAPACITY.—For purposes of
2 this subsection, generating capacity shall be meas-
3 ured as the rated peak power output of a system’s
4 component modules as established by the American
5 Society for Testing and Materials. Any photovoltaic
6 property which is electrically contiguous or serves
7 the same customer load shall be treated as one sys-
8 tem for purposes of this section.

9 “(e) DEFINITIONS RELATING TO TYPES OF ENERGY
10 PROPERTY.—For purposes of this section—

11 “(1) SOLAR ENERGY PROPERTY.—

12 “(A) PHOTOVOLTAIC PROPERTY.—The
13 term ‘photovoltaic property’ means equip-
14 ment—

15 “(i) which uses solar energy to gen-
16 erate electricity, and

17 “(ii) which the taxpayer has elected
18 (at such time and in such form and man-
19 ner as the Secretary may specify) to treat
20 as photovoltaic property for purposes of
21 this section.

22 “(B) OTHER SOLAR ENERGY PROPERTY.—
23 The term ‘other solar energy property’ means
24 equipment—

1 “(i) which uses solar energy to gen-
2 erate electricity, to heat or cool (or provide
3 hot water for use in) a structure, or to
4 provide solar process heat, and

5 “(ii) which is not photovoltaic prop-
6 erty.

7 “(C) SWIMMING POOLS, ETC. USED AS
8 STORAGE MEDIUM.—Photovoltaic and other
9 solar energy property shall not include property
10 with respect to which expenditures are properly
11 allocable to a swimming pool, hot tub, or any
12 other energy storage medium which has a func-
13 tion other than the function of such storage.

14 “(D) SOLAR PANELS.—No solar panel or
15 other property installed as a roof (or portion
16 thereof) shall fail to be treated as photovoltaic
17 or other solar energy property solely because it
18 constitutes a structural component of the struc-
19 ture on which it is installed.

20 “(2) GEOTHERMAL ENERGY PROPERTY.—

21 “(A) IN GENERAL.—The term ‘geothermal
22 energy property’ means equipment used to
23 produce, distribute, or use energy derived from
24 a geothermal deposit (within the meaning of
25 section 613(e)(2)), but only, in the case of elec-

1 tricity generated by geothermal power, up to
2 (but not including) the electrical transmission
3 stage.

4 “(B) HIGH RISK GEOTHERMAL WELL.—

5 The term ‘high risk geothermal well’ means a
6 geothermal deposit (within the meaning of sec-
7 tion 613(e)(2)) which requires high risk drilling
8 techniques. Such deposit may not be located in
9 a State or national park or in an area in which
10 the relevant State park authority or the Na-
11 tional Park Service determines the development
12 of such a deposit will negatively impact on a
13 State or national park.

14 “(3) ENERGY-EFFICIENT BUILDING PROP-
15 ERTY.—

16 “(A) IN GENERAL.—The term ‘energy-effi-
17 cient building property’ means—

18 “(i) a fuel cell which—

19 “(I) generates electricity using
20 an electrochemical process,

21 “(II) has an electricity-only gen-
22 eration efficiency greater than 30 per-
23 cent, and

24 “(III) has a minimum generating
25 capacity of 1 kilowatt,

1 “(ii) an electric heat pump hot water
2 heater which yields an energy factor of 2.0
3 or greater under test procedures prescribed
4 by the Secretary of Energy,

5 “(iii)(I) an electric heat pump which
6 has a heating system performance factor
7 (HSPF) of at least 8.5 but less than 9 and
8 a cooling seasonal energy efficiency ratio
9 (SEER) of at least 14 but less than 15
10 and an energy efficiency ratio (EER) of at
11 least 12,

12 “(II) an electric heat pump which has
13 a heating system performance factor
14 (HSPF) of 9 or greater and a cooling sea-
15 sonal energy efficiency ratio (SEER) of 15
16 or greater and an energy efficiency ratio
17 (EER) of at least 13,

18 “(iv) a natural gas heat pump which
19 has a coefficient of performance of not less
20 than 1.25 for heating and not less than
21 0.80 for cooling,

22 “(v)(I) a central air conditioner which
23 has a cooling seasonal energy efficiency
24 ratio (SEER) of at least 14 but less than

1 15 and an energy efficiency ratio (EER) of
2 at least 12,

3 “(II) a central air conditioner which
4 has a cooling seasonal energy efficiency
5 ratio (SEER) of 15 or greater and an en-
6 ergy efficiency ratio (EER) of at least 13,

7 “(vi) an advanced natural gas water
8 heater which—

9 “(I) increases steady state effi-
10 ciency and reduces standby and vent
11 losses, and

12 “(II) has an energy factor of at
13 least 0.80, and

14 “(vii) an advanced natural gas fur-
15 nace which achieves a 95 percent AFUE
16 and rated for seasonal electricity use of
17 less than 300 kWh per year.

18 “(B) LIMITATIONS.—The credit under sub-
19 section (a) for the taxable year may not ex-
20 ceed—

21 “(i) \$500 in the case of property de-
22 scribed in subparagraph (A) other than
23 clauses (i) and (iv) thereof,

1 “(ii) \$500 for each kilowatt of capac-
2 ity in the case of any fuel cell described in
3 subparagraph (A)(i), and

4 “(iii) \$3,000 in the case of any nat-
5 ural gas heat pump described in subpara-
6 graph (A)(iv).

7 “(4) COMBINED HEAT AND POWER SYSTEM
8 PROPERTY.—

9 “(A) IN GENERAL.—The term ‘combined
10 heat and power system property’ means prop-
11 erty—

12 “(i) comprising a system for the same
13 energy source for the simultaneous or se-
14 quential generation of electrical power, me-
15 chanical shaft power, or both, in combina-
16 tion with steam, heat, or other forms of
17 useful energy,

18 “(ii) which has an electrical capacity
19 of more than 20 kilowatts or a mechanical
20 energy capacity of more than 67 horse-
21 power or an equivalent combination of elec-
22 trical and mechanical energy capacities,

23 “(iii) which produces—

1 “(I) at least 20 percent of its
2 total useful energy in the form of
3 thermal energy, and

4 “(II) at least 20 percent of its
5 total useful energy in the form of elec-
6 trical or mechanical power (or a com-
7 bination thereof), and

8 “(iv) the energy efficiency percentage
9 of which exceeds—

10 “(I) 60 percent in the case of a
11 system with an electrical capacity of
12 less than 1 megawatt,

13 “(II) 65 percent in the case of a
14 system with an electrical capacity of
15 not less than 1 megawatt and not in
16 excess of 50 megawatts, and

17 “(III) 70 percent in the case of a
18 system with an electrical capacity in
19 excess of 50 megawatts.

20 “(B) SPECIAL RULES.—

21 “(i) ENERGY EFFICIENCY PERCENT-
22 AGE.—For purposes of subparagraph
23 (A)(iv), the energy efficiency percentage of
24 a system is the fraction—

1 “(I) the numerator of which is
2 the total useful electrical, thermal,
3 and mechanical power produced by
4 the system at normal operating rates,
5 and

6 “(II) the denominator of which is
7 the lower heating value of the primary
8 fuel source for the system.

9 “(ii) DETERMINATIONS MADE ON BTU
10 BASIS.—The energy efficiency percentage
11 shall be determined on a Btu basis.

12 “(iii) INPUT AND OUTPUT PROPERTY
13 NOT INCLUDED.—The term ‘combined heat
14 and power system property’ does not in-
15 clude property used to transport the en-
16 ergy source to the facility or to distribute
17 energy produced by the facility.

18 “(iv) ACCOUNTING RULE FOR PUBLIC
19 UTILITY PROPERTY.—If the combined heat
20 and power system property is public utility
21 property (as defined in section 46(f)(5) as
22 in effect on the day before the date of the
23 enactment of the Revenue Reconciliation
24 Act of 1990), the taxpayer may only claim
25 the credit under subsection (a)(1) if, with

1 respect to such property, the taxpayer uses
2 a normalization method of accounting.

3 “(5) QUALIFIED ANAEROBIC DIGESTER PROP-
4 ERTY.—The term ‘qualified anaerobic digester prop-
5 erty’ means an anaerobic digester for manure or
6 crop waste which achieves at least 65 percent effi-
7 ciency measured in terms of the fraction of energy
8 input converted to electricity and useful thermal en-
9 ergy.

10 “(6) WASTE CONVERSION PROPERTY.—The
11 term ‘waste conversion property’ means equipment
12 used to produce a usable liquid or gaseous synthetic
13 fuel derived from a waste feedstock (including plas-
14 tic waste and biomass (as defined in section 29(c)).

15 “(7) ADJUSTABLE SPEED DRIVE PROPERTY.—

16 “(A) IN GENERAL.—The term ‘adjustable
17 speed drive property’ means equipment installed
18 as part of an electric motor driven system of 10
19 horsepower or greater—

20 “(i) that is used to adjust the speed
21 of the electric motor drive output to the re-
22 quirements of a fluctuating load, and

23 “(ii) that achieves an energy savings
24 of at least 20 percent during a complete
25 cycle of operation.

1 “(B) LIMITATION.—In the case of adjust-
2 able speed drive property placed in service dur-
3 ing the taxable year, the credit under sub-
4 section (a) for such year may not exceed
5 \$10,000 for each item of such property.

6 “(C) COORDINATION WITH DEDUCTION
7 FOR ENERGY-EFFICIENT COMMERCIAL BUILD-
8 ING PROPERTY.—The energy percentage shall
9 apply to the basis of adjustable speed drive
10 property after adjustment under section
11 1016(a)(34).

12 “(f) SPECIAL RULES.—For purposes of this sec-
13 tion—

14 “(1) SPECIAL RULE FOR PROPERTY FINANCED
15 BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL
16 DEVELOPMENT BONDS.—

17 “(A) REDUCTION OF BASIS.—For purposes
18 of applying the energy percentage to any prop-
19 erty, if such property is financed in whole or in
20 part by—

21 “(i) subsidized energy financing, or

22 “(ii) the proceeds of a private activity
23 bond (within the meaning of section 141)
24 the interest on which is exempt from tax
25 under section 103, the amount taken into

1 account as the basis of such property shall
2 not exceed the amount which (but for this
3 subparagraph) would be so taken into ac-
4 count multiplied by the fraction deter-
5 mined under subparagraph (B).

6 “(B) DETERMINATION OF FRACTION.—For
7 purposes of subparagraph (A), the fraction de-
8 termined under this subparagraph is 1 reduced
9 by a fraction—

10 “(i) the numerator of which is that
11 portion of the basis of the property which
12 is allocable to such financing or proceeds,
13 and

14 “(ii) the denominator of which is the
15 basis of the property.

16 “(C) SUBSIDIZED ENERGY FINANCING.—
17 For purposes of subparagraph (A), the term
18 ‘subsidized energy financing’ means financing
19 provided under a Federal, State, or local pro-
20 gram a principal purpose of which is to provide
21 subsidized financing for projects designed to
22 conserve or produce energy.

23 “(2) CERTAIN PROGRESS EXPENDITURE RULES
24 MADE APPLICABLE.—Rules similar to the rules of
25 subsections (c)(4) and (d) of section 46 (as in effect

1 on the day before the date of the enactment of the
2 Revenue Reconciliation Act of 1990) shall apply for
3 purposes of this section.

4 “(g) APPLICATION OF SECTION.—This section shall
5 apply to property placed in service after December 31,
6 2005, and before January 1, 2011.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Section 48 is repealed.

9 (2) Section 280C is amended by adding after
10 subsection (e) the following:

11 “(f) CREDIT FOR ENERGY PROPERTY EXPENSES.—

12 “(1) IN GENERAL.—No deduction shall be al-
13 lowed for that portion of the expenses for energy
14 property (as defined in section 48A(c)) otherwise al-
15 lowable as a deduction for the taxable year which is
16 equal to the amount of the credit determined for
17 such taxable year under section 48A(a).

18 “(2) SIMILAR RULE WHERE TAXPAYER CAP-
19 ITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

20 “(A) the amount of the credit allowable for
21 the taxable year under section 48A (determined
22 without regard to section 38(c)), exceeds

23 “(B) the amount allowable as a deduction
24 for the taxable year for expenses for energy
25 property (determined without regard to para-

1 graph (1)), the amount chargeable to capital
2 account for the taxable year for such expenses
3 shall be reduced by the amount of such excess.

4 “(3) CONTROLLED GROUPS.—Paragraph (3) of
5 subsection (b) shall apply for purposes of this sub-
6 section.”.

7 (3) Section 29(b)(3)(A)(i)(III) is amended by
8 striking “section 48(a)(4)(C)” and inserting “section
9 48A(e)(1)(C)”.

10 (4) Section 50(a)(2)(E) is amended by striking
11 “section 48(a)(5)” and inserting “section
12 48A(e)(2)”.

13 (5) Section 168(e)(3)(B) is amended—

14 (A) by striking clause (vi)(I) and inserting
15 the following:

16 “(I) is described in paragraph (1)
17 or (2) of section 48A(d) (or would be
18 so described if ‘solar and wind’ were
19 substituted for ‘solar’ in paragraph
20 (1)(B)),”, and

21 (B) in the last sentence by striking “sec-
22 tion 48(a)(3)” and inserting “section
23 48A(c)(2)(A)”.

24 (6) The table of sections for subpart E of part
25 IV of subchapter A of chapter 1 is amended by

1 striking the item relating to section 48 and inserting
2 the following:

“Sec. 48A. Energy credit.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to property placed in service after
5 December 31, 2005, under rules similar to the rules of
6 section 48(m) of the Internal Revenue Code of 1986 (as
7 in effect on the day before the date of the enactment of
8 the Revenue Reconciliation Act of 1990).

9 **SEC. 326. CREDIT FOR ENERGY EFFICIENT RECYCLING OR**
10 **REMANUFACTURING EQUIPMENT.**

11 (a) **IN GENERAL.**—Section 46 (relating to amount of
12 investment credit) is amended by striking “and” at the
13 end of paragraph (1), by striking the period at the end
14 of paragraph (2) and inserting “, and”, and by adding
15 at the end the following new paragraph:

16 “(3) the reclamation credit.”.

17 (b) **RECLAMATION CREDIT.**—Subpart E of part IV
18 of subchapter A of chapter 1 is amended by inserting be-
19 fore section 48A, as added by this Act, the following new
20 section:

21 **“SEC. 48. RECLAMATION CREDIT.**

22 “(a) **IN GENERAL.**—For purposes of section 46, the
23 reclamation credit for any taxable year is 20 percent of
24 the basis of each qualified reclamation property placed in
25 service during the taxable year.

1 “(b) QUALIFIED RECLAMATION PROPERTY.—

2 “(1) IN GENERAL.—For purposes of this sec-
3 tion, the term ‘qualified reclamation property’ means
4 property—

5 “(A) which is qualified recycling property
6 or qualified remanufacturing property,

7 “(B) which is tangible property (not in-
8 cluding a building and its structural compo-
9 nents),

10 “(C) with respect to which depreciation (or
11 amortization in lieu of depreciation) is allow-
12 able,

13 “(D) which has a useful life of at least 5
14 years, and

15 “(E) which is—

16 “(i) acquired by purchase (as defined
17 in section 179(d)(2)) by the taxpayer if the
18 original use of such property commences
19 with the taxpayer, or

20 “(ii) constructed by or for the tax-
21 payer.

22 “(2) DOLLAR LIMITATION.—

23 “(A) IN GENERAL.—The basis of qualified
24 reclamation property taken into account under

1 paragraph (1) for any taxable year shall not ex-
2 ceed \$10,000,000 for a taxpayer.

3 “(B) TREATMENT OF CONTROLLED
4 GROUP.—For purposes of clause (i)—

5 “(i) all component members of a con-
6 trolled group shall be treated as one tax-
7 payer, and

8 “(ii) the Secretary shall apportion the
9 dollar limitation in such clause among the
10 component members of such controlled
11 group in such manner as he shall by regu-
12 lation prescribe.

13 “(C) TREATMENT OF PARTNERSHIPS AND
14 S CORPORATIONS.—In the case of a partner-
15 ship, the dollar limitation in clause (i) shall
16 apply with respect to the partnership and with
17 respect to each partner. A similar rule shall
18 apply in the case of an S corporation and its
19 shareholders.

20 “(D) CONTROLLED GROUP DEFINED.—For
21 purposes of clause (ii), the term ‘controlled
22 group’ has the meaning given such term by sec-
23 tion 1563(a), except that ‘more than 50 per-
24 cent’ shall be substituted for ‘at least 80 per-

1 cent' each place it appears in section
2 1563(a)(1).

3 “(c) CERTAIN PROGRESS EXPENDITURE RULES
4 MADE APPLICABLE.—Rules similar to the rules of sub-
5 sections (c)(4) and (d) of section 46 (as in effect on the
6 day before the date of the enactment of the Revenue Rec-
7 onciliation Act of 1990) shall apply for purposes of this
8 subsection.

9 “(d) DEFINITIONS.—For purposes of this sub-
10 section—

11 “(1) QUALIFIED RECYCLING PROPERTY.—The
12 term ‘qualified recycling property’ means equipment
13 used exclusively to collect, distribute, or sort used
14 ferrous or nonferrous metals. The term does not in-
15 clude equipment used to collect, distribute, or sort
16 precious metals such as gold, silver, or platinum un-
17 less such use is coincidental to the collection, dis-
18 tribution, or sorting of other used ferrous or non-
19 ferrous metals.

20 “(2) QUALIFIED REMANUFACTURING PROP-
21 erty.—The term ‘qualified remanufacturing prop-
22 erty’ means equipment used primarily by the tax-
23 payer in the business of rebuilding or remanufac-
24 turing a used product or part, but only if—

1 “(A) the rebuilt or remanufactured prod-
2 uct or part includes 50 percent or less virgin
3 material, and

4 “(B) the equipment is not used primarily
5 in a process occurring after the product or part
6 is rebuilt or remanufactured.

7 “(3) COORDINATION WITH REHABILITATION
8 AND ENERGY CREDITS.—For purposes of this sec-
9 tion—

10 “(A) the basis of any qualified reclamation
11 property shall be reduced by that portion of the
12 basis of any property which is attributable to
13 qualified rehabilitation expenditures (as defined
14 in section 47(c)(2)) or to the energy percentage
15 of energy property (as determined under section
16 48A), and

17 “(B) expenditures taken into account
18 under either section 47 or 48A shall not be
19 taken into account under this section.”.

20 (c) SPECIAL BASIS ADJUSTMENT RULE.—Paragraph
21 (3) of section 50(c) (relating to basis adjustment to invest-
22 ment credit property) is amended by inserting “or rec-
23 lamation credit” after “energy credit”.

24 (d) CLERICAL AMENDMENT.—The table of sections
25 for subpart E of part IV of subchapter A of chapter 1

1 is amended by inserting before the item relating to section
2 48A the following:

“Sec. 48. Reclamation credit.”.

3 (e) **EFFECTIVE DATE.**—The amendments made by
4 this section shall apply to property placed in service after
5 the date of the enactment of this Act.

6 **SEC. 327. CREDIT FOR DISTRIBUTED ENERGY GENERATION**
7 **AND DEMAND MANAGEMENT PROPERTY**
8 **USED IN RESIDENCES.**

9 (a) **IN GENERAL.**—Subpart A of part IV of sub-
10 chapter A of chapter 1 (relating to nonrefundable personal
11 credits) is amended by inserting after section 25B the fol-
12 lowing:

13 **“SEC. 25C. RESIDENTIAL DISTRIBUTED ENERGY GENERA-**
14 **TION AND DEMAND MANAGEMENT PROP-**
15 **ERTY.**

16 “(a) **ALLOWANCE OF CREDIT.**—In the case of an in-
17 dividual, there shall be allowed as a credit against the tax
18 imposed by this chapter for the taxable year an amount
19 equal to the sum of—

20 “(1) 50 percent of the qualified photovoltaic
21 property expenditures,

22 “(2) 15 percent of the qualified solar water
23 heating property expenditures,

24 “(3) 25 percent of the qualified wind energy
25 property expenditures, and

1 “(4) 20 percent for the qualified fuel cell prop-
 2 erty expenditures,

3 “(5) 20 percent for qualified energy-efficient
 4 building property expenditures (10 percent for ex-
 5 penditures described in subsection (c)(5)(B)), made
 6 by the taxpayer during the taxable year.

7 “(b) LIMITATIONS.—

8 “(1) MAXIMUM CREDIT.—

9 “(A) PHOTOVOLTAIC PROPERTY.—

10 “(i) IN GENERAL.—The credit allowed
 11 under subsection (a)(1) shall not exceed
 12 the applicable rate multiplied by the num-
 13 ber of watts of generating capacity of the
 14 property which does not exceed 10 kilo-
 15 watts.

16 “(ii) APPLICABLE RATE.—For pur-
 17 poses of this subparagraph, the applicable
 18 rate is the rate determined under the fol-
 19 lowing table:

“In the case of taxable years beginning in calendar year:	The applica- ble rate is:
2006	\$3.00
2007	\$2.75
2008	\$2.50
2009 and thereafter	\$2.25

20 “(iii) GENERATING CAPACITY.—For
 21 purposes of this subparagraph, generating

1 capacity shall be measured as the rated
2 peak power output of a system's compo-
3 nent modules as established by the Amer-
4 ican Society for Testing and Materials.
5 Any photovoltaic property which is elec-
6 trically contiguous or serves the same cus-
7 tomer load shall be treated as one system
8 for purposes of this section.

9 “(B) SOLAR WATER HEATING.—The credit
10 allowed under subsection (a)(2) shall not exceed
11 \$2,000 for each system of solar energy prop-
12 erty.

13 “(C) WIND.—The credit allowed under
14 subsection (a)(3) shall not exceed \$5,000 for
15 each system of wind energy property.

16 “(D) ENERGY-EFFICIENT BUILDING PROP-
17 erty.—The credit allowed under subsection
18 (a)(5) shall not exceed \$500 for each item of
19 energy-efficient building property.

20 “(2) TYPE OF PROPERTY.—No expenditure may
21 be taken into account under this section unless such
22 expenditure is made by the taxpayer for property in-
23 stalled on or in connection with a dwelling unit
24 which is located in the United States and which is
25 used as a residence.

1 “(3) SAFETY CERTIFICATIONS.—No credit shall
2 be allowed under this section for an item of property
3 unless—

4 “(A) in the case of solar water heating
5 property, such property is certified for perform-
6 ance and safety by the nonprofit Solar Rating
7 Certification Corporation or a comparable enti-
8 ty endorsed by the government of the State in
9 which such property is installed, and

10 “(B) in the case of a photovoltaic, wind en-
11 ergy, or fuel cell property, such property meets
12 appropriate fire and electric code requirements.

13 “(c) DEFINITIONS AND SPECIAL RULES RELATING
14 TO EXPENDITURES.—For purposes of this section—

15 “(1) QUALIFIED PHOTOVOLTAIC PROPERTY EX-
16 PENDITURE.—The term ‘qualified photovoltaic prop-
17 erty expenditure’ means an expenditure for property
18 which uses solar energy to generate electricity for
19 use in a dwelling unit.

20 “(2) QUALIFIED SOLAR WATER HEATING PROP-
21 ERTY EXPENDITURE.—The term ‘qualified solar
22 water heating property expenditure’ means an ex-
23 penditure for property which uses solar energy to
24 heat water for use in a dwelling unit with respect to

1 which a majority of the energy is derived from the
2 sun.

3 “(3) QUALIFIED WIND ENERGY PROPERTY EX-
4 PENDITURE.—The term ‘qualified wind energy prop-
5 erty expenditure’ means an expenditure for property
6 which uses wind energy to generate electricity for
7 use in a dwelling unit.

8 “(4) QUALIFIED FUEL CELL PROPERTY EX-
9 PENDITURE.—The term ‘qualified fuel cell property
10 expenditure’ means an expenditure for property
11 which uses an electrochemical fuel cell system to
12 generate electricity for use in a dwelling unit.

13 “(5) QUALIFIED ENERGY-EFFICIENT BUILDING
14 PROPERTY EXPENDITURE.—

15 “(A) IN GENERAL.—The term ‘qualified
16 energy-efficient building property expenditure’
17 means an expenditure for energy efficient build-
18 ing property defined in clauses (ii), (iii), (iv),
19 (v), (vi), and (vii) of section 48A(d)(3)(A).

20 “(B) 10 PERCENT CREDIT FOR CERTAIN
21 PROPERTY.—For purposes of subsection (a)(5),
22 the expenditures described in this subparagraph
23 are expenditures for energy efficient building
24 property defined in clauses (iii)(II) and (iv)(II)
25 of section 48A(d)(3)(A).

1 “(6) SOLAR PANELS.—No expenditure relating
2 to a solar panel or other property installed as a roof
3 (or portion thereof) shall fail to be treated as prop-
4 erty described in paragraph (1) or (2) solely because
5 it constitutes a structural component of the struc-
6 ture on which it is installed.

7 “(7) LABOR COSTS.—Expenditures for labor
8 costs properly allocable to the onsite preparation, as-
9 sembly, or original installation of the property de-
10 scribed in paragraph (1), (2), (3), (4), or (5) and for
11 piping or wiring to interconnect such property to the
12 dwelling unit shall be taken into account for pur-
13 poses of this section.

14 “(8) ENERGY STORAGE MEDIUM.—Expendi-
15 tures which are properly allocable to a swimming
16 pool, hot tub, or any other energy storage medium
17 which has a function other than the function of such
18 storage shall not be taken into account for purposes
19 of this section.

20 “(d) SPECIAL RULES.—For purposes of this sec-
21 tion—

22 “(1) DOLLAR AMOUNTS IN CASE OF JOINT OC-
23 CUPANCY.—In the case of any dwelling unit which is
24 jointly occupied and used during any calendar year

1 as a residence by 2 or more individuals the following
2 shall apply:

3 “(A) The amount of the credit allowable
4 under subsection (a) by reason of expenditures
5 (as the case may be) made during such cal-
6 endar year by any of such individuals with re-
7 spect to such dwelling unit shall be determined
8 by treating all of such individuals as 1 taxpayer
9 whose taxable year is such calendar year.

10 “(B) There shall be allowable with respect
11 to such expenditures to each of such individ-
12 uals, a credit under subsection (a) for the tax-
13 able year in which such calendar year ends in
14 an amount which bears the same ratio to the
15 amount determined under subparagraph (A) as
16 the amount of such expenditures made by such
17 individual during such calendar year bears to
18 the aggregate of such expenditures made by all
19 of such individuals during such calendar year.

20 “(2) TENANT-STOCKHOLDER IN COOPERATIVE
21 HOUSING CORPORATION.—In the case of an indi-
22 vidual who is a tenant-stockholder (as defined in sec-
23 tion 216) in a cooperative housing corporation (as
24 defined in such section), such individual shall be
25 treated as having made his tenant-stockholder’s pro-

1 portionate share (as defined in section 216(b)(3)) of
2 any expenditures of such corporation.

3 “(3) CONDOMINIUMS.—

4 “(A) IN GENERAL.—In the case of an indi-
5 vidual who is a member of a condominium man-
6 agement association with respect to a condo-
7 minium which such individual owns, such indi-
8 vidual shall be treated as having made his pro-
9 portionate share of any expenditures of such as-
10 sociation.

11 “(B) CONDOMINIUM MANAGEMENT ASSO-
12 CIATION.—For purposes of this paragraph, the
13 term ‘condominium management association’
14 means an organization which meets the require-
15 ments of paragraph (1) of section 528(c) (other
16 than subparagraph (E) thereof) with respect to
17 a condominium project substantially all of the
18 units of which are used as residences.

19 “(4) JOINT OWNERSHIP OF ITEMS OF SOLAR OR
20 WIND ENERGY PROPERTY.—

21 “(A) IN GENERAL.—Any expenditure oth-
22 erwise qualifying as an expenditure described in
23 paragraph (1), (2), or (3) of subsection (c) shall
24 not be treated as failing to so qualify merely be-

1 cause such expenditure was made with respect
2 to 2 or more dwelling units.

3 “(B) LIMITS APPLIED SEPARATELY.—In
4 the case of any expenditure described in sub-
5 paragraph (A), the amount of the credit allow-
6 able under subsection (a) shall (subject to para-
7 graph (1)) be computed separately with respect
8 to the amount of the expenditure made for each
9 dwelling unit.

10 “(5) ALLOCATION IN CERTAIN CASES.—If less
11 than 80 percent of the use of an item is for nonbusi-
12 ness residential purposes, only that portion of the
13 expenditures for such item which is properly allo-
14 cable to use for nonbusiness residential purposes
15 shall be taken into account. For purposes of this
16 paragraph, use for a swimming pool shall be treated
17 as use which is not for residential purposes.

18 “(6) WHEN EXPENDITURE MADE; AMOUNT OF
19 EXPENDITURE.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), an expenditure with respect
22 to an item shall be treated as made when the
23 original installation of the item is completed.

24 “(B) EXPENDITURES PART OF BUILDING
25 CONSTRUCTION.—In the case of an expenditure

1 in connection with the construction or recon-
2 struction of a structure, such expenditure shall
3 be treated as made when the original use of the
4 constructed or reconstructed structure by the
5 taxpayer begins.

6 “(C) AMOUNT.—The amount of any ex-
7 penditure shall be the cost thereof.

8 “(7) REDUCTION OF CREDIT FOR GRANTS, TAX-
9 EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANC-
10 ING.—The rules of section 29(b)(3) shall apply for
11 purposes of this section.

12 “(e) BASIS ADJUSTMENTS.—For purposes of this
13 subtitle, if a credit is allowed under this section for any
14 expenditure with respect to any property, the increase in
15 the basis of such property which would (but for this sub-
16 section) result from such expenditure shall be reduced by
17 the amount of the credit so allowed.

18 “(f) TERMINATION.—The credit allowed under this
19 section shall not apply to taxable years beginning after
20 December 31, 2009.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 1016(a) is amended by striking
23 “and” at the end of paragraph (34), by striking the
24 period at the end of paragraph (35) and inserting “;
25 and”, and by adding at the end the following:

1 “(36) to the extent provided in section 25C(e),
 2 in the case of amounts with respect to which a credit
 3 has been allowed under section 25C.”.

4 (2) The table of sections for subpart A of part
 5 IV of subchapter A of chapter 1 is amended by in-
 6 serting after the item relating to section 25B the fol-
 7 lowing:

“Sec. 25C. Residential solar, wind, and fuel cell energy property.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to expenditures made after the
 10 date of the enactment of this Act, in taxable years ending
 11 after such date.

12 **SEC. 328. CREDIT FOR ENERGY MANAGEMENT SYSTEMS**
 13 **USING RESIDENTIAL REAL TIME METERING**
 14 **SYSTEMS.**

15 (a) CREDIT FOR ENERGY MANAGEMENT SYSTEMS.—

16 (1) IN GENERAL.—Subpart B of part IV of
 17 subchapter A of chapter 1 (relating to foreign tax
 18 credits, etc.) is amended by inserting after section
 19 30C the following new section:

20 **“SEC. 30D. CREDIT FOR ENERGY MANAGEMENT SYSTEMS.**

21 “(a) ALLOWANCE OF CREDIT.—There shall be al-
 22 lowed as a credit against the tax imposed by this chapter
 23 for the taxable year—

1 “(1) an amount equal to \$20 for each qualified
2 energy management device originally placed in serv-
3 ice during the taxable year, and

4 “(2) for each qualified retrofitted meter origi-
5 nally placed in service during the taxable year, an
6 amount equal to the lesser of—

7 “(A) \$20, or

8 “(B) the adjusted basis of such meter.

9 “(b) DEFINITIONS.—

10 “(1) QUALIFIED ENERGY MANAGEMENT DE-
11 VICE.—For purposes of this section, the term ‘quali-
12 fied energy management device’ means any meter or
13 metering device acquired and used by an electric en-
14 ergy or natural gas supplier or service provider to
15 enable consumers or others to manage their pur-
16 chase, sale, or use of electricity or natural gas in re-
17 sponse to energy price and usage signals.

18 “(2) QUALIFIED RETROFITTED METER.—For
19 purposes of this section, the term ‘qualified retro-
20 fitted meter’ means an electric energy or natural gas
21 meter or metering device that has been modified by
22 the addition of equipment designed to enable users
23 to manage the purchase, sale, or use of electricity
24 and natural gas in response to energy price and
25 usage signals.

1 “(3) PLACED IN SERVICE.—For purposes of
2 this section, the term ‘placed in service’ means inter-
3 connected with other devices in a manner that per-
4 mits reading of energy price and usage signals on at
5 least a daily basis.

6 “(4) COST OF METERS INCLUDES COST OF IN-
7 STALLATION.—The cost of any qualified energy
8 management device or qualified retrofitted meter re-
9 ferred to in paragraph (1) or (2) shall include the
10 cost of the original installation of such property.

11 “(c) SPECIAL RULES.—

12 “(1) BASIS REDUCTION.—The basis of any
13 property for which a credit is allowed under sub-
14 section (a) shall be reduced by the amount of such
15 credit.

16 “(2) RECAPTURE.—The Secretary shall, by reg-
17 ulations, provide for recapturing the benefit of any
18 credit allowable under subsection (a) with respect to
19 any property that ceases to be property eligible for
20 such credit.

21 “(3) PROPERTY USED OUTSIDE THE UNITED
22 STATES, ETC., NOT QUALIFIED.—No credit shall be
23 allowed under subsection (a) with respect to any
24 property referred to in section 50(b)(1) or with re-

1 spect to the portion of the cost of any property
2 taken into account under section 179.

3 “(4) ELECTION TO NOT TAKE CREDIT.—No
4 credit shall be allowed under subsection (a) for any
5 energy management device if the taxpayer elects to
6 not have this section apply to such device.

7 “(5) CREDITS FOR CERTAIN TAX EXEMPT OR-
8 GANIZATIONS AND GOVERNMENTAL UNITS.—

9 “(A) ALLOWANCE OF CREDIT.—Any credit
10 which would be allowable under subsection (a)
11 with respect to a qualified energy management
12 device or a qualified retrofitted meter placed in
13 service by an entity if such entity were not ex-
14 empt from tax under this chapter shall be treat-
15 ed as a credit allowable under subpart B to
16 such entity if such entity is—

17 “(i) an organization described in sec-
18 tion 501(c)(12)(C) and exempt from tax
19 under section 501(a),

20 “(ii) an organization described in sec-
21 tion 1381(a)(2)(C),

22 “(iii) an entity the income of which is
23 excludable from gross income under section
24 115, or

1 “(iv) a State, the District of Colum-
2 bia, any territory or possession of the
3 United States, or any political subdivision
4 thereof.

5 “(B) USE OF CREDIT.—

6 “(i) TRANSFER OF CREDIT.—An enti-
7 ty described in subparagraph (A) may as-
8 sign, trade, sell, or otherwise transfer any
9 credit allowable to such entity under sub-
10 paragraph (A) to any taxpayer.

11 “(ii) USE OF CREDIT AS AN OFF-
12 SET.—Notwithstanding any other provision
13 of law, in the case of an entity described
14 in clause (i) or (ii) of subparagraph (A),
15 any credit allowable to such entity under
16 subparagraph (A) may be applied by such
17 entity, without penalty, as a prepayment of
18 any loan, debt, or other obligation the enti-
19 ty has incurred under subchapter I of
20 chapter 31 of title 7 of the Rural Elec-
21 trification Act of 1936 (7 U.S.C. 901 et
22 seq.).

23 “(C) CREDIT NOT INCOME.—Neither a
24 transfer under clause (i) nor a use under clause
25 (ii) of subparagraph (B) of any credit allowable

1 under subparagraph (A) shall result in income
2 for purposes of section 501(c)(12).

3 “(D) TRANSFER PROCEEDS TREATED AS
4 ARISING FROM ESSENTIAL GOVERNMENT FUNC-
5 TION.—Any proceeds derived by an entity de-
6 scribed in subparagraph (A)(iii) from the trans-
7 fer of any credit under subparagraph (B)(i)
8 shall be treated as arising from an essential
9 government function.

10 “(d) TERMINATION.—This section shall not apply to
11 any property placed in service after December 31, 2012.”.

12 (2) INCLUSION OF INDIAN TRIBAL GOVERN-
13 MENTS.—Section 7871(a)(7) is amended by striking
14 “and” at the end of subparagraph (B), by striking
15 the period at the end of subparagraph (C), and by
16 adding at the end the following:

17 “(D) section 30D (relating to credit for en-
18 ergy management systems).”.

19 (3) CONFORMING AMENDMENTS.—

20 (A) The table of contents for subpart B of
21 part IV of subchapter A of chapter 1 is amend-
22 ed by inserting after the item relating to section
23 30C the following new item:

“Sec. 30D. Credit for energy management systems.”.

24 (B) Section 1016(a) is amended by strik-
25 ing “and” at the end of paragraph (35), by

1 striking the period at the end of paragraph (36)
2 and inserting “, and”, and by adding at the end
3 the following new paragraph:

4 “(37) to the extent provided in section
5 30D(c)(1).”.

6 (4) EFFECTIVE DATE.—The amendments made
7 by this subsection shall apply to qualified energy
8 management devices placed in service after the date
9 of the enactment of this Act and to qualified retro-
10 fitted meters that are placed in service on or after,
11 or that are in use as of, January 1, 2006.

12 (b) 5–Year Applicable Recovery Period for Deprecia-
13 tion of Qualified Energy Management Devices.—

14 (1) IN GENERAL.—Subparagraph (B) of section
15 168(e)(3) (relating to classification of property) is
16 amended by striking “and” at the end of clause (v),
17 by striking the period at the end of clause (vi) and
18 inserting “, and”, and by adding at the end the fol-
19 lowing new clause:

20 “(vii) any qualified energy manage-
21 ment device.”.

22 (2) DEFINITION OF QUALIFIED ENERGY MAN-
23 AGEMENT DEVICE.—Section 168(i) (relating to defi-
24 nitions and special rules) is amended by inserting at
25 the end the following new paragraph:

1 “(17) QUALIFIED ENERGY MANAGEMENT DE-
2 VICE.—The term ‘qualified energy management de-
3 vice’ means a meter or metering device that is ac-
4 quired and used by an electric energy or natural gas
5 supplier or service provider to enable consumers and
6 others to manage their purchase, sale, and use of
7 electricity or natural gas in response to energy price
8 and usage signals that are readable on at least a
9 daily basis. For purposes of the preceding sentence,
10 the cost of any qualified energy management device
11 shall (at the election of the taxpayer) include the
12 cost of the original installation of such property.”.

13 (3) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to property placed in
15 service after December 31, 2005, and before Janu-
16 ary 1, 2012.

17 **SEC. 329. CREDIT FOR FLYWHEEL PROPERTY.**

18 (a) IN GENERAL.—Subpart B of part IV of sub-
19 chapter A of chapter 1 (relating to foreign tax credits,
20 etc.) is amended by inserting after section 30D the fol-
21 lowing new section:

22 **“SEC. 30E. CREDIT FOR FLYWHEEL PROPERTY.**

23 “(a) ALLOWANCE OF CREDIT.—There shall be al-
24 lowed as a credit against the tax imposed by this chapter
25 for the taxable year an amount equal to 10 percent of the

1 cost of any qualified flywheel property placed in service
2 by the taxpayer during the taxable year.

3 “(b) LIMITATION.—The credit allowed under sub-
4 section (a) shall not exceed \$2,000 for a taxable year.

5 “(c) QUALIFIED FLYWHEEL PROPERTY.—For pur-
6 poses of this section, the term ‘qualified flywheel property’
7 means a flywheel designed exclusively to store energy that
8 is used to generate electricity.

9 “(d) SPECIAL RULES.—

10 “(1) BASIS REDUCTION.—The basis of any
11 property for which a credit is allowable under sub-
12 section (a) shall be reduced by the amount of such
13 credit.

14 “(2) RECAPTURE.—The Secretary shall, by reg-
15 ulations, provide for recapturing the benefit of any
16 credit allowable under subsection (a) with respect to
17 any property that ceases to be property eligible for
18 such credit.

19 “(3) PROPERTY USED OUTSIDE THE UNITED
20 STATES, ETC., NOT QUALIFIED.—No credit shall be
21 allowed under subsection (a) with respect to any
22 property referred to in section 50(b)(1) or with re-
23 spect to the portion of the cost of any property
24 taken into account under section 179.

1 “(4) ELECTION TO NOT TAKE CREDIT.—No
2 credit shall be allowed under subsection (a) for any
3 qualified flywheel property if the taxpayer elects to
4 not have this section apply to such property.

5 “(d) TERMINATION.—This section shall not apply to
6 any property placed in service after December 31, 2009.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) The table of contents for subpart B of part
9 IV of subchapter A of chapter 1 is amended by in-
10 sserting after the item relating to section 30D the
11 following new item:

“Sec. 30E. Credit for qualified flywheel property.”.

12 (2) Section 1016(a) is amended by striking
13 “and” at the end of paragraph (36), by striking the
14 period at the end of paragraph (37) and inserting “,
15 and”, and by adding at the end the following new
16 paragraph:

17 “(38) to the extent provided in section
18 30E(c)(1).”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to property placed in service in
21 taxable years ending after the date of the enactment of
22 this Act.

23 **SEC. 330. CREDITS FOR CLEAN COAL.**

24 (a) ALLOWANCE OF QUALIFYING CLEAN COAL
25 TECHNOLOGY UNIT CREDIT.—

1 (1) IN GENERAL.—Section 46 (relating to
2 amount of credit), as amended by this Act, is
3 amended by striking “and” at the end of paragraph
4 (2), by striking the period at the end of paragraph
5 (3) and inserting “, and”, and by adding at the end
6 the following:

7 “(4) the qualifying clean coal technology unit
8 credit.”.

9 (2) AMOUNT OF QUALIFYING CLEAN COAL
10 TECHNOLOGY UNIT CREDIT.—Subpart E of part IV
11 of subchapter A of chapter 1 (relating to rules for
12 computing investment credit) is amended by insert-
13 ing after section 48A the following:

14 **“SEC. 48B. QUALIFYING CLEAN COAL TECHNOLOGY UNIT**
15 **CREDIT.**

16 “(a) IN GENERAL.—For purposes of section 46, the
17 qualifying clean coal technology unit credit for any taxable
18 year is an amount equal to 10 percent of the qualified
19 investment in a qualifying system of continuous emission
20 control for such taxable year.

21 “(b) QUALIFYING SYSTEM OF CONTINUOUS EMIS-
22 SION CONTROL.—

23 “(1) IN GENERAL.—For purposes of subsection
24 (a), the term ‘qualifying system of continuous emis-

1 sion control' means a system of the taxpayer
2 which—

3 “(A) serves, is added to, or retrofits an ex-
4 isting coal-based electricity generation unit, the
5 construction, installation, or retrofitting of
6 which is completed by the taxpayer (but only
7 with respect to that portion of the basis which
8 is properly attributable to such construction, in-
9 stallation, or retrofitting),

10 “(B) removes or reduces—

11 “(i) 90 percent or more of carbon di-
12 oxide emissions, or

13 “(ii) any pollutant subject to the re-
14 quirements of section 109 of the Clean Air
15 Act or any hazardous pollutant listed
16 under section 112(b) of such Act, to a
17 greater extent than is required under such
18 Act,

19 “(C) is depreciable under section 167,

20 “(D) has a useful life of not less than 4
21 years, and

22 “(E) is located in the United States.

23 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—

24 For purposes of subparagraph (A) of paragraph (1),
25 in the case of a unit which—

1 “(A) is originally placed in service by a
2 person, and

3 “(B) is sold and leased back by such per-
4 son, or is leased to such person, within 3
5 months after the date such unit was originally
6 placed in service, for a period of not less than
7 12 years, such unit shall be treated as originally
8 placed in service not earlier than the date on
9 which such property is used under the leaseback
10 (or lease) referred to in subparagraph (B). The
11 preceding sentence shall not apply to any prop-
12 erty if the lessee and lessor of such property
13 make an election under this sentence. Such an
14 election, once made, may be revoked only with
15 the consent of the Secretary.

16 “(c) EXISTING COAL-BASED ELECTRICITY GENERA-
17 TION UNIT.—For purposes of subsection (a), the term ‘ex-
18 isting coal-based electricity generating unit’ means, with
19 respect to any taxable year, a steam generator-turbine
20 unit which uses coal to produce 75 percent or more of
21 its output as electricity and was in operation before the
22 effective date of this section.

23 “(d) LIMIT ON QUALIFYING CLEAN COAL TECH-
24 NOLOGY UNIT CREDIT.—For purposes of subsection (a),
25 the credit shall be applicable to not more than the first

1 \$100,000,000 of qualifying investment in a qualifying sys-
2 tem of continuous emission control at any 1 existing coal-
3 based electricity generating unit.

4 “(e) QUALIFIED INVESTMENT.—For purposes of sub-
5 section (a), the term ‘qualified investment’ means, with
6 respect to any taxable year, the basis of a qualifying sys-
7 tem of continuous emission control placed in service by
8 the taxpayer during such taxable year.

9 “(f) QUALIFIED PROGRESS EXPENDITURES.—

10 “(1) INCREASE IN QUALIFIED INVESTMENT.—

11 In the case of a taxpayer who has made an election
12 under paragraph (5), the amount of the qualified in-
13 vestment of such taxpayer for the taxable year (de-
14 termined under subsection (e) without regard to this
15 subsection) shall be increased by an amount equal to
16 the aggregate of each qualified progress expenditure
17 for the taxable year with respect to progress expend-
18 iture property.

19 “(2) PROGRESS EXPENDITURE PROPERTY DE-

20 FINED.—For purposes of this subsection, the term

21 ‘progress expenditure property’ means any property
22 being constructed by or for the taxpayer and which
23 it is reasonable to believe will qualify as a qualifying
24 system of continuous emission control which is being

1 constructed by or for the taxpayer when it is placed
2 in service.

3 “(3) QUALIFIED PROGRESS EXPENDITURES DE-
4 FINED.—For purposes of this subsection—

5 “(A) SELF-CONSTRUCTED PROPERTY.—In
6 the case of any self-constructed property, the
7 term ‘qualified progress expenditures’ means
8 the amount which, for purposes of this subpart,
9 is properly chargeable (during such taxable
10 year) to capital account with respect to such
11 property.

12 “(B) NONSELF-CONSTRUCTED PROP-
13 erty.—In the case of nonself-constructed prop-
14 erty, the term ‘qualified progress expenditures’
15 means the amount paid during the taxable year
16 to another person for the construction of such
17 property.

18 “(4) OTHER DEFINITIONS.—For purposes of
19 this subsection—

20 “(A) SELF-CONSTRUCTED PROPERTY.—
21 The term ‘self-constructed property’ means
22 property for which it is reasonable to believe
23 that more than half of the construction expendi-
24 tures will be made directly by the taxpayer.

1 “(B) NONSELF-CONSTRUCTED PROP-
2 ERTY.—The term ‘nonself-constructed property’
3 means property which is not self-constructed
4 property.

5 “(C) CONSTRUCTION, ETC.—The term
6 ‘construction’ includes reconstruction and erec-
7 tion, and the term ‘constructed’ includes recon-
8 structed and erected.

9 “(D) ONLY CONSTRUCTION OF QUALI-
10 FYING SYSTEM OF CONTINUOUS EMISSION CON-
11 TROL TO BE TAKEN INTO ACCOUNT.—Construc-
12 tion shall be taken into account only if, for pur-
13 poses of this subpart, expenditures therefore
14 are properly chargeable to capital account with
15 respect to the property.

16 “(5) ELECTION.—An election under this sub-
17 section may be made at such time and in such man-
18 ner as the Secretary may by regulations prescribe.
19 Such an election shall apply to the taxable year for
20 which made and to all subsequent taxable years.
21 Such an election, once made, may not be revoked ex-
22 cept with the consent of the Secretary.

23 “(g) COORDINATION WITH OTHER CREDITS.—This
24 section shall not apply to any property with respect to
25 which the rehabilitation credit under section 47 or the en-

1 ergy credit under section 48A is allowed unless the tax-
2 payer elects to waive the application of such credit to such
3 property.

4 “(h) TERMINATION.—This section shall not apply
5 with respect to any qualified investment made more than
6 10 years after the effective date of this section.”.

7 (3) RECAPTURE.—Section 50(a) (relating to
8 other special rules) is amended by adding at the end
9 the following:

10 “(6) SPECIAL RULES RELATING TO QUALIFYING
11 SYSTEM OF CONTINUOUS EMISSION CONTROL.—For
12 purposes of applying this subsection in the case of
13 any credit allowable by reason of section 48B, the
14 following shall apply:

15 “(A) GENERAL RULE.—In lieu of the
16 amount of the increase in tax under paragraph
17 (1), the increase in tax shall be an amount
18 equal to the investment tax credit allowed under
19 section 38 for all prior taxable years with re-
20 spect to a qualifying system of continuous emis-
21 sion control (as defined by section 48B(b)(1))
22 multiplied by a fraction whose numerator is the
23 number of years remaining to fully depreciate
24 under this title the qualifying system of contin-
25 uous emission control disposed of, and whose

1 denominator is the total number of years over
2 which such unit would otherwise have been sub-
3 ject to depreciation. For purposes of the pre-
4 ceding sentence, the year of disposition of the
5 qualifying system of continuous emission con-
6 trol property shall be treated as a year of re-
7 maining depreciation.

8 “(B) PROPERTY CEASES TO QUALIFY FOR
9 PROGRESS EXPENDITURES.—Rules similar to
10 the rules of paragraph (2) shall apply in the
11 case of qualified progress expenditures for a
12 qualifying system of continuous emission con-
13 trol under section 48B, except that the amount
14 of the increase in tax under subparagraph (A)
15 of this paragraph shall be substituted in lieu of
16 the amount described in such paragraph (2).

17 “(C) APPLICATION OF PARAGRAPH.—This
18 paragraph shall be applied separately with re-
19 spect to the credit allowed under section 38 re-
20 garding a qualifying system of continuous emis-
21 sion control.”.

22 (4) TECHNICAL AMENDMENTS.—

23 (A) Section 49(a)(1)(C) is amended by
24 striking “and” at the end of clause (ii), by
25 striking the period at the end of clause (iii) and

1 inserting “, and”, and by adding at the end the
2 following:

3 “(iv) the portion of the basis of any
4 qualifying system of continuous emission
5 control attributable to any qualified invest-
6 ment (as defined by section 48B(e)).”.

7 (B) Section 50(a)(4) is amended by strik-
8 ing “and (2)” and inserting “, (2), and (6)”.

9 (C) Section 50(c) is amended by adding at
10 the end the following:

11 “(6) NONAPPLICATION.—Paragraphs (1) and
12 (2) shall not apply to any qualifying clean coal tech-
13 nology unit credit under section 48B.”.

14 (D) The table of sections for subpart E of
15 part IV of subchapter A of chapter 1 is amend-
16 ed by inserting after the item relating to section
17 48A the following:

“Sec. 48B. Qualifying clean coal technology unit credit.”.

18 (5) EFFECTIVE DATE.—The amendments made
19 by this subsection shall apply to periods after De-
20 cember 31, 2005, under rules similar to the rules of
21 section 48(m) of the Internal Revenue Code of 1986
22 (as in effect on the day before the date of enactment
23 of the Revenue Reconciliation Act of 1990).

24 (b) CREDIT FOR PRODUCTION FROM A QUALIFYING
25 CLEAN COAL TECHNOLOGY UNIT.—

1 (1) IN GENERAL.—Subpart D of part IV of
2 subchapter A of chapter 1 (relating to business re-
3 lated credits) is amended by adding at the end the
4 following:

5 **“SEC. 45L. CREDIT FOR PRODUCTION FROM A QUALIFYING**
6 **CLEAN COAL TECHNOLOGY UNIT.**

7 “(a) GENERAL RULE.—For purposes of section 38,
8 the qualifying clean coal technology production credit of
9 any taxpayer for any taxable year is equal to the product
10 of—

11 “(1) the applicable amount of clean coal tech-
12 nology production credit, multiplied by

13 “(2) the kilowatt hours of electricity produced
14 by the taxpayer during such taxable year at a quali-
15 fying clean coal technology unit during the 10-year
16 period beginning on the date the unit was returned
17 to service after retrofit, repowering, or replacement.

18 “(b) Applicable Amount.

19 “(1) IN GENERAL.—For purposes of this sec-
20 tion, the applicable amount of clean coal technology
21 production credit is equal to \$0.0034.

22 “(2) INFLATION ADJUSTMENT FACTOR.—For
23 calendar years after 2005, the applicable amount of
24 clean coal technology production credit shall be ad-
25 justed by multiplying such amount by the inflation

1 adjustment factor for the calendar year in which the
2 amount is applied. If any amount as increased under
3 the preceding sentence is not a multiple of 0.01 cent,
4 such amount shall be rounded to the nearest mul-
5 tiple of 0.01 cent.

6 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
7 poses of this section—

8 “(1) QUALIFYING CLEAN COAL TECHNOLOGY
9 UNIT.—The term ‘qualifying clean coal technology
10 unit’ means a unit of the taxpayer which—

11 “(A) is an existing coal-based electricity
12 generating steam generator-turbine unit,

13 “(B) has a nameplate capacity rating of
14 not more than 300,000 kilowatts, and

15 “(C) has been retrofitted, repowered, or re-
16 placed with a clean coal technology within 10
17 years of the effective date of this section.

18 “(2) CLEAN COAL TECHNOLOGY.—The term
19 ‘clean coal technology’ means technology which—

20 “(A) uses coal to produce 50 percent or
21 more of its thermal output as electricity, includ-
22 ing advanced pulverized coal or atmospheric flu-
23 idized bed combustion, pressurized fluidized bed
24 combustion, integrated gasification combined

1 cycle, or any other technology for the produc-
2 tion of electricity,

3 “(B) has a design heat rate not less than
4 500 Btu/kWh below that of the existing unit be-
5 fore it is retrofit, repowered, or replaced with
6 the qualifying clean coal technology,

7 “(C) has a maximum design heat rate of
8 not more than 9,000 Btu/kWh when the design
9 coal has a heat content of more than 8,000 Btu
10 per pound, and

11 “(D) has a maximum design heat rate of
12 not more than 10,500 Btu/kWh when the de-
13 sign coal has a heat content of 8,000 Btu per
14 pound or less.

15 “(3) APPLICATION OF CERTAIN RULES.—The
16 rules of paragraphs (3), (4), and (5) of section 45(e)
17 shall apply.

18 “(4) INFLATION ADJUSTMENT FACTOR.—The
19 term ‘inflation adjustment factor’ means, with re-
20 spect to a calendar year, a fraction the numerator
21 of which is the GDP implicit price deflator for the
22 preceding calendar year and the denominator of
23 which is the GDP implicit price deflator for the cal-
24 endar year 2005.

1 “(5) GDP IMPLICIT PRICE DEFLATOR.—The
2 term ‘GDP implicit price deflator’ means the most
3 recent revision of the implicit price deflator for the
4 gross domestic product as computed by the Depart-
5 ment of Commerce before March 15 of the calendar
6 year.

7 “(d) COORDINATION WITH OTHER CREDITS.—This
8 section shall not apply to any property with respect to
9 which the qualifying clean coal technology unit credit
10 under section 48A is allowed unless the taxpayer elects
11 to waive the application of such credit to such property.”.

12 (2) CREDIT TREATED AS BUSINESS CREDIT.—
13 Section 38(b) is amended by striking “plus” at the
14 end of paragraph (21), by striking the period at the
15 end of paragraph (22) and inserting “, plus”, and
16 by adding at the end the following:

17 “(23) the qualifying clean coal technology pro-
18 duction credit determined under section 45L(a).”.

19 (3) CLERICAL AMENDMENT.—The table of sec-
20 tions for subpart D of part IV of subchapter A of
21 chapter 1 is amended after the item relating to sec-
22 tion 45K the following:

“Sec. 45L. Credit for production from a qualifying clean coal technology unit.”.

23 (4) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to production after the
25 date of enactment of this Act.

1 (c) CREDIT FOR INVESTMENT IN QUALIFYING AD-
2 VANCED CLEAN COAL TECHNOLOGY.—

3 (1) ALLOWANCE OF QUALIFYING ADVANCED
4 CLEAN COAL TECHNOLOGY FACILITY CREDIT.—Sec-
5 tion 46 (relating to amount of credit) is amended by
6 striking “and” at the end of paragraph (3), by strik-
7 ing the period at the end of paragraph (4) and in-
8 sserting “, and”, and by adding at the end the fol-
9 lowing:

10 “(5) the qualifying advanced clean coal tech-
11 nology facility credit.”.

12 (2) AMOUNT OF QUALIFYING ADVANCED CLEAN
13 COAL TECHNOLOGY FACILITY CREDIT.—Subpart E
14 of part IV of subchapter A of chapter 1 (relating to
15 rules for computing investment credit) is amended
16 by inserting after section 48B the following:

17 **“SEC. 48C. QUALIFYING ADVANCED CLEAN COAL TECH-**
18 **NOLOGY FACILITY CREDIT.**

19 “(a) IN GENERAL.—For purposes of section 46, the
20 qualifying advanced clean coal technology facility credit
21 for any taxable year is an amount equal to 10 percent
22 of the qualified investment in a qualifying advanced clean
23 coal technology facility for such taxable year.

24 “(b) QUALIFYING ADVANCED CLEAN COAL TECH-
25 NOLOGY FACILITY.—

1 “(1) IN GENERAL.—For purposes of subsection
2 (a), the term ‘qualifying advanced clean coal tech-
3 nology facility’ means a facility of the taxpayer
4 which—

5 “(A)(i)(I) replaces a conventional tech-
6 nology facility of the taxpayer and the original
7 use of which commences with the taxpayer, or

8 “(II) is a retrofitted or repowered conven-
9 tional technology facility, the retrofitting or
10 repowering of which is completed by the tax-
11 payer (but only with respect to that portion of
12 the basis which is properly attributable to such
13 retrofitting or repowering), or

14 “(ii) is acquired through purchase (as de-
15 fined by section 179(d)(2)),

16 “(B) is depreciable under section 167,

17 “(C) has a useful life of not less than 4
18 years,

19 “(D) is located in the United States, and

20 “(E) uses qualifying advanced clean coal
21 technology.

22 “(2) SPECIAL RULE FOR SALE-LEASEBACKS.—
23 For purposes of subparagraph (A) of paragraph (1),
24 in the case of a facility which—

1 “(A) is originally placed in service by a
2 person, and

3 “(B) is sold and leased back by such per-
4 son, or is leased to such person, within 3
5 months after the date such facility was origi-
6 nally placed in service, for a period of not less
7 than 12 years, such facility shall be treated as
8 originally placed in service not earlier than the
9 date on which such property is used under the
10 leaseback (or lease) referred to in subparagraph
11 (B). The preceding sentence shall not apply to
12 any property if the lessee and lessor of such
13 property make an election under this sentence.
14 Such an election, once made, may be revoked
15 only with the consent of the Secretary.

16 “(3) QUALIFYING ADVANCED CLEAN COAL
17 TECHNOLOGY.—For purposes of paragraph (1)—

18 “(A) IN GENERAL.—The term ‘qualifying
19 advanced clean coal technology’ means, with re-
20 spect to clean coal technology—

21 “(i) multiple applications, with a
22 combined capacity of not more than
23 5,000 megawatts, of advanced pulver-
24 ized coal or atmospheric fluidized bed
25 combustion technology—

1 “(I) installed as a new, ret-
2 rofit, or repowering application,

3 “(II) operated between 2006
4 and 2015, and

5 “(III) with a design net heat
6 rate of not more than 9,500 Btu
7 per kilowatt hour when the de-
8 sign coal has a heat content of
9 more than 8,000 Btu per pound,
10 or a design net heat rate of not
11 more than 9,900 Btu per kilo-
12 watt hour when the design coal
13 has a heat content of 8,000 Btu
14 per pound or less,

15 “(ii) multiple applications, with a
16 combined capacity of not more than 1,000
17 megawatts, of pressurized fluidized bed
18 combustion technology—

19 “(I) installed as a new, retrofit,
20 or repowering application,

21 “(II) operated between 2006 and
22 2015, and

23 “(III) with a design net heat rate
24 of not more than 8,400 Btu per kilo-
25 watt hour when the design coal has a

1 heat content of more than 8,000 Btu
2 per pound, or a design net heat rate
3 of not more than 9,900 Btu's per kilo-
4 watt hour when the design coal has a
5 heat content of 8,000 Btu per pound
6 or less,

7 “(iii) multiple applications, with a
8 combined capacity of not more than 2,000
9 megawatts, of integrated gasification com-
10 bined cycle technology, with or without fuel
11 or chemical co-production—

12 “(I) installed as a new, retrofit,
13 or repowering application,

14 “(II) operated between 2006 and
15 2015,

16 “(III) with a design net heat rate
17 of not more than 8,550 Btu per kilo-
18 watt hour when the design coal has a
19 heat content of more than 8,000 Btu
20 per pound, or a design net heat rate
21 of not more than 9,900 Btu per kilo-
22 watt hour when the design coal has a
23 heat content of 8,000 Btu per pound
24 or less, and

1 “(IV) with a net thermal effi-
2 ciency on any fuel or chemical co-pro-
3 duction of not less than 39 percent
4 (higher heating value), and

5 “(iv) multiple applications, with a
6 combined capacity of not more than 2,000
7 megawatts of technology for the production
8 of electricity—

9 “(I) installed as a new, retrofit,
10 or repowering application,

11 “(II) operated between 2006 and
12 2015, and

13 “(III) with a carbon emission
14 rate which is not more than 85 per-
15 cent of conventional technology.

16 “(B) EXCEPTIONS.—Such term shall not
17 include clean coal technology projects receiving
18 or scheduled to receive funding under the Clean
19 Coal Technology Program of the Department of
20 Energy.

21 “(C) CLEAN COAL TECHNOLOGY.—The
22 term ‘clean coal technology’ means advanced
23 technology which uses coal to produce 75 per-
24 cent or more of its thermal output as electricity
25 including advanced pulverized coal or atmos-

1 pheric fluidized bed combustion, pressurized flu-
2 idized bed combustion, integrated gasification
3 combined cycle with or without fuel or chemical
4 co-production, and any other technology for the
5 production of electricity which exceeds the per-
6 formance of conventional technology.

7 “(D) CONVENTIONAL TECHNOLOGY.—The
8 term ‘conventional technology’ means—

9 “(i) coal-fired combustion technology
10 with a design net heat rate of not less than
11 9,500 Btu per kilowatt hour (HHV) and a
12 carbon equivalents emission rate of not
13 more than 0.54 pounds of carbon per kilo-
14 watt hour when the design coal has a heat
15 content of more than 8,000 Btu per
16 pound,

17 “(ii) coal-fired combustion technology
18 with a design net heat rate of not less than
19 10,500 Btu per kilowatt hour (HHV) and
20 a carbon equivalents emission rate of not
21 more than 0.60 pounds of carbon per kilo-
22 watt hour when the design coal has a heat
23 content of 8,000 Btu per pound or less, or

24 “(iii) natural gas-fired combustion
25 technology with a design net heat rate of

1 not less than 7,500 Btu per kilowatt hour
2 (HHV) and a carbon equivalents emission
3 rate of not more than 0.24 pounds of car-
4 bon per kilowatt hour.

5 “(E) DESIGN NET HEAT RATE.—The de-
6 sign net heat rate shall be based on the design
7 annual heat input to and the design annual net
8 electrical output from the qualifying advanced
9 clean coal technology (determined without re-
10 gard to such technology’s co-generation of
11 steam).

12 “(F) SELECTION CRITERIA.—Selection cri-
13 teria for clean coal technology facilities—

14 “(i) shall be established by the Sec-
15 retary of Energy as part of a competitive
16 solicitation,

17 “(ii) shall include primary criteria of
18 minimum design net heat rate, maximum
19 design thermal efficiency, and lowest cost
20 to the government, and

21 “(iii) shall include supplemental cri-
22 teria as determined appropriate by the
23 Secretary of Energy.

24 “(c) QUALIFIED INVESTMENT.—For purposes of sub-
25 section (a), the term ‘qualified investment’ means, with

1 respect to any taxable year, the basis of a qualifying ad-
2 vanced clean coal technology facility placed in service by
3 the taxpayer during such taxable year.

4 “(d) QUALIFIED PROGRESS EXPENDITURES.—

5 “(1) INCREASE IN QUALIFIED INVESTMENT.—

6 In the case of a taxpayer who has made an election
7 under paragraph (5), the amount of the qualified in-
8 vestment of such taxpayer for the taxable year (de-
9 termined under subsection (c) without regard to this
10 section) shall be increased by an amount equal to
11 the aggregate of each qualified progress expenditure
12 for the taxable year with respect to progress expend-
13 iture property.

14 “(2) PROGRESS EXPENDITURE PROPERTY DE-

15 FINED.—For purposes of this subsection, the term

16 ‘progress expenditure property’ means any property

17 being constructed by or for the taxpayer and which

18 it is reasonable to believe will qualify as a qualifying

19 advanced clean coal technology facility which is

20 being constructed by or for the taxpayer when it is

21 placed in service.

22 “(3) QUALIFIED PROGRESS EXPENDITURES DE-

23 FINED.—For purposes of this subsection—

24 “(A) SELF-CONSTRUCTED PROPERTY.—In

25 the case of any self-constructed property, the

1 term ‘qualified progress expenditures’ means
2 the amount which, for purposes of this subpart,
3 is properly chargeable (during such taxable
4 year) to capital account with respect to such
5 property.

6 “(B) NONSELF-CONSTRUCTED PROP-
7 ERTY.—In the case of nonself-constructed prop-
8 erty, the term ‘qualified progress expenditures’
9 means the amount paid during the taxable year
10 to another person for the construction of such
11 property.

12 “(4) OTHER DEFINITIONS.—For purposes of
13 this subsection—

14 “(A) SELF-CONSTRUCTED PROPERTY.—
15 The term ‘self-constructed property’ means
16 property for which it is reasonable to believe
17 that more than half of the construction expendi-
18 tures will be made directly by the taxpayer.

19 “(B) NONSELF-CONSTRUCTED PROP-
20 ERTY.—The term ‘nonself-constructed property’
21 means property which is not self-constructed
22 property.

23 “(C) CONSTRUCTION, ETC.—The term
24 ‘construction’ includes reconstruction and erec-

1 tion, and the term ‘constructed’ includes recon-
2 structed and erected.

3 “(D) ONLY CONSTRUCTION OF QUALI-
4 FYING ADVANCED CLEAN COAL TECHNOLOGY
5 FACILITY TO BE TAKEN INTO ACCOUNT.—Con-
6 struction shall be taken into account only if, for
7 purposes of this subpart, expenditures therefore
8 are properly chargeable to capital account with
9 respect to the property.

10 “(5) ELECTION.—An election under this sub-
11 section may be made at such time and in such man-
12 ner as the Secretary may by regulations prescribe.
13 Such an election shall apply to the taxable year for
14 which made and to all subsequent taxable years.
15 Such an election, once made, may not be revoked ex-
16 cept with the consent of the Secretary.

17 “(e) COORDINATION WITH OTHER CREDITS.—This
18 section shall not apply to any property with respect to
19 which the rehabilitation credit under section 47 or the en-
20 ergy credit under section 48A is allowed unless the tax-
21 payer elects to waive the application of such credit to such
22 property.

23 “(f) TERMINATION.—This section shall not apply
24 with respect to any qualified investment made more than
25 10 years after the effective date of this section.”.

1 (3) RECAPTURE.—Section 50(a) (relating to
2 other special rules) is amended by inserting after
3 paragraph (6) the following:

4 “(7) SPECIAL RULES RELATING TO QUALIFYING
5 ADVANCED CLEAN COAL TECHNOLOGY FACILITY.—
6 For purposes of applying this subsection in the case
7 of any credit allowable by reason of section 48C, the
8 following shall apply:

9 “(A) GENERAL RULE.—In lieu of the
10 amount of the increase in tax under paragraph
11 (1), the increase in tax shall be an amount
12 equal to the investment tax credit allowed under
13 section 38 for all prior taxable years with re-
14 spect to a qualifying advanced clean coal tech-
15 nology facility (as defined by section 48C(b)(1))
16 multiplied by a fraction whose numerator is the
17 number of years remaining to fully depreciate
18 under this title the qualifying advanced clean
19 coal technology facility disposed of, and whose
20 denominator is the total number of years over
21 which such facility would otherwise have been
22 subject to depreciation. For purposes of the
23 preceding sentence, the year of disposition of
24 the qualifying advanced clean coal technology

1 facility property shall be treated as a year of re-
2 maining depreciation.

3 “(B) PROPERTY CEASES TO QUALIFY FOR
4 PROGRESS EXPENDITURES.—Rules similar to
5 the rules of paragraph (2) shall apply in the
6 case of qualified progress expenditures for a
7 qualifying advanced clean coal technology facil-
8 ity under section 48C, except that the amount
9 of the increase in tax under subparagraph (A)
10 of this paragraph shall be substituted in lieu of
11 the amount described in such paragraph (2).

12 “(C) APPLICATION OF PARAGRAPH.—This
13 paragraph shall be applied separately with re-
14 spect to the credit allowed under section 38 re-
15 garding a qualifying advanced clean coal tech-
16 nology facility.”

17 (4) TECHNICAL AMENDMENTS.—

18 (A) Section 49(a)(1)(C) is amended by
19 striking “and” at the end of clause (iii), by
20 striking the period at the end of clause (iv) and
21 inserting “, and”, and by adding at the end the
22 following:

23 “(v) the portion of the basis of any
24 qualifying advanced clean coal technology

1 facility attributable to any qualified invest-
2 ment (as defined by section 48C(c)).”.

3 (B) Section 50(a)(4) of such Code is
4 amended by striking “and (6)” and inserting
5 “(6), and (7)”.

6 (C) Section 50(c)(6) of such Code, as
7 added by section 201(e)(3), is amended by in-
8 serting “or any advanced clean coal technology
9 facility credit under section 48C” after “section
10 48B”.

11 (D) The table of sections for subpart E of
12 part IV of subchapter A of chapter 1 is amend-
13 ed by inserting after the item relating to section
14 48B the following:

“Sec. 48C. Qualifying advanced clean coal technology facility credit.”.

15 (5) EFFECTIVE DATE.—The amendments made
16 by this subsection shall apply to periods after De-
17 cember 31, 2005, under rules similar to the rules of
18 section 48(m) of the Internal Revenue Code of 1986
19 (as in effect on the day before the date of enactment
20 of the Revenue Reconciliation Act of 1990).

21 (d) CREDIT FOR PRODUCTION FROM QUALIFYING
22 ADVANCED CLEAN COAL TECHNOLOGY.—

23 (1) IN GENERAL.—Subpart D of part IV of
24 subchapter A of chapter 1 (relating to business re-

1 lated credits) is amended by inserting after section
2 45L the following:

3 **“SEC. 45M. CREDIT FOR PRODUCTION FROM QUALIFYING**
4 **ADVANCED CLEAN COAL TECHNOLOGY.**

5 “(a) GENERAL RULE.—For purposes of section 38,
6 the qualifying advanced clean coal technology production
7 credit of any taxpayer for any taxable year is equal to—

8 “(1) the applicable amount of advanced clean
9 coal technology production credit, multiplied by

10 “(2) the sum of—

11 “(A) the kilowatt hours of electricity, plus

12 “(B) each 3,413 Btu of fuels or chemicals,
13 produced by the taxpayer during such taxable
14 year at a qualifying advanced clean coal tech-
15 nology facility during the 10-year period begin-
16 ning on the date the facility was originally
17 placed in service.

18 “(b) APPLICABLE AMOUNT.—For purposes of this
19 section, the applicable amount of advanced clean coal tech-
20 nology production credit with respect to production from
21 a qualifying advanced clean coal technology facility shall
22 be determined as follows:

23 “(1) Where the design coal has a heat content
24 of more than 8,000 Btu per pound:

1 “(A) In the case of a facility originally
 2 placed in service before 2008, if—

“The facility design net heat rate, Btu/kWh (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,400	\$.0050	\$.0030
More than 8,400 but not more than 8,550	\$.0010	\$.0010
More than 8,550 but less than 8,750	\$.0005	\$.0005.

3 “(B) In the case of a facility originally
 4 placed in service after 2007 and before 2012,
 5 if—

“The facility design net heat rate, Btu/kWh (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,770	\$.0090	\$.0075
More than 7,770 but not more than 8,125	\$.0070	\$.0050
More than 8,125 but not more than 8,350	\$.0060	\$.0040.

6 “(C) In the case of a facility originally
 7 placed in service after 2011 and before 2015,
 8 if—

“The facility design net heat rate, Btu/kWh (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,380	\$.0120	\$.0090
More than 7,380 but not more than 7,720	\$.0095	\$.0070.

9 “(2) Where the design coal has a heat content
 10 of not more than 8,000 Btu per pound:

11 “(A) In the case of a facility originally
 12 placed in service before 2008, if—

“The facility design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,500	\$.0050	\$.0030
More than 8,500 but not more than 8,650	\$.0010	\$.0010
More than 8,650 but not more than 8,750	\$.0005	\$.0005.

1 “(B) In the case of a facility originally
 2 placed in service after 2007 and before 2012,
 3 if—

“The facility design net heat rate, Btu/kWh (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 8,000	\$.0090	\$.0075
More than 8,000 but not more than 8,250	\$.0070	\$.0050
More than 8,250 but not more than 8,400	\$.0060	\$.0040.

4 “(C) In the case of a facility originally
 5 placed in service after 2011 and before 2015,
 6 if—

The facility design net heat rate, Btu/kWh (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not more than 7,800	\$.0120	\$.0090
More than 7,800 but not more than 7,950	\$.0095	\$.0070.

7 “(3) Where the clean coal technology facility is
 8 producing fuel or chemicals:

9 “(A) In the case of a facility originally
 10 placed in service before 2008, if—

“The facility design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 40.6 percent	\$.0050	\$.0030
Less than 40.6 but not less than 40 percent	\$.0010	\$.0010
Less than 40 but not less than 39 percent	\$.0005	\$.0005.

11 “(B) In the case of a facility originally
 12 placed in service after 2007 and before 2012,
 13 if—

“The facility design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 43.9 percent	\$.0090	\$.0075

“The facility design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Less than 43.9 but not less than 42 percent	\$.0070	\$.0050
Less than 42 but not less than 40.9 percent	\$.0060	\$.0040.

1 “(C) In the case of a facility originally
 2 placed in service after 2011 and before 2015,
 3 if—

“The facility design net thermal efficiency (HHV) is:	The applicable amount is:	
	For 1st 5 years of such service	For 2d 5 years of such service
Not less than 44.2 percent	\$.0120	\$.0090
Less than 44.2 but not less than 43.6 percent	\$.0095	\$.0070

4 “(c) INFLATION ADJUSTMENT FACTOR.—For cal-
 5 endar years after 2005, each amount in paragraphs (1),
 6 (2), and (3) shall be adjusted by multiplying such amount
 7 by the inflation adjustment factor for the calendar year
 8 in which the amount is applied. If any amount as in-
 9 creased under the preceding sentence is not a multiple of
 10 0.01 cent, such amount shall be rounded to the nearest
 11 multiple of 0.01 cent.

12 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
 13 poses of this section—

14 “(1) IN GENERAL.—Any term used in this sec-
 15 tion which is also used in section 48B shall have the
 16 meaning given such term in section 48B.

17 “(2) APPLICABLE RULES.—The rules of para-
 18 graphs (3), (4), and (5) of section 45(e) shall apply.

1 “(3) INFLATION ADJUSTMENT FACTOR.—The
2 term ‘inflation adjustment factor’ means, with re-
3 spect to a calendar year, a fraction the numerator
4 of which is the GDP implicit price deflator for the
5 preceding calendar year and the denominator of
6 which is the GDP implicit price deflator for the cal-
7 endar year 2005.

8 “(4) GDP IMPLICIT PRICE DEFLATOR.—The
9 term ‘GDP implicit price deflator’ means the most
10 recent revision of the implicit price deflator for the
11 gross domestic product as computed by the Depart-
12 ment of Commerce before March 15 of the calendar
13 year.”.

14 (2) CREDIT TREATED AS BUSINESS CREDIT.—
15 Section 38(b) is amended by striking “plus” at the
16 end of paragraph (22), by striking the period at the
17 end of paragraph (23) and inserting “, plus”, and
18 by adding at the end the following:

19 “(24) the qualifying advanced clean coal tech-
20 nology production credit determined under section
21 45M(a).”.

22 (3) CLERICAL AMENDMENT.—The table of sec-
23 tions for subpart D of part IV of subchapter A of
24 chapter 1 is amended by inserting after the item re-
25 lating to section 45I the following:

“Sec. 45M. Credit for production from qualifying advanced clean coal technology.”.

1 (4) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to production after the
3 date of enactment of this Act.

4 **Subtitle B—Long Term Incentives**

5 **SEC. 331. TAX INCENTIVES FOR RETOOLING AND INVEST-** 6 **MENT IN NEW FACILITIES AND ASSETS TO** 7 **PRODUCE ENERGY EFFICIENCY TECH-** 8 **NOLOGIES AND DOMESTIC CLEAN ENERGY** 9 **PRODUCTION TECHNOLOGIES.**

10 (a) RESEARCH CREDIT.—Section 41 (relating to
11 credit for increasing research activities) is amended by
12 adding at the end the following new subsection:

13 “(i) CERTAIN TECHNOLOGIES.—

14 “(1) INCREASED CREDIT AMOUNT.—In the case
15 of expenses relating to a technology described in
16 paragraph (2), subsection (a)(1) shall be applied by
17 substituting ‘40 percent’ for ‘20 percent’.

18 “(2) TECHNOLOGY DESCRIBED.—A technology
19 described in this paragraph is—

20 “(A) a facility modified to use closed-loop
21 biomass to co-fire with coal (within the meaning
22 of section 45(d)(2)(A)(ii)),

1 “(B) a facility which uses qualified clean
2 energy resources (as defined in section
3 45(c)(1)),

4 “(C) a technology which enables a vehicle
5 to qualify for the alternative motor vehicle cred-
6 it under section 30B, as determined by the sec-
7 retary, and which is—

8 “(i) a fuel cell described in section
9 30B(b)(3),

10 “(ii) a hybrid motor vehicle technology
11 described in paragraphs (2) or (3) of sec-
12 tion 30B(c),

13 “(iii) an alternative fuel motor vehicle
14 described in section 30B(d)(4), or

15 “(iv) an advanced diesel motor vehicle
16 described in section 30B(e),

17 “(D) a qualified energy efficient appliance
18 (as defined by section 45K(d)),

19 “(E) energy property described in section
20 48A(c),

21 “(F) property, expenditures for which a
22 credit is allowed under section 25C,

23 “(G) qualified energy management device
24 or qualified retrofitted meter (as defined by sec-
25 tion 30D(b)),

1 “(H) qualified flywheel property (as de-
2 fined by section 30E(c)), and

3 “(I) new electricity transmission lines de-
4 signed and built primarily to transmit elec-
5 tricity from rural renewable energy resources
6 which do not currently have access to such
7 transmission lines.

8 “(3) DOMESTIC PRODUCTION REQUIREMENT.—
9 An expense shall be treated as not described in para-
10 graph (1) unless any research qualified under this
11 section is conducted substantially within the United
12 States.

13 “(4) TECHNOLOGY PORTION OF CREDIT RE-
14 FUNDABLE FOR SMALL BUSINESSES.—

15 “(A) IN GENERAL.—In the case of an eligi-
16 ble small business, the portion of the credit
17 which is attributable to expenses relating to
18 technologies described in paragraph (2) and
19 which would (but for subparagraph (B)) be al-
20 lowable under this section shall be treated for
21 purposes of this title as a credit allowed under
22 subpart C.

23 “(B) NO DOUBLE BENEFIT.—The amount
24 of the credit allowed under this section shall be
25 reduced by the amount of any credit treated as

1 allowed under subpart C by reason of subpara-
2 graph (A).

3 “(C) ELIGIBLE SMALL BUSINESS.—For
4 purposes of this paragraph, a taxpayer is an eli-
5 gible small business for any taxable year if the
6 average annual gross receipts of the taxpayer
7 for the 3 preceding taxable years do not exceed
8 \$5,000,000. For purposes of the preceding sen-
9 tence, rules similar to the rules of paragraphs
10 (2) and (3) of section 448(e) shall apply.”.

11 (b) INVESTMENT TAX CREDIT FOR EQUIPMENT,
12 STRUCTURES, AND ALL ASSETS INVOLVED IN PRODUC-
13 TION OF QUALIFIED TECHNOLOGIES.—

14 (1) IN GENERAL.—Section 46 (relating to
15 amount of investment credit) is amended by striking
16 “and” at the end of paragraph (4), by striking the
17 period at the end of paragraph (5) and inserting “;
18 and”, and by adding at the end the following new
19 paragraph:

20 “(6) the qualified technology credit.”.

21 (2) QUALIFIED TECHNOLOGY CREDIT.—Sub-
22 part E of part IV of subchapter A of chapter 1 (re-
23 lating to rules for computing investment credit) is
24 amended by inserting after section 48C the fol-
25 lowing:

1 **“SEC. 48D. QUALIFIED TECHNOLOGY CREDIT.**

2 “(a) IN GENERAL.—For purposes of section 46, the
3 qualified technology credit for any taxable year is 35 per-
4 cent of the basis of each facility placed in service in the
5 United States during such taxable year which is primarily
6 used in the production or manufacture of technology prop-
7 erty described in section 41(i)(2).

8 “(b) CERTAIN PROGRESS EXPENDITURE RULES
9 MADE APPLICABLE.—Rules similar to the rules of sub-
10 sections (c)(4) and (d) of section 46 (as in effect on the
11 day before the date of the enactment of the Revenue Rec-
12 onciliation Act of 1990) shall apply for purposes of this
13 section.”.

14 (3) SPECIAL BASIS ADJUSTMENT RULE.—Para-
15 graph (3) of section 50(c) (relating to basis adjust-
16 ment to investment credit property) is amended by
17 striking “or reclamation credit” and inserting “, rec-
18 lamation credit, or qualified technology credit”.

19 (4) CLERICAL AMENDMENT.—The table of sec-
20 tions for subpart E of part IV of subchapter A of
21 chapter 1 is amended by inserting after the item re-
22 lating to section 48C the following new item:

“Sec. 48D. Qualified technology credit.”.

23 (5) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to property placed in
25 service after the date of enactment of this Act.

1 (c) ACCELERATED DEPRECIATION.—Section 168 (re-
2 lating to accelerated cost recovery system) is amended by
3 adding at the end the following new subsection:

4 “(1) CERTAIN TECHNOLOGIES.—

5 “(1) INCREASED ADDITIONAL ALLOWANCE.—In
6 the case of any property located in the United States
7 which is primarily used in the production or manu-
8 facture of technology property described in section
9 41(i)(2)—

10 “(A) the depreciation deduction provided
11 by section 167(a) for the taxable year in which
12 such property is placed in service shall include
13 an allowance equal to the applicable percentage
14 of the adjusted basis of such property; and

15 “(B) the adjusted basis of such property
16 shall be reduced by the amount of such deduc-
17 tion before computing the amount otherwise al-
18 lowable as a depreciation deduction under this
19 chapter for such taxable year and any subse-
20 quent taxable year.

21 “(2) APPLICABLE PERCENTAGE.—For purposes
22 of paragraph (1), the term ‘applicable percentage’
23 means—

24 “(A) 70 percent for taxable years begin-
25 ning in 2005, 2006, or 2007;

1 “(B) 50 percent for taxable years begin-
2 ning in 2008 or 2009;

3 “(C) 30 percent for taxable years begin-
4 ning in 2010, 2011, 2012, 2013, or 2014; and

5 “(D) zero thereafter.”.

6 (d) **EXPENSING.**—Section 179 is amended by adding
7 at the end the following new subsection:

8 “(e) **PROPERTY PURCHASED FOR PRODUCTION OF**
9 **QUALIFIED TECHNOLOGY.**—In the case of section 179
10 property placed in service in the United States for the pri-
11 mary purpose of producing or manufacturing technology
12 property described in section 41(i)(2), subsection (b)(1)
13 shall be applied by substituting \$500,000 for any dollar
14 amount specified therein.”.

15 (e) **EXCLUSION FOR INTEREST ON LOANS FOR PRO-**
16 **DUCTION OF QUALIFIED TECHNOLOGY.**—

17 (1) **IN GENERAL.**—Part III of subchapter B of
18 chapter 1 is amended by inserting after section
19 139B the following new section:

20 **“SEC. 139C. INTEREST ON LOANS FOR PRODUCTION OF**
21 **QUALIFIED TECHNOLOGY.**

22 “Gross income shall not include 50 percent of the in-
23 terest received on any obligation the proceeds of which are
24 used exclusively in the production in the United States of

1 a qualified technology property described in section
2 41(i)(2).”.

3 (2) CLERICAL AMENDMENT.—The table of sec-
4 tions for part III of subchapter B of chapter 1 is
5 amended by inserting after the item relating to sec-
6 tion 139B the following new item:

“Sec. 139C. Interest on loans for production of qualified technology.”.

7 (f) INCREASED CARRYOVERS.—Subsection (a) of sec-
8 tion 39 is amended by adding at the end the following
9 new paragraph:

10 “(3) INCREASED CARRYOVERS FOR CREDITS
11 RELATING TO CERTAIN TECHNOLOGIES.—In the case
12 of the credits allowable under section 38 by reason
13 of section 41(i) or section 46(6)—

14 “(A) the carryback under paragraphs (1)
15 and (2) shall be 5 years in lieu of 1 year;

16 “(B) the carryforward paragraphs (1) and
17 (2) shall be 25 years in lieu of 20 years;

18 “(C) this paragraph shall be applied sepa-
19 rately with respect to any other carryover under
20 this section; and

21 “(D) the determination of the amounts
22 carried over under this paragraph shall be made
23 after this section is applied after the application
24 of subparagraph (C).”.

1 (g) ALTERNATIVE MINIMUM TAX.—Subsection (a) of
2 section 56 is amended by adding at the end the following
3 new paragraph:

4 “(8) QUALIFIED TECHNOLOGIES.—Notwith-
5 standing any other provision of this part, no provi-
6 sion of this part shall apply with respect to sections
7 41(i), 48D, 139C, 168(l), and 179(e).”.

8 (h) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 the date of the enactment of this Act.

11 **SEC. 332. SPECIAL RULES FOR AUTOMOTIVE INDUSTRY.**

12 (a) IN GENERAL.—Chapter 77 is amended by adding
13 at the end the following new section:

14 **“SEC. 7529. SPECIAL RULES FOR AUTOMOTIVE INDUSTRY.**

15 “(a) IN GENERAL.—For purposes of sections 41(i),
16 48D, and 39(a)(3) any vehicle for which a credit is allowed
17 by section 30B shall be treated as a technology described
18 in section 41(i)(2), except that—

19 “(1) section 41(i)(1) shall be applied by sub-
20 stituting ‘60 percent’ for ‘40 percent’,

21 “(2) section 48D shall be applied by sub-
22 stituting ‘50 percent’ for ‘35 percent’, and

23 “(3) section 39(a)(3) shall be applied by sub-
24 stituting ‘30 years’ for ‘25 years’ and ‘10 years’ for
25 ‘5 years’.

1 “(b) SPECIAL RULE RELATING TO ACCELERATED
2 DEPRECIATION.—For purposes of section 168(l), the ap-
3 plicable percentage shall be the percentage specified in
4 subparagraphs (A), (B), and (C) of paragraph (2) thereof,
5 increased by 10 percentage points.”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 for chapter 77 is amended by adding at the end the fol-
8 lowing new item:

“Sec. 7529. Special rules for automotive industry.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 the date of the enactment of this Act.

12 **SEC. 333. SPECIAL RULES FOR HIGH-CAPACITY AIRPLANES.**

13 (a) IN GENERAL.—Chapter 77 is amended by adding
14 at the end the following new section:

15 **“SEC. 7530. SPECIAL RULES FOR HIGH-CAPACITY AIR-**
16 **PLANES.**

17 “(a) IN GENERAL.—For purposes of sections 41(i),
18 48D, and 39(a)(3) any high-capacity airplane shall be
19 treated as a technology described in section 41(i)(2), ex-
20 cept that—

21 “(1) section 41(i)(1) shall be applied by sub-
22 stituting ‘60 percent’ for ‘40 percent’;

23 “(2) section 48D shall be applied by sub-
24 stituting ‘50 percent’ for ‘35 percent’;

1 “(3) section 39(a)(3) shall be applied by sub-
2 stituting ‘30 years’ for ‘25 years’ and ‘8 years’ for
3 ‘5 years’.

4 “(b) SPECIAL RULE RELATING TO ACCELERATED
5 DEPRECIATION.—For purposes of section 168(l), the ap-
6 plicable percentage shall be the percentage specified in
7 subparagraphs (A), (B), and (C) of paragraph (2) thereof,
8 increased by 10 percentage points.

9 “(c) HIGH-CAPACITY AIRPLANE.—For purposes of
10 this section, the term ‘high-capacity airplane’ means a
11 commercial airplane which—

12 “(1) has a passenger seating capacity of no less
13 than 200 people;

14 “(2) has a range of at least 7,200 nautical
15 miles; and

16 “(3) consumes at least 15 percent less fuel than
17 comparable airplanes.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for chapter 77 is amended by adding at the end the fol-
20 lowing new item:

“Sec. 7530. Special rules for high-capacity airplanes.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to taxable years beginning after
23 the date of the enactment of this Act.

1 **SEC. 334. NEW ELECTRICITY TRANSMISSION LINES DE-**
2 **SIGNED PRIMARILY TO CARRY ELECTRICITY**
3 **FROM RENEWABLE ENERGY RESOURCES.**

4 The Secretary of the Treasury, in consultation with
5 the Secretary of Energy, the Secretary of Commerce, and
6 the Administrator of the Environmental Protection Agen-
7 cy, shall establish an appropriate investment tax credit for
8 the construction of new electricity transmission lines de-
9 signed primarily to carry electricity from renewable energy
10 resources. Such credit shall be sufficient to encourage the
11 development of promising rural renewable energy domestic
12 resources that otherwise would likely not be developed.

13 **SEC. 335. NEW ENERGY TECHNOLOGIES COMMISSION.**

14 (a) ESTABLISHMENT.—There is established a com-
15 mission to be known as the “New Energy Technologies
16 Commission” (hereafter in this section referred to as the
17 “Commission”).

18 (b) DUTIES.—

19 (1) IDENTIFY NEW ENERGY TECHNOLOGIES EL-
20 IGIBLE FOR TAX INCENTIVES.—

21 (A) IN GENERAL.—The Commission shall
22 oversee—

23 (i) the identification of—

24 (I) Apollo Approved energy effi-
25 ciency technologies; and

1 (II) Apollo Approved domestic
2 clean energy production technologies;
3 that the Commission finds substan-
4 tially contributes to the goals of this
5 Act and merits consideration for fa-
6 vorable tax incentives by Congress;
7 and

8 (ii) the identification of criteria and
9 standards for determining technologies eli-
10 gible under clause (i) as qualifying energy
11 efficiency standards used to determine eli-
12 gibility for the investment, production, and
13 consumption tax incentives outlined in this
14 title.

15 (B) MATTERS TO BE CONSIDERED BY THE
16 COMMISSION.—In developing energy efficiency
17 standards, the Commission shall—

18 (i) consult with the Environmental
19 Protection Agency program known as “En-
20 ergy Star”; and

21 (ii) focus on technologies manufac-
22 tured domestically.

23 (2) REPORT.—Not later than one year after the
24 date of enactment of this Act, and every six months

1 thereafter the Commission shall submit to Congress
2 a report that contains—

3 (A) a detailed statement of any technology
4 that qualifies for or merits the tax incentives in
5 this title;

6 (B) recommendations for tax incentives
7 specifically tailored to be beneficial to such
8 technologies and any standards that should be
9 defined in statute to determine eligibility for
10 such benefits; and

11 (C) recommendations for other legislation,
12 administrative actions, and voluntary actions
13 necessary to implement such incentives.

14 (3) APOLLO APPROVED ENERGY TECH-
15 NOLOGIES.—For purposes of this section, the term
16 “Apollo Approved energy technologies” means any
17 final unit product that the Commission finds sub-
18 stantially contributes to the goals of this Act and
19 merits consideration for favorable tax incentives by
20 Congress not already included in this Act.

21 (4) APOLLO APPROVED DOMESTIC CLEAN EN-
22 ERGY PRODUCTION TECHNOLOGIES.—For purposes
23 of this section, the term “Apollo Approved domestic
24 clean energy production technologies” means any do-
25 mestic energy production technology that the Com-

1 mission finds substantially contributes to the goals
2 of this Act and merits consideration for favorable
3 tax incentives by Congress not already included in
4 this Act.

5 (c) MEMBERSHIP.—

6 (1) IN GENERAL.—The Commission shall be
7 comprised of 11 members.

8 (2) APPOINTMENTS BY THIS ACT.—The fol-
9 lowing are hereby designated as members of the
10 Commission:

11 (A) The Secretary of the Department of
12 Energy, the Director of the Office of Energy
13 Efficiency and Renewable Energy of the De-
14 partment of Energy, or the Administrator of
15 the Energy Information Administration of the
16 Department of Energy.

17 (B) The Secretary of the Department of
18 Commerce or designee.

19 (C) The Secretary of the Department of
20 Treasury or designee.

21 (D) The Director of the Environmental
22 Protection Agency or designee.

23 (3) APPOINTMENTS BY THE SENATE AND
24 HOUSE OF REPRESENTATIVES.—7 members ap-
25 pointed jointly by the majority leader and minority

1 leader of the Senate and the Speaker and minority
2 leader of the House of Representatives, of whom—

3 (A) 1 shall represent consumer advocacy
4 organizations focusing on energy issues;

5 (B) 1 shall represent auto manufacturers;

6 (C) 1 shall represent the lending commu-
7 nity;

8 (D) 1 shall represent environmental advo-
9 cacy organizations focusing on energy issues;

10 (E) 1 shall represent organized labor;

11 (F) 1 shall represent small business manu-
12 facturers; and

13 (G) 1 shall represent the energy industry.

14 (4) DATE OF APPOINTMENTS.—The appoint-
15 ment of a member of the Commission shall be made
16 not later than 30 days after the date of enactment
17 of this Act.

18 (5) TERM.—A member shall be appointed for 5
19 year terms.

20 (d) POWERS OF COMMISSION.—

21 (1) HEARINGS AND SESSIONS.—The Commis-
22 sion may, for the purpose of carrying out this sec-
23 tion, hold hearings, sit and act at times and places,
24 take testimony, and receive evidence to carry out its
25 duties under subsection (b). The Commission may

1 administer oaths or affirmations to witnesses ap-
2 pearing before it.

3 (2) POWERS OF MEMBERS AND AGENTS.—Any
4 member or agent of the Commission may, if author-
5 ized by the Commission, take any action which the
6 Commission is authorized to take by this section.

7 (3) OBTAINING OFFICIAL INFORMATION.—

8 (A) REQUIREMENT TO FURNISH.—Except
9 as provided in subparagraph (B), if the Com-
10 mission submits a request to a Federal depart-
11 ment or agency for information necessary to en-
12 able the Commission to carry out this section,
13 the head of that department or agency shall
14 furnish that information to the Commission.

15 (B) EXCEPTION FOR NATIONAL SECUR-
16 ITY.—If the head of a Federal department or
17 agency determines that it is necessary to with-
18 hold requested information from disclosure to
19 protect the national security interests of the
20 United States, the department or agency head
21 shall not furnish that information to the Com-
22 mission.

23 (4) MAILS.—The Commission may use the
24 United States mails in the same manner and under

1 the same conditions as other departments and agen-
2 cies of the United States.

3 (5) ADMINISTRATIVE SUPPORT SERVICES.—

4 Upon the request of the Director, the Administrator
5 of General Services shall provide to the Commission,
6 on a reimbursable basis, the administrative support
7 services necessary for the Commission to carry out
8 this section.

9 (6) GIFTS AND DONATIONS.—The Commission
10 may accept, use, and dispose of gifts or donations of
11 services or property to carry out this Act, but only
12 to the extent or in the amounts provided in advance
13 in appropriation Acts.

14 (7) CONTRACTS.—The Commission may con-
15 tract with and compensate persons and government
16 agencies for supplies and services, without regard to
17 section 3709 of the Revised Statutes (41 U.S.C. 5).

18 (e) INITIAL MEETING.—The Commission shall hold
19 the initial meeting of the Commission not later than the
20 earlier of—

21 (1) the date that is 30 days after the date on
22 which all members of the Commission have been ap-
23 pointed; or

1 (2) the date that is 90 days after the date of
2 enactment of this Act, regardless of whether all
3 members have been appointed.

4 (f) CHAIRPERSON AND VICE CHAIRPERSON.—The
5 Commission shall select a Chairperson and Vice Chair-
6 person from among the members of the Commission deter-
7 mined under subsection (c)(2).

8 (g) EXECUTIVE COMMITTEE.—The Commission shall
9 have an executive committee comprised of any five mem-
10 bers of the Commission.

11 (h) CONFLICTS OF INTEREST.—Each member ap-
12 pointed to the Commission shall submit a financial dislo-
13 sure report pursuant to the Ethics in Government Act of
14 1978, notwithstanding the minimum required rate of com-
15 pensation or time period employed.

16 (i) STAFF APPOINTMENT AND COMPENSATION.—The
17 Chairperson, in consultation with the Vice Chairperson, in
18 accordance with rules agreed upon by the Commission,
19 may appoint and fix the compensation of a staff director
20 and such other personnel as may be necessary to enable
21 the Commission to carry out its functions, without regard
22 to the provisions of title 5, United States Code, governing
23 appointments in the competitive service, and without re-
24 gard to the provisions of chapter 51 and subchapter III
25 of chapter 53 of such title relating to classification and

1 General Schedule pay rates; except that no rate of pay
2 fixed under this subsection may exceed the equivalent of
3 that payable for a position at level V of the Executive
4 Schedule under section 5316 of title 5, United States
5 Code.

6 (j) PERSONNEL AS FEDERAL EMPLOYEES.—

7 (1) IN GENERAL.—The staff director and any
8 personnel of the Commission who are employees
9 shall be employees under section 2105 of title 5,
10 United States Code, for purposes of chapters 63, 81,
11 83, 84, 85, 87, 89, and 90 of that title.

12 (2) MEMBERS OF COMMISSION.—Subparagraph
13 (A) shall not be construed to apply to members of
14 the Commission.

15 (k) DETAILEES.—Any Federal Government employee
16 may be detailed to the Commission without reimbursement
17 from the Commission, and such detailee shall retain the
18 rights, status, and privileges of his or her regular employ-
19 ment without interruption.

20 (l) CONSULTANT SERVICES.—The Commission is au-
21 thorized to procure the services of experts and consultants
22 in accordance with section 3109 of title 5, United States
23 Code, but at rates not to exceed the daily rate paid a per-
24 son occupying a position at level IV of the Executive

1 Schedule under section 5315 of title 5, United States
2 Code.

3 (m) MEMBER COMPENSATION.—Each member of the
4 Commission specified in subsection (c)(3) may be com-
5 pensated at a rate not to exceed the daily equivalent of
6 the annual rate of basic pay in effect for a position at
7 level IV of the Executive Schedule under section 5315 of
8 title 5, United States Code, for each day during which that
9 member is engaged in the actual performance of the duties
10 of the Commission.

11 (n) INFORMATION AND ADMINISTRATIVE EX-
12 PENSES.—The Federal agencies and members specified in
13 subsection (c)(3) shall provide the Commission such infor-
14 mation and pay such administrative and members ex-
15 penses as the Commission requires to carry out this sec-
16 tion, consistent with the requirements and guidelines of
17 the Federal Advisory Commission Act (5 U.S.C. App.).

18 (o) TRAVEL EXPENSES.—While away from their
19 homes or regular places of business in the performance
20 of services for the Commission, members of the Commis-
21 sion shall be allowed travel expenses, including per diem
22 in lieu of subsistence, in the same manner as persons em-
23 ployed intermittently in the Government service are al-
24 lowed expenses under section 5703 of title 5, United
25 States Code.

1 (p) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There is authorized to be
3 appropriated to the Commission such sums as may
4 be necessary to carry out this section.

5 (2) AVAILABILITY.—Amounts appropriated
6 under paragraph (1) are authorized to remain avail-
7 able until expended.

8 **SEC. 336. EXPENDITURE LIMITATION.**

9 Not later than 6 months after the date of the enact-
10 ment of this Act, the Secretary of the Treasury shall sub-
11 mit a report to the Congress on the tax expenditures in-
12 curred by reason of this subtitle, determined on both an
13 annual basis and for the 10-year period beginning on Jan-
14 uary 1, 2006, together with such recommendations as the
15 Secretary determines necessary or appropriate to achieve
16 a national 10-year tax expenditure under this subtitle of—

17 (1) \$10,000,000,000 with respect to auto-
18 mobiles, of which \$7,000,000,000 shall be expended
19 in the first 5 years of such 10-year period;

20 (2) \$1,500,000,000 with respect to airplanes, of
21 which \$1,000,000,000 shall be expended in the first
22 5 years of such 10-year period, and

23 (3) \$10,500,000,000 with respect to all other
24 tax expenditures under this subtitle, of which—

1 (A) \$6,500,000,000 shall be expended in
2 the first 3 years of such 10-year period;

3 (B) \$2,000,000,000 shall be expended in
4 the fourth and fifth years of such 10-year pe-
5 riod; and

6 (C) \$2,000,000,000 shall be expended over
7 the last 5 years of such 10-year period.

8 **TITLE IV—FEDERAL GOVERN-**
9 **MENT LEVERAGE TO MOVE**
10 **NEW TECHNOLOGIES TO MAR-**
11 **KET**

12 **SEC. 401. IMPROVED COORDINATION OF TECHNOLOGY**
13 **TRANSFER ACTIVITIES.**

14 (a) **TECHNOLOGY TRANSFER COORDINATOR.**—The
15 Secretary shall designate a Technology Transfer Coordi-
16 nator to perform oversight of and policy development for
17 technology transfer activities at the Department. The
18 Technology Transfer Coordinator shall coordinate the ac-
19 tivities of the Technology Transfer Working Group, and
20 shall oversee the expenditure of funds allocated to the
21 Technology Transfer Working Group, and shall coordinate
22 with each technology partnership ombudsman appointed
23 under section 11 of the Technology Transfer Commer-
24 cialization Act of 2000 (42 U.S.C. 7261c).

1 (b) TECHNOLOGY TRANSFER WORKING GROUP.—

2 The Secretary shall establish a Technology Transfer
3 Working Group, which shall consist of representatives of
4 the National Laboratories and single-purpose research fa-
5 cilities, to—

6 (1) coordinate technology transfer activities oc-
7 ccurring at National Laboratories and single-purpose
8 research facilities;

9 (2) exchange information about technology
10 transfer practices, including alternative approaches
11 to resolution of disputes involving intellectual prop-
12 erty rights and other technology transfer matters;
13 and

14 (3) develop and disseminate to the public and
15 prospective technology partners information about
16 opportunities and procedures for technology transfer
17 with the Department, including those related to al-
18 ternative approaches to resolution of disputes involv-
19 ing intellectual property rights and other technology
20 transfer matters.

21 (c) TECHNOLOGY TRANSFER RESPONSIBILITY.—

22 Nothing in this section shall affect the technology transfer
23 responsibilities of Federal employees under the Stevenson-
24 Wydler Technology Innovation Act of 1980.

1 (d) DEFINITION.—For purposes of this section, the
2 term “National Laboratory” means any of the following
3 laboratories owned by the Department:

4

5 (A) Ames National Laboratory.

6 (B) Argonne National Laboratory.

7 (C) Brookhaven National Laboratory.

8 (D) Fermi National Laboratory.

9 (E) Idaho National Engineering and Envi-
10 ronmental Laboratory.

11 (F) Lawrence Berkeley National Labora-
12 tory.

13 (G) Lawrence Livermore National Labora-
14 tory.

15 (H) Los Alamos National Laboratory.

16 (I) National Energy Technology Labora-
17 tory.

18 (J) National Renewable Energy Labora-
19 tory.

20 (K) Oak Ridge National Laboratory.

21 (L) Pacific Northwest National Labora-
22 tory.

23 (M) Princeton Plasma Physics Laboratory.

24 (N) Sandia National Laboratories.

1 (O) Thomas Jefferson National Accel-
2 erator Facility.

3 **SEC. 402. FEDERAL SUPPORT FOR COMMERCIALIZATION**
4 **OF NEW TECHNOLOGIES.**

5 (a) PROGRAM.—The Secretary of Energy shall estab-
6 lish a program of support, through grants, low-interest
7 loans, and loan guarantees, for the commercialization, in-
8 cluding support for pilot projects, of new—

9 (1) renewable energy technologies;

10 (2) technologies for energy generation from fos-
11 sil fuels that incorporate carbon sequestration; and

12 (3) energy efficiency technologies.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary of En-
15 ergy for carrying out this section \$5,000,000,000.

16 **SEC. 403. CLEAN ENERGY TECHNOLOGY EXPORTS PRO-**
17 **GRAM.**

18 (a) DEFINITIONS.—In this section:

19 (1) INTERAGENCY WORKING GROUP.—The term
20 “interagency working group” means the Interagency
21 Working Group on Clean Energy Technology Ex-
22 ports established under subsection (b).

23 (2) UNITED STATES CLEAN ENERGY TECH-
24 NOLOGY.—The term “United States clean energy
25 technology” means an energy supply or end-use

1 technology, including a technology using renewable
2 energy sources, that—

3 (A) over its lifecycle and compared to a
4 similar technology already in commercial use in
5 developing countries, countries in transition,
6 and other partner countries—

7 (i) emits substantially lower levels of
8 pollutants and/or greenhouse gases; and

9 (ii) may generate substantially smaller
10 and/or less toxic volumes of solid or liquid
11 waste; and

12 (B) consists of manufactured articles, ma-
13 terials, and supplies produced in the United
14 States substantially all from articles, materials,
15 or supplies mined, produced, or manufactured
16 in the United States, within the meaning of the
17 Buy American Act (41 U.S.C. 10a).

18 (b) INTERAGENCY WORKING GROUP.—

19 (1) ESTABLISHMENT.—Not later than 90 days
20 after the date of enactment of this section, the Sec-
21 retary of Energy, the Secretary of Commerce, and
22 the Administrator of the United States Agency for
23 International Development shall jointly establish a
24 Interagency Working Group on Clean Energy Tech-
25 nology Exports. The interagency working group will

1 focus on opening and expanding energy markets and
2 transferring clean energy technology generated in
3 the United States to developing countries, countries
4 in transition, and other partner countries that are
5 expected to experience, over the next 20 years, the
6 most significant growth in energy production and as-
7 sociated greenhouse gas emissions, including through
8 technology transfer programs under the Framework
9 Convention on Climate Change, other international
10 agreements, and relevant Federal efforts.

11 (2) MEMBERSHIP.—The interagency working
12 group shall be jointly chaired by representatives ap-
13 pointed by the agency heads under paragraph (1)
14 and shall also include representatives from the De-
15 partment of State, the Department of the Treasury,
16 the Environmental Protection Agency, the Export-
17 Import Bank, the Overseas Private Investment Cor-
18 poration, the Trade and Development Agency, and
19 other Federal agencies as deemed appropriate by all
20 three agency heads under paragraph (1).

21 (3) DUTIES.—The interagency working group
22 shall—

23 (A) analyze technology, policy, and market
24 opportunities for international development,

1 demonstration, and deployment of clean energy
2 technology developed in the United States;

3 (B) investigate issues associated with
4 building capacity to deploy clean energy tech-
5 nology generated in the United States in devel-
6 oping countries, countries in transition, and
7 other partner countries, including—

8 (i) energy-sector reform;

9 (ii) creation of open, transparent, and
10 competitive markets for clean energy tech-
11 nologies;

12 (iii) availability of trained personnel
13 to deploy and maintain the technology; and

14 (iv) demonstration and cost-buydown
15 mechanisms to promote first adoption of
16 the technology;

17 (C) examine relevant trade, tax, inter-
18 national, and other policy issues to assess what
19 policies would help open markets and improve
20 United States clean energy technology exports
21 in support of the following areas—

22 (i) enhancing energy innovation and
23 cooperation, including energy sector and
24 market reform, capacity building, and fi-
25 nancing measures;

1 (ii) improving energy end-use effi-
2 ciency technologies, including buildings and
3 facilities, vehicle, industrial, and co-genera-
4 tion technology initiatives; and

5 (iii) promoting energy supply tech-
6 nologies, including fossil, nuclear, and re-
7 newable technology initiatives;

8 (D) establish an advisory committee involv-
9 ing the private sector and other interested
10 groups on the export and deployment of United
11 States clean energy technology;

12 (E) monitor each agency's progress to-
13 wards meeting goals in the 5-year strategic plan
14 submitted to Congress pursuant to the Energy
15 and Water Development Appropriations Act,
16 2001, and the Energy and Water Development
17 Appropriations Act, 2002;

18 (F) make recommendations to heads of ap-
19 propriate Federal agencies on ways to stream-
20 line Federal programs and policies to improve
21 each agency's role in the international develop-
22 ment, demonstration, and deployment of United
23 States clean energy technology;

24 (G) make assessments and recommenda-
25 tions regarding the distinct technological, mar-

1 ket, regional, and stakeholder challenges nec-
2 essary to carry out the program; and

3 (H) recommend conditions and criteria
4 that will help ensure that United States funds
5 promote sound energy policies in participating
6 countries while simultaneously opening their
7 markets and exporting United States energy
8 technology.

9 (c) FEDERAL SUPPORT FOR CLEAN ENERGY TECH-
10 NOLOGY TRANSFER.—Notwithstanding any other provi-
11 sion of law, each Federal agency or Government corpora-
12 tion carrying out an assistance program in support of the
13 activities of United States persons in the environment or
14 energy sector of a developing country, country in transi-
15 tion, or other partner country shall support, to the max-
16 imum extent practicable, the transfer of United States
17 clean energy technology as part of that program.

18 (d) ANNUAL REPORT.—Not later than 90 days after
19 the date of the enactment of this Act, and on March 31
20 of each year thereafter, the Interagency Working Group
21 shall submit a report to Congress on its activities during
22 the preceding calendar year. The report shall include a
23 description of the technology, policy, and market opportu-
24 nities for international development, demonstration, and
25 deployment of United States clean energy technology in-

1 vestigated by the Interagency Working Group in that year,
2 as well as any policy recommendations to improve the ex-
3 pansion of clean energy markets and United States clean
4 energy technology exports.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated to the appropriate de-
7 partments, agencies, and entities of the United States
8 such sums as may be necessary for each of the fiscal years
9 2006 through 2016 to support the transfer of United
10 States clean energy technology, consistent with the sub-
11 sidy codes of the World Trade Organization, as part of
12 assistance programs carried out by those departments,
13 agencies, and entities in support of activities of United
14 States persons in the energy sector of a developing coun-
15 try, country in transition, or other partner country.

16 **SEC. 404. INTERNATIONAL ENERGY TECHNOLOGY DEPLOY-**
17 **MENT PROGRAM.**

18 Section 1608 of the Energy Policy Act of 1992 (42
19 U.S.C. 13387) is amended by striking subsection (l) and
20 inserting the following:

21 “(l) INTERNATIONAL ENERGY TECHNOLOGY DE-
22 PLOYMENT PROGRAM.—

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

24 “(A) INTERNATIONAL ENERGY DEPLOY-
25 MENT PROJECT.—The term ‘international en-

1 energy deployment project’ means a project to
2 construct an energy production facility outside
3 the United States—

4 “(i) the output of which will be con-
5 sumed outside the United States; and

6 “(ii) the deployment of which will re-
7 sult in a greenhouse gas reduction per unit
8 of energy produced when compared to the
9 technology that would otherwise be imple-
10 mented—

11 “(I) 20 percentage points or
12 more, in the case of a unit placed in
13 service before January 1, 2010;

14 “(II) 40 percentage points or
15 more, in the case of a unit placed in
16 service after December 31, 2009, and
17 before January 1, 2020; or

18 “(III) 60 percentage points or
19 more, in the case of a unit placed in
20 service after December 31, 2019, and
21 before January 1, 2030.

22 “(B) QUALIFYING INTERNATIONAL EN-
23 ERGY DEPLOYMENT PROJECT.—The term
24 ‘qualifying international energy deployment

1 project' means an international energy deploy-
2 ment project that—

3 “(i) is submitted by a United States
4 firm to the Secretary in accordance with
5 procedures established by the Secretary by
6 regulation;

7 “(ii) uses technology that has been
8 successfully developed or deployed in the
9 United States;

10 “(iii) uses technology that consists of
11 manufactured articles, materials, and sup-
12 plies produced in the United States sub-
13 stantially from articles, materials, or sup-
14 plies mined, produced, or manufactured in
15 the United States, within the meaning of
16 the Buy American Act (41 U.S.C. 10a);

17 “(iv) meets the criteria of subsection
18 (k);

19 “(v) is approved by the Secretary,
20 with notice of the approval being published
21 in the Federal Register; and

22 “(vi) complies with such terms and
23 conditions as the Secretary establishes by
24 regulation.

1 “(C) UNITED STATES.—For purposes of
2 this paragraph, the term ‘United States’, when
3 used in a geographical sense, means the 50
4 States, the District of Columbia, Puerto Rico,
5 Guam, the Virgin Islands, American Samoa,
6 and the Commonwealth of the Northern Mar-
7 iana Islands.

8 “(2) PILOT PROGRAM FOR FINANCIAL ASSIST-
9 ANCE.—

10 “(A) IN GENERAL.—Not later than 180
11 days after the date of enactment of this sub-
12 section, the Secretary shall, by regulation, pro-
13 vide for a pilot program for financial assistance
14 for qualifying international energy deployment
15 projects.

16 “(B) SELECTION CRITERIA.—After con-
17 sultation with the Secretary of State, the Sec-
18 retary of Commerce, and the United States
19 Trade Representative, the Secretary shall select
20 projects for participation in the program based
21 solely on the criteria under this title and with-
22 out regard to the country in which the project
23 is located.

24 “(C) FINANCIAL ASSISTANCE.—

1 “(i) IN GENERAL.—A United States
2 firm that undertakes a qualifying inter-
3 national energy deployment project that is
4 selected to participate in the pilot program
5 shall be eligible to receive a loan or a loan
6 guarantee from the Secretary.

7 “(ii) RATE OF INTEREST.—The rate
8 of interest of any loan made under clause
9 (i) shall be equal to the rate for Treasury
10 obligations then issued for periods of com-
11 parable maturities.

12 “(iii) AMOUNT.—The amount of a
13 loan or loan guarantee under clause (i)
14 shall not exceed 50 percent of the total
15 cost of the qualified international energy
16 deployment project.

17 “(iv) DEVELOPED COUNTRIES.—
18 Loans or loan guarantees made for
19 projects to be located in a developed coun-
20 try, as listed in Annex I of the United Na-
21 tions Framework Convention on Climate
22 Change, shall require at least a 50 percent
23 contribution towards the total cost of the
24 loan or loan guarantee by the host country.

1 “(v) DEVELOPING COUNTRIES.—
2 Loans or loan guarantees made for
3 projects to be located in a developing coun-
4 try (those countries not listed in Annex I
5 of the United Nations Framework Conven-
6 tion on Climate Change) shall require at
7 least a 10 percent contribution towards the
8 total cost of the loan or loan guarantee by
9 the host country.

10 “(vi) CAPACITY BUILDING RE-
11 SEARCH.—Proposals made for projects to
12 be located in a developing country may in-
13 clude a research component intended to
14 build technological capacity within the host
15 country. Such research must be related to
16 the technologies being deployed and must
17 involve both an institution in the host
18 country and an industry, university or na-
19 tional laboratory participant from the
20 United States. The host institution shall
21 contribute at least 50 percent of funds pro-
22 vided for the capacity building research.

23 “(D) COORDINATION WITH OTHER PRO-
24 GRAMS.—A qualifying international energy de-
25 ployment project funded under this section shall

1 not be eligible as a qualifying clean coal tech-
2 nology under section 415 of the Clean Air Act
3 (42 U.S.C. 7651n).

4 “(E) REPORT.—Not later than 5 years
5 after the date of enactment of this subsection,
6 the Secretary shall submit to the President a
7 report on the results of the pilot projects.

8 “(F) RECOMMENDATION.—Not later than
9 60 days after receiving the report under sub-
10 paragraph (E), the President shall submit to
11 Congress a recommendation, based on the re-
12 sults of the pilot projects as reported by the
13 Secretary of Energy, concerning whether the fi-
14 nancial assistance program under this section
15 should be continued, expanded, reduced, or
16 eliminated.

17 “(3) AUTHORIZATION OF APPROPRIATIONS.—

18 There are authorized to be appropriated to the Sec-
19 retary to carry out this section \$500,000,000 for
20 each of fiscal years 2006 through 2016, to remain
21 available until expended.”.

22 **SEC. 405. RISK POOL FOR QUALIFYING ADVANCED CLEAN**
23 **ENERGY TECHNOLOGY.**

24 (a) ESTABLISHMENT.—The Secretary of the Treas-
25 ury shall establish a financial risk pool which shall be

1 available to any United States owner or developer of a
2 technology that the Secretary determines will help achieve
3 the goals stated in section 102 of this Act (whether or
4 not such owner or developer receives any loan guaranteed
5 under section 731), to offset for the first 3 years of the
6 operation of such technology the costs (not to exceed 5
7 percent of the total cost of installation) for modifications
8 resulting from the technology's failure to achieve its de-
9 sign performance.

10 (b) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated \$4,500,000,000 to carry
12 out the purposes of this section.

13 **SEC. 406. FEDERAL RENEWABLE AND CLEAN ENERGY USE.**

14 (a) IN GENERAL.—The President shall take meas-
15 ures necessary to ensure that, within 10 years after the
16 date of the enactment of this Act, at least 20 percent of
17 the electricity consumed by nondefense related activities
18 of the Federal Government shall be generated from renew-
19 able sources or zero-emission fossil fuel energy sources.

20 (b) SOLAR PANELS AND PHOTOVOLTAICS.—The re-
21 quirement in subsection (a) may be achieved through the
22 purchase and installation of solar panels or photovoltaics
23 on executive agency properties.

1 **SEC. 407. REQUIRE THE EXPORT-IMPORT BANK OF THE**
2 **UNITED STATES TO MEET RENEWABLE EN-**
3 **ERGY TARGETS IN ITS LENDING PRACTICES.**

4 (a) **ALLOCATION OF ASSISTANCE AMONG ENERGY**
5 **PROJECTS.**—Of the total amount available to the Export-
6 Import Bank of the United States for the extension of
7 credit for transactions related to energy projects, the
8 Bank shall, not later than the beginning of fiscal year
9 2008, use—

10 (1) not more than 85 percent for transactions
11 related to fossil fuel projects; and

12 (2) not less than 15 percent for transactions re-
13 lated to renewable energy and energy efficiency
14 projects.

15 (b) **RENEWABLE ENERGY AND TECHNOLOGY COM-**
16 **MISSION.**—

17 (1) **ESTABLISHMENT.**—Within 1 year after the
18 date of the enactment of this Act, the Export-Import
19 Bank of the United States (in this subsection re-
20 ferred to as the “Bank”) shall establish a commis-
21 sion which shall be known as the “Renewable En-
22 ergy and Technology Commission” (in this sub-
23 section referred to as the “Commission”).

24 (2) **FUNCTION.**—The Commission shall help the
25 Bank achieve the percentage goal set forth in sub-
26 section (a)(2) by the beginning of fiscal year 2008,

1 by proactively assisting the Bank in identifying new
2 opportunities for renewable energy and energy effi-
3 ciency financing.

4 (3) COMPOSITION.—The Commission shall be
5 composed of—

6 (A) 6 representatives selected by compa-
7 nies involved in renewable energy and energy ef-
8 ficiency technology;

9 (B) 2 representatives selected by environ-
10 mental organizations;

11 (C) 2 members of the academic community
12 who are knowledgeable about renewable energy;
13 and

14 (D) representatives of the Bank.

15 (4) REPORTS.—The Commission shall submit
16 annually to the Committee on Resources and the
17 Committee on Financial Services of the House of
18 Representatives and the Committee on Banking,
19 Housing, and Urban Affairs of the Senate a report
20 that contains the following information for the fiscal
21 year covered by the report:

22 (A) A detailed description of the activities
23 of the Commission.

24 (B) Any recommendations made by the
25 Commission that were adopted by the Bank.

1 (C) An analysis comparing the level of
2 credit extended by the Bank for renewable en-
3 ergy and energy efficiency projects with the
4 level of credit so extended for the preceding fis-
5 cal year.

6 (c) DEFINITION OF RENEWABLE ENERGY AND EN-
7 ERGY EFFICIENCY PROJECTS.—In this section, the term
8 “renewable energy and energy efficiency projects” means
9 projects related to solar, wind, biomass, or geothermal en-
10 ergy sources.

11 **SEC. 408. GRANTS FOR TRANSIT PROGRAMS.**

12 (a) IN GENERAL.—The Secretary of Transportation
13 shall award grants to a State or local governmental au-
14 thority to improve mass transportation programs, includ-
15 ing capital projects.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this section
18 \$1,500,000,000 for each of 10 fiscal years beginning with
19 the first fiscal year after the date of enactment of this
20 Act.

21 (c) LABOR STANDARDS.—The Secretary of Transpor-
22 tation shall not provide a grant under this section unless
23 the Secretary receives reasonable assurances from a State
24 that laborers and mechanics employed by contractors or
25 subcontractors in the performance of construction or mod-

1 ernization on the a transit project will be paid wages not
2 less than those prevailing on similar construction or mod-
3 ernization in the locality as determined by the Secretary
4 of Labor under the Act of March 3, 1931 (known as the
5 Davis-Bacon Act) (40 U.S.C. 276a et seq.).

6 (d) DEFINITIONS.—

7 (1) GENERAL DEFINITIONS.—For purposes of
8 this section, the terms “capital project”, “local gov-
9 ernmental authority”, and “mass transportation”
10 have the same meanings such terms have in section
11 5302 of title 49, United States Code.

12 (2) STATE DEFINED.—For purposes of this sec-
13 tion, the term “State” means a State of the United
14 States, the District of Columbia, Puerto Rico, the
15 Northern Mariana Islands, Guam, American Samoa,
16 and the United States Virgin Islands.

17 **SEC. 409. GRANTS FOR WATER AND SEWER IMPROVEMENT**
18 **PROGRAMS.**

19 (a) IN GENERAL.—The Secretary of Transportation
20 shall award grants to a State or local governmental au-
21 thority to improve water and sewer systems by increasing
22 energy efficiency in such systems by not less than 25 per-
23 cent.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to carry out this section

1 \$1,000,000,000 for each of 10 fiscal years beginning with
2 the first fiscal year after the date of enactment of this
3 Act.

4 (c) LABOR STANDARDS.—The Secretary of Transpor-
5 tation shall not provide a grant under this section unless
6 the Secretary receives reasonable assurances from a State
7 that laborers and mechanics employed by contractors or
8 subcontractors in the performance of construction or mod-
9 ernization on a water or sewer system improvement
10 project will be paid wages not less than those prevailing
11 on similar construction or modernization in the locality as
12 determined by the Secretary of Labor under the Act of
13 March 3, 1931 (known as the Davis-Bacon Act) (40
14 U.S.C. 276a et seq.).

15 (d) DEFINITIONS.—

16 (1) GENERAL DEFINITIONS.—For purposes of
17 this section, the terms “capital project”, “local gov-
18 ernmental authority”, and “mass transportation”
19 have the same meanings such terms have in section
20 5302 of title 49, United States Code.

21 (2) STATE DEFINED.—For purposes of this sec-
22 tion, the term “State” means a State of the United
23 States, the District of Columbia, Puerto Rico, the
24 Northern Mariana Islands, Guam, American Samoa,
25 and the United States Virgin Islands.

1 **SEC. 410. LOANS FOR HIGH-EFFICIENCY VEHICLES.**

2 (a) LOAN PROGRAM AUTHORIZED.—Subject to the
3 availability of appropriations, the Secretary of Transpor-
4 tation shall establish a program to offer federally financed,
5 interest-free loans to local educational agencies, public in-
6 stitutions of higher education, municipalities, and local
7 governments for the purchase of hybrid electric vehicles
8 or high-efficiency vehicles.

9 (b) REPAYMENT TERM.—The time for repayment of
10 a loan under this section may not exceed 5 years.

11 (c) SECURITY INTEREST.—The Secretary shall re-
12 quire, as a condition of a loan under this section, that
13 the borrower grant to the United States a security interest
14 in any vehicle purchased with the proceeds of such loan.

15 (d) DEFINITIONS.—In this section:

16 (1) The term “high-efficiency vehicle” means a
17 motor vehicle the fuel economy of which is rated at
18 not less than 40 miles per gallon.

19 (2) The term “hybrid electric vehicle” means a
20 motor vehicle with a fuel-efficient gasoline engine as-
21 sisted by an electric motor.

22 (3) The term “motor vehicle” has the meaning
23 given that term in section 30102(a)(6) of title 49,
24 United States Code.

25 (4) The term “local educational agency” has
26 the meaning given that term in the Elementary and

1 Secondary Education Act of 1965 (20 U.S.C. 6301
2 et seq.).

3 (5) The term “public institution of higher edu-
4 cation” has the meaning given the term “institution
5 of higher education” in section 101(a) of the Higher
6 Education Act of 1965 (20 U.S.C. 1001(a)), but
7 does not include private institutions described in
8 that section.

9 (e) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to carry out this section
11 \$50,000,000 for each of fiscal years 2006 through 2011
12 and such sums as may be necessary for each fiscal year
13 thereafter.

14 **SEC. 411. REQUIREMENT REGARDING PURCHASE OF**
15 **MOTOR VEHICLES BY EXECUTIVE AGENCIES.**

16 (a) IN GENERAL.—At least ten percent of the motor
17 vehicles purchased by an Executive agency in any fiscal
18 year shall be comprised of high-efficiency vehicles or hy-
19 brid electric vehicles.

20 (b) DEFINITIONS.—In this Act:

21 (1) The term “Executive agency” has the
22 meaning given that term in section 105 of title 5,
23 United States Code, but also includes Amtrak, the
24 Smithsonian Institution, and the United States
25 Postal Service.

1 (2) The term “high-efficiency vehicle” means a
2 motor vehicle the fuel economy of which is rated at
3 not less than 40 miles per gallon.

4 (3) The term “hybrid electric vehicle” means a
5 motor vehicle with a fuel-efficient gasoline engine as-
6 sisted by an electric motor.

7 (4) The term “motor vehicle” has the meaning
8 given that term in section 102(7) of title 40, United
9 States Code.

10 (c) **PRO-RATED APPLICABILITY IN YEAR OF ENACT-**
11 **MENT.**—In the fiscal year in which this Act is enacted,
12 the requirement in subsection (a) shall only apply with re-
13 spect to motor vehicles purchased after the date of the
14 enactment of this Act in such fiscal year.

15 **SEC. 412. FEDERAL ENERGY EFFICIENCY.**

16 The President shall take measures necessary to en-
17 sure that electricity consumption for nondefense related
18 activities of the Federal Government shall be decreased
19 by 35 percent by 2015.

20 **SEC. 413. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE**
21 **AND BIODIESEL PURCHASING REQUIRE-**
22 **MENT.**

23 Title III of the Energy Policy Act of 1992 is amended
24 by striking section 306 (42 U.S.C. 13215) and inserting
25 the following:

1 **“SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASO-**
2 **LINE AND BIODIESEL PURCHASING REQUIRE-**
3 **MENT.**

4 “(a) ETHANOL-BLENDED GASOLINE.—The head of
5 each Federal agency shall ensure that, in areas in which
6 ethanol-blended gasoline is reasonably available at a gen-
7 erally competitive price, the Federal agency purchases eth-
8 anol-blended gasoline containing at least 85 percent eth-
9 anol rather than nonethanol-blended gasoline, for use in
10 vehicles used by the agency that use gasoline. If 85 per-
11 cent ethanol-blended gasoline is not reasonably available,
12 then each agency shall purchase ethanol-blended gasoline
13 containing at least 10 percent ethanol in areas in which
14 ethanol-blended gasoline is reasonably available at a gen-
15 erally competitive price.

16 “(b) BIODIESEL.—

17 “(1) DEFINITION OF BIODIESEL.—In this sub-
18 section, the term ‘biodiesel’ has the meaning given
19 the term in section 312(f).

20 “(2) REQUIREMENT.—The head of each Fed-
21 eral agency shall ensure that the Federal agency
22 purchases, for use in fueling fleet vehicles that use
23 diesel fuel used by the Federal agency at the loca-
24 tion at which fleet vehicles of the Federal agency are
25 centrally fueled, in areas in which the biodiesel-
26 blended diesel fuel described in subparagraphs (A)

1 and (B) is available at a generally competitive
2 price—

3 “(A) as of the date that is 5 years after
4 the date of enactment of this paragraph, bio-
5 diesel-blended diesel fuel that contains at least
6 2 percent biodiesel, rather than nonbiodiesel-
7 blended diesel fuel; and

8 “(B) as of the date that is 10 years after
9 the date of enactment of this paragraph, bio-
10 diesel-blended diesel fuel that contains at least
11 20 percent biodiesel, rather than nonbiodiesel-
12 blended diesel fuel.

13 “(3) REQUIREMENT OF FEDERAL LAW.—The
14 provisions of this subsection shall not be considered
15 a requirement of Federal law for the purposes of
16 section 312.

17 “(c) EXEMPTION.—This section does not apply to
18 fuel used in vehicles excluded from the definition of ‘fleet’
19 by subparagraphs (A) through (H) of section 301(9).”.

20 **SEC. 414. PERMITTING OF WIND ENERGY DEVELOPMENT**
21 **PROJECTS ON PUBLIC LANDS.**

22 (a) REQUIRED POLICIES AND PROCEDURES.—The
23 Secretary of the Interior shall process right-of-way appli-
24 cations for wind energy site testing and monitoring facili-
25 ties on public lands administered by the Bureau of Land

1 Management in accordance with policies and procedures
2 that are substantially the same as those set forth in Bu-
3 reau of Land Management Instruction Memorandum No.
4 9 2003–020, dated October 16, 2002.

5 (b) LIMITATION ON RENT AND OTHER CHARGES.—

6 (1) IN GENERAL.—The Secretary of the Inte-
7 rior may not impose rent and other charges with re-
8 spect to any wind energy development project on
9 public lands that, in the aggregate, exceed 50 per-
10 cent of the maximum amount of rent that could be
11 charged with respect to that project under the terms
12 of the Bureau of Land Management Instruction
13 Memorandum referred to in subsection (a).

14 (2) TERMINATION.—Paragraph (1) shall not
15 apply after the earlier of—

16 (A) the date on which the Secretary of the
17 Interior determines there exists at least 10,000
18 megawatts of electricity generating capacity
19 from nonhydropower renewable energy re-
20 sources on public lands; or

21 (B) the end of the 10-year period begin-
22 ning on the date of the enactment of this Act.

23 (3) STATE SHARE NOT AFFECTED.—This sub-
24 section shall not affect any State share of rent and

1 other charges with respect to any wind energy devel-
2 opment project on public lands.

3 **SEC. 415. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

4 (a) PERMANENT EXTENSION.—Section 801(c) of the
5 National Energy Conservation Policy Act (42 U.S.C.
6 8287(c)) is repealed.

7 (b) PAYMENT OF COSTS.—Section 802 of the Na-
8 tional Energy Conservation Policy Act (42 U.S.C. 8287a)
9 is amended by inserting “, water, or wastewater treat-
10 ment” after “payment of energy”.

11 (c) ENERGY SAVINGS.—Section 804(2) of the Na-
12 tional Energy Conservation Policy Act (42 U.S.C.
13 8287c(2)) is amended to read as follows:

14 “(2) The term ‘energy savings’ means a reduc-
15 tion in the cost of energy, water, or wastewater
16 treatment, from a base cost established through a
17 methodology set forth in the contract, used in an ex-
18 isting federally owned building or buildings or other
19 federally owned facilities as a result of—

20 “(A) the lease or purchase of operating
21 equipment, improvements, altered operation and
22 maintenance, or technical services;

23 “(B) the increased efficient use of existing
24 energy sources by cogeneration or heat recov-
25 ery, excluding any cogeneration process for

1 other than a federally owned building or build-
2 ings or other federally owned facilities; or

3 “(C) the increased efficient use of existing
4 water sources in either interior or exterior ap-
5 plications.”.

6 (d) ENERGY SAVINGS CONTRACT.—Section 804(3) of
7 the National Energy Conservation Policy Act (42 U.S.C.
8 8287c(3)) is amended to read as follows:

9 “(3) The terms ‘energy savings contract’ and
10 ‘energy savings performance contract’ mean a con-
11 tract that provides for the performance of services
12 for the design, acquisition, installation, testing, and,
13 where appropriate, operation, maintenance, and re-
14 pair, of an identified energy or water conservation
15 measure or series of measures at 1 or more loca-
16 tions. Such contracts shall, with respect to an agen-
17 cy facility that is a public building (as such term is
18 defined in section 3301 of title 40, United States
19 Code), be in compliance with the prospectus require-
20 ments and procedures of section 3307 of title 40,
21 United States Code.”.

22 (e) ENERGY OR WATER CONSERVATION MEASURE.—
23 Section 804(4) of the National Energy Conservation Pol-
24 icy Act (42 U.S.C. 8287c(4)) is amended to read as fol-
25 lows:

1 “(4) The term ‘energy or water conservation
2 measure’ means—

3 “(A) an energy conservation measure, as
4 defined in section 551; or

5 “(B) a water conservation measure that
6 improves the efficiency of water use, is life-cycle
7 cost-effective, and involves water conservation,
8 water recycling or reuse, more efficient treat-
9 ment of wastewater or stormwater, improve-
10 ments in operation or maintenance efficiencies,
11 retrofit activities, or other related activities, not
12 at a Federal hydroelectric facility.”.

13 (f) REVIEW.—Not later than 180 days after the date
14 of the enactment of this Act, the Secretary of Energy shall
15 complete a review of the Energy Savings Performance
16 Contract program to identify statutory, regulatory, and
17 administrative obstacles that prevent Federal agencies
18 from fully utilizing the program. In addition, this review
19 shall identify all areas for increasing program flexibility
20 and effectiveness, including audit and measurement
21 verification requirements, accounting for energy use in de-
22 termining savings, contracting requirements, including the
23 identification of additional qualified contractors, and en-
24 ergy efficiency services covered. The Secretary shall report
25 these findings to Congress and shall implement identified

1 administrative and regulatory changes to increase pro-
2 gram flexibility and effectiveness to the extent that such
3 changes are consistent with statutory authority.

4 **SEC. 416. MUNICIPALITY GRANTS FOR DISTRIBUTED EN-**
5 **ERGY PLANS.**

6 (a) PROGRAM.—The Secretary of Energy shall award
7 grants to municipalities or tribes to facilitate the promul-
8 gation of distributed energy implementation plans.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to the Secretary of En-
11 ergy for carrying out this section \$100,000,000.

12 **SEC. 417. GREEN BUILDING STANDARDS FOR FEDERAL**
13 **BUILDINGS.**

14 (a) REQUIREMENT.—A Federal building for which
15 the design phase for construction or major renovation is
16 begun after the date of enactment of this Act shall be de-
17 signed, constructed, and certified to meet, at a minimum,
18 the LEED silver standard.

19 (b) EXCEPTIONS.—Subsection (a) shall not apply to
20 Federal laboratories or defense facilities, or to a building
21 of a type for which no LEED silver standard exists.

22 (c) STUDY.—Not later than 1 year after the date of
23 enactment of this Act, the Secretary of Energy shall trans-
24 mit to Congress the results of a study comparing the ex-
25 pected energy savings resulting from the implementation

1 of this section with energy savings under all other Federal
2 energy savings requirements. The Secretary shall include
3 any recommendations for changes to Federal law nec-
4 essary to reduce or eliminate duplicative or inconsistent
5 Federal energy savings requirements.

6 (d) DEFINITION.—For purposes of this section, the
7 term “LEED silver standard” means the Leadership in
8 Energy and Environmental Design green building rating
9 standard identified as silver by the United States Green
10 Building Council.

11 **TITLE V—CONSUMER**
12 **PROTECTION AND ASSISTANCE**

13 **SEC. 501. STRATEGIC PETROLEUM RESERVE.**

14 (a) FULL CAPACITY.—The President shall—

15 (1) fill the Strategic Petroleum Reserve estab-
16 lished pursuant to part B of title I of the Energy
17 Policy and Conservation Act (42 U.S.C. 6231 et
18 seq.) to full capacity as soon as practicable; and

19 (2) ensure that the fill rate minimizes impacts
20 on petroleum markets.

21 (b) RECOMMENDATIONS.—Not later than 180 days
22 after the date of enactment of this Act, the Secretary of
23 Energy shall submit to Congress a plan to—

24 (1) eliminate any infrastructure impediments
25 that may limit maximum drawdown capability; and

1 (2) determine whether the capacity of the Stra-
2 tegic Petroleum Reserve on the date of enactment of
3 this section is adequate in light of the increasing
4 consumption of petroleum and the reliance on im-
5 ported petroleum.

6 **SEC. 502. REGULATORY OVERSIGHT OVER ENERGY TRAD-**
7 **ING MARKETS AND METALS TRADING MAR-**
8 **KETS.**

9 (a) **JURISDICTION OF THE COMMODITY FUTURES**
10 **TRADING COMMISSION OVER ENERGY TRADING MAR-**
11 **KETS AND METALS TRADING MARKETS.—**

12 (1) **FERC LIAISON.**—Section 2(a)(8) of the
13 Commodity Exchange Act (7 U.S.C. 2(a)(8)) is
14 amended by adding at the end the following:

15 “(C) **FERC LIAISON.**—The Commission shall,
16 in cooperation with the Federal Energy Regulatory
17 Commission, maintain a liaison between the Com-
18 mission and the Federal Energy Regulatory Com-
19 mission.”.

20 (2) **EXEMPT TRANSACTIONS.**—Section 2 of the
21 Commodity Exchange Act (7 U.S.C. 2) is amend-
22 ed—

23 (A) in subsection (h), by adding at the end
24 the following:

1 “(7) APPLICABILITY.—This subsection does not
2 apply to an agreement, contract, or transaction in
3 an exempt energy commodity or an exempt metal
4 commodity described in subsection (j)(1).”; and

5 (B) by adding at the end the following:

6 “(j) EXEMPT TRANSACTIONS.—

7 “(1) TRANSACTIONS IN EXEMPT ENERGY COM-
8 MODITIES AND EXEMPT METALS COMMODITIES.—An
9 agreement, contract, or transaction (including a
10 transaction described in section 2(g)) in an exempt
11 energy commodity or exempt metal commodity shall
12 be subject to—

13 “(A) sections 4b, 4c(a), 4c(b), 4o, and 5b;

14 “(B) subsections (c) and (d) of section 6
15 and sections 6c, 6d, and 8a, to the extent that
16 those provisions—

17 “(i) provide for the enforcement of the
18 requirements specified in this subsection;

19 and

20 “(ii) prohibit the manipulation of the
21 market price of any commodity in inter-
22 state commerce or for future delivery on or
23 subject to the rules of any contract mar-
24 ket;

1 “(C) sections 6c, 6d, 8a, and 9(a)(2), to
2 the extent that those provisions prohibit the
3 manipulation of the market price of any com-
4 modity in interstate commerce or for future de-
5 livery on or subject to the rules of any contract
6 market;

7 “(D) section 12(e)(2); and

8 “(E) section 22(a)(4).

9 “(2) BILATERAL DEALER MARKETS.—

10 “(A) IN GENERAL.—Except as provided in
11 paragraph (6), a person or group of persons
12 that constitutes, maintains, administers, or pro-
13 vides a physical or electronic facility or system
14 in which a person has the ability to offer, exe-
15 cute, trade, or confirm the execution of an
16 agreement, contract, or transaction (including a
17 transaction described in section 2(g)) (other
18 than an agreement, contract, or transaction in
19 an excluded commodity) by making or accepting
20 the bids and offers of 1 or more participants on
21 the facility or system (including facilities or sys-
22 tems described in clauses (i) and (iii) of section
23 1a(33)(B)), the person or group of persons, and
24 the facility or system (referred to in this sub-
25 section as a ‘bilateral dealer market’) may offer

1 to enter into, enter into, or confirm the execu-
2 tion of any agreement, contract, or transaction
3 under paragraph (1) (other than an agreement,
4 contract, or transaction in an excluded com-
5 modity) if the bilateral dealer market meets the
6 requirement of subparagraph (B).

7 “(B) REQUIREMENT.—The requirement of
8 this subparagraph is that a bilateral dealer
9 market shall—

10 “(i) provide notice to the Commission
11 in such form as the Commission may speci-
12 fy by rule or regulation;

13 “(ii) file with the Commission any re-
14 ports (including large trader position re-
15 ports) that the Commission requires by
16 rule or regulation;

17 “(iii)(I) consistent with section 4i,
18 maintain books and records relating to
19 each transaction in such form as the Com-
20 mission may specify for a period of 5 years
21 after the date of the transaction; and

22 “(II) make those books and records
23 available to representatives of the Commis-
24 sion and the Department of Justice for in-

1 specification for a period of 5 years after the
2 date of each transaction; and

3 “(iv) make available to the public on
4 a daily basis such information as total vol-
5 ume by commodity, settlement price, open
6 interest, opening and closing ranges, and
7 any other information that the Commission
8 determines to be appropriate for public dis-
9 closure, except that the Commission may
10 not—

11 “(I) require the real-time publi-
12 cation of proprietary information; or

13 “(II) prohibit the commercial
14 sale of real-time proprietary informa-
15 tion.

16 “(3) REPORTING REQUIREMENTS.—On request
17 of the Commission, an eligible contract participant
18 that trades on a bilateral dealer market shall provide
19 to the Commission, within the time period specified
20 in the request and in such form and manner as the
21 Commission may specify, any information relating to
22 the transactions of the eligible contract participant
23 on the bilateral dealer market within 5 years after
24 the date of any transaction that the Commission de-
25 termines to be appropriate.

1 “(4) CAPITAL REQUIREMENTS.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), a bilateral dealer market
4 shall adopt a value-at-risk model approved by
5 the Commission.

6 “(B) CAPITAL COMMENSURATE WITH
7 RISK.—If there is an interaction of multiple
8 bids and multiple offers on the bilateral dealer
9 market in a predetermined, nondiscretionary
10 automated trade matching and trade execution
11 algorithm or bids and offers and acceptances of
12 bids and offers made on the bilateral dealer
13 market are binding, a bilateral dealer market
14 shall maintain sufficient capital commensurate
15 with the risk associated with transactions on
16 the bilateral dealer market, as determined by
17 the Commission.

18 “(5) TRANSACTIONS EXEMPTED BY COMMIS-
19 SION ACTION.—Any agreement, contract, or trans-
20 action on a bilateral dealer market (other than an
21 agreement, contract, or transaction in an excluded
22 commodity) that would otherwise be exempted by the
23 Commission under section 4(c) shall be subject to—

24 “(A) sections 4b, 4c(a), 4c(b), 4o, and 5b;
25 and

1 “(B) subsections (c) and (d) of section 6
2 and sections 6c, 6d, 8a, and 9(a)(2), to the ex-
3 tent that those provisions prohibit the manipu-
4 lation of the market price of any commodity in
5 interstate commerce or for future delivery on or
6 subject to the rules of any contract market.

7 “(6) NO EFFECT ON OTHER FERC AUTHOR-
8 ITY.—This subsection does not affect the authority
9 of the Federal Energy Regulatory Commission to
10 regulate transactions under the Federal Power Act
11 (16 U.S.C. 791a et seq.) or the Natural Gas Act (15
12 U.S.C. 717 et seq.).

13 “(7) APPLICABILITY.—This subsection does not
14 apply to—

15 “(A) a designated contract market regu-
16 lated under section 5; or

17 “(B) a registered derivatives transaction
18 execution facility regulated under section 5a.”.

19 “(3) CONTRACTS DESIGNED TO DEFRAUD OR
20 MISLEAD.—Section 4b of the Commodity Exchange
21 Act (7 U.S.C. 6b) is amended by striking subsection
22 (a) and inserting the following:

23 “(a) PROHIBITION.—It shall be unlawful for any
24 member of a registered entity, or for any correspondent,
25 agent, or employee of any member, in or in connection

1 with any order to make, or the making of, any contract
2 of sale of any commodity in interstate commerce, made,
3 or to be made on or subject to the rules of any registered
4 entity, or for any person, in or in connection with any
5 order to make, or the making of, any agreement, trans-
6 action, or contract in a commodity subject to this Act—

7 “(1) to cheat or defraud or attempt to cheat or
8 defraud any person;

9 “(2) willfully to make or cause to be made to
10 any person any false report or statement, or willfully
11 to enter or cause to be entered any false record;

12 “(3) willfully to deceive or attempt to deceive
13 any person by any means; or

14 “(4) to bucket the order, or to fill the order by
15 offset against the order of any person, or willfully,
16 knowingly, and without the prior consent of any per-
17 son to become the buyer in respect to any selling
18 order of any person, or to become the seller in re-
19 spect to any buying order of any person.”.

20 (4) CONFORMING AMENDMENTS.—The Com-
21modity Exchange Act is amended—

22 (A) in section 2 (7 U.S.C. 2)—

23 (i) in subsection (h)—

1 (I) in paragraph (1), by striking
2 “paragraph (2)” and inserting “para-
3 graphs (2) and (7)”;

4 (II) in paragraph (3), by striking
5 “paragraph (4)” and inserting “para-
6 graphs (4) and (7)”;

7 (ii) in subsection (i)(1)(A), by striking
8 “section 2(h) or 4(c)” and inserting “sec-
9 tion 2(h), 2(j), or 4(c)”;

10 (B) in section 4i (7 U.S.C. 6i)—

11 (i) by striking “any contract market
12 or” and inserting “any contract market,”;
13 and

14 (ii) by inserting “, or pursuant to an
15 exemption under section 4(c)” after
16 “transaction execution facility”;

17 (C) in section 5a(g)(1) (7 U.S.C.
18 7a(g)(1)), by striking “2(h)” and inserting
19 “2(h) or 2(j)”;

20 (D) in section 5b (7 U.S.C. 7a-1)—

21 (i) in subsection (a)(1), by striking
22 “2(h) or” and inserting “2(h), 2(j), or”;
23 and

1 (ii) in subsection (b), by striking
2 “2(h) or” and inserting “2(h), 2(j), or”;
3 and
4 (E) in section 12(e)(2)(B) (7 U.S.C.
5 16(e)(2)(B)), by striking “2(h)” and inserting
6 “2(h), 2(j),”.

7 (b) JURISDICTION OF THE FEDERAL ENERGY REGU-
8 LATORY COMMISSION OVER ENERGY TRADING MAR-
9 KETS.—Section 402 of the Department of Energy Organi-
10 zation Act (42 U.S.C. 7172) is amended by adding at the
11 end the following:

12 “(i) JURISDICTION OVER DERIVATIVES TRANS-
13 ACTIONS.—

14 “(1) IN GENERAL.—To the extent that the
15 Commission determines that any contract that
16 comes before the Commission is not under the juris-
17 diction of the Commission, the Commission shall
18 refer the contract to the appropriate Federal agency.

19 “(2) MEETINGS.—A designee of the Commis-
20 sion shall meet quarterly with a designee of the
21 Commodity Futures Trading Commission, the Secu-
22 rities Exchange Commission, the Federal Trade
23 Commission, and the Federal Reserve Board to dis-
24 cuss—

1 “(A) conditions and events in energy trad-
2 ing markets; and

3 “(B) any changes in Federal law (includ-
4 ing regulations) that may be appropriate to reg-
5 ulate energy trading markets.

6 “(3) LIAISON.—The Commission shall, in co-
7 operation with the Commodity Futures Trading
8 Commission, maintain a liaison between the Com-
9 mission and the Commodity Futures Trading Com-
10 mission.”.

11 **SEC. 503. INCREASED FUNDING FOR LIHEAP, WEATHERIZA-**
12 **TION ASSISTANCE.**

13 (a) LIHEAP.—(1) Section 2602(b) of the Low-Income
14 Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b))
15 is amended by striking the first sentence and inserting
16 “There are authorized to be appropriated to carry out the
17 provisions of this title (other than section 2607A),
18 \$3,400,000,000 for each of fiscal years 2006 through
19 2008.”.

20 (2) Section 2602(e) of the Low-Income Home Energy
21 Assistance Act of 1981 (42 U.S.C. 8621(e)) is amended
22 by striking “\$600,000,000” and inserting
23 “\$1,000,000,000”.

24 (3) Section 2609A(a) of the Low-Income Energy As-
25 sistance Act of 1981 (42 U.S.C. 8628a(a)) is amended by

1 striking “not more than \$300,000” and inserting “not
2 more than \$750,000”.

3 (b) WEATHERIZATION ASSISTANCE.—Section 422 of
4 the Energy Conservation and Production Act (42 U.S.C.
5 6872) is amended by striking “for fiscal years 1999
6 through 2003 such sums as may be necessary.” and in-
7 serting “\$325,000,000 for fiscal year 2006, \$400,000,000
8 for fiscal year 2007, and \$500,000,000 for fiscal year
9 2008.”.

10 **SEC. 504. NATIONAL ENERGY EFFICIENT HOUSING.**

11 (a) ESTABLISHMENT.—There is created a body cor-
12 porate to be known as the “Federal Energy Efficient
13 Home Mortgage Association” (in this section referred to
14 as the “Corporation”), which shall be regulated by the Of-
15 fice of Federal Housing Enterprise Oversight. The Cor-
16 poration shall have succession until dissolved by Act of
17 Congress. The Corporation shall maintain its principal of-
18 fice in the District of Columbia and shall be deemed, for
19 purposes of venue in civil actions, to be a resident thereof.
20 The Corporation may establish agencies or offices in such
21 other place or places as it may deem necessary or appro-
22 priate in the conduct of its business.

23 (b) AUTHORITY.—The Corporation may—

24 (1) pursuant to commitments or otherwise, pur-
25 chase, service, sell, or otherwise deal in any mort-

1 gages that meet or exceed the eligibility require-
2 ments for the Environmental Protection Agency pro-
3 gram known as “Energy Star” including mortgages
4 that were previously purchased, serviced, or held by
5 the Secretary of Housing and Urban Development
6 pursuant to the National Housing Act, any Federal
7 Home Loan Bank, the Government National Mort-
8 gage Association, the Department of Veterans Af-
9 fairs, the Federal National Mortgage Association, or
10 the Federal Home Loan Mortgage Corporation;

11 (2) purchase, service, sell, lend on the security
12 of, and otherwise deal in loans or advances of credit
13 for the purchase and installation of home energy
14 conserving improvements; and

15 (3) upon such terms and conditions as it may
16 deem appropriate, issue, and guarantee the timely
17 payment of principal of and interest on, such trust
18 certificates or other securities that are based on and
19 backed by a trust or pool composed of mortgages de-
20 scribed in paragraph (1), (2), or (3).

21 (c) LIMITATION.—The price of a mortgage purchased
22 by the Corporation pursuant to the authority under sub-
23 section (b) may not exceed 100 percent of the unpaid prin-
24 cipal amount of the mortgage at the time of purchase, with
25 adjustments for interest and any comparable items.

1 (d) BORROWING FROM TREASURY.—

2 (1) AUTHORITY.—The Corporation may issue
3 to the Secretary of the Treasury, and the Secretary
4 may purchase, obligations as may be necessary to
5 fund the operations of the Corporation.

6 (2) TERMS.—Obligations issued under this sub-
7 section shall be in such forms and denomination,
8 bear such maturities and rates of interest, and be
9 subject to such other terms and conditions, as the
10 Secretary of the Treasury shall determine.

11 (3) PUBLIC DEBT TRANSACTIONS.—For the
12 purpose of purchasing any such obligations, the Sec-
13 retary may use a public debt transaction the pro-
14 ceeds of the sale of any securities issued under chap-
15 ter 31 of title 31, United States Code, and the pur-
16 poses for which securities may be issued under such
17 chapter are extended to include such purpose.

18 (3) LIMITATION ON AMOUNT.—The Secretary of the
19 Treasury shall not at any time purchase any obligations
20 under this subsection if the purchase would increase the
21 aggregate principal amount of the outstanding holdings of
22 obligations under this subsection by the Secretary to an
23 amount greater than \$1,000,000,000.

24 (4) SALE.—The Secretary of the Treasury may at
25 any time sell, upon terms and conditions and at prices

1 determined by the Secretary, any of the obligations ac-
 2 quired by the Secretary under this subsection.

3 (5) TREATMENT.—All redemptions, purchases and
 4 sales by the Secretary of the Treasury of obligations under
 5 this subsection shall be treated as public debt transactions
 6 of the United States.

7 **SEC. 505. NATIONAL NET METERING REQUIREMENT FOR**
 8 **UTILITIES AND INTERCONNECTION STAND-**
 9 **ARDS FOR DISTRIBUTIVE ENERGY GENERA-**
 10 **TION.**

11 The Federal Power Act is amended by adding the fol-
 12 lowing new part at the end thereof:

13 **“PART IV—NATIONAL REQUIREMENTS**
 14 **AFFECTING RETAIL ELECTRIC ENERGY**

15 **“SEC. 401. NET METERING.**

16 “(a) DEFINITIONS.—As used in this section:

17 “(1) The term ‘customer-generator’ means the
 18 owner or operator of an electric generation unit
 19 qualified for net metering under this section.

20 “(2) The term ‘net metering’ means measuring
 21 the difference between the electricity supplied to a
 22 customer-generator and the electricity generated by
 23 a customer-generator that is delivered to a local dis-
 24 tribution section system at the same point of inter-
 25 connection during an applicable billing period.

1 “(3) The terms ‘electric generation unit quali-
2 fied for net metering’ and ‘qualified generation unit’
3 mean an electric energy generation unit that meets
4 each of the following requirements:

5 “(A) The unit is a fuel cell or uses as its
6 energy source either solar, wind, or biomass.

7 “(B) The unit has a generating capacity of
8 not more than 100 kilowatts.

9 “(C) The unit is located on premises that
10 are owned, operated, leased, or otherwise con-
11 trolled by the customer-generator.

12 “(D) The unit operates in parallel with the
13 retail electric supplier.

14 “(E) The unit is intended primarily to off-
15 set part or all of the customer-generator’s re-
16 quirements for electric energy.

17 “(4) The term ‘retail electric supplier’ means
18 any person that sells electric energy to the ultimate
19 consumer thereof.

20 “(5) The term ‘local distribution system’ means
21 any system for the distribution section of electric en-
22 ergy to the ultimate consumer thereof, whether or
23 not the owner or operator of such system is also a
24 retail electric supplier.

1 “(b) ADOPTION.—Not later than one year after the
2 enactment of this section, each retail electric supplier shall
3 comply with each of the following requirements and notify
4 all of its retail customers of such requirements not less
5 frequently than quarterly:

6 “(1) The supplier shall offer to arrange (either
7 directly or through a local distribution company or
8 other third party) to make available, on a first-come-
9 first-served basis, to each of its retail customers that
10 has installed an energy generation unit that is in-
11 tended for net metering and that notifies the sup-
12 plier of its generating capacity an electric energy
13 meter that is capable of net metering if the cus-
14 tomer-generator’s existing electrical meter cannot
15 perform that function.

16 “(2) Rates and charges and contract terms and
17 conditions applicable to the sale by the supplier of
18 electric energy to customer-generators shall be the
19 same as the rates and charges and contract terms
20 and conditions that would be applicable if the cus-
21 tomer-generator did not own or operate a qualified
22 generation unit and use a net metering system.

23 The requirements of this subsection are subject to the per-
24 cent limitations set forth in subsection (d).

1 “(c) NET ENERGY MEASUREMENT AND BILLING.—

2 Each retail electric supplier subject to subsection (b) shall
3 calculate the net energy measurement for a customer
4 using a net metering system in the following manner:

5 “(1) The retail electric supplier shall measure
6 the net electricity produced or consumed during the
7 billing period using the metering referred to in para-
8 graph (1) of subsection (b) or in subsection (f).

9 “(2) If the electricity supplied by the retail elec-
10 tric supplier exceeds the electricity generated by the
11 customer-generator during the billing period, the
12 customer-generator shall be billed for the net elec-
13 tricity supplied by the retail electric supplier in ac-
14 cordance with normal metering practices.

15 “(3) If electricity generated by the customer-
16 generator exceeds the electricity supplied by the re-
17 tail electric supplier, the customer-generator—

18 “(A) shall be billed for the appropriate
19 customer charges for that billing period;

20 “(B) shall be credited for the excess elec-
21 tric energy generated during the billing period,
22 with this credit appearing on the bill to be ap-
23 plied against charges for the following billing
24 period (except for a billing period that ends in
25 the next calendar year); and

1 “(C) shall not be charged for transmission
2 losses.

3 If the customer-generator is using a meter that re-
4 flects the time of generation (a ‘real time meter’),
5 the credit shall be based on the retail rates for sale
6 by the retail electric supplier at the time of such
7 generation. At the beginning of each calendar year,
8 any remaining unused kilowatt-hour credit accumu-
9 lated by a customer-generator during the previous
10 year may be sold by the customer-generator to any
11 electric supplier that agrees to purchase such credit.
12 In the absence of any such purchase, the credit shall
13 be assigned (at no cost) to the retail electric supplier
14 that supplied electric energy to such customer-gener-
15 ator at the end of the previous year.

16 “(d) PERCENT LIMITATIONS.—

17 “(1) TWO PERCENT LIMITATION.—A retail elec-
18 tric supplier shall not be required to comply with
19 subsection (b) with respect to additional customer-
20 generators after the date during any calendar year
21 on which the total generating capacity of all cus-
22 tomer-generators with qualified generation facilities
23 and net metering systems served by that supplier is
24 equal to or in excess of 2 percent of the capacity
25 necessary to meet the supplier’s average forecasted

1 aggregate customer peak demand for that calendar
2 year.

3 “(2) ONE PERCENT LIMITATION.—A retail elec-
4 tric supplier shall not be required to comply with
5 subsection (b) with respect to additional customer-
6 generators using a single type of qualified energy
7 generation system after the date during any cal-
8 endar year on which the total generating capacity of
9 all customer-generators with qualified generation fa-
10 cilities of that type and net metering systems served
11 by that supplier is equal to or in excess of 1 percent
12 of the capacity necessary to meet the supplier’s aver-
13 age forecasted aggregate customer peak demand for
14 that calendar year.

15 “(3) RECORDS AND NOTICE.—Each retail elec-
16 tric supplier shall maintain, and make available to
17 the public, records of the total generating capacity
18 of customer-generators of such supplier that are
19 using net metering, the type of generating systems
20 and energy source used by the electric generating
21 systems used by such customer-generators. Each
22 such supplier shall notify the Commission when the
23 total generating capacity of such customer-genera-
24 tors is equal to or in excess of 2 percent of the ca-
25 pacity necessary to meet the supplier’s aggregate

1 customer peak demand during the previous calendar
2 year and when the total generating capacity of such
3 customer-generators using a single type of qualified
4 generation is equal to or in excess of 1 percent of
5 such capacity.

6 “(e) SAFETY AND PERFORMANCE STANDARDS.—(1)
7 A qualified generation unit and net metering system used
8 by a customer-generator shall meet all applicable safety
9 and performance and reliability standards established by
10 the national electrical code, the Institute of Electrical and
11 Electronics Engineers, Underwriters Laboratories, or the
12 American National Standards Institute.

13 “(2) The Commission, after consultation with State
14 regulatory authorities and nonregulated local distribution
15 systems and after notice and opportunity for comment,
16 may adopt by regulation additional control and testing re-
17 quirements for customer-generators that the Commission
18 determines are necessary to protect public safety and sys-
19 tem reliability.

20 “(3) The Commission shall, after consultation with
21 State regulatory authorities and nonregulated local dis-
22 tribution systems and after notice and opportunity for
23 comment, prohibit by regulation the imposition of addi-
24 tional charges by electric suppliers and local distribution
25 systems for equipment or services for safety or perform-

1 ance that are additional to those necessary to meet the
2 standards and requirements referred to in paragraphs (2)
3 and (3).

4 “(f) **ADDITIONAL METERS.**—Any retail electric sup-
5 plier or local distribution company may, at its own ex-
6 pense, install one or more additional electric energy meters
7 to monitor the flow of electricity in either direction to and
8 from customer-generators, to identify the time of genera-
9 tion by customer- generators, or both.

10 “(g) **FEDERAL CREDITS.**—Whenever a customer-gen-
11 erator with a net metering system uses any energy genera-
12 tion system entitled to credits under a Federal minimum
13 renewable energy generation requirement, the total
14 amount of energy generated by that system shall be treat-
15 ed as generated by the retail electric supplier for purposes
16 of such requirement.

17 “(h) **STATE AUTHORITY.**—Nothing in this section
18 shall preclude a State from establishing or imposing addi-
19 tional incentives or requirements to encourage qualified
20 generation and net metering additional to that required
21 under this section.

22 “(i) **INTERCONNECTION STANDARDS.**—(1) Within
23 one year after the enactment of this section the Commis-
24 sion shall publish model standards for the physical connec-
25 tion between local distribution systems and qualified gen-

1 eration units and electric generation units that would be
2 qualified generation units but for the fact that the unit
3 has a generating capacity of more than 100 kilowatts (but
4 not more than 250 kilowatts). Such model standards shall
5 be designed to encourage the use of qualified generation
6 units and to insure the safety and reliability of such units
7 and the local distribution systems interconnected with
8 such units. Within 2 years after the enactment of this sec-
9 tion, each State shall adopt such model standards, with
10 or without modification, and submit such standards to the
11 Commission for approval. The Commission shall approve
12 a modification of the model standards only if the Commis-
13 sion determines that such modification is consistent with
14 the purpose of such standards and is required by reason
15 of local conditions. If standards have not been approved
16 under this paragraph by the Commission for any State
17 within 2 years after the enactment of this section, the
18 Commission shall, by rule or order, enforce the Commis-
19 sion's model standards in such State until such time as
20 State standards are approved by the Commission.

21 “(2) The standards under this section shall establish
22 such measures for the safety and reliability of the affected
23 equipment and local distribution systems as may be appro-
24 priate. Such standards shall be consistent with all applica-
25 ble safety and performance standards established by the

1 national electrical code, the Institute of Electrical and
2 Electronics Engineers, Underwriters Laboratories, or the
3 American National Standards Institute and with such ad-
4 ditional safety and reliability standards as the Commission
5 shall, by rule, prescribe. Such standards shall ensure that
6 generation units will automatically isolate themselves from
7 the electrical system in the event of an electrical power
8 outage. Such standards shall permit the owner or operator
9 of the local distribution system to interrupt or reduce de-
10 liveries of available energy from the generation unit to the
11 system when necessary in order to construct, install, main-
12 tain, repair, replace, remove, investigate, or inspect any
13 of its equipment or part of its system; or if it determines
14 that curtailment, interruption, or reduction is necessary
15 because of emergencies, forced outages, force majeure, or
16 compliance with prudent electrical practices.

17 “(3) The model standards under this subsection pro-
18 hibit the imposition of additional charges by local distribu-
19 tion systems for equipment or services for interconnection
20 that are additional to those necessary to meet such stand-
21 ards.

22 “(j) INTERCONNECTION.—At the election of the
23 owner or operator of the generation unit concerned, con-
24 nections meeting the standards applicable under sub-
25 section (g) may be made—

1 “(1) by such owner or operator at such owner’s
2 or operator’s expense, or

3 “(2) by the owner or operator of the local dis-
4 tribution system upon the request of the owner or
5 operator of the generating unit and pursuant to an
6 offer by the owner or operator of the generating unit
7 to reimburse the local distribution system in an
8 amount equal to the minimum cost of such connec-
9 tion, consistent with the procurement procedures of
10 the State in which the unit is located, except that
11 the work on all such connections shall be performed
12 by qualified electrical personnel certified by a re-
13 sponsible body or licensed by a State or local govern-
14 ment authority.

15 “(k) CONSUMER FRIENDLY CONTRACTS.—The Com-
16 mission shall promulgate regulations insuring that sim-
17 plified contracts will be used for the interconnection of
18 electric energy by electric energy transmission or distribu-
19 tion systems and generating facilities that have a power
20 production capacity not greater than 250 kilowatts.”.

21 (b) CONFORMING AMENDMENTS.—Section 316A of
22 the Federal Power Act is amended by striking out “or
23 214” in both places it appears and inserting “214, or title
24 IV”.

1 **SEC. 506. APPLIANCE STANDARDS.**

2 (a) STANDARDS FOR HOUSEHOLD APPLIANCES IN
3 STANDBY MODE.—Section 325 of the Energy Policy and
4 Conservation Act (42 U.S.C. 6295) is amended by adding
5 at the end the following:

6 “(u) STANDBY MODE ELECTRIC ENERGY CONSUMP-
7 TION BY HOUSEHOLD APPLIANCES.—

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

9 “(A) HOUSEHOLD APPLIANCE.—The term
10 ‘household appliance’ means any device that
11 uses household electric current and operates in
12 a standby mode except digital televisions, digital
13 set top boxes, and digital video recorders.

14 “(B) STANDBY MODE.—The term ‘standby
15 mode’ means a mode in which a household ap-
16 pliance uses household electric current but is
17 not in the active or primary operating mode.
18 For products with more than one operating
19 mode, the term ‘standby mode’ means the mode
20 in which the appliance consumes the least
21 amount of electric energy that the household
22 appliance is capable of consuming without being
23 completely switched off.

24 “(2) STANDARD.—

25 “(A) IN GENERAL.—Except as provided in
26 subparagraph (B), a household appliance that

1 is manufactured in, or imported for sale in, the
2 United States on or after the date that is 3
3 years after the date of enactment of this sub-
4 section shall not consume in standby mode
5 more than 1 watt.

6 “(B)(i) HOUSEHOLD APPLIANCES PARTICI-
7 PATING IN THE ENERGY STAR PROGRAM.—A
8 household appliance model that, as of the date
9 of enactment of this subsection, is recognized
10 under the Energy Star program administered
11 by the Administrator of the Environmental Pro-
12 tection Agency and the Secretary shall have
13 until January 1, 2010, to meet the standard
14 under subparagraph (A).

15 “(ii) ANALOG TELEVISIONS.—In the case
16 of analog televisions, the Secretary shall pre-
17 scribe, on or after the date that is 2 years after
18 the date of enactment of this subsection, in ac-
19 cordance with subsections (o) and (p) of section
20 325, an energy conservation standard that is
21 technologically feasible and economically justi-
22 fied under section 325(o)(2)(A) (in lieu of the
23 1 watt standard under subparagraph (A)).

24 “(3) EXEMPTIONS.—

1 “(A) APPLICATION.—A manufacturer or
2 importer of a household appliance or their des-
3 ignated agent may submit to the Secretary an
4 application for an exemption of a household ap-
5 pliance of class of appliances from the standard
6 under paragraph (2).

7 “(B) CRITERIA FOR EXEMPTION.—The
8 Secretary shall grant an exemption for a house-
9 hold appliance of class of appliances for which
10 an application is made under subparagraph (A)
11 if the applicant provides evidence showing that,
12 and the Secretary determines that—

13 “(i) it is not technically feasible to
14 modify the household appliance or appli-
15 ances concerned to enable them to meet
16 the standard;

17 “(ii) the standard is incompatible with
18 an energy efficiency standard applicable to
19 the household appliance of class of appli-
20 ances under another subsection; or

21 “(iii) The cost of electricity that a
22 typical consumer would save in operating
23 the household appliance of class of appli-
24 ances meeting the standard would not
25 equal the increase in the price of the

1 household appliance or class of household
2 appliances that would be attributable to
3 the modifications that would be necessary
4 to enable the household appliance or class
5 of household appliances to meet the stand-
6 ard by the earlier of—

7 “(I) the date that is 7 years after
8 the date of purchase of the household
9 appliance concerned; or

10 “(II) the end of the useful life of
11 the household appliance.

12 “(C) DETERMINATION OF TECHNICAL IN-
13 FEASIBILITY.—If the Secretary determines that
14 it is not technically feasible to modify a house-
15 hold appliance or class of household appliances
16 to meet the standard under paragraph (2), the
17 Secretary shall establish a different standard
18 for the household appliance or class of house-
19 hold appliances in accordance with the criteria
20 under subsection (1).

21 “(4) TEST PROCEDURE.—

22 “(A) IN GENERAL.—Not later than 1 year
23 after the date of enactment of this subsection,
24 the Secretary shall establish a test procedure
25 for determining the amount of consumption of

1 power by a household appliance operating in
2 standby mode.

3 “(B) CONSIDERATIONS.—In establishing
4 the test procedure, the Secretary shall con-
5 sider—

6 “(i) international test procedures
7 under development;

8 “(ii) test procedures used in connec-
9 tion with the Energy Star program; and

10 “(iii) test procedures used for meas-
11 uring power consumption in standby mode
12 in other countries.

13 “(5) FURTHER REDUCTION OF STANDBY
14 POWER CONSUMPTION.—The Secretary shall provide
15 technical assistance to manufacturers in achieving
16 further reductions in standby mode electric energy
17 consumption by household appliances.

18 “(v) STANDBY MODE ELECTRIC ENERGY CONSUMP-
19 TION BY DIGITAL TELEVISIONS, DIGITAL SET TOP
20 BOXES, AND DIGITAL VIDEO RECORDERS.—The Sec-
21 retary shall initiate within 5 years of the date of enact-
22 ment of this subsection a rulemaking to prescribe, in ac-
23 cordance with subsections (o) and (p), an energy conserva-
24 tion standard of standby mode electric energy consump-
25 tion by digital television sets, digital set top boxes, and

1 digital video recorders. The Secretary shall issue a final
2 rule prescribing such standards not later than 18 months
3 thereafter. In determining whether a standard under this
4 section is technologically feasible and economically justi-
5 fied under section 325(o)(2)(A), the Secretary shall con-
6 sider the potential negative effects on market penetration
7 by digital products covered under this section, and shall
8 consider any recommendations by the FCC regarding such
9 effects.”.

10 (b) STANDARDS FOR NONCOVERED PRODUCTS.—

11 (1) Section 325(m) of the Energy Policy and
12 Conservation Act (42 U.S.C. 6295(m)) is amended
13 as follows:

14 (A) Inserting “(1)” before “After”.

15 (B) Inserting the following at the end:

16 “(2) Not later than one year after the date of enact-
17 ment of this paragraph, and every 5 years thereafter, the
18 Secretary shall conduct a rulemaking to determine wheth-
19 er consumer or commercial products not classified as a
20 covered product under section 322(a)(1) through (19)
21 meet the criteria of section 322(b)(1). If the Secretary
22 finds that a consumer or commercial product not classified
23 as a covered product meets the criteria of section
24 322(b)(1), the Secretary shall prescribe, in accordance

1 with subsections (o) and (p), an energy conservation
2 standard for such consumer or commercial product.”.

3 (2) Part B of title III of such Act is amended
4 as follows:

5 (A) In the heading for such part by insert-
6 ing “**AND COMMERCIAL**” after “**CON-**
7 **SUMER**”.

8 (B) In section 321 by striking “consumer
9 product of a type specified in section 322” and
10 inserting: “consumer or commercial product of
11 a type specified in section 322(a)”.

12 (C) In paragraphs (4), (5), (7), (12), (13),
13 (14), and (15) of section 321 by striking “con-
14 sumer” in each place it appears and inserting
15 “covered”.

16 (D) In section 322(a) by inserting “or
17 commercial” after “consumer” in the first place
18 it appears in the material preceding paragraph
19 (1).

20 (E) In section 322(b), by inserting “or
21 commercial” after “consumer” in each place it
22 appears.

23 (F) In section 322(b)(1)(B) and (b)(2)(A),
24 by inserting “(or per-business in the case of a

1 commercial product)” after “per-household” in
2 each place it appears.

3 (G) In section 322(b)(2)(A) by inserting
4 “(or businesses in the case of commercial prod-
5 ucts)” after “households” in each place it ap-
6 pears.

7 (H) In section 322(b)(2)(C) by striking
8 “term” and inserting “terms” and by inserting
9 “and ‘business’” after “household”.

10 (I) In sections 323 through 339, by insert-
11 ing “or commercial” after “consumer” in each
12 place it appears.

13 (c) CONSUMER EDUCATION ON ENERGY EFFICIENCY
14 BENEFITS OF AIR CONDITIONING, HEATING AND VEN-
15 TILATION MAINTENANCE.—Section 337 of the Energy
16 Policy and Conservation Act (42 U.S.C. 6307) is amended
17 by adding the following new subsection after subsection
18 (b):

19 “(c) HVAC MAINTENANCE.—For the purpose of en-
20 suring that installed air conditioning and heating systems
21 operate at their maximum rated efficiency levels, the Sec-
22 retary shall, within 180 days of the date of enactment of
23 this subsection, develop and implement a public education
24 campaign to educate homeowners and small business own-
25 ers concerning the energy savings resulting from regularly

1 scheduled maintenance of air conditioning, heating, and
2 ventilating systems. The public service information shall
3 provide sufficient information to allow consumers to make
4 informed choices from among professional, licensed (where
5 State or local licensing is required) contractors. There are
6 authorized to be appropriated to carry out this subsection
7 \$5,000,000 for the fiscal years 2006 and 2007 in addition
8 to amounts otherwise appropriated in this part.”.

9 (d) EFFICIENCY STANDARDS FOR OTHER CONSUMER
10 AND COMMERCIAL PRODUCTS.—

11 (1) DEFINITIONS.—Section 321 of the Energy
12 Policy and Conservation Act (42 U.S.C. 6291) is
13 amended by adding the following at the end thereof:

14 “(32) The term ‘residential furnace fan’ means
15 an electric fan installed as part of a furnace for pur-
16 poses of circulating air through the system air fil-
17 ters, the heat exchangers or heating elements of the
18 furnace, and the duct work.

19 “(33) The terms ‘residential central air condi-
20 tioner fan’ and ‘heat pump circulation fan’ mean an
21 electric fan installed as part of a central air condi-
22 tioner or heat pump for purposes of circulating air
23 through the system air filters, the heat exchangers
24 of the air conditioner or heat pump, and the duct
25 work.

1 “(34) The term ‘suspended ceiling fan’ means
2 a fan intended to be mounted to a ceiling outlet box,
3 ceiling building structure, or to a vertical rod sus-
4 pended from the ceiling, and which as blades which
5 rotate below the ceiling and consists of an electric
6 motor, fan blades (which rotate in a direction par-
7 allel to the floor), an optional lighting kit, and one
8 or more electrical controls (integral or remote) gov-
9 erning fan speed and lighting operation.

10 “(35) The term ‘refrigerated bottled or canned
11 beverage vending machine’ means a machine that
12 cools bottled or canned beverages and dispenses
13 them upon payment.

14 “(36) AUTOMATIC COMMERCIAL ICEMAKER.—
15 The term ‘automatic commercial icemaker’ means a
16 factory-made assembly that

17 “(A) consists of a condensing unit and ice-
18 making section operating as an integrated unit,
19 with means for making and harvesting ice;

20 “(B) may include means for storing or dis-
21 pensing ice; and

22 “(C) may or may not be shipped in 1 pack-
23 age.

1 “(37) COMMERCIAL FREEZER.—The term ‘com-
2 mercial freezer’ means a freezer that is not a con-
3 sumer product regulated under this Act.

4 “(38) COMMERCIAL REFRIGERATOR.—The term
5 ‘commercial refrigerator’ means a refrigerator that
6 is not a consumer product regulated under this Act.

7 “(39) COMMERCIAL REFRIGERATOR-FREEZ-
8 ER.—The term ‘commercial refrigerator-freezer’
9 means a refrigerator-freezer that is not a consumer
10 product regulated under this Act.

11 “(40) ICEMAKING HEAD.—The term ‘icemaking
12 head’ means an automatic commercial icemaker that
13 does not include a storage compartment in an inte-
14 gral cabinet.

15 “(41) ILLUMINATED EXIT SIGN.—The term ‘il-
16 luminated exit sign’ means a sign that

17 “(A) is designed to be permanently fixed in
18 place to identify an exit; and

19 “(B) CONSISTS OF.—

20 “(i) a light source that illuminates the
21 sign or letters from within; and

22 “(iii) a background that is not trans-
23 parent.

24 “(42) REMOTE CONDENSING ICEMAKER.—The
25 term ‘remote condensing icemaker’ means an auto-

1 matic commercial icemaker in which the icemaking
2 mechanism and condensing unit are in separate sec-
3 tions.

4 “(43) TRAFFIC SIGNAL MODULE.—The term
5 ‘traffic signal module’ means a standard 8-inch
6 (200mm) or 12-inch (300mm) traffic signal indica-
7 tion, consisting of a light source, a lens, and all
8 other parts necessary for operation, that commu-
9 nicates movement messages to drivers through red,
10 amber, and green colors.

11 “(44) TORCHIERE FIXTURE.—The term
12 ‘torchiera fixture’ means a portable electric lighting
13 fixture with a reflector bowl that directs light up-
14 ward so as to give indirect illumination.

15 “(45) UNIT HEATER.—The term ‘unit heater’
16 means a self-contained fan-type heater designed to
17 be installed within the heated space. Unit heaters in-
18 clude an apparatus or appliance to supply heat, and
19 a fan for circulating air over a heat exchange sur-
20 face, all enclosed in a common casing. Unit heaters
21 do not include furnaces as defined in this Act.”.

22 (2) TESTING REQUIREMENTS.—Section 323 of
23 the Energy Policy and Conservation Act (42 U.S.C.
24 6293) is amended by adding the following at the end
25 thereof:

1 “(f) ADDITIONAL CONSUMER PRODUCTS.—The Sec-
2 retary shall within 18 months after the date of enactment
3 of this subsection prescribe testing requirements for the
4 consumer and commercial products referred to in para-
5 graphs (36) through (45) of section 321. Such testing re-
6 quirements shall be based on existing test procedures used
7 in industry to the extent practical and reasonable. In the
8 case of residential furnace fans, residential central air con-
9 ditioner fans or heat pump circulation fans, and sus-
10 pended ceiling fans unit heaters, such test procedures shall
11 include efficiency at both maximum output and at an out-
12 put no more than 50 percent of the maximum output.”.

13 (3) STANDARDS FOR ADDITIONAL CONSUMER
14 PRODUCTS.—Section 325 of the Energy Policy and
15 Conservation Act (42 U.S.C. 6295), as amended by
16 subsection (a) of this section, is amended by adding
17 the following at the end thereof:

18 “(w) RESIDENTIAL, OTHER CONSUMER, AND COM-
19 Mercial PRODUCTS.—(1) The Secretary shall, within 18
20 months after the date of enactment of this subsection, as-
21 sess the current and projected future market for the con-
22 sumer, and commercial products referred to in paragraphs
23 (36) through (45) of section 321, furnace fans, residential
24 central air conditioner fans and heat pump circulation
25 fans, suspended ceiling fans, and refrigerated bottled or

1 canned beverage vending machines. This assessment shall
2 include an examination of the types of these products sold,
3 the number of these products in use, annual sales of these
4 products, energy used by these products sold, estimates
5 of the potential energy savings from specific technical im-
6 provements to these products, and an examination of the
7 cost-effectiveness of these improvements. Prior to the end
8 of this time period, the Secretary shall hold an initial
9 scoping workshop to discuss and receive input to plans for
10 developing minimum efficiency standards for these prod-
11 ucts.

12 “(2) The Secretary shall within 24 months after the
13 date on which testing requirements are prescribed by the
14 Secretary pursuant to section 323(f), prescribe, by rule,
15 energy conservation standards for residential furnace fans,
16 residential central air conditioner fans and heat pump cir-
17 culation fans, suspended ceiling fans, and refrigerated bot-
18 tled or canned beverage vending machines. In establishing
19 these standards, the Secretary shall use the criteria and
20 procedures contained in this section. Any standard pre-
21 scribed under this section shall apply to products manu-
22 factured 36 months after the date such rule is published.”.

23 (4) LABELING.—Section 324(a) of the Energy
24 Policy and Conservation Act (42 U.S.C. 6294(a)) is
25 amended by adding the following at the end thereof:

1 “(5) The Secretary shall within 6 months after
2 the date on which energy conservation standards are
3 prescribed by the Secretary, prescribe, by rule, label-
4 ing requirements for the consumer and commercial
5 products referred to in paragraphs (33) through (45)
6 of section 321. These requirements shall take effect
7 on the same date as the standards prescribed pursu-
8 ant to section 325(w).”.

9 (5) COVERED PRODUCTS.—Section 322(a) of
10 the Energy Policy and Conservation Act (42 U.S.C.
11 6292(a)) is amended by redesignating paragraph
12 (19) as (20) and by inserting the following after
13 paragraph (18):

14 “(19) Beginning on the effective date for stand-
15 ards established pursuant to subsection (w) of sec-
16 tion 325, each product referred to in such subsection
17 (w).”.

18 (e) AIR CONDITIONER ENERGY EFFICIENCY
19 RULES.—Section 325(o)(1) of the Energy Policy and Con-
20 servation Act is amended by adding the following at the
21 end thereof: “Any rule relating to the energy efficiency
22 of air conditioners that violates the preceding sentence
23 shall have no force and effect after the date of the enact-
24 ment of this sentence.”.

1 **SEC. 507. ENERGY STAR CERTIFICATION FOR SOLAR**
2 **WATER HEATERS.**

3 Not later than January 1, 2007, the Secretary, in
4 consultation with the Administrator of the Environmental
5 Protection Agency, shall adopt regulations establishing
6 Energy Star Program requirements and an Energy Star
7 rating program for commercial and residential solar water
8 heating devices.

9 **SEC. 508. ELECTRIC RELIABILITY STANDARDS.**

10 Part II of the Federal Power Act (16 U.S.C. 824 et
11 seq.) is amended by adding at the end the following:

12 **“SEC. 215. ELECTRIC RELIABILITY.**

13 “(a) DEFINITIONS.—In this section—

14 “(1) ‘bulk power system’ means the network of
15 interconnected transmission facilities and generating
16 facilities;

17 “(2) ‘electric reliability organization’ means a
18 self-regulating organization certified by the Commis-
19 sion under subsection (c) whose purpose is to pro-
20 mote the reliability of the bulk power system; and

21 “(3) ‘reliability standard’ means a requirement
22 to provide for reliable operation of the bulk power
23 system approved by the Commission under this sec-
24 tion.

25 “(b) JURISDICTION AND APPLICABILITY.—The Com-
26 mission shall have jurisdiction, within the United States,

1 over an electric reliability organization, any regional enti-
2 ties, and all users, owners and operators of the bulk power
3 system, including but not limited to the entities described
4 in section 201(f), for purposes of approving reliability
5 standards and enforcing compliance with this section. All
6 users, owners and operators of the bulk power system shall
7 comply with reliability standards that take effect under
8 this section.

9 “(c) CERTIFICATION.—

10 “(1) The Commission shall issue a final rule to
11 implement the requirements of this section not later
12 than 180 days after the date of enactment of this
13 section.

14 “(2) Following the issuance of a Commission
15 rule under paragraph (1), any person may submit an
16 application to the Commission for certification as an
17 electric reliability organization. The Commission
18 may certify an applicant if the Commission deter-
19 mines that the applicant—

20 “(A) has the ability to develop, and enforce
21 reliability standards that provide for an ade-
22 quate level of reliability of the bulk power sys-
23 tem; and

24 “(B) has established rules that—

1 “(i) assure the independence of the
2 applicant from the users and owners and
3 operators of the bulk power system while
4 assuring fair stakeholder representation in
5 the selection of its directors and balanced
6 decision making in any committee or sub-
7 ordinate organizational structure;

8 “(ii) allocate equitably dues, fees, and
9 other charges among users for all activities
10 under this section;

11 “(iii) provide fair and impartial proce-
12 dures for enforcement of reliability stand-
13 ards through imposition of penalties (in-
14 cluding limitations on activities, functions,
15 or operations, or other appropriate sanc-
16 tions) and

17 “(iv) provide for reasonable notice and
18 opportunity for public comment, due proc-
19 ess, openness, and balance of interests in
20 developing reliability standards and other-
21 wise exercising its duties.

22 “(3) If the Commission receives 2 or more time-
23 ly applications that satisfy the requirements of this
24 subsection, the Commission shall approve only the

1 application the Commission concludes will best im-
2 plement the provisions of this section.

3 “(d) RELIABILITY STANDARDS.—

4 “(1) An electric reliability organization shall file
5 a proposed reliability standard or modification to a
6 reliability standard with the Commission.

7 “(2) The Commission may approve a proposed
8 reliability standard or modification to a reliability
9 standard if it determines that the standard is just,
10 reasonable, not unduly discriminatory or pref-
11 erential, and in the public interest. The Commission
12 shall give due weight to the technical expertise of the
13 electric reliability organization with respect to the
14 content of a proposed standard or modification to a
15 reliability standard, but shall not defer with respect
16 to its effect on competition.

17 “(3) The electric reliability organization and the
18 Commission shall rebuttably presume that a pro-
19 posal from a regional entity organized on an inter-
20 connection-wide basis for a reliability standard or
21 modification to a reliability standard to be applicable
22 on an interconnection-wide basis is just, reasonable,
23 and not unduly discriminatory or preferential, and in
24 the public interests.

1 “(4) The Commission shall remand to the elec-
2 tric reliability organization for further consideration
3 a proposed reliability standard or a modification to
4 a reliability standard that the Commission dis-
5 approves in whole or in part.

6 “(5) The Commission, upon its own motion or
7 upon complaint, may order an electric reliability or-
8 ganization to submit to the Commission a proposed
9 reliability standard or a modification to a reliability
10 standard that addresses a specific matter if the
11 Commission considers such a new or modified reli-
12 ability standard appropriate to carry out this sec-
13 tion.

14 “(e) ENFORCEMENT.—

15 “(1) An electric reliability organization may im-
16 pose a penalty on a user or owner or operator of the
17 bulk power system if the electric reliability organiza-
18 tion, after notice and an opportunity for a hearing—

19 “(A) finds that the user or owner or oper-
20 ator of the bulk power system has violated a re-
21 liability standard approved by the Commission
22 under subsection (d); and

23 “(B) files notice with the Commission,
24 which shall affirm, set aside, or modify the ac-
25 tion.

1 “(2) On its own motion or upon complaint, the
2 Commission may order compliance with a reliability
3 standard and may impose a penalty against a user
4 or owner or operator of the bulk power system if the
5 Commission finds, after notice and opportunity for
6 a hearing, that the user or owner or operator of the
7 bulk power system has violated or threatens to vio-
8 late a reliability standard.

9 “(3) The Commission shall establish regulations
10 authorizing the electric reliability organization to
11 enter into an agreement to delegate authority to a
12 regional entity for the purpose of proposing and en-
13 forcing reliability standards (including related activi-
14 ties) if the regional entity satisfies the provisions of
15 subparagraphs (A) and (B) of subsection (c)(2) and
16 the agreement promotes effective and efficient ad-
17 ministration of bulk power system reliability. The
18 Commission may modify such delegation. The elec-
19 tric reliability organization and the Commission shall
20 rebuttably presume that a proposal for delegation to
21 a regional entity organized on a interconnection-wide
22 basis promotes effective and efficient administration
23 of bulk power system reliability and should be ap-
24 proved. Such regulation may provide that the Com-
25 mission may assign the electric reliability organiza-

1 tion’s authority to enforce reliability standards di-
2 rectly to a regional entity consistent with the re-
3 quirements of this paragraph.

4 “(4) The Commission may take such action as
5 is necessary or appropriate against the electric reli-
6 ability organization or a regional entity to ensure
7 compliance with a reliability standard or any Com-
8 mission order affecting the electric reliability organi-
9 zation or a regional entity.

10 “(f) CHANGES IN ELECTRICITY RELIABILITY ORGA-
11 NIZATION RULES.—An electric reliability organization
12 shall file with the Commission for approval any proposed
13 rule or proposed rule change, accompanied by an expla-
14 nation of its basis and purpose. The Commission, upon
15 its own motion or complaint, may propose a change to the
16 rules of the electric reliability organization. A proposed
17 rule or proposed rule change shall take effect upon a find-
18 ing by the Commission, after notice and opportunity for
19 comment, that the change is just, reasonable, not unduly
20 discriminatory or preferential, is in the public interest, and
21 satisfies the requirements of subsection (c)(2).

22 “(g) COORDINATION WITH CANADA AND MEXICO.—
23 “(1) The electric reliability organization shall
24 take all appropriate steps to gain recognition in
25 Canada and Mexico.

1 “(2) The President shall use his best efforts to
2 enter into international agreements with the govern-
3 ments of Canada and Mexico to provide for effective
4 compliance with reliability standards and the effec-
5 tiveness of the electric reliability organization in the
6 United States and Canada or Mexico.

7 “(h) RELIABILITY REPORTS.—The electric reliability
8 organization shall conduct periodic assessments of the reli-
9 ability and adequacy of the interconnected bulk power sys-
10 tem in North America.

11 “(i) SAVINGS PROVISIONS.—

12 “(1) The electric reliability organization shall
13 have authority to develop and enforce compliance
14 with standards for the reliable operation of only the
15 bulk power system.

16 “(2) This section does not provide the electric
17 reliability organization or the Commission with au-
18 thority to order the construction of additional gen-
19 eration or transmission capacity or to set and en-
20 force compliance with standards for adequacy or
21 safety of electric facilities or services.

22 “(3) Nothing in this section shall be construed
23 to preempt any authority of any State to take action
24 to ensure the safety, adequacy, and reliability of
25 electric service within that State, as long as such ac-

1 tion is not inconsistent with any reliability standard
2 established under this section.

3 “(4) Not later than 90 days after the date of
4 the application of the electric reliability organization
5 or other affected party, and after notice and oppor-
6 tunity for comment, the Commission shall issue a
7 final order determining whether a State action is in-
8 consistent with a reliability standard, taking into
9 consideration any recommendation of the electric re-
10 liability organization.

11 “(5) The Commission, after consultation with
12 the electric reliability organization, may stay the ef-
13 fectiveness of any State action, pending the Commis-
14 sion’s issuance of a final order.

15 “(j) APPLICATION OF ANTITRUST LAWS.—

16 “(1) To the extent undertaken to develop, im-
17 plement, or enforce a reliability standard, each of
18 the following activities shall not, in any action under
19 the antitrust laws, be deemed illegal per se:

20 “(A) Activities undertaken by an electric
21 reliability organization under this section.

22 “(B) Activities of a user or owner or oper-
23 ator of the bulk power system undertaken in
24 good faith under the rules of an electric reli-
25 ability organization.

1 “(2) In any action under the antitrust laws, an
2 activity described in paragraph (1) shall be judged
3 on the basis of its reasonableness, taking into ac-
4 count all relevant factors affecting competition and
5 reliability.

6 “(3) For purposes of this subsection, the term
7 ‘antitrust laws’ has the meaning given the term in
8 subsection (a) of the first section of the Clayton Act
9 (15 U.S.C. 12(a)), except that it includes section 5
10 of the Federal Trade Commission Act (15 U.S.C.
11 45) to the extent that section 5 applies to unfair
12 methods of competition.

13 “(k) REGIONAL ADVISORY BODIES.—The Commis-
14 sion shall establish a regional advisory body on the petition
15 of at least $\frac{2}{3}$ of the States within a region that have more
16 than $\frac{1}{2}$ of their electric load served within the region. A
17 regional advisory body shall be composed of one member
18 from each participating State in the region, appointed by
19 the Governor of each State, and may include representa-
20 tives of agencies, States, and provinces outside the United
21 States. A regional advisory body may provide advice to the
22 electric reliability organization, a regional reliability enti-
23 ty, or the Commission regarding the governance of an ex-
24 isting or proposed regional reliability entity within the
25 same region, whether a standard proposed to apply within

1 the region is just, reasonable, not unduly discriminatory
2 or preferential, and in the public interest, whether fees
3 proposed to be assessed within the region are just, reason-
4 able, not unduly discriminatory or preferential, and in the
5 public interest and any other responsibilities requested by
6 the Commission. The Commission may give deference to
7 the advice of any such regional advisory body if that body
8 is organized on an interconnection-wide basis.

9 “(1) APPLICATION TO ALASKA AND HAWAII.—The
10 provisions of this section apply only to the contiguous 48
11 States.”.

12 **TITLE VI—MARKET-BASED INI-** 13 **TIATIVES TO REDUCE GREEN-** 14 **HOUSE GASES**

15 **SEC. 600. DEFINITIONS.**

16 In this Act:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency.

20 (2) BASELINE.—The term “baseline” means
21 the historic greenhouse gas emission levels of an en-
22 tity, as adjusted upward by the Administrator to re-
23 flect actual reductions that are verified in accord-
24 ance with—

1 (A) regulations promulgated under section
2 611(c)(1); and

3 (B) relevant standards and methods devel-
4 oped under this title.

5 (3) CARBON DIOXIDE EQUIVALENTS.—The term
6 “carbon dioxide equivalents” means, for each green-
7 house gas, the amount of each such greenhouse gas
8 that makes the same contribution to global warming
9 as one metric ton of carbon dioxide, as determined
10 by the Administrator.

11 (4) COVERED SECTORS.—The term “covered
12 sectors” means the electricity, transportation, indus-
13 try, and commercial sectors, as such terms are used
14 in the Inventory.

15 (5) COVERED ENTITY.—The term “covered en-
16 tity” means an entity (including a branch, depart-
17 ment, agency, or instrumentality of Federal, State,
18 or local government) that—

19 (A) owns or controls a source of green-
20 house gas emissions in the electric power, in-
21 dustrial, or commercial sector of the United
22 States economy (as defined in the Inventory),
23 refines or imports petroleum products for use in
24 transportation, or produces or imports

1 hydrofluorocarbons, perfluorocarbons, or sulfur
2 hexafluoride; and

3 (B) emits, from any single facility owned
4 by the entity, over 10,000 metric tons of green-
5 house gas per year, measured in units of carbon
6 dioxide equivalents, or produces or imports—

7 (i) petroleum products that, when
8 combusted, will emit,

9 (ii) hydrofluorocarbons,
10 perfluorocarbons, or sulfur hexafluoride
11 that, when used, will emit, or

12 (iii) other greenhouse gases that,
13 when used, will emit,

14 over 10,000 metric tons of greenhouse gas per
15 year, measured in units of carbon dioxide
16 equivalents.

17 (6) DATABASE.—The term “database” means
18 the national greenhouse gas database established
19 under section 611.

20 (7) DIRECT EMISSIONS.—The term “direct
21 emissions” means greenhouse gas emissions by an
22 entity from a facility that is owned or controlled by
23 that entity.

24 (8) FACILITY.—The term “facility” means a
25 building, structure, or installation located on any 1

1 or more contiguous or adjacent properties of an enti-
2 ty in the United States.

3 (9) GREENHOUSE GAS.—The term “greenhouse
4 gas” means—

5 (A) carbon dioxide;

6 (B) methane;

7 (C) nitrous oxide;

8 (D) hydrofluorocarbons;

9 (E) perfluorocarbons; or

10 (F) sulfur hexafluoride.

11 (10) INDIRECT EMISSIONS.—The term “indirect
12 emissions” means greenhouse gas emissions that
13 are—

14 (A) a result of the activities of an entity;

15 but

16 (B) emitted from a facility owned or con-
17 trolled by another entity.

18 (11) INVENTORY.—The term “Inventory”
19 means the Inventory of U.S. Greenhouse Gas Emis-
20 sions and Sinks, prepared in compliance with the
21 United Nations Framework Convention on Climate
22 Change Decision 3/CP.5.

23 (12) LEAKAGE.—The term “leakage” means—

24 (A) an increase in greenhouse gas emis-
25 sions by one facility or entity caused by a re-

1 duction in greenhouse gas emissions by another
2 facility or entity; or

3 (B) a decrease in sequestration that is
4 caused by an increase in sequestration at an-
5 other location.

6 (13) PERMANENCE.—The term “permanence”
7 means the extent to which greenhouse gases that are
8 sequestered will not later be returned to the atmos-
9 phere.

10 (14) REGISTRY.—The term “registry” means
11 the registry of greenhouse gas emission reductions
12 established under section 611(b)(2).

13 (15) SECRETARY.—The term “Secretary”
14 means the Secretary of Commerce.

15 (16) SEQUESTRATION.—

16 (A) IN GENERAL.—The term “sequestra-
17 tion” means the capture, long-term separation,
18 isolation, or removal of greenhouse gases from
19 the atmosphere.

20 (B) INCLUSIONS.—The term “sequestra-
21 tion” includes—

22 (i) agricultural and conservation prac-
23 tices;

24 (ii) reforestation;

25 (iii) forest preservation; and

1 (iv) any other appropriate method of
2 capture, long-term separation, isolation, or
3 removal of greenhouse gases from the at-
4 mosphere, as determined by the Adminis-
5 trator.

6 (C) EXCLUSIONS.—The term “sequestra-
7 tion” does not include—

8 (i) any conversion of, or negative im-
9 pact on, a native ecosystem; or

10 (ii) any introduction of non-native
11 species.

12 (17) SOURCE CATEGORY.—The term “source
13 category” means a process or activity that leads to
14 direct emissions of greenhouse gases, as listed in the
15 Inventory.

16 (18) STATIONARY SOURCE.—The term “sta-
17 tionary source” means generally any source of
18 greenhouse gases except those emissions resulting di-
19 rectly from an engine for transportation purposes.

20 **Subtitle A—Federal Climate**
21 **Change Research and Related**
22 **Activities**

23 **SEC. 601. NATIONAL SCIENCE FOUNDATION FELLOWSHIPS.**

24 The Director of the National Science Foundation
25 shall establish a fellowship program for students pursuing

1 graduate studies in global climate change, including capa-
2 bility in observation, analysis, modeling, paleoclimatology,
3 consequences, and adaptation.

4 **SEC. 602. RESEARCH GRANTS.**

5 Section 105 of the Global Change Research Act of
6 1990 (15 U.S.C. 2935) is amended—

7 (1) by redesignating subsection (c) as sub-
8 section (d); and

9 (2) by inserting after subsection (b) the fol-
10 lowing:

11 “(c) RESEARCH GRANTS.—

12 “(1) COMMITTEE TO DEVELOP LIST OF PRI-
13 ORITY RESEARCH AREAS.—The Committee shall de-
14 velop a list of priority areas for research and devel-
15 opment on climate change that are not being ad-
16 dressed by Federal agencies.

17 “(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO
18 NSF.—The Director of the Office of Science and
19 Technology Policy shall transmit the list to the Na-
20 tional Science Foundation.

21 “(3) FUNDING THROUGH NSF.—

22 “(A) BUDGET REQUEST.—The National
23 Science Foundation shall include, as part of the
24 annual request for appropriations for the
25 Science and Technology Policy Institute, a re-

1 quest for appropriations to fund research in the
2 priority areas on the list developed under para-
3 graph (1).

4 “(B) AUTHORIZATION.—For fiscal year
5 2006 and each fiscal year thereafter, there are
6 authorized to be appropriated to the National
7 Science Foundation not less than \$25,000,000,
8 to be made available through the Science and
9 Technology Policy Institute, for research in
10 those priority areas.”.

11 **SEC. 603. ABRUPT CLIMATE CHANGE RESEARCH.**

12 (a) IN GENERAL.—The Secretary, through the Na-
13 tional Oceanic and Atmospheric Administration, shall
14 carry out a program of scientific research on potential ab-
15 rupt climate change designed—

16 (1) to develop a global array of terrestrial and
17 oceanographic indicators of paleoclimate in order to
18 sufficiently to identify and describe past instances of
19 abrupt climate change;

20 (2) to improve understanding of thresholds and
21 nonlinearities in geophysical systems related to the
22 mechanisms of abrupt climate change;

23 (3) to incorporate these mechanisms into ad-
24 vanced geophysical models of climate change; and

1 (4) to test the output of these models against
2 an improved global array of records of past abrupt
3 climate changes.

4 (b) **ABRUPT CLIMATE CHANGE DEFINED.**—In this
5 section, the term “abrupt climate change” means a change
6 in climate that occurs so rapidly or unexpectedly that
7 human or natural systems may have difficulty adapting
8 to it.

9 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
10 are authorized to be appropriated to the Secretary for fis-
11 cal year 2006 \$60,000,000 to carry out this section, such
12 sum to remain available until expended.

13 **SEC. 604. NIST GREENHOUSE GAS FUNCTIONS.**

14 Section 2(c) of the National Institute of Standards
15 and Technology Act (15 U.S.C. 272(c)) is amended—

16 (1) by striking “and” after the semicolon in
17 paragraph (21);

18 (2) by redesignating paragraph (22) as para-
19 graph (23); and

20 (3) by inserting after paragraph (21) the fol-
21 lowing:

22 “(22) perform research to develop enhanced
23 measurements, calibrations, standards, and tech-
24 nologies which will facilitate activities that reduce
25 emissions of greenhouse gases or increase sequestra-

1 tion of greenhouse gases, including carbon dioxide,
2 methane, nitrous oxide, ozone, perfluorocarbons,
3 hydrofluorocarbons, and sulfur hexafluoride; and”.

4 **SEC. 605. DEVELOPMENT OF NEW MEASUREMENT TECH-**
5 **NOLOGIES.**

6 To facilitate implementation of section 614, the Sec-
7 retary shall initiate a program to develop, with technical
8 assistance from appropriate Federal agencies, innovative
9 standards and measurement technologies to calculate
10 greenhouse gas emissions or reductions for which no accu-
11 rate or reliable measurement technology exists. The pro-
12 gram shall include—

- 13 (1) technologies (including remote sensing tech-
14 nologies) to measure carbon changes and other
15 greenhouse gas emissions and reductions from agri-
16 culture, forestry, and other land use practices; and
17 (2) technologies to calculate non-carbon dioxide
18 greenhouse gas emissions from transportation.

19 **SEC. 606. ENHANCED ENVIRONMENTAL MEASUREMENTS**
20 **AND STANDARDS.**

21 The National Institute of Standards and Technology
22 Act (15 U.S.C. 271 et seq.) is amended—

- 23 (1) by redesignating sections 17 through 32 as
24 sections 18 through 33, respectively; and
25 (2) by inserting after section 16 the following:

1 **“SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.**

2 “(a) IN GENERAL.—The Director shall establish
3 within the Institute a program to perform and support re-
4 search on global climate change standards and processes,
5 with the goal of providing scientific and technical knowl-
6 edge applicable to the reduction of greenhouse gases (as
7 defined in section 600 of the New Apollo Energy Act of
8 2005) and of facilitating implementation of section 614
9 of that Act.

10 “(b) RESEARCH PROGRAM.—

11 “(1) IN GENERAL.—The Director is authorized
12 to conduct, directly or through contracts or grants,
13 a global climate change standards and processes re-
14 search program.

15 “(2) RESEARCH PROJECTS.—The specific con-
16 tents and priorities of the research program shall be
17 determined in consultation with appropriate Federal
18 agencies, including the Environmental Protection
19 Agency, the National Oceanic and Atmospheric Ad-
20 ministration, and the National Aeronautics and
21 Space Administration. The program generally shall
22 include basic and applied research—

23 “(A) to develop and provide the enhanced
24 measurements, calibrations, data, models, and
25 reference material standards which will enable
26 the monitoring of greenhouse gases;

1 “(B) to assist in establishing a baseline
2 reference point for future trading in greenhouse
3 gases and the measurement of progress in emis-
4 sions reduction;

5 “(C) that will be exchanged internationally
6 as scientific or technical information which has
7 the stated purpose of developing mutually rec-
8 ognized measurements, standards, and proce-
9 dures for reducing greenhouse gases; and

10 “(D) to assist in developing improved in-
11 dustrial processes designed to reduce or elimi-
12 nate greenhouse gases.

13 “(c) NATIONAL MEASUREMENT LABORATORIES.—

14 “(1) IN GENERAL.—In carrying out this sec-
15 tion, the Director shall utilize the collective skills of
16 the National Measurement Laboratories of the Na-
17 tional Institute of Standards and Technology to im-
18 prove the accuracy of measurements that will permit
19 better understanding and control of industrial chem-
20 ical processes and result in the reduction or elimi-
21 nation of greenhouse gases.

22 “(2) MATERIAL, PROCESS, AND BUILDING RE-
23 SEARCH.—The National Measurement Laboratories
24 shall conduct research under this subsection that in-
25 cludes—

1 “(A) developing material and manufac-
2 turing processes which are designed for energy
3 efficiency and reduced greenhouse gas emissions
4 into the environment;

5 “(B) developing chemical processes to be
6 used by industry that, compared to similar
7 processes in commercial use, result in reduced
8 emissions of greenhouse gases or increased se-
9 questration of greenhouse gases; and

10 “(C) enhancing building performance with
11 a focus in developing standards or tools which
12 will help incorporate low- or no-emission tech-
13 nologies into building designs.

14 “(3) STANDARDS AND TOOLS.—The National
15 Measurement Laboratories shall develop standards
16 and tools under this subsection that include software
17 to assist designers in selecting alternate building
18 materials, performance data on materials, artificial
19 intelligence-aided design procedures for building sub-
20 systems and ‘smart buildings’, and improved test
21 methods and rating procedures for evaluating the
22 energy performance of residential and commercial
23 appliances and products.

24 “(d) NATIONAL VOLUNTARY LABORATORY ACCREDI-
25 TATION PROGRAM.—The Director shall utilize the Na-

1 tional Voluntary Laboratory Accreditation Program under
2 this section to establish a program to include specific cali-
3 bration or test standards and related methods and proto-
4 cols assembled to satisfy the unique needs for accredita-
5 tion in measuring the production of greenhouse gases. In
6 carrying out this subsection the Director may cooperate
7 with other departments and agencies of the Federal Gov-
8 ernment, State and local governments, and private organi-
9 zations.”.

10 **SEC. 607. TECHNOLOGY DEVELOPMENT AND DIFFUSION.**

11 The Director of the National Institute of Standards
12 and Technology, through the Manufacturing Extension
13 Partnership Program, may develop a program to promote
14 the use, by the more than 380,000 small manufacturers,
15 of technologies and techniques that result in reduced emis-
16 sions of greenhouse gases or increased sequestration of
17 greenhouse gases.

18 **SEC. 608. AGRICULTURAL OUTREACH PROGRAM.**

19 (a) IN GENERAL.—The Secretary of Agriculture, act-
20 ing through the Global Change Program Office and in
21 consultation with the heads of other appropriate depart-
22 ments and agencies, shall establish the Climate Change
23 Education and Outreach Initiative Program to educate,
24 and reach out to, agricultural organizations and individual
25 farmers on global climate change.

1 (b) PROGRAM COMPONENTS.—The program—

2 (1) shall be designed to ensure that agricultural
3 organizations and individual farmers receive detailed
4 information about—

5 (A) the potential impact of climate change
6 on their operations and well-being;

7 (B) market-driven economic opportunities
8 that may come from storing carbon in soils and
9 vegetation, including emerging private sector
10 markets for carbon storage; and

11 (C) techniques for measuring, monitoring,
12 verifying, and inventorying such carbon capture
13 efforts;

14 (2) may incorporate existing efforts in any area
15 of activity referenced in paragraph (1) or in related
16 areas of activity;

17 (3) shall provide—

18 (A) outreach materials to interested par-
19 ties;

20 (B) workshops; and

21 (C) technical assistance; and

22 (4) may include the creation and development
23 of regional centers on climate change or coordination
24 with existing centers (including such centers within

1 NRCS and the Cooperative State Research Edu-
2 cation and Extension Service).

3 **SEC. 609. NOAA REPORT ON CLIMATE CHANGE EFFECTS;**
4 **PREPARATION ASSISTANCE.**

5 The Coastal Zone Management Act of 1972 (16
6 U.S.C. 1451 et seq.) is amended by adding at the end
7 the following:

8 “REPORT ON EFFECTS OF CLIMATE CHANGE

9 “SEC. 320. (a) IN GENERAL.—The Secretary shall
10 report to the Congress not later than 2 years after the
11 date of enactment of this section, and every 5 years there-
12 after, on the possible and projected impacts of climate
13 change on—

14 “(1) oceanic and coastal ecosystems, including
15 marine fish and wildlife and their habitat, and the
16 commercial and recreational fisheries and tourism
17 industries associated with them; and

18 “(2) coastal communities, including private resi-
19 dential and commercial development and public in-
20 frastructure in the coastal zone.

21 “(b) CONTENTS.—Each report under this section
22 shall include information regarding—

23 “(1) the impacts that may be due to climate
24 change that have occurred as of the date of the sub-
25 mission of the report; and

1 “(2) the projected future impacts of climate
2 change.

3 “(c) IMPACTS.—The impacts reported on under sub-
4 section (b) shall include any—

5 “(1) increases in sea level;

6 “(2) increases in storm activity and intensity;

7 “(3) increases in floods, droughts, and other ex-
8 tremes of weather;

9 “(4) increases in the temperature of the air and
10 the water on oceanic and coastal ecosystems, with a
11 particular focus on vulnerable fisheries and eco-
12 systems; and

13 “(5) changes in the acidity of the ocean surface
14 associated with an increase in concentration of car-
15 bon dioxide in the atmosphere.

16 “CLIMATE CHANGE PREPARATION ASSISTANCE

17 “SEC. 321. (a) IN GENERAL.—The Secretary shall
18 provide technical assistance to each coastal state that has
19 an approved coastal zone management plan under this
20 title, to assist such States in preparing persons living with-
21 in their coastal zones to adapt to climate change.

22 “(b) IDENTIFICATION OF AFFECTED AREAS AND AD-
23 APTATIONS.—In carrying out this section, the Secretary
24 shall—

1 “(1) identify the projected impacts of climate
2 change to which persons located in coastal zones
3 may need to adapt, including—

4 “(A) increases in sea level;

5 “(B) increases in storm activity and inten-
6 sity; and

7 “(C) increases in floods, droughts, and
8 other extremes of weather;

9 “(2) identify the specific coastal areas of the
10 United States, and the public and private develop-
11 ment in coastal communities and the natural re-
12 sources of the coastal zone, that are vulnerable to
13 the impacts identified under paragraph (1);

14 “(3) identify the various adaptation measures
15 that may be used to protect the areas and resources
16 identified under paragraph (2) from the impacts
17 identified under paragraph (1); and

18 “(4) estimate the costs of the adaptation meas-
19 ures identified under paragraph (3).”.

20 **Subtitle B—National Greenhouse**
21 **Gas Database**

22 **SEC. 611. NATIONAL GREENHOUSE GAS DATABASE AND**
23 **REGISTRY ESTABLISHED.**

24 (a) ESTABLISHMENT.—As soon as practicable after
25 the date of enactment of this Act, the Administrator, in

1 coordination with the Secretary, the Secretary of Energy,
2 the Secretary of Agriculture, and private sector and non-
3 governmental organizations, shall establish, operate, and
4 maintain a database, to be known as the “National Green-
5 house Gas Database”, to collect, verify, and analyze infor-
6 mation on greenhouse gas emissions by entities.

7 (b) NATIONAL GREENHOUSE GAS DATABASE COM-
8 PONENTS.—The database shall consist of—

9 (1) an inventory of greenhouse gas emissions;
10 and

11 (2) a registry of greenhouse gas emission reduc-
12 tions and increases in greenhouse gas sequestra-
13 tions.

14 (c) COMPREHENSIVE SYSTEM.—

15 (1) IN GENERAL.—Not later than 2 years after
16 the date of enactment of this Act, the Administrator
17 shall promulgate regulations to implement a com-
18 prehensive system for greenhouse gas emissions re-
19 porting, inventorying, and reductions registration.

20 (2) REQUIREMENTS.—The Administrator shall
21 ensure, to the maximum extent practicable, that—

22 (A) the comprehensive system described in
23 paragraph (1) is designed to—

1 (i) maximize completeness, trans-
2 parency, and accuracy of information re-
3 ported; and

4 (ii) minimize costs incurred by entities
5 in measuring and reporting greenhouse gas
6 emissions; and

7 (B) the regulations promulgated under
8 paragraph (1) establish procedures and proto-
9 cols necessary—

10 (i) to prevent the double-counting of
11 greenhouse gas emissions or emission re-
12 ductions reported by more than 1 reporting
13 entity;

14 (ii) to provide for corrections to errors
15 in data submitted to the database;

16 (iii) to provide for adjustment to data
17 by reporting entities that have had a sig-
18 nificant organizational change (including
19 mergers, acquisitions, and divestiture), in
20 order to maintain comparability among
21 data in the database over time;

22 (iv) to provide for adjustments to re-
23 flect new technologies or methods for
24 measuring or calculating greenhouse gas
25 emissions;

1 (v) to account for changes in registra-
2 tion of ownership of emission reductions
3 resulting from a voluntary private trans-
4 action between reporting entities; and

5 (vi) to clarify the responsibility for re-
6 porting in the case of any facility owned or
7 controlled by more than 1 entity.

8 (3) SERIAL NUMBERS.—Through regulations
9 promulgated under paragraph (1), the Administrator
10 shall develop and implement a system that pro-
11 vides—

12 (A) for the verification of submitted emis-
13 sions reductions registered under section 613;

14 (B) for the provision of unique serial num-
15 bers to identify the registered emission reduc-
16 tions made by an entity relative to the baseline
17 of the entity;

18 (C) for the tracking of the registered re-
19 ductions associated with the serial numbers;
20 and

21 (D) for such action as may be necessary to
22 prevent counterfeiting of the registered reduc-
23 tions.

1 **SEC. 612. INVENTORY OF GREENHOUSE GAS EMISSIONS**
2 **FOR COVERED ENTITIES.**

3 (a) IN GENERAL.—Not later than July 1st of each
4 calendar year after 2008, each covered entity shall submit
5 to the Administrator a report that states, for the pre-
6 ceding calendar year, the entity-wide greenhouse gas emis-
7 sions (as reported at the facility level), including—

8 (1) the total quantity of direct greenhouse gas
9 emissions from stationary sources, expressed in units
10 of carbon dioxide equivalents, except those reported
11 under paragraph (3);

12 (2) the amount of petroleum products sold or
13 imported by the entity and the amount of green-
14 house gases, expressed in units of carbon dioxide
15 equivalents, that would be emitted when these prod-
16 ucts are used for transportation in the United
17 States, as determined by the Administrator under
18 section 621(b);

19 (3) the amount of hydrofluorocarbons,
20 perfluorocarbons, or sulfur hexafluoride, expressed
21 in units of carbon dioxide equivalents, that are sold
22 or imported by the entity and will ultimately be
23 emitted in the United States, as determined by the
24 Administrator under section 621(d); and

25 (4) such other categories of emissions as the
26 Administrator determines in the regulations promul-

1 gated under section 611(c)(1) may be practicable
2 and useful for the purposes of this Act, such as—

3 (A) indirect emissions from imported elec-
4 tricity, heat, and steam;

5 (B) process and fugitive emissions; and

6 (C) production or importation of green-
7 house gases.

8 (b) COLLECTION AND ANALYSIS OF DATA.—The Ad-
9 ministrator shall collect and analyze information reported
10 under subsection (a) for use under subtitle C.

11 **SEC. 613. GREENHOUSE GAS REDUCTION REPORTING.**

12 (a) IN GENERAL.—Subject to the requirements de-
13 scribed in subsection (b)—

14 (1) a covered entity may register greenhouse
15 gas emission reductions achieved after 1990 and be-
16 fore 2010 under this section; and

17 (2) an entity that is not a covered entity may
18 register greenhouse gas emission reductions achieved
19 at any time since 1990 under this section.

20 (b) REQUIREMENTS.—

21 (1) IN GENERAL.—The requirements referred
22 to in subsection (a) are that an entity (other than
23 an entity described in paragraph (2)) shall—

24 (A) establish a baseline; and

1 (B) submit the report described in sub-
2 section (c)(1).

3 (2) REQUIREMENTS APPLICABLE TO ENTITIES
4 ENTERING INTO CERTAIN AGREEMENTS.—An entity
5 that enters into an agreement with a participant in
6 the registry for the purpose of a carbon sequestra-
7 tion project shall not be required to comply with the
8 requirements specified in paragraph (1) unless that
9 entity is required to comply with the requirements
10 by reason of an activity other than the agreement.
11 (c) REPORTS.—

12 (1) REQUIRED REPORT.—Not later than July
13 1st of each calendar year beginning more than 2
14 years after the date of enactment of this Act, but
15 subject to paragraph (3), an entity described in sub-
16 section (a) shall submit to the Administrator a re-
17 port that states, for the preceding calendar year, the
18 entity-wide greenhouse gas emissions (as reported at
19 the facility level), including—

20 (A) the total quantity of direct greenhouse
21 gas emissions from stationary sources, ex-
22 pressed in units of carbon dioxide equivalents;

23 (B) the amount of petroleum products sold
24 or imported by the entity and the amount of
25 greenhouse gases, expressed in units of carbon

1 dioxide equivalents, that would be emitted when
2 these products are used for transportation in
3 the United States, as determined by the Admin-
4 istrator under section 621(b);

5 (C) the amount of hydrofluorocarbons,
6 perfluorocarbons, or sulfur hexafluoride, ex-
7 pressed in units of carbon dioxide equivalents,
8 that are sold or imported by the entity and will
9 ultimately be emitted in the United States, as
10 determined by the Administrator under section
11 621(d); and

12 (D) such other categories of emissions as
13 the Administrator determines in the regulations
14 promulgated under section 611(c)(1) may be
15 practicable and useful for the purposes of this
16 Act, such as—

17 (i) indirect emissions from imported
18 electricity, heat, and steam;

19 (ii) process and fugitive emissions;
20 and

21 (iii) production or importation of
22 greenhouse gases.

23 (2) VOLUNTARY REPORTING.—An entity de-
24 scribed in subsection (a) may (along with estab-

1 lishing a baseline and reporting emissions under this
2 section)—

3 (A) submit a report described in paragraph
4 (1) before the date specified in that paragraph
5 for the purposes of achieving and
6 commoditizing greenhouse gas reductions
7 through use of the registry and for other pur-
8 poses; and

9 (B) submit to the Administrator, for inclu-
10 sion in the registry, information that has been
11 verified in accordance with regulations promul-
12 gated under section 611(c)(1) and that relates
13 to—

14 (i) any activity that resulted in the
15 net reduction of the greenhouse gas emis-
16 sions of the entity or a net increase in se-
17 questration by the entity that were carried
18 out during or after 1990 and before the es-
19 tablishment of the database, verified in ac-
20 cordance with regulations promulgated
21 under section 611(c)(1), and submitted to
22 the Administrator before the date that is 4
23 years after the date of enactment of this
24 Act; and

1 (ii) with respect to the calendar year
2 preceding the calendar year in which the
3 information is submitted, any project or
4 activity that resulted in the net reduction
5 of the greenhouse gas emissions of the en-
6 tity or a net increase in net sequestration
7 by the entity.

8 (3) PROVISION OF VERIFICATION INFORMATION
9 BY REPORTING ENTITIES.—Each entity that submits
10 a report under this subsection shall provide informa-
11 tion sufficient for the Administrator to verify, in ac-
12 cordance with measurement and verification methods
13 and standards developed under section 614, that the
14 greenhouse gas report of the reporting entity—

15 (A) has been accurately reported; and

16 (B) in the case of each voluntary report
17 under paragraph (2), represents—

18 (i) actual reductions in direct green-
19 house gas emissions—

20 (I) relative to historic emission
21 levels of the entity; and

22 (II) after accounting for any in-
23 creases in indirect emissions described
24 in paragraph (1)(D)(i); or

1 (ii) actual increases in net sequestra-
2 tion.

3 (4) FAILURE TO SUBMIT REPORT.—An entity
4 that participates or has participated in the registry
5 and that fails to submit a report required under this
6 subsection shall be prohibited from using, or allow-
7 ing another entity to use, its registered emissions re-
8 ductions or increases in sequestration to satisfy the
9 requirements of section 621.

10 (5) INDEPENDENT THIRD-PARTY
11 VERIFICATION.—To meet the requirements of this
12 section and section 614, an entity that is required
13 to submit a report under this section may—

14 (A) obtain independent third-party
15 verification; and

16 (B) present the results of the third-party
17 verification to the Administrator.

18 (6) AVAILABILITY OF DATA.—

19 (A) IN GENERAL.—The Administrator
20 shall ensure that information in the database
21 is—

22 (i) published; and

23 (ii) accessible to the public, including
24 in electronic format on the Internet.

1 (B) EXCEPTION.—Subparagraph (A) shall
2 not apply in any case in which the Adminis-
3 trator determines that publishing or otherwise
4 making available information described in that
5 subparagraph poses a risk to national security
6 or discloses confidential business information
7 that cannot be derived from information that is
8 otherwise publicly available and that would
9 cause competitive harm if published.

10 (7) DATA INFRASTRUCTURE.—The Adminis-
11 trator shall ensure, to the maximum extent prac-
12 ticable, that the database uses, and is integrated
13 with, Federal, State, and regional greenhouse gas
14 data collection and reporting systems in effect as of
15 the date of enactment of this Act.

16 (8) ADDITIONAL ISSUES TO BE CONSIDERED.—
17 In promulgating the regulations under section
18 611(c)(1) and implementing the database, the Ad-
19 ministrators shall take into consideration a broad
20 range of issues involved in establishing an effective
21 database, including—

22 (A) the data and information systems and
23 measures necessary to identify, track, and
24 verify greenhouse gas emissions in a manner

1 that will encourage private sector trading and
2 exchanges;

3 (B) the greenhouse gas reduction and se-
4 questration measurement and estimation meth-
5 ods and standards applied in other countries, as
6 applicable or relevant;

7 (C) the extent to which available fossil
8 fuels, greenhouse gas emissions, and greenhouse
9 gas production and importation data are ade-
10 quate to implement the database; and

11 (D) the differences in, and potential
12 uniqueness of, the facilities, operations, and
13 business and other relevant practices of persons
14 and entities in the private and public sectors
15 that may be expected to participate in the data-
16 base.

17 (d) ANNUAL REPORT.—The Administrator shall pub-
18 lish an annual report that—

19 (1) describes the total greenhouse gas emissions
20 and emission reductions reported to the database
21 during the year covered by the report;

22 (2) provides entity-by-entity and sector-by-sec-
23 tor analyses of the emissions and emission reduc-
24 tions reported;

1 (3) describes the atmospheric concentrations of
2 greenhouse gases;

3 (4) provides a comparison of current and past
4 atmospheric concentrations of greenhouse gases; and

5 (5) describes the activity during the year cov-
6 ered by the period in the trading of greenhouse gas
7 emission allowances.

8 **SEC. 614. MEASUREMENT AND VERIFICATION.**

9 (a) STANDARDS.—

10 (1) IN GENERAL.—Not later than 1 year after
11 the date of enactment of this Act, the Secretary
12 shall establish by rule, in coordination with the Ad-
13 ministrator, the Secretary of Energy, and the Sec-
14 retary of Agriculture, comprehensive measurement
15 and verification methods and standards to ensure a
16 consistent and technically accurate record of green-
17 house gas emissions, emission reductions, sequestra-
18 tion, and atmospheric concentrations for use in the
19 registry.

20 (2) REQUIREMENTS.—The methods and stand-
21 ards established under paragraph (1) shall include—

22 (A) a requirement that a covered entity
23 use a continuous emissions monitoring system,
24 or another system of measuring or estimating
25 emissions that is determined by the Secretary

1 to provide information with precision, reli-
2 ability, accessibility, and timeliness similar to
3 that provided by a continuous emissions moni-
4 toring system where technologically feasible;

5 (B) establishment of standardized meas-
6 urement and verification practices for reports
7 made by all entities participating in the reg-
8 istry, taking into account—

9 (i) protocols and standards in use by
10 entities requiring or desiring to participate
11 in the registry as of the date of develop-
12 ment of the methods and standards under
13 paragraph (1);

14 (ii) boundary issues, such as leakage;

15 (iii) avoidance of double counting of
16 greenhouse gas emissions and emission re-
17 ductions;

18 (iv) protocols to prevent a covered en-
19 tity from avoiding the requirements of this
20 Act by reorganization into multiple entities
21 that are under common control; and

22 (v) such other factors as the Sec-
23 retary, in consultation with the Adminis-
24 trator, determines to be appropriate;

25 (C) establishment of methods of—

1 (i) estimating greenhouse gas emis-
2 sions, for those cases in which the Sec-
3 retary determines that methods of moni-
4 toring, measuring or estimating such emis-
5 sions with precision, reliability, accessi-
6 bility, and timeliness similar to that pro-
7 vided by a continuous emissions monitoring
8 system are not technologically feasible at
9 present; and

10 (ii) reporting the accuracy of such es-
11 timations;

12 (D) establishment of measurement and
13 verification standards applicable to actions
14 taken to reduce, avoid, or sequester greenhouse
15 gas emissions;

16 (E) in coordination with the Secretary of
17 Agriculture, standards to measure the results of
18 the use of carbon sequestration and carbon re-
19 capture technologies, including—

20 (i) soil carbon sequestration practices;

21 and

22 (ii) forest preservation and reforest-
23 ation activities that adequately address the
24 issues of permanence, leakage, and
25 verification;

1 (F) establishment of such other measure-
2 ment and verification standards as the Sec-
3 retary, in consultation with the Secretary of Ag-
4 riculture, the Administrator, and the Secretary
5 of Energy, determines to be appropriate;

6 (G) establishment of standards for obtain-
7 ing the Secretary's approval of the suitability of
8 geological storage sites that include evaluation
9 of both the geology of the site and the entity's
10 capacity to manage the site; and

11 (H) establishment of other features that,
12 as determined by the Secretary, will allow enti-
13 ties to adequately establish a fair and reliable
14 measurement and reporting system.

15 (b) REVIEW AND REVISION.—The Secretary shall pe-
16 riodically review, and revise as necessary, the methods and
17 standards developed under subsection (a).

18 (c) PUBLIC PARTICIPATION.—The Secretary shall—

19 (1) make available to the public for comment,
20 in draft form and for a period of at least 90 days,
21 the methods and standards developed under sub-
22 section (a); and

23 (2) after the 90-day period referred to in para-
24 graph (1), in coordination with the Secretary of En-
25 ergy, the Secretary of Agriculture, and the Adminis-

1 trator, adopt the methods and standards developed
 2 under subsection (a) for use in implementing the
 3 database.

4 (d) EXPERTS AND CONSULTANTS.—

5 (1) IN GENERAL.—The Secretary may obtain
 6 the services of experts and consultants in the private
 7 and nonprofit sectors in accordance with section
 8 3109 of title 5, United States Code, in the areas of
 9 greenhouse gas measurement, certification, and
 10 emission trading.

11 (2) AVAILABLE ARRANGEMENTS.—In obtaining
 12 any service described in paragraph (1), the Sec-
 13 retary may use any available grant, contract, cooper-
 14 ative agreement, or other arrangement authorized by
 15 law.

16 **Subtitle C—Market-driven**
 17 **Greenhouse Gas Reductions**
 18 **CHAPTER 1—EMISSION REDUCTION RE-**
 19 **QUIREMENTS; USE OF TRADEABLE AL-**
 20 **LOWANCES**

21 **SEC. 621. COVERED ENTITIES MUST SUBMIT ALLOWANCES**
 22 **FOR EMISSIONS.**

23 (a) IN GENERAL.—Beginning with calendar year
 24 2010—

1 (1) each covered entity in the electric genera-
2 tion, industrial, and commercial sectors shall submit
3 to the Administrator one tradeable allowance for
4 every metric ton of greenhouse gases, measured in
5 units of carbon dioxide equivalents, that it emits
6 from stationary sources, except those described in
7 paragraph (2);

8 (2) each producer or importer of
9 hydrofluorocarbons, perfluorocarbons, or sulfur
10 hexafluoride that is a covered entity shall submit to
11 the Administrator one tradeable allowance for every
12 metric ton of hydrofluorocarbons, perfluorocarbons,
13 or sulfur hexafluoride, measured in units of carbon
14 dioxide equivalents, that it produces or imports and
15 that will ultimately be emitted in the United States,
16 as determined by the Administrator under sub-
17 section (d) and

18 (3) each petroleum refiner or importer that is
19 a covered entity shall submit one tradeable allowance
20 for every unit of petroleum product it sells that will
21 produce one metric ton of greenhouse gases, meas-
22 ured in units of carbon dioxide equivalents, as deter-
23 mined by the Administrator under subsection (b),
24 when used for transportation.

1 (b) DETERMINATION OF TRANSPORTATION SECTOR
2 AMOUNT.—For the transportation sector, the Adminis-
3 trator shall determine the amount of greenhouse gases,
4 measured in units of carbon dioxide equivalents, that will
5 be emitted when petroleum products are used for trans-
6 portation.

7 (c) EXCEPTION FOR CERTAIN DEPOSITED EMIS-
8 SIONS.—Notwithstanding subsection (a), a covered entity
9 is not required to submit a tradeable allowance for any
10 amount of greenhouse gas that would otherwise have been
11 emitted from a facility under the ownership or control of
12 that entity if—

13 (1) the emission is deposited in a geological
14 storage facility approved by the Administrator de-
15 scribed in section 614(a)(2)(G); and

16 (2) the entity agrees to submit tradeable allow-
17 ances for any portion of the deposited emission that
18 is subsequently emitted from that facility.

19 (d) DETERMINATION OF HYDROFLUOROCARBON,
20 PERFLUOROCARBON, AND SULFUR HEXAFLUORIDE
21 AMOUNT.—The Administrator shall determine the
22 amounts of hydrofluorocarbons, perfluorocarbons, or sul-
23 fur hexafluoride, measured in units of carbon dioxide
24 equivalents, that will be deemed to be emitted for purposes
25 of this Act.

1 **SEC. 622. COMPLIANCE.**

2 (a) IN GENERAL.—

3 (1) SOURCE OF TRADEABLE ALLOWANCES
4 USED.—A covered entity may use a tradeable allow-
5 ance to meet the requirements of this section with-
6 out regard to whether the tradeable allowance was
7 allocated to it under chapter 2 or acquired from an-
8 other entity or the Climate Change Credit Corpora-
9 tion established under section 641.

10 (2) VERIFICATION BY ADMINISTRATOR.—At
11 various times during each year, the Administrator
12 shall determine whether each covered entity has met
13 the requirements of this section. In making that de-
14 termination, the Administrator shall—

15 (A) take into account the tradeable allow-
16 ances submitted by the covered entity to the
17 Administrator; and

18 (B) retire the serial number assigned to
19 each such tradeable allowance.

20 (b) ALTERNATIVE MEANS OF COMPLIANCE.—For the
21 years after 2010, a covered entity may satisfy up to 15
22 percent of its total allowance submission requirement
23 under this section by—

24 (1) submitting tradeable allowances from an-
25 other nation's market in greenhouse gas emissions
26 if—

1 (A) the Secretary determines that the
2 other nation's system for trading in greenhouse
3 gas emissions is complete, accurate, and trans-
4 parent and reviews that determination at least
5 once every 5 years;

6 (B) the other nation has adopted enforce-
7 able limits on its greenhouse gas emissions
8 which the tradeable allowances were issued to
9 implement; and

10 (C) the covered entity certifies that the
11 tradeable allowance has been retired unused in
12 the other nation's market;

13 (2) submitting a registered net increase in se-
14 questration, as registered in the database, adjusted,
15 if necessary, to comply with the accounting stand-
16 ards and methods established under section 651;

17 (3) submitting a greenhouse gas emissions re-
18 duction (other than a registered net increase in se-
19 questration) that was registered in the database by
20 a person that is not a covered entity; or

21 (4) submitting credits obtained from the Ad-
22 ministrator under section 623.

23 (c) DEDICATED PROGRAM FOR SEQUESTRATION IN
24 AGRICULTURAL SOILS.—If a covered entity chooses to
25 satisfy 15 percent of its total allowance submission re-

1 requirements under the provisions of subsection (b), it shall
2 satisfy up to 1.5 percent of its total allowance submission
3 requirement by submitting registered net increases in se-
4 questration in agricultural soils, as registered in the data-
5 base, adjusted, if necessary, to comply with the accounting
6 standards and methods established under section 651.

7 **SEC. 623. BORROWING AGAINST FUTURE REDUCTIONS.**

8 (a) IN GENERAL.—The Administrator shall establish
9 a program under which a covered entity may—

10 (1) receive a credit in the current calendar year
11 for anticipated reductions in emissions in a future
12 calendar year; and

13 (2) use the credit in lieu of a tradeable allow-
14 ance to meet the requirements of this Act for the
15 current calendar year, subject to the limitation im-
16 posed by section 622(b).

17 (b) DETERMINATION OF TRADEABLE ALLOWANCE
18 CREDITS.—The Administrator may make credits available
19 under subsection (a) only for anticipated reductions in
20 emissions that—

21 (1) are attributable to the realization of capital
22 investments in equipment, the construction, recon-
23 struction, or acquisition of facilities, or the deploy-
24 ment of new technologies—

1 (A) for which the covered entity has exe-
2 cuted a binding contract and secured, or ap-
3 plied for, all necessary permits and operating or
4 implementation authority;

5 (B) that will not become operational within
6 the current calendar year; and

7 (C) that will become operational and begin
8 to reduce emissions from the covered entity
9 within 5 years after the year in which the credit
10 is used; and

11 (2) will be realized within 5 years after the year
12 in which the credit is used.

13 (c) CARRYING COST.—If a covered entity uses a cred-
14 it under this section to meet the requirements of this Act
15 for a calendar year (referred to as the use year), the
16 tradeable allowance requirement for the year from which
17 the credit was taken (referred to as the source year) shall
18 be increased by an amount equal to—

19 (1) 10 percent for each credit borrowed from
20 the source year; multiplied by

21 (2) the number of years beginning after the use
22 year and before the source year.

23 (d) MAXIMUM BORROWING PERIOD.—A credit from
24 a year beginning more than 5 years after the current year

1 may not be used to meet the requirements of this Act for
2 the current year.

3 (e) FAILURE TO ACHIEVE REDUCTIONS GENERATING
4 CREDIT.—If a covered entity that uses a credit under this
5 section fails to achieve the anticipated reduction for which
6 the credit was granted for the year from which the credit
7 was taken, then—

8 (1) the covered entity's requirements under this
9 Act for that year shall be increased by the amount
10 of the credit, plus the amount determined under
11 subsection (c);

12 (2) any tradeable allowances submitted by the
13 covered entity for that year shall be counted first
14 against the increase in those requirements; and

15 (3) the covered entity may not use credits
16 under this section to meet the increased require-
17 ments.

18 **SEC. 624. OTHER USES OF TRADEABLE ALLOWANCES.**

19 (a) IN GENERAL.—Subject to subsection (b)(2),
20 tradeable allowances may be sold, exchanged, purchased,
21 retired, or used as provided in this section.

22 (b) LIMITATIONS ON INTERSECTOR TRADING.—

23 (1) INTERSECTOR TRADING.—Subject to para-
24 graph (2), a covered entity in a covered sector may
25 purchase or otherwise acquire tradeable allowances

1 from a covered entity in another covered sector to
2 satisfy the requirements of section 621.

3 (2) EXCEPTION.—A covered entity in the elec-
4 tricity sector may not purchase or otherwise acquire
5 a tradeable allowance from, or sell a tradeable allow-
6 ance to, an entity in a sector other than the elec-
7 tricity sector.

8 (c) CLIMATE CHANGE CREDIT ORGANIZATION.—The
9 Climate Change Credit Corporation established under sec-
10 tion 641 may sell tradeable allowances allocated to it
11 under section 632(a)(2) to any covered entity or to any
12 investor, broker, or dealer in such tradeable allowances.
13 The Climate Change Credit Corporation shall use all pro-
14 ceeds from such sales in accordance with the provisions
15 of section 642.

16 (d) BANKING OF TRADEABLE ALLOWANCES.—Not-
17 withstanding the requirements of section 621, a covered
18 entity that has more than a sufficient amount of tradeable
19 allowances to satisfy the requirements of section 621, may
20 refrain from submitting a tradeable allowance to satisfy
21 the requirements in order to sell, exchange, or use the
22 tradeable allowance in the future.

23 **SEC. 625. EXEMPTION OF SOURCE CATEGORIES.**

24 (a) IN GENERAL.—The Administrator may grant an
25 exemption from the requirements of this Act to a source

1 category if the Administrator determines, after public no-
2 tice and comment, that it is not feasible to measure or
3 estimate emissions from that source category, until such
4 time as measurement or estimation becomes feasible.

5 (b) REDUCTION OF LIMITATIONS.—If the Adminis-
6 trator exempts a source category under subsection (a), the
7 Administrator shall also reduce the total tradeable allow-
8 ances under section 631(a)(1) by the amount of green-
9 house gas emissions that the exempted source category
10 emitted in calendar year 2000, as identified in the 2000
11 Inventory.

12 (c) LIMITATION ON EXEMPTION.—The Administrator
13 may not grant an exemption under subsection (a) to car-
14 bon dioxide produced from fossil fuel.

15 **CHAPTER 2—ESTABLISHMENT AND ALLO-** 16 **CATION OF TRADEABLE ALLOWANCES**

17 **SEC. 631. ESTABLISHMENT OF TRADEABLE ALLOWANCES.**

18 (a) IN GENERAL.—The Administrator shall promul-
19 gate regulations to establish tradeable allowances, denomi-
20 nated in units of carbon dioxide equivalents, for calendar
21 years beginning after 2009, equal to—

22 (1) 5896 million metric tons, measured in units
23 of carbon dioxide equivalents, reduced by

1 (2) the amount of emissions of greenhouse
2 gases in calendar year 2000 from non-covered enti-
3 ties.

4 (b) SERIAL NUMBERS.—The Administrator shall as-
5 sign a unique serial number to each tradeable allowance
6 established under subsection (a), and shall take such ac-
7 tion as may be necessary to prevent counterfeiting of
8 tradeable allowances.

9 (c) NATURE OF TRADEABLE ALLOWANCES.—A
10 tradeable allowance is not a property right, and nothing
11 in this title or any other provision of law limits the author-
12 ity of the United States to terminate or limit a tradeable
13 allowance.

14 (d) NON-COVERED ENTITY.—In this section:

15 (1) IN GENERAL.—The term “non-covered enti-
16 ty” means an entity that—

17 (A) owns or controls a source of green-
18 house gas emissions in the electric power, in-
19 dustrial, or commercial sector of the United
20 States economy (as defined in the Inventory),
21 refines or imports petroleum products for use in
22 transportation, or produces or imports
23 hydrofluorocarbons, perfluorocarbons, or sulfur
24 hexafluoride; and

25 (B) is not a covered entity.

1 (2) EXCEPTION.—Notwithstanding paragraph
2 (1), an entity that is a covered entity for any cal-
3 endar year beginning after 2009 shall not be consid-
4 ered to be a non-covered entity for purposes of sub-
5 section (a) only because it emitted, or its products
6 would have emitted, 10,000 metric tons or less of
7 greenhouse gas, measured in units of carbon dioxide
8 equivalents, in the year 2000.

9 **SEC. 632. DETERMINATION OF TRADEABLE ALLOWANCE**
10 **ALLOCATIONS.**

11 (a) IN GENERAL.—The Secretary shall determine—

12 (1) the amount of tradeable allowances to be al-
13 located to each covered sector of that sector's allot-
14 ments; and

15 (2) the amount of tradeable allowances to be al-
16 located to the Climate Change Credit Corporation
17 established under section 641.

18 (b) ALLOCATION FACTORS.—In making the deter-
19 mination required by subsection (a), the Secretary shall
20 consider—

21 (1) the distributive effect of the allocations on
22 household income and net worth of individuals;

23 (2) the impact of the allocations on corporate
24 income, taxes, and asset value;

1 (3) the impact of the allocations on income lev-
2 els of consumers and on their energy consumption;

3 (4) the effects of the allocations in terms of eco-
4 nomic efficiency;

5 (5) the ability of covered entities to pass
6 through compliance costs to their customers;

7 (6) the degree to which the amount of alloca-
8 tions to the covered sectors should decrease over
9 time; and

10 (7) the need to maintain the international com-
11 petitiveness of United States manufacturing and
12 avoid the additional loss of United States manufac-
13 turing jobs.

14 (c) ALLOCATION RECOMMENDATIONS AND IMPLE-
15 MENTATION.—Before allocating or providing tradeable al-
16 lowances under subsection (a) and within 24 months after
17 the date of enactment of this Act, the Secretary shall sub-
18 mit the determinations under subsection (a) to the Senate
19 Committee on Commerce, Science, and Transportation,
20 the Senate Committee on Environment and Public Works,
21 the House of Representatives Committee on Science, and
22 the House of Representatives Committee on Energy and
23 Commerce. The Secretary’s determinations under sub-
24 section (a)(1), including the allocations and provision of
25 tradeable allowances pursuant to that determination, are

1 deemed to be a major rule (as defined in section 804(2)
2 of title 5, United States Code), and subject to the provi-
3 sions of chapter 8 of that title.

4 **SEC. 633. ALLOCATION OF TRADEABLE ALLOWANCES.**

5 (a) IN GENERAL.—Beginning with calendar year
6 2010 and after taking into account any initial allocations
7 under section 635, the Administrator shall—

8 (1) allocate to each covered sector that sector's
9 allotments determined by the Administrator under
10 section 632 (adjusted for any such initial allocations
11 and the allocation to the Climate Change Credit
12 Corporation established under section 641); and

13 (2) allocate to the Climate Change Credit Cor-
14 poration established under section 641 the tradeable
15 allowances allocable to that Corporation.

16 (b) INTRASECTORIAL ALLOTMENTS.—The Adminis-
17 trator shall, by regulation, establish a process for the allo-
18 cation of tradeable allowances under this section, without
19 cost to covered entities (except with respect to new en-
20 trants as provided in subsection (g)), that will—

21 (1) encourage investments that increase the ef-
22 ficiency of the processes that produce greenhouse
23 gas emissions;

24 (2) minimize the costs to the Government of al-
25 locating the tradeable allowances;

1 (3) not penalize a covered entity for emissions
2 reductions made before 2010 and registered with the
3 database; and

4 (4) provide for the allocation and sale of
5 tradeable allowances to new entrants in accordance
6 with subsection (g).

7 (c) POINT SOURCE ALLOCATION.—The Adminis-
8 trator shall allocate the tradeable allowances for the elec-
9 tricity generation, industrial, and commercial sectors to
10 the entities owning or controlling the point sources of
11 greenhouse gas emissions within that sector.

12 (d) HYDROFLUOROCARBONS, PERFLUOROCARBONS,
13 AND SULFUR HEXAFLUORIDE.—The Administrator shall
14 allocate the tradeable allowances for producers or import-
15 ers of hydrofluorocarbons, perfluorocarbons, or sulfur
16 hexafluoride to such producers or importers.

17 (e) SPECIAL RULE FOR ALLOCATION WITHIN THE
18 TRANSPORTATION SECTOR.—The Administrator shall al-
19 locate the tradeable allowances for the transportation sec-
20 tor to petroleum refiners or importers that produce or im-
21 port petroleum products that will be used as fuel for trans-
22 portation.

23 (f) ALLOCATIONS TO RURAL ELECTRIC COOPERA-
24 TIVES.—

1 (1) IN GENERAL.—The Administrator shall
2 make the allocations described in paragraph (2) each
3 year at no cost. The allocations shall be offset from
4 the allowances allocated to the Climate Change
5 Credit Corporation.

6 (2) RURAL ELECTRIC COOPERATIVES.—For
7 each electric generating unit that is owned or oper-
8 ated by a rural electric cooperative, the Adminis-
9 trator shall allocate allowances in an amount equal
10 to the greenhouse gas emissions of each such unit in
11 2000, plus an amount equal to the average emis-
12 sions growth expected for all such units.

13 (g) NEW ENTRANTS.—

14 (1) ALLOCATION.—Of the tradeable allowances
15 allocated under this section to a covered sector for
16 a calendar year, the percentage of such allowances
17 allocated to new entrants into the sector—

18 (A) shall be 5 percent for calendar year
19 2010; and

20 (B) shall be increased by 0.5 percent for
21 2013 and each succeeding calendar year, except
22 that such total percentage shall not exceed 10
23 percent.

24 (2) AUCTIONS.—For calendar year 2010 and
25 each subsequent calendar year, the Administrator

1 shall conduct an auction for the purpose of selling
2 to new entrants in each covered sector the tradeable
3 allowances allocated for such purpose under para-
4 graph (1).

5 **SEC. 634. ENSURING TARGET ADEQUACY.**

6 (a) IN GENERAL.—Beginning 2 years after the date
7 of enactment of this Act, the Under Secretary of Com-
8 merce for Oceans and Atmosphere shall review the allow-
9 ances established by section 631 no less frequently than
10 biennially—

11 (1) to re-evaluate the levels established by that
12 section, after taking into account the best available
13 science and the most currently available data, and

14 (2) to re-evaluate the environmental and public
15 health impacts of specific concentration levels of
16 greenhouse gases,

17 to determine whether the allowances established by sub-
18 section (a) continue to be consistent with the objective of
19 the United Nations' Framework Convention on Climate
20 Change of stabilizing levels of greenhouse gas emissions
21 at a level that will prevent dangerous anthropogenic inter-
22 ference with the climate system.

23 (b) REVIEW OF 2010 LEVELS.—The Under Secretary
24 shall specifically review in 2008 the level established under
25 section 631(a)(1), and transmit a report on his reviews,

1 together with any recommendations, including legislative
2 recommendations, for modification of the levels, to the
3 Senate Committee on Commerce, Science, and Transpor-
4 tation, the Senate Committee on Environment and Public
5 Works, the House of Representatives Committee on
6 Science, and the House of Representatives Committee on
7 Energy and Commerce.

8 **SEC. 635. INITIAL ALLOCATIONS FOR EARLY PARTICIPA-**
9 **TION AND ACCELERATED PARTICIPATION.**

10 Before making any allocations under section 633, the
11 Administrator shall allocate—

12 (1) to any covered entity an amount of
13 tradeable allowances equivalent to the amount of
14 greenhouse gas emissions reductions registered by
15 that covered entity in the national greenhouse gas
16 database if—

17 (A) the covered entity has requested to use
18 the registered reduction in the year of alloca-
19 tion;

20 (B) the reduction was registered prior to
21 2010; and

22 (C) the Administrator retires the unique
23 serial number assigned to the reduction under
24 section 611(c)(3); and

1 (2) to any covered entity that has entered into
2 an accelerated participation agreement under section
3 636, such tradeable allowances as the Administrator
4 has determined to be appropriate under that section.

5 **SEC. 636. BONUS FOR ACCELERATED PARTICIPATION.**

6 (a) IN GENERAL.—If a covered entity executes an
7 agreement with the Administrator under which it agrees
8 to reduce its level of greenhouse gas emissions to a level
9 no greater than the level of its greenhouse gas emissions
10 for calendar year 1990 by the year 2010, then, for the
11 6-year period beginning with calendar year 2010, the Ad-
12 ministrator shall—

13 (1) provide additional tradeable allowances to
14 that entity when allocating allowances under section
15 634 in order to recognize the additional emissions
16 reductions that will be required of the covered entity;

17 (2) allow that entity to satisfy 20 percent of its
18 requirements under section 621 by—

19 (A) submitting tradeable allowances from
20 another nation's market in greenhouse gas
21 emissions under the conditions described in sec-
22 tion 622(b)(1);

23 (B) submitting a registered net increase in
24 sequestration, as registered in the National
25 Greenhouse Gas Database established under

1 section 611, and as adjusted by the appropriate
2 sequestration discount rate established under
3 section 651; or

4 (C) submitting a greenhouse gas emission
5 reduction (other than a registered net increase
6 in sequestration) that was registered in the Na-
7 tional Greenhouse Gas Database by a person
8 that is not a covered entity.

9 (b) TERMINATION.—An entity that executes an
10 agreement described in subsection (a) may terminate the
11 agreement at any time.

12 (c) FAILURE TO MEET COMMITMENT.—If an entity
13 that executes an agreement described in subsection (a)
14 fails to achieve the level of emissions to which it committed
15 by calendar year 2010—

16 (1) its requirements under section 621 shall be
17 increased by the amount of any tradeable allowances
18 provided to it under subsection (a)(1); and

19 (2) any tradeable allowances submitted there-
20 after shall be counted first against the increase in
21 those requirements.

1 **CHAPTER 3—CLIMATE CHANGE CREDIT**
2 **CORPORATION**

3 **SEC. 641. ESTABLISHMENT.**

4 (a) **IN GENERAL.**—The Climate Change Credit Cor-
5 poration is established as a nonprofit corporation without
6 stock. The Corporation shall not be considered to be an
7 agency or establishment of the United States Government.

8 (b) **APPLICABLE LAWS.**—The Corporation shall be
9 subject to the provisions of this title and, to the extent
10 consistent with this title, to the District of Columbia Busi-
11 ness Corporation Act.

12 (c) **BOARD OF DIRECTORS.**—The Corporation shall
13 have a board of directors of 5 individuals who are citizens
14 of the United States, of whom 1 shall be elected annually
15 by the board to serve as chairman. No more than 3 mem-
16 bers of the board serving at any time may be affiliated
17 with the same political party. The members of the board
18 shall be appointed by the President of the United States,
19 by and with the advice and consent of the Senate and shall
20 serve for terms of 5 years.

21 **SEC. 642. PURPOSES AND FUNCTIONS.**

22 (a) **TRADING.**—The Corporation—

23 (1) shall receive and manage tradeable allow-
24 ances allocated to it under section 633(a)(2); and

1 (2) shall buy and sell tradeable allowances,
2 whether allocated to it under that section or ob-
3 tained by purchase, trade, or donation from other
4 entities; but

5 (3) may not retire tradeable allowances unused.

6 (b) USE OF TRADEABLE ALLOWANCES AND PRO-
7 CEEDS.—

8 (1) IN GENERAL.—The Corporation shall use
9 the tradeable allowances, and proceeds derived from
10 its trading activities in tradeable allowances, to re-
11 duce costs borne by consumers as a result of the
12 greenhouse gas reduction requirements of this Act.

13 The reductions—

14 (A) may be obtained by buy-down, subsidy,
15 negotiation of discounts, consumer rebates, or
16 otherwise;

17 (B) shall be, as nearly as possible, equi-
18 tably distributed across all regions of the
19 United States; and

20 (C) may include arrangements for pref-
21 erential treatment to consumers who can least
22 afford any such increased costs.

23 (2) TRANSITION ASSISTANCE TO DISLOCATED
24 WORKERS AND COMMUNITIES.—The Corporation
25 shall allocate a percentage of the proceeds derived

1 from its trading activities in tradeable allowances to
2 provide transition assistance to dislocated workers
3 and communities. Transition assistance may take
4 the form of—

5 (A) grants to employers, employer associa-
6 tions, and representatives of employees—

7 (i) to provide training, adjustment as-
8 sistance, and employment services to dis-
9 located workers; and

10 (ii) to make income-maintenance and
11 needs-related payments to dislocated work-
12 ers; and

13 (B) grants to State and local governments
14 to assist communities in attracting new employ-
15 ers or providing essential local government serv-
16 ices.

17 (3) PHASE-OUT OF TRANSITION ASSISTANCE.—

18 The percentage allocated by the Corporation under
19 paragraph (2)—

20 (A) shall be 20 percent for 2010;

21 (B) shall be reduced by 2 percentage
22 points each year thereafter; and

23 (C) may not be reduced below zero.

24 (4) TECHNOLOGY DEPLOYMENT PROGRAMS.—

25 The Corporation shall establish and carry out a pro-

1 gram, through direct grants, revolving loan pro-
2 grams, or other financial measures, to provide sup-
3 port for the deployment of technology to assist in
4 compliance with this Act by distributing the pro-
5 ceeds from no less than 10 percent of the total al-
6 lowances allocated to it. The support shall include
7 the following:

8 (A) COAL GASIFICATION COMBINED-CYCLE
9 AND GEOLOGICAL CARBON STORAGE PRO-
10 GRAM.—The Corporation shall establish and
11 carry out a program, through direct grants, to
12 provide incentives for the repowering of existing
13 facilities or construction of new facilities pro-
14 ducing electricity or other products from coal
15 gasification combined-cycle plants that capture
16 and geologically store at least 90 percent of the
17 carbon dioxide produced at the facility in ac-
18 cordance with requirements established by the
19 Administrator to ensure the permanence of the
20 storage and that such storage will not cause or
21 contribute to significant adverse effects on pub-
22 lic health or the environment. The Corporation
23 shall ensure that no less than 20 percent of the
24 funding under this program is distributed to
25 rural electric cooperatives.

1 (B) AGRICULTURAL PROGRAMS.—The Cor-
2 poration shall establish and carry out a pro-
3 gram, through direct grants, revolving loan pro-
4 grams, or other financial measures, to provide
5 incentives for greenhouse gas emissions reduc-
6 tions or net increases in greenhouse gas seques-
7 tration on agricultural lands. The program shall
8 include incentives for—

9 (i) production of wind energy on agri-
10 cultural lands;

11 (ii) agricultural management practices
12 that achieve verified, incremental increases
13 in net carbon sequestration, in accordance
14 with the requirements established by the
15 Administrator under section 651; and

16 (iii) production of renewable fuels
17 that, after consideration of the energy
18 needed to produce such fuels, result in a
19 net reduction in greenhouse gas emissions.

20 (c) COORDINATION WITH OTHER BENEFITS.—The
21 Corporation shall not provide assistance under this section
22 to any person if such person has received assistance under
23 section 212 or 731.

1 **CHAPTER 4—SEQUESTRATION**
2 **ACCOUNTING; PENALTIES**

3 **SEC. 651. PENALTIES.**

4 Any covered entity that fails to meet the require-
5 ments of section 621 for a year shall be liable for a civil
6 penalty, payable to the Administrator, equal to thrice the
7 market value (determined as of the last day of the year
8 at issue) of the tradeable allowances that would be nec-
9 essary for that covered entity to meet those requirements
10 on the date of the emission that resulted in the violation.

11 **SEC. 652. SEQUESTRATION ACCOUNTING.**

12 (a) SEQUESTRATION ACCOUNTING.—If a covered en-
13 tity uses a registered net increase in sequestration to sat-
14 isfy the requirements of section 621 for any year, that
15 covered entity shall submit information to the Adminis-
16 trator every 5 years thereafter sufficient to allow the Ad-
17 ministrator to determine, using the methods and stand-
18 ards created under section 614, whether that net increase
19 in sequestration still exists. Unless the Administrator de-
20 termines that the net increase in sequestration continues
21 to exist, the covered entity shall offset any loss of seques-
22 tration by submitting additional tradeable allowances of
23 equivalent amount in the calender year following that de-
24 termination.

1 (b) REGULATIONS REQUIRED.—The Secretary, act-
2 ing through the Under Secretary of Commerce for Science
3 and Technology, in coordination with the Secretary of Ag-
4 riculture, the Secretary of Energy, and the Administrator,
5 shall issue regulations establishing the sequestration ac-
6 counting rules for all classes of sequestration projects.

7 (c) CRITERIA FOR REGULATIONS.—In issuing regula-
8 tions under this section, the Secretary shall use the fol-
9 lowing criteria:

10 (1) If the range of possible amounts of net in-
11 crease in sequestration for a particular class of se-
12 questration project is not more than 10 percent of
13 the median of that range, the amount of sequestra-
14 tion awarded shall be equal to the median value of
15 that range.

16 (2) If the range of possible amounts of net in-
17 crease in sequestration for a particular class of se-
18 questration project is more than 10 percent of the
19 median of that range, the amount of sequestration
20 awarded shall be equal to the fifth percentile of that
21 range.

22 (3) The regulations shall include procedures for
23 accounting for potential leakage from sequestration
24 projects and for ensuring that any registered in-
25 crease in sequestration is in addition to that which

1 would have occurred if this Act had not been en-
2 acted.

3 (d) UPDATES.—The Secretary shall update the se-
4 questration accounting rules for every class of sequestra-
5 tion project at least once every 5 years.

6 **TITLE VII—ENERGY**
7 **INDEPENDENCE**
8 **Subtitle A—Renewable Fuels**
9 **Standard**

10 **SEC. 701. RENEWABLE FUELS STANDARD.**

11 (a) IN GENERAL.—Section 211 of the Clean Air Act
12 (42 U.S.C. 7545) is amended—

13 (1) by redesignating subsection (o) as sub-
14 section (q); and

15 (2) by inserting after subsection (n) the fol-
16 lowing:

17 “(o) RENEWABLE FUEL PROGRAM.—

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

19 “(A) CELLULOSIC BIOMASS ETHANOL.—

20 The term ‘cellulosic biomass ethanol’ means
21 ethanol derived from any nonhazardous
22 lignocellulosic or hemicellulosic matter that is
23 available on a renewable or recurring basis, in-
24 cluding—

25 “(i) dedicated energy crops and trees;

- 1 “(ii) the following forest-related re-
2 sources—
- 3 “(I) harvesting residue
4 “(II) pre-commercial thinnings;
5 “(III) slash; and
6 “(IV) bush;
7 “(iii) plants;
8 “(iv) grasses;
9 “(v) agricultural residues;
10 “(vi) fibers;
11 “(vii) animal wastes and other waste
12 materials; and
13 “(viii) municipal solid waste.
- 14 “(B) RENEWABLE FUEL.—
- 15 “(i) IN GENERAL.—The term ‘renew-
16 able fuel’ means motor vehicle fuel that—
- 17 “(I)(aa) is produced from grain,
18 starch, oilseeds, or other biomass; or
19 “(bb) is natural gas produced
20 from a biogas source, including a
21 landfill, sewage waste treatment plant,
22 feedlot, or other place where decaying
23 organic material is found; and
24 “(II) is used to replace or reduce
25 the quantity of fossil fuel present in a

1 fuel mixture used to operate a motor
2 vehicle.

3 “(ii) INCLUSION.—The term ‘renew-
4 able fuel’ includes cellulosic biomass eth-
5 anol and biodiesel (as defined in section
6 312(f) of the Energy Policy Act of 1992).

7 “(C) SMALL REFINERY.—The term ‘small
8 refinery’ means a refinery for which average ag-
9 gregate daily crude oil throughput for the cal-
10 endar year (as determined by dividing the ag-
11 gregate throughput for the calendar year by the
12 number of days in the calendar year) does not
13 exceed 75,000 barrels.

14 “(2) RENEWABLE FUEL PROGRAM.—

15 “(A) IN GENERAL.—Not later than the be-
16 ginning of calendar year 2007, the Adminis-
17 trator shall promulgate regulations ensuring
18 that gasoline sold or dispensed to consumers in
19 the United States, on an annual average basis,
20 contains the applicable volume of renewable fuel
21 as specified in subparagraph (B). Regardless of
22 the date of promulgation, such regulations shall
23 contain compliance provisions for refiners,
24 blenders, and importers, as appropriate, to en-
25 sure that the requirements of this subsection

1 are met, but shall not restrict where renewables
 2 can be used, or impose any per-gallon obligation
 3 for the use of renewables. If the Administrator
 4 does not promulgate such regulations, the appli-
 5 cable percentage, on a volume percentage of
 6 gasoline basis, shall be 1.62 in 2007.

7 “(B) APPLICABLE VOLUME.—

8 “(i) CALENDAR YEARS 2007 THROUGH
 9 2013.—For the purpose of subparagraph
 10 (A), the applicable volume for any of cal-
 11 endar years 2007 through 2013 shall be
 12 determined in accordance with the fol-
 13 lowing table:

“Calendar year:	(In billions of gal- lons)
2007	4.0
2008	4.5
2009	5.1
2010	5.7
2011	6.4
2012	7.2
2013	8.1

14 “(ii) CALENDAR YEAR 2014 AND
 15 THEREAFTER.—For the purpose of sub-
 16 paragraph (A), the applicable volume for
 17 calendar year 2014 and each calendar year
 18 thereafter shall be equal to the product ob-
 19 tained by multiplying—

1 “(I) the number of gallons of
2 gasoline that the Administrator esti-
3 mates will be sold or introduced into
4 commerce in the calendar year; and

5 “(II) the ratio that—

6 “(aa) 8.1 billion gallons of
7 renewable fuels; bears to

8 “(bb) the number of gallons
9 of gasoline sold or introduced
10 into commerce in calendar year
11 2013.

12 “(iii) CELLULOSIC BIOMASS ETH-
13 ANOL.—For the purpose of subparagraph
14 (A), the applicable volume shall include, as
15 a percentage of the total applicable volume,
16 cellulosic biomass ethanol as follows:

17 “(I) For calendar year 2007, 1.0
18 percent.

19 “(II) For calendar year 2008,
20 1.5 percent.

21 “(III) For calendar year 2009,
22 2.0 percent.

23 “(IV) For calendar year 2010,
24 2.5 percent.

1 “(V) For calendar year 2011, 3.0
2 percent.

3 “(VI) For calendar year 2012,
4 3.5 percent.

5 “(VII) For calendar year 2013
6 and each subsequent calendar year,
7 4.0 percent.

8 “(3) APPLICABLE PERCENTAGES.—Not later
9 than October 31 of each calendar year, through
10 2012, the Administrator of the Energy Information
11 Administration shall provide the Administrator an
12 estimate of the volumes of gasoline sales in the
13 United States for the coming calendar year. Based
14 on such estimates, the Administrator shall by No-
15 vember 30 of each calendar year, through 2012, de-
16 termine and publish in the Federal Register, the re-
17 newable fuel obligation, on a volume percentage of
18 gasoline basis, applicable to refiners, blenders, dis-
19 tributors and importers, as appropriate, for the com-
20 ing calendar year, to ensure that the requirements
21 of paragraph (2) are met. For each calendar year,
22 the Administrator shall establish a single applicable
23 percentage that applies to all parties, and make pro-
24 vision to avoid redundant obligations. In determining
25 the applicable percentages, the Administrator shall

1 make adjustments to account for the use of renew-
2 able fuels by exempt small refineries during the pre-
3 vious year.

4 “(4) CELLULOSIC BIOMASS ETHANOL.—For the
5 purpose of paragraph (2), 1 gallon of cellulosic bio-
6 mass ethanol shall be considered to be the equivalent
7 of 3.0 gallons of renewable fuel.

8 “(5) CREDIT PROGRAM.—

9 “(A) IN GENERAL.—The regulations pro-
10 mulgated to carry out this subsection shall pro-
11 vide for the generation of an appropriate
12 amount of credits by any person that refines,
13 blends, or imports gasoline that contains a
14 quantity of renewable fuel that is greater than
15 the quantity required under paragraph (2).
16 Such regulations shall provide for the genera-
17 tion of an appropriate amount of credits for
18 biodiesel fuel. If a small refinery notifies the
19 Administrator that it waives the exemption pro-
20 vided by this Act, the regulations shall provide
21 for the generation of credits by the small refin-
22 ery beginning in the year following such notifi-
23 cation.

24 “(B) USE OF CREDITS.—A person that
25 generates credits under subparagraph (A) may

1 use the credits, or transfer all or a portion of
2 the credits to another person, for the purpose
3 of complying with paragraph (2).

4 “(C) LIFE OF CREDITS.—A credit gen-
5 erated under this paragraph shall be valid to
6 show compliance—

7 “(i) in the calendar year in which the
8 credit was generated or the next calendar
9 year, or

10 “(ii) in the calendar year in which the
11 credit was generated or the next two con-
12 secutive calendar years if the Adminis-
13 trator promulgates regulations under para-
14 graph (6).

15 “(D) INABILITY TO PURCHASE SUFFICIENT
16 CREDITS.—The regulations promulgated to
17 carry out this subsection shall include provi-
18 sions allowing any person that is unable to gen-
19 erate or purchase sufficient credits to meet the
20 requirements under paragraph (2) to carry for-
21 ward a renewables deficit provided that, in the
22 calendar year following the year in which the
23 renewables deficit is created, such person shall
24 achieve compliance with the renewables require-
25 ment under paragraph (2), and shall generate

1 or purchase additional renewables credits to off-
2 set the renewables deficit of the previous year.

3 “(6) SEASONAL VARIATIONS IN RENEWABLE
4 FUEL USE.—

5 “(A) STUDY.—For each of calendar years
6 2007 through 2013, the Administrator of the
7 Energy Information Administration shall con-
8 duct a study of renewable fuels blending to de-
9 termine whether there are excessive seasonal
10 variations in the use of renewable fuels.

11 “(B) REGULATION OF EXCESSIVE SEA-
12 SONAL VARIATIONS.—If, for any calendar year,
13 the Administrator of the Energy Information
14 Administration, based on the study under sub-
15 paragraph (A), makes the determinations speci-
16 fied in subparagraph (C), the Administrator
17 shall promulgate regulations to ensure that 35
18 percent or more of the quantity of renewable
19 fuels necessary to meet the requirement of
20 paragraph (2) is used during each of the peri-
21 ods specified in subparagraph (D) of each sub-
22 sequent calendar year.

23 “(C) DETERMINATIONS.—The determina-
24 tions referred to in subparagraph (B) are
25 that—

1 “(i) less than 35 percent of the quan-
2 tity of renewable fuels necessary to meet
3 the requirement of paragraph (2) has been
4 used during one of the periods specified in
5 subparagraph (D) of the calendar year;
6 and

7 “(ii) a pattern of excessive seasonal
8 variation described in clause (i) will con-
9 tinue in subsequent calendar years.

10 “(D) PERIODS.—The two periods referred
11 to in this paragraph are—

12 “(i) April through September; and

13 “(ii) January through March and Oc-
14 tober through December.

15 “(E) EXCLUSIONS.—Renewable fuels
16 blended or consumed in 2007 in a State which
17 has received a waiver under section 209(b) shall
18 not be included in the study in subparagraph
19 (A).

20 “(7) WAIVERS.—

21 “(A) IN GENERAL.—The Administrator, in
22 consultation with the Secretary of Agriculture
23 and the Secretary of Energy, may waive the re-
24 quirement of paragraph (2) in whole or in part
25 on petition by one or more States by reducing

1 the national quantity of renewable fuel required
2 under this subsection—

3 “(i) based on a determination by the
4 Administrator, after public notice and op-
5 portunity for comment, that implementa-
6 tion of the requirement would severely
7 harm the economy or environment of a
8 State, a region, or the United States; or

9 “(ii) based on a determination by the
10 Administrator, after public notice and op-
11 portunity for comment, that there is an in-
12 adequate domestic supply or distribution
13 capacity to meet the requirement.

14 “(B) PETITIONS FOR WAIVERS.—The Ad-
15 ministrator, in consultation with the Secretary
16 of Agriculture and the Secretary of Energy,
17 shall approve or disapprove a State petition for
18 a waiver of the requirement of paragraph (2)
19 within 90 days after the date on which the peti-
20 tion is received by the Administrator.

21 “(C) TERMINATION OF WAIVERS.—A waiv-
22 er granted under subparagraph (A) shall termi-
23 nate after 1 year, but may be renewed by the
24 Administrator after consultation with the Sec-

1 retary of Agriculture and the Secretary of En-
2 ergy.

3 “(8) STUDY AND WAIVER FOR INITIAL YEAR OF
4 PROGRAM.—Not later than 180 days after the date
5 of the enactment of this subsection, the Secretary of
6 Energy (in this paragraph referred to as the ‘Sec-
7 retary’) shall complete for the Administrator a study
8 assessing whether the renewable fuels requirement
9 under paragraph (2) will likely result in significant
10 adverse consumer impacts in 2007, on a national,
11 regional, or State basis. Such study shall evaluate
12 renewable fuel supplies and prices, blendstock sup-
13 plies, and supply and distribution system capabili-
14 ties. Based on such study, the Secretary shall make
15 specific recommendations to the Administrator re-
16 garding waiver of the requirements of paragraph
17 (2), in whole or in part, to avoid any such adverse
18 impacts. Within 270 days after the date of the en-
19 actment of this subsection, the Administrator shall,
20 consistent with the recommendations of the Sec-
21 retary waive, in whole or in part, the renewable fuels
22 requirement under paragraph (2) by reducing the
23 national quantity of renewable fuel required under
24 this subsection in 2007. This provision shall not be
25 interpreted as limiting the Administrator’s authority

1 to waive the requirements of paragraph (2) in whole,
2 or in part, under paragraph (7), pertaining to waiv-
3 ers.

4 “(9) SMALL REFINERIES.—

5 “(A) IN GENERAL.—The requirement of
6 paragraph (2) shall not apply to small refineries
7 until January 1, 2011. Not later than Decem-
8 ber 31, 2009, the Secretary of Energy shall
9 complete for the Administrator a study to de-
10 termine whether the requirement of paragraph
11 (2) would impose a disproportionate economic
12 hardship on small refineries. For any small re-
13 finery that the Secretary of Energy determines
14 would experience a disproportionate economic
15 hardship, the Administrator shall extend the
16 small refinery exemption for such small refinery
17 for no less than two additional years.

18 “(B) ECONOMIC HARDSHIP.—

19 “(i) EXTENSION OF EXEMPTION.—A
20 small refinery may at any time petition the
21 Administrator for an extension of the ex-
22 emption from the requirement of para-
23 graph (2) for the reason of dispropor-
24 tionate economic hardship. In evaluating a
25 hardship petition, the Administrator, in

1 consultation with the Secretary of Energy,
2 shall consider the findings of the study
3 under subparagraph (A) in addition to
4 other economic factors.

5 “(ii) DEADLINE FOR ACTION ON PETI-
6 TIONS.—The Administrator shall act on
7 any petition submitted by a small refinery
8 for a hardship exemption not later than 90
9 days after the receipt of the petition.

10 “(C) CREDIT PROGRAM.—If a small refin-
11 ery notifies the Administrator that it waives the
12 exemption provided by this paragraph, the reg-
13 ulations shall provide for the generation of
14 credits by the small refinery beginning in the
15 year following such notification.

16 “(D) OPT-IN FOR SMALL REFINERS.—A
17 small refinery shall be subject to the require-
18 ments of this subsection if it notifies the Ad-
19 ministrator that it waives the exemption under
20 subparagraph (A).”.

21 (b) PENALTIES AND ENFORCEMENT.—Section
22 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
23 amended—

24 (1) in paragraph (1)—

1 (A) in the first sentence, by striking “or
2 (n)” each place it appears and inserting “(n),
3 or (o)”; and

4 (B) in the second sentence, by striking “or
5 (m)” and inserting “(m), or (o)”; and

6 (2) in the first sentence of paragraph (2), by
7 striking “and (n)” each place it appears and insert-
8 ing “(n), and (o)”.

9 (c) EXCLUSION FROM ETHANOL WAIVER.—Section
10 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is
11 amended—

12 (1) by redesignating paragraph (5) as para-
13 graph (6); and

14 (2) by inserting after paragraph (4) the fol-
15 lowing:

16 “(5) EXCLUSION FROM ETHANOL WAIVER.—

17 “(A) PROMULGATION OF REGULATIONS.—

18 Upon notification, accompanied by supporting
19 documentation, from the Governor of a State
20 that the Reid vapor pressure limitation estab-
21 lished by paragraph (4) will increase emissions
22 that contribute to air pollution in any area in
23 the State, the Administrator shall, by regula-
24 tion, apply, in lieu of the Reid vapor pressure
25 limitation established by paragraph (4), the

1 Reid vapor pressure limitation established by
2 paragraph (1) to all fuel blends containing gas-
3 oline and 10 percent denatured anhydrous eth-
4 anol that are sold, offered for sale, dispensed,
5 supplied, offered for supply, transported or in-
6 troduced into commerce in the area during the
7 high ozone season.

8 “(B) DEADLINE FOR PROMULGATION.—

9 The Administrator shall promulgate regulations
10 under subparagraph (A) not later than 90 days
11 after the date of receipt of a notification from
12 a Governor under that subparagraph.

13 “(C) EFFECTIVE DATE.—

14 “(i) IN GENERAL.—With respect to an
15 area in a State for which the Governor
16 submits a notification under subparagraph
17 (A), the regulations under that subpara-
18 graph shall take effect on the later of—

19 “(I) the first day of the first high
20 ozone season for the area that begins
21 after the date of receipt of the notifi-
22 cation; or

23 “(II) 1 year after the date of re-
24 ceipt of the notification.

1 “(ii) EXTENSION OF EFFECTIVE DATE
2 BASED ON DETERMINATION OF INSUFFI-
3 CIENT SUPPLY.—

4 “(I) IN GENERAL.—If, after re-
5 ceipt of a notification with respect to
6 an area from a Governor of a State
7 under subparagraph (A), the Adminis-
8 trator determines, on the Administra-
9 tor’s own motion or on petition of any
10 person and after consultation with the
11 Secretary of Energy, that the promul-
12 gation of regulations described in sub-
13 paragraph (A) would result in an in-
14 sufficient supply of gasoline in the
15 State, the Administrator, by regula-
16 tion—

17 “(aa) shall extend the effec-
18 tive date of the regulations under
19 clause (i) with respect to the area
20 for not more than 1 year; and

21 “(bb) may renew the exten-
22 sion under item (aa) for two ad-
23 ditional periods, each of which
24 shall not exceed 1 year.

1 “(II) DEADLINE FOR ACTION ON
2 PETITIONS.—The Administrator shall
3 act on any petition submitted under
4 subclause (I) not later than 180 days
5 after the date of receipt of the peti-
6 tion.”.

7 (d) SURVEY OF RENEWABLE FUEL MARKET.—

8 (1) SURVEY AND REPORT.—Not later than De-
9 cember 1, 2008, and annually thereafter, the Admin-
10 istrator shall—

11 (A) conduct, with respect to each conven-
12 tional gasoline use area and each reformulated
13 gasoline use area in each State, a survey to de-
14 termine the market shares of—

15 (i) conventional gasoline containing
16 ethanol;

17 (ii) reformulated gasoline containing
18 ethanol;

19 (iii) conventional gasoline containing
20 renewable fuel; and

21 (iv) reformulated gasoline containing
22 renewable fuel; and

23 (B) submit to the Congress, and make
24 publicly available, a report on the results of the
25 survey under subparagraph (A).

1 (2) RECORDKEEPING AND REPORTING RE-
2 QUIREMENTS.—The Administrator may require any
3 refiner, blender, or importer to keep such records
4 and make such reports as are necessary to ensure
5 that the survey conducted under paragraph (1) is
6 accurate. The Administrator shall rely, to the extent
7 practicable, on existing reporting and recordkeeping
8 requirements to avoid duplicative requirements.

9 (3) APPLICABLE LAW.—Activities carried out
10 under this subsection shall be conducted in a man-
11 ner designed to protect confidentiality of individual
12 responses.

13 **SEC. 702. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
14 **MENT FOR REFORMULATED GASOLINE.**

15 (a) ELIMINATION.—

16 (1) IN GENERAL.—Section 211(k) of the clean
17 air act (42 U.S.C. 7545(k)) is amended—

18 (A) In paragraph (2)—

19 (i) in the second sentence of subpara-
20 graph (A), by striking “(including the oxy-
21 gen content requirement contained in sub-
22 paragraph (B))”;

23 (ii) by striking subparagraph (B); and

1 (iii) by redesignating subparagraphs
2 (C) and (D) as subparagraphs (B) and
3 (C), respectively;

4 (B) in paragraph (3)(A), by striking clause
5 (v); and

6 (C) In paragraph (7)—

7 (i) In subparagraph (A)

8 (I) by striking clause (i); and

9 (II) by redesignating clauses (ii)
10 and (iii) as clauses (i) and (ii), respec-
11 tively; and

12 (ii) in subparagraph (C)—

13 (I) by striking clause (ii); and

14 (II) by redesignating clause (iii)
15 as clause (ii).

16 (2) EFFECTIVE DATE.—The amendments made
17 by paragraph (1) take effect on the date that is 1
18 year after the date of enactment of this Act, except
19 that the amendments shall take effect upon that
20 date of enactment in any State that has received a
21 waiver under section 209(b) of the Clean Air Act
22 (42 U.S.C. 7543(b)).

23 (b) MAINTENANCE OF TOXIC AIR POLLUTANT EMIS-
24 SION REDUCTIONS.—Section 211(k)(1) of the Clean Air
25 Act (42 U.S.C. 7545(k)(1)) is amended—

1 (1) by striking “Within 1 year after the enact-
2 ment of the Clean Air Act Amendments of 1990,”
3 and inserting the following:

4 “(A) IN GENERAL.—Not later than November
5 15, 1991,”; and

6 (2) by adding at the end the following:

7 “(B) MAINTENANCE OF TOXIC AIR POL-
8 LUTANT EMISSIONS REDUCTIONS FROM REFOR-
9 MULATED GASOLINE.—

10 “(i) DEFINITION OF PADD.—In this
11 subparagraph, the term ‘PADD’ means a
12 Petroleum Administration for Defense Dis-
13 trict

14 “(ii) REGULATIONS REGARDING EMIS-
15 SIONS OF TOXIC AIR POLLUTANTS.—Not
16 later than 270 days after the date of en-
17 actment of this subparagraph, the Admin-
18 istrator shall establish, for each refinery or
19 importer, standards for toxic air pollutants
20 from use of the reformulated gasoline pro-
21 duced or distributed by the refinery or im-
22 porter that maintain the reduction of the
23 average annual aggregate emissions of
24 toxic air pollutants for reformulated gaso-
25 line produced or distributed by the refinery

1 or importer during calendar years 2002
2 and 2003, determined on the basis of data
3 collected by the Administrator with respect
4 to the refinery or importer.

5 “(iii) STANDARDS APPLICABLE TO
6 SPECIFIC REFINERIES OR IMPORTERS.—

7 “(I) APPLICABILITY OF STAND-
8 ARDS.—For any calendar year, the
9 standards applicable to a refinery or
10 importer under clause (ii) shall apply
11 to the quantity of gasoline produced
12 or distributed by the refinery or im-
13 porter in the calendar year only to the
14 extent that the quantity is less than
15 or equal to the average annual quan-
16 tity of reformulated gasoline produced
17 or distributed by the refinery or im-
18 porter during calendar years 2002
19 and 2003.

20 “(II) APPLICABILITY OF OTHER
21 STANDARDS.—For any calendar year,
22 the quantity of gasoline produced or
23 distributed by a refinery or importer
24 that is in excess of the quantity sub-
25 ject to subclause (I) shall be subject

1 to standards for toxic air pollutants
2 promulgated under subparagraph (A)
3 and paragraph (3)(B).

4 “(iv) CREDIT PROGRAM.—The Admin-
5 istrator shall provide for the granting and
6 use of credits for emissions of toxic air pol-
7 lutants in the same manner as provided in
8 paragraph (7).

9 “(v) REGIONAL PROTECTION OF
10 TOXICS REDUCTION BASELINES.—

11 “(I) IN GENERAL.—Not later
12 than 60 days after the date of enact-
13 ment of this subparagraph, and not
14 later than April 1 of each calendar
15 year that begins after that date of en-
16 actment, the Administrator shall pub-
17 lish in the Federal Register a report
18 that specifies, with respect to the pre-
19 vious calendar year—

20 “(aa) the quantity of refor-
21 mulated gasoline produced that is
22 in excess of the average annual
23 quantity of reformulated gasoline
24 produced in 2002 and 2003; and

1 “(bb) the reduction of the
2 average annual aggregate emis-
3 sions of toxic air pollutants in
4 each PADD, based on retail sur-
5 vey data or data from other ap-
6 propriate sources.

7 “(II) EFFECT OF FAILURE TO
8 MAINTAIN AGGREGATE TOXICS RE-
9 DUCTIONS.—If, in any calendar year,
10 the reduction of the average annual
11 aggregate emissions of toxic air pol-
12 lutants in a PADD fails to meet or
13 exceed the reduction of the average
14 annual aggregate emissions of toxic
15 air pollutants in the PADD in cal-
16 endar years 2002 and 2003, the Ad-
17 ministrator, not later than 90 days
18 after the date of publication of the re-
19 port for the calendar year under sub-
20 clause (I), shall—

21 “(aa) identify, to the max-
22 imum extent practicable, the rea-
23 sons for the failure, including the
24 sources, volumes, and character-
25 istics of reformulated gasoline

1 that contributed to the failure;
2 and

3 “(bb) promulgate revisions
4 to the regulations promulgated
5 under clause (ii), to take effect
6 not earlier than 180 days but not
7 later than 270 days after the
8 date of promulgation, to provide
9 that, notwithstanding clause
10 (iii)(II), all reformulated gasoline
11 produced or distributed at each
12 refinery or importer shall meet
13 the standards applicable under
14 clause (ii) not later than April 1
15 of the year following the report
16 under this subclause and for sub-
17 sequent years.

18 “(vi) REGULATIONS TO CONTROL
19 HAZARDOUS AIR POLLUTANTS FROM
20 MOTOR VEHICLES AND MOTOR VEHICLE
21 FUELS.—Not later than July 1, 2006, the
22 Administrator shall promulgate final regu-
23 lations to control hazardous air pollutants
24 from motor vehicles and motor vehicle
25 fuels, as provided for in section 80.1045 of

1 title 40, Code of Federal Regulations (as
2 in effect on the date of enactment of this
3 subparagraph).”.

4 (c) CONSOLIDATION IN REFORMULATED GASOLINE
5 REGULATIONS.—Not later than 180 days after the date
6 of enactment of this Act, the Administrator of the Envi-
7 ronmental Protection Agency shall revise the reformulated
8 gasoline regulations under subpart D of part 80 of title
9 40, Code of Federal Regulations (or any successor regula-
10 tions), to consolidate the regulations applicable to VOC-
11 Control Regions 1 and 2 under section 80.41 of that title
12 by eliminating the less stringent requirements applicable
13 to gasoline designated for VOC-Control Region 2 and in-
14 stead applying the more stringent requirements applicable
15 to gasoline designated for VOC-Control Region 1.

16 (d) AUTHORITY OF ADMINISTRATOR.—Nothing in
17 this section affects or prejudices any legal claim or action
18 with respect to regulations promulgated by the Adminis-
19 trator of the Environmental Protection Agency before the
20 date of enactment of this act regarding—

- 21 (1) emissions of toxic air pollutants from motor
22 vehicles; or
- 23 (2) the adjustment of standards applicable to a
24 specific refinery or importer made under the prior
25 regulations.

1 (e) DETERMINATION REGARDING A STATE PETI-
2 TION.—Section 211(k) of the Clean Air Act (42 U.S.C.
3 7545(k)) is amended by inserting after paragraph (10) the
4 following:

5 “(11) DETERMINATION REGARDING A STATE
6 PETITION.—

7 “(A) IN GENERAL.—Notwithstanding any
8 other provision of this section, not later than 30
9 days after the date of enactment of this para-
10 graph, the Administrator shall determine the
11 adequacy of any petition received from a Gov-
12 ernor of a State to exempt gasoline sold in that
13 State from the requirements under paragraph
14 (2)(B).

15 “(B) APPROVAL.—If a determination
16 under subparagraph (A) is not made by the
17 date that is 30 days after the date of enactment
18 of this paragraph, the petition shall be consid-
19 ered to be approved.”.

20 **SEC. 703. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**
21 **OF FUELS AND FUEL ADDITIVES.**

22 Section 211(b) of the Clean Air Act (42 U.S.C.
23 7545(b)) is amended—

24 (1) in paragraph (2)—

1 (A) by striking “may also” and inserting
2 “shall, on a regular basis,”; and

3 (B) by striking subparagraph (A) and in-
4 serting the following:

5 “(A) to conduct tests to determine poten-
6 tial public health and environmental effects of
7 the fuel or additive (including carcinogenic,
8 teratogenic, or mutagenic effects); and”;

9 (2) by adding at the end the following:

10 “(4) STUDY ON CERTAIN FUEL ADDITIVES AND
11 BLENDSTOCKS.—

12 “(A) IN GENERAL.—Not later than 2 years
13 after the date of enactment of this paragraph,
14 the Administrator shall—

15 “(i) conduct a study on the effects on
16 public health, air quality, and water re-
17 sources of increased use of, and the feasi-
18 bility of using as substitutes for methyl
19 tertiary butyl ether in gasoline

20 “(I) ethyl tertiary butyl ether;

21 “(II) tertiary amyl methyl ether;

22 “(III) di-isopropyl ether;

23 “(IV) tertiary butyl alcohol;

1 “(V) other ethers and heavy alco-
2 hols, as determined by the Adminis-
3 trator;

4 “(VI) ethanol;

5 “(VII) iso-octane; and

6 “(VIII) alkylates;

7 “(ii) conduct a study on the effects on
8 public health, air quality, and water re-
9 sources of the adjustment for ethanol-
10 blended reformulated gasoline to the VOC
11 performance requirements otherwise appli-
12 cable under sections 211(k)(1) and
13 211(k)(3); and

14 “(iii) submit to the Committee on En-
15 vironment and Public Works of the Senate
16 and the Committee on Energy and Com-
17 merce of the House of Representatives a
18 report describing the results of these stud-
19 ies.

20 “(B) CONTRACTS FOR STUDY.—In car-
21 rying out this paragraph, the Administrator
22 may enter into one or more contracts with non-
23 governmental entities including but not limited
24 to National Energy Laboratories and institu-
25 tions of higher education (as defined in section

1 101 of the Higher Education Act of 1965 (20
2 U.S.C. 1001)).”.

3 **SEC. 704. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

4 Section 211 of the Clean Air Act (42 U.S.C. 7545)
5 is amended by inserting after subsection (o) (as added by
6 section 101(a)(2)) the following:

7 “(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
8 AND EMISSIONS MODEL.—

9 “(1) ANTI-BACKSLIDING ANALYSIS.—

10 “(A) DRAFT ANALYSIS.—Not later than 4
11 years after the date of enactment of this sub-
12 section, the Administrator shall publish for pub-
13 lic comment a draft analysis of the changes in
14 emissions of air pollutants and air quality due
15 to the use of motor vehicle fuel and fuel addi-
16 tives resulting from implementation of the
17 amendments made by the New Apollo Energy
18 Act of 2005.

19 “(B) FINAL ANALYSIS.—After providing a
20 reasonable opportunity for comment, but not
21 later than 5 years after the date of enactment
22 of this paragraph, the Administrator shall pub-
23 lish the analysis in final form.

24 “(2) EMISSIONS MODEL.—For the purposes of
25 this subsection, as soon as the necessary data are

1 available, the Administrator shall develop and final-
2 ize an emissions model that reasonably reflects the
3 effects of gasoline characteristics or components on
4 emissions from vehicles in the motor vehicle fleet
5 during calendar year 2005.”.

6 **SEC. 705. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
7 **LATED GASOLINE PROGRAM.**

8 Section 211(k)(6) of the Clean Air Act (42 U.S.C.
9 7545(k)(6)) is amended—

10 (1) by striking “(6) Opt-in areas.—(A) Upon”
11 and inserting the following:

12 “(6) OPT-IN AREAS.—

13 “(A) CLASSIFIED AREAS.—

14 “(i) IN GENERAL.—Upon”;

15 (2) in subparagraph (B), by striking “(B) If”
16 and inserting the following:

17 “(ii) EFFECT OF INSUFFICIENT DO-
18 MESTIC CAPACITY TO PRODUCE REFORMU-
19 LATED GASOLINE.—If”;

20 (3) in subparagraph (A)(ii) (as redesignated by
21 paragraph (2))—

22 (A) in the first sentence, by striking “sub-
23 paragraph (A)” and inserting “clause (i)”; and

1 (B) in the second sentence, by striking
2 “this paragraph” and inserting “this subpara-
3 graph”; and

4 (4) by adding at the end the following:

5 “(B) OZONE TRANSPORT REGION.—

6 “(i) APPLICATION OF PROHIBITION.—

7 “(I) IN GENERAL.—In addition
8 to the provisions of subparagraph (A),
9 upon the application of the Governor
10 of a State in the ozone transport re-
11 gion established by section 184(a), the
12 Administrator, not later than 180
13 days after the date of receipt of the
14 application, shall apply the prohibition
15 specified in paragraph (5) to any area
16 in the State (other than an area clas-
17 sified as a marginal, moderate, seri-
18 ous, or severe ozone nonattainment
19 area under subpart 2 of part D of
20 title I) unless the Administrator deter-
21 mines under clause (iii) that there is
22 insufficient capacity to supply refor-
23 mulated gasoline.

24 “(II) PUBLICATION OF APPLICA-
25 TION.—As soon as practicable after

1 the date of receipt of an application
2 under subclause (I), the Adminis-
3 trator shall publish the application in
4 the Federal Register.

5 “(ii) PERIOD OF APPLICABILITY.—

6 Under clause (i), the prohibition specified
7 in paragraph (5) shall apply in a State—

8 “(I) commencing as soon as prac-
9 ticable but not later than 2 years
10 after the date of approval by the Ad-
11 ministrator of the application of the
12 Governor of the State; and

13 “(II) ending not earlier than 4
14 years after the commencement date
15 determined under subclause (I).

16 “(iii) EXTENSION OF COMMENCEMENT
17 DATE BASED ON INSUFFICIENT CAPAC-
18 ITY.—

19 “(I) IN GENERAL.—If, after re-
20 ceipt of an application from a Gov-
21 ernor of a State under clause (i), the
22 Administrator determines, on the Ad-
23 ministrator’s own motion or on peti-
24 tion of any person, after consultation
25 with the Secretary of Energy, that

1 there is insufficient capacity to supply
2 reformulated gasoline, the Adminis-
3 trator, by regulation—

4 “(aa) shall extend the com-
5 mencement date with respect to
6 the State under clause (ii)(I) for
7 not more than 1 year; and

8 “(bb) may renew the exten-
9 sion under item (aa) for 2 addi-
10 tional periods, each of which
11 shall not exceed 1 year.

12 “(II) DEADLINE FOR ACTION ON
13 PETITIONS.—The Administrator shall
14 act on any petition submitted under
15 subclause (I) not later than 180 days
16 after the date of receipt of the peti-
17 tion.”.

18 **SEC. 706. FEDERAL ENFORCEMENT OF STATE FUELS RE-**
19 **QUIREMENTS.**

20 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
21 7545(c)(4)(C)) is amended—

22 (1) by striking “(C) A State” and inserting the
23 following:

1 “(C) AUTHORITY OF STATE TO CONTROL
2 FUELS AND FUEL ADDITIVES FOR REASONS OF
3 NECESSITY.—

4 “(i) IN GENERAL.—A State”; and
5 (2) by adding at the end the following:

6 “(ii) ENFORCEMENT BY THE ADMIN-
7 ISTRATOR.—In any case in which a State
8 prescribes and enforces a control or prohi-
9 bition under clause (i), the Administrator,
10 at the request of the State, shall enforce
11 the control or prohibition as if the control
12 or prohibition had been adopted under the
13 other provisions of this section.”.

14 **SEC. 707. FUEL SYSTEM REQUIREMENTS HARMONIZATION**
15 **STUDY.**

16 (a) STUDY.—

17 (1) IN GENERAL.—The Administrator of the
18 Environmental Protection Agency and the Secretary
19 of Energy shall jointly conduct a study of Federal,
20 State, and local requirements concerning motor vehi-
21 cle fuels, including—

22 (A) requirements relating to reformulated
23 gasoline, volatility (measured in Reid vapor
24 pressure), oxygenated fuel, and diesel fuel; and

1 (B) other requirements that vary from
2 State to State, region to region, or locality to
3 locality.

4 (2) REQUIRED ELEMENTS.—The study shall as-
5 sess—

6 (A) the effect of the variety of require-
7 ments described in paragraph (1) on the supply,
8 quality, and price of motor vehicle fuels avail-
9 able to the consumer;

10 (B) the effect of the requirements de-
11 scribed in paragraph (1) on achievement of—

12 (i) national, regional, and local air
13 quality standards and goals; and

14 (ii) related environmental and public
15 health protection standards and goals;

16 (C) the effect of Federal, State, and local
17 motor vehicle fuel regulations, including mul-
18 tiple motor vehicle fuel requirements, on—

19 (i) domestic refineries;

20 (ii) the fuel distribution system; and

21 (iii) industry investment in new capac-
22 ity;

23 (D) the effect of the requirements de-
24 scribed in paragraph (1) on emissions from ve-
25 hicles, refineries, and fuel handling facilities;

1 (E) the feasibility of developing national or
2 regional motor vehicle fuel slates for the 48
3 contiguous States that, while protecting and im-
4 proving air quality at the national, regional,
5 and local levels, could—

6 (i) enhance flexibility in the fuel dis-
7 tribution infrastructure and improve fuel
8 fungibility;

9 (ii) reduce price volatility and costs to
10 consumers and producers;

11 (iii) provide increased liquidity to the
12 gasoline market; and

13 (iv) enhance fuel quality, consistency,
14 and supply; and

15 (F) the feasibility of providing incentives,
16 and the need for the development of national
17 standards necessary, to promote cleaner burn-
18 ing motor vehicle fuel.

19 (b) REPORT.—

20 (1) IN GENERAL.—Not later than June 1,
21 2006, the Administrator of the Environmental Pro-
22 tection Agency and the Secretary of Energy shall
23 submit to Congress a report on the results of the
24 study conducted under subsection (a).

25 (2) RECOMMENDATIONS.—

1 (A) IN GENERAL.—The report shall con-
2 tain recommendations for legislative and admin-
3 istrative actions that may be taken—

4 (i) to improve air quality;

5 (ii) to reduce costs to consumers and
6 producers; and

7 (iii) to increase supply liquidity.

8 (B) REQUIRED CONSIDERATIONS.—The
9 recommendations under subparagraph (A) shall
10 take into account the need to provide advance
11 notice of required modifications to refinery and
12 fuel distribution systems in order to ensure an
13 adequate supply of motor vehicle fuel in all
14 States.

15 (3) CONSULTATION.—In developing the report,
16 the Administrator of the Environmental Protection
17 Agency and the Secretary of Energy shall consult
18 with—

19 (A) the Governors of the States;

20 (B) automobile manufacturers;

21 (C) motor vehicle fuel producers and dis-
22 tributors; and

23 (D) the public.

1 **SEC. 708. REPORT ON RENEWABLE MOTOR FUEL.**

2 Not later than January 1, 2007, the Secretary of En-
 3 ergy and the Secretary of Agriculture shall jointly prepare
 4 and submit to Congress a report containing recommenda-
 5 tions for achieving, by January 1, 2025, at least 25 per-
 6 cent renewable fuel content (calculated on an average an-
 7 nual basis) for all gasoline sold or introduced into com-
 8 merce in the United States.

9 **Subtitle B—Renewable Portfolio**
 10 **Standard**

11 **SEC. 711. RENEWABLE PORTFOLIO STANDARD.**

12 (a) IN GENERAL.—Title VI of the Public Utility Reg-
 13 ulatory Policies Act of 1978 is amended by adding at the
 14 end the following:

15 **“SEC. 609. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

16 **“(a) MINIMUM RENEWABLE GENERATION REQUIRE-**
 17 **MENT.—**For each calendar year beginning in calendar
 18 year 2007, each retail electric supplier shall submit to the
 19 Secretary, not later than April 1 of the following calendar
 20 year, renewable energy credits in an amount equal to the
 21 required annual percentage specified in subsection (b).

22 **“(b) REQUIRED ANNUAL PERCENTAGE.—(1) For**
 23 **calendar years 2007 through 2022, the required annual**
 24 **percentage of the retail electric supplier’s base amount**
 25 **that shall be generated from renewable energy resources**
 26 **shall be the percentage specified in the following table:**

“Calendar years	Required annual percentage
2007 through 2008	1.0
2009 through 2010	2.2
2011 through 2012	3.4
2013 through 2014	4.6
2015 through 2016	5.8
2017 through 2018	7.0
2019 through 2020	8.5
2021 through 2022	10.0

1 “(2) Not later than January 1, 2017, the Secretary
2 may, by rule, establish required annual percentages in
3 amounts not less than 10.0 for calendar years 2022
4 through 2030.

5 “(c) SUBMISSION OF CREDITS.—(1) A retail electric
6 supplier may satisfy the requirements of subsection (a)
7 through the submission of renewable energy credits—

8 “(A) issued to the retail electric supplier under
9 subsection (d);

10 “(B) obtained by purchase or exchange under
11 subsection (e); or

12 “(C) borrowed under subsection (f).

13 “(2) A credit may be counted toward compliance with
14 subsection (a) only once.

15 “(d) ISSUANCE OF CREDITS.—(1) The Secretary
16 shall establish, not later than 1 year after the date of en-
17 actment of this section, a program to issue, monitor the
18 sale or exchange of, and track renewable energy credits.

1 “(2) Under the program, an entity that generates
2 electric energy through the use of a renewable energy re-
3 source may apply to the Secretary for the issuance of re-
4 newable energy credits. The application shall indicate—

5 “(A) the type of renewable energy resource used
6 to produce the electricity,

7 “(B) the location where the electric energy was
8 produced, and

9 “(C) any other information the Secretary deter-
10 mines appropriate.

11 “(3)(A) Except as provided in paragraphs (B), (C),
12 and (D), the Secretary shall issue to an entity one renew-
13 able energy credit for each kilowatt-hour of electric energy
14 the entity generates after the date of enactment of this
15 section and in each subsequent calendar year through the
16 use of a renewable energy resource at an eligible facility.

17 “(B) For incremental hydropower, the credits shall
18 be calculated based on the expected increase in average
19 annual generation resulting from the efficiency improve-
20 ments or capacity additions. The number of credits shall
21 be calculated using the same water flow information used
22 to determine a historic average annual generation baseline
23 for the hydroelectric facility and certified by the Secretary
24 or the Federal Energy Regulatory Commission. The cal-
25 culation of the credits for incremental hydropower shall

1 not be based on any operational changes at the hydro-
2 electric facility not directly associated with the efficiency
3 improvements or capacity additions.

4 “(C) The Secretary shall issue two renewable energy
5 credits for each kilowatt-hour of electric energy generated
6 and supplied to the grid in that calendar year through the
7 use of a renewable energy resource at an eligible facility
8 located on Indian land. For purposes of this paragraph,
9 renewable energy generated by biomass cofired with other
10 fuels is eligible for two credits only if the biomass was
11 grown on the land eligible under this paragraph.

12 “(D) For renewable energy resources produced from
13 a generation offset, the Secretary shall issue two renew-
14 able energy credits for each kilowatt-hour generated.

15 “(E) To be eligible for a renewable energy credit, the
16 unit of electric energy generated through the use of a re-
17 newable energy resource may be sold or may be used by
18 the generator. If both a renewable energy resource and
19 a nonrenewable energy resource are used to generate the
20 electric energy, the Secretary shall issue credits based on
21 the proportion of the renewable energy resource used. The
22 Secretary shall identify renewable energy credits by type
23 and date of generation.

24 “(5) When a generator sells electric energy generated
25 through the use of a renewable energy resource to a retail

1 electric supplier under a contract subject to section 210
2 of this Act, the retail electric supplier is treated as the
3 generator of the electric energy for the purposes of this
4 section for the duration of the contract.

5 “(6) The Secretary may issue credits for existing fa-
6 cility offsets to be applied against a retail electric sup-
7 plier’s own required annual percentage. The credits are
8 not tradeable and may only be used in the calendar year
9 generation actually occurs.

10 “(e) CREDIT TRADING.—A renewable energy credit
11 may be sold or exchanged by the entity to whom issued
12 or by any other entity who acquires the credit. A renew-
13 able energy credit for any year that is not used to satisfy
14 the minimum renewable generation requirement of sub-
15 section (a) for that year may be carried forward for use
16 within the next 4 years.

17 “(f) CREDIT BORROWING.—At any time before the
18 end of calendar year 2007, a retail electric supplier that
19 has reason to believe it will not have sufficient renewable
20 energy credits to comply with subsection (a) may—

21 “(1) submit a plan to the Secretary dem-
22 onstrating that the retail electric supplier will earn
23 sufficient credits within the next 3 calendar years
24 which, when taken into account, will enable the re-
25 tail electric supplier’s to meet the requirements of

1 subsection (a) for calendar year 2007 and the subse-
2 quent calendar years involved; and

3 “(2) upon the approval of the plan by the Sec-
4 retary, apply credits that the plan demonstrates will
5 be earned within the next 3 calendar years to meet
6 the requirements of subsection (a) for each calendar
7 year involved.

8 “(g) CREDIT COST CAP.—The Secretary shall offer
9 renewable energy credits for sale at the lesser of 3 cents
10 per kilowatt-hour or 200 percent of the average market
11 value of credits for the applicable compliance period. On
12 January 1 of each year following calendar year 2007, the
13 Secretary shall adjust for inflation the price charged per
14 credit for such calendar year, based on the Gross Domestic
15 Product Implicit Price Deflator. Amounts received by the
16 Secretary under this subsection are authorized to be ap-
17 propriated for purposes of section 610.

18 “(h) ENFORCEMENT.—The Secretary may bring an
19 action in the appropriate United States district court to
20 impose a civil penalty on a retail electric supplier that does
21 not comply with subsection (a), unless the retail electric
22 supplier was unable to comply with subsection (a) for rea-
23 sons outside of the supplier’s reasonable control (including
24 weather-related damage, mechanical failure, lack of trans-
25 mission capacity or availability, strikes, lockouts, actions

1 of a governmental authority). A retail electric supplier who
2 does not submit the required number of renewable energy
3 credits under subsection (a) shall be subject to a civil pen-
4 alty of not more than the greater of 3 cents or 200 percent
5 of the average market value of credits for the compliance
6 period for each renewable energy credit not submitted.

7 “(i) INFORMATION COLLECTION.—The Secretary
8 may collect the information necessary to verify and
9 audit—

10 “(1) the annual electric energy generation and
11 renewable energy generation of any entity applying
12 for renewable energy credits under this section,

13 “(2) the validity of renewable energy credits
14 submitted by a retail electric supplier to the Sec-
15 retary, and

16 “(3) the quantity of electricity sales of all retail
17 electric suppliers.

18 “(j) ENVIRONMENTAL SAVINGS CLAUSE.—Incre-
19 mental hydropower shall be subject to all applicable envi-
20 ronmental laws and licensing and regulatory requirements.

21 “(k) STATE SAVINGS CLAUSE.—This section does not
22 preclude a State from requiring additional renewable en-
23 ergy generation in that State, or from specifying tech-
24 nology mix.

25 “(l) DEFINITIONS.—For purposes of this section:

1 “(1) BIOMASS.—The term ‘biomass’ means any
2 organic material that is available on a renewable or
3 recurring basis, including dedicated energy crops,
4 trees grown for energy production, wood waste and
5 wood residues, plants (including aquatic plants,
6 grasses, and agricultural crops), residues, fibers,
7 animal wastes and other organic waste materials,
8 and fats and oils, except that with respect to mate-
9 rial removed from National Forest System lands the
10 term includes only organic material from—

11 “(A) thinnings from trees that are less
12 than 12 inches in diameter;

13 “(B) slash;

14 “(C) brush; and

15 “(D) mill residues.

16 “(2) ELIGIBLE FACILITY.—The term ‘eligible
17 facility’ means—

18 “(A) a facility for the generation of electric
19 energy from a renewable energy resource that is
20 placed in service on or after the date of enact-
21 ment of this section; or

22 “(B) a repowering or cofiring increment
23 that is placed in service on or after the date of
24 enactment of this section at a facility for the
25 generation of electric energy from a renewable

1 energy resource that was placed in service be-
2 fore that date.

3 “(3) ELIGIBLE RENEWABLE ENERGY RE-
4 SOURCE.—The term ‘renewable energy resource’
5 means solar, wind, ocean, or geothermal energy, bio-
6 mass (excluding solid waste and paper that is com-
7 monly recycled), landfill gas, a generation offset, or
8 incremental hydropower.

9 “(4) GENERATION OFFSET.—The term ‘genera-
10 tion offset’ means reduced electricity usage metered
11 at a site where a customer consumes energy from a
12 renewable energy technology.

13 “(5) EXISTING FACILITY OFFSET.—The term
14 ‘existing facility offset’ means renewable energy gen-
15 erated from an existing facility, not classified as an
16 eligible facility, that is owned or under contract to
17 a retail electric supplier on the date of enactment of
18 this section.

19 “(6) INCREMENTAL HYDROPOWER.—The term
20 ‘incremental hydropower’ means additional genera-
21 tion that is achieved from increased efficiency or ad-
22 ditions of capacity after the date of enactment of
23 this section at a hydroelectric dam that was placed
24 in service before that date.

1 “(7) INDIAN LAND.—The term ‘Indian land’
2 means—

3 “(A) any land within the limits of any In-
4 dian reservation, pueblo, or rancheria,

5 “(B) any land not within the limits of any
6 Indian reservation, pueblo, or rancheria title to
7 which was on the date of enactment of this
8 paragraph either held by the United States for
9 the benefit of any Indian tribe or individual or
10 held by any Indian tribe or individual subject to
11 restriction by the United States against alien-
12 ation,

13 “(C) any dependent Indian community,
14 and

15 “(D) any land conveyed to any Alaska Na-
16 tive corporation under the Alaska Native
17 Claims Settlement Act.

18 “(8) INDIAN TRIBE.—The term ‘Indian tribe’
19 means any Indian tribe, band, nation, or other orga-
20 nized group or community, including any Alaskan
21 Native village or regional or village corporation as
22 defined in or established pursuant to the Alaska Na-
23 tive Claims Settlement Act (43 U.S.C. 1601 et seq.),
24 which is recognized as eligible for the special pro-

1 grams and services provided by the United States to
2 Indians because of their status as Indians.

3 “(9) RENEWABLE ENERGY.—The term ‘renew-
4 able energy’ means electric energy generated by a re-
5 newable energy resource.

6 “(10) RENEWABLE ENERGY RESOURCE.—The
7 term ‘renewable energy resource’ means solar, wind,
8 ocean, or geothermal energy, biomass (including mu-
9 nicipal solid waste), landfill gas, a generation offset,
10 or incremental hydropower.

11 “(11) REPOWERING OR COFIRING INCRE-
12 MENT.—The term ‘repowering or cofiring increment’
13 means the additional generation from a modification
14 that is placed in service on or after the date of en-
15 actment of this section to expand electricity produc-
16 tion at a facility used to generate electric energy
17 from a renewable energy resource or to cofire bio-
18 mass that was placed in service before the date of
19 enactment of this section, or the additional genera-
20 tion above the average generation in the 3 years pre-
21 ceding the date of enactment of this section, to ex-
22 pand electricity production at a facility used to gen-
23 erate electric energy from a renewable energy re-
24 source or to cofire biomass that was placed in serv-
25 ice before the date of enactment of this section.

1 “(12) RETAIL ELECTRIC SUPPLIER.—The term
2 ‘retail electric supplier’ means a person that sells
3 electric energy to electric consumers and sold not
4 less than 1,000,000 megawatt-hours of electric en-
5 ergy to electric consumers for purposes other than
6 resale during the preceding calendar year; except
7 that such term does not include the United States,
8 a State or any political subdivision of a State, or any
9 agency, authority, or instrumentality of any one or
10 more of the foregoing, or a rural electric cooperative.

11 “(13) RETAIL ELECTRIC SUPPLIER’S BASE
12 AMOUNT.—The term ‘retail electric supplier’s base
13 amount’ means the total amount of electric energy
14 sold by the retail electric supplier to electric cus-
15 tomers during the most recent calendar year for
16 which information is available, excluding electric en-
17 ergy generated by—

18 “(A) an eligible renewable energy resource;

19 “(B) municipal solid waste; or

20 “(C) a hydroelectric facility.

21 “(m) SUNSET.—This section expires December 31,
22 2030.

23 **“SEC. 610. STATE GRANT PROGRAM.**

24 “(a) IN GENERAL.—The Secretary is authorized to
25 distribute, subject to available appropriations, amounts re-

1 ceived from sales under subsection (g) of section 609 to
2 States to be used for the purposes of the program estab-
3 lished under subsection (b) of this section.

4 “(b) GRANT PROGRAM.—

5 “(1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of this Act, the Secretary
7 shall establish a program to promote State renew-
8 able energy production and use.

9 “(2) USE OF FUND.—The Secretary shall make
10 funds available under this section to State energy
11 agencies for grant programs for the construction of
12 renewable energy facilities.

13 “(c) PREFERENCE.—In allocating funds under the
14 program, the Secretary shall give preference to the fol-
15 lowing:

16 “(1) States that have a disproportionately small
17 share of economically sustainable renewable energy
18 generation capacity.

19 “(2) State grant programs that are most likely
20 to stimulate or enhance innovative renewable energy
21 technologies.”.

22 (b) TABLE OF CONTENTS.—The table of contents for
23 such title VI is amended by adding the following new items
24 at the end thereof:

“Sec. 609. Federal renewable portfolio standard.

“Sec. 610. State grant program.”.

1 **Subtitle C—Oil Savings**

2 **SEC. 721. OIL SAVINGS.**

3 (a) **IN GENERAL.**—Appropriate Federal departments
4 and agencies, as identified by the President, shall propose
5 voluntary, regulatory, and other actions sufficient to
6 achieve—

7 (1) by 2010 a reduction in the demand for oil
8 in the United States by at least 600,000 barrels per
9 day from the demand projected, as of January 1,
10 2005, by the Energy Information Administration for
11 the year 2010;

12 (2) by 2015 a reduction in the demand for oil
13 in the United States by at least 1,700,000 barrels
14 per day from the demand projected, as of January
15 1, 2005, by the Energy Information Administration
16 for the year 2015; and

17 (3) by 2020 a reduction in the demand for oil
18 in the United States by at least 3,000,000 barrels
19 per day from the demand projected, as of January
20 1, 2005, by the Energy Information Administration
21 for the year 2020.

22 (b) **MONITORING AND REPORTS TO CONGRESS.**—Not
23 later than 12 months after the date of the enactment of
24 this Act, and each year thereafter, the departments and

1 agencies referred to in subsection (a) shall report to the
2 Congress on—

3 (1) proposed and finalized regulatory and other
4 actions taken to achieve the requirements under sub-
5 section (a);

6 (2) progress made in achieving the actions re-
7 quired under subsection (a); and

8 (3) lack of funding or authority preventing the
9 implementation of the actions required under sub-
10 section (a).

11 (c) REQUEST TO CONGRESS.—If the President deter-
12 mines that the departments and agencies referred to in
13 subsection (a) lack authority or funding to implement the
14 actions proposed under subsection (a), the President shall
15 request the necessary authority or funding from the Con-
16 gress not later than 9 months after the date of enactment
17 of this Act.

18 (d) FINAL ACTIONS.—Not later than 12 months after
19 the date of the enactment of this Act, the departments
20 and agencies referred to in subsection (a) shall finalize the
21 actions proposed pursuant to subsection (a) for which they
22 have authority and funding.

1 **SEC. 722. DETERMINATION OF EQUIVALENCY BETWEEN**
2 **CAFE CREDITS AND GREENHOUSE GAS CRED-**
3 **ITS.**

4 The Secretary of Transportation, the Administrator
5 of the Environmental Protection Agency, and the Sec-
6 retary of Commerce shall jointly conduct and submit to
7 the Congress within 2 years of the date of the enactment
8 of this section a study—

9 (1) showing a methodology for determining the
10 equivalency of credits earned under Section 32903 of
11 title 49, United States Code, and tradeable allow-
12 ances under title VI of the New Apollo Energy Act
13 of 2005; and

14 (2) recommending an appeals process for re-
15 solving any dispute that may arise out of such a de-
16 termination, which may incorporate an arbitration
17 option.

18 **SEC. 723. ELIMINATION OF 2-FLEET RULE.**

19 (a) **IN GENERAL.**—Section 32904 of title 49, United
20 States Code, is amended—

21 (1) by striking subsection (b); and

22 (2) by redesignating subsections (c) through (e)
23 as subsections (b) through (d), respectively.

24 (b) **EFFECTIVE DATE.**—The amendments made by
25 subsection (a) shall apply to model years 2010 and later.

1 **Subtitle D—Loan Guarantees for**
2 **Biorefineries and Renewable**
3 **Electricity Generation Facilities**

4 **SEC. 731. LOAN GUARANTEES FOR BIOREFINERIES AND RE-**
5 **NEWABLE ENERGY PRODUCTION FACILITIES.**

6 (a) **AUTHORITY.**—The Secretary of Energy may
7 guarantee not more than 80 percent of the principal of
8 any loan made to any person or other entity for any of
9 the following:

10 (1) The construction of any new facility that
11 primarily makes cellulosic biomass ethanol or bio-
12 methanol or generates electricity, or any combina-
13 tion thereof, from wind energy, biomass, solar en-
14 ergy, ocean energy or geothermal sources.

15 (2) The modification of any facility that pri-
16 marily generates electricity from wind energy, bio-
17 mass, solar energy, ocean energy, or geothermal
18 sources if such modification adds additional electric
19 generation capacity from any of such sources.

20 (3) The modification of any facility that pri-
21 marily makes cellulosic biomass ethanol, biometh-
22 anol, or electricity from wind energy, biomass, solar
23 energy, ocean energy or geothermal sources if such
24 modification adds additional capacity to make cel-

1 lulosic biomass ethanol or biomethanol from any
2 such source or combination of sources.

3 (4) The conversion of any facility that primarily
4 makes ethanol to a facility that primarily makes cel-
5 lulosic biomass ethanol.

6 (5) The construction of any new ninety percent
7 sequestration coal power facility.

8 (b) CONDITIONS.—

9 (1) LOAN MAKER.—A loan guaranteed under
10 this section shall be made by a financial institution
11 subject to the examination of the Secretary.

12 (2) ENVIRONMENTAL LAWS.—Any project for
13 which a loan guarantee is issued under this section
14 shall be required by the Secretary as a condition of
15 the loan guarantee to comply with all applicable
16 Federal, State, and local environmental laws.

17 (3) OTHER REQUIREMENTS.—Loan require-
18 ments, including term, fees, maximum size, collateral
19 requirements, and other features, shall be deter-
20 mined by the Secretary.

21 (c) LIMITATION ON AMOUNT.—The Secretary of En-
22 ergy may make commitments to guarantee loans under
23 this section only to the extent that the total amount of
24 loan principal guaranteed by the Secretary does not exceed

1 \$49,000,000,000. Of such total amount, the Secretary
2 may make commitments to guarantee—

3 (1) not more than \$7,000,000,000 of loan prin-
4 cipal for each of the following project types—

5 (A) biomass facilities;

6 (B) geothermal energy facilities;

7 (C) ninety percent sequestration coal
8 power facilities;

9 (D) ocean energy facilities; and

10 (E) solar energy facilities;

11 (2) not more than \$7,000,000,000 of loan prin-
12 cipal for cellulosic biomass ethanol;

13 (3) not more than \$2,000,000,000 of loan prin-
14 cipal for biomethanol facilities; and

15 (4) not more than \$5,000,000,000 of loan prin-
16 cipal for wind energy facilities.

17 (d) COORDINATION WITH OTHER BENEFITS.—The
18 Secretary shall not guarantee under this section any loan
19 made to any person if such person has received assistance
20 under section 212 or 642.

21 (e) REGULATIONS.—The Secretary of Energy may
22 issue regulations to carry out the provisions of this sec-
23 tion.

24 (f) DEFINITIONS.—As used in this section:

1 (1) The term “agricultural livestock” includes
2 bovine, swine, poultry, and sheep.

3 (2) The term “agricultural livestock waste nu-
4 trients” means agricultural livestock manure and lit-
5 ter, including wood shavings, straw, rice hulls, and
6 other bedding material for the disposition of ma-
7 nure.

8 (3) The term “biomass facility” means a facil-
9 ity that generates electricity from closed-loop bio-
10 mass, open-loop biomass, or both.

11 (4) The term “biomethanol facility” means a
12 facility that generates methanol from biomass, ani-
13 mal waste, or municipal solid waste.

14 (5) The term “cellulosic biomass ethanol”
15 means ethanol derived from any nonhazardous
16 lignocellulosic or hemicellulosic matter that is avail-
17 able on a renewable or recurring basis, including—

18 (A) dedicated energy crops and trees;

19 (B) the following forest-related resources—

20 (i) harvesting residue;

21 (ii) pre-commercial thinnings;

22 (iii) slash; and

23 (iv) bush;

24 (C) plants;

25 (D) grasses

- 1 (E) agricultural residues
- 2 (F) fibers;
- 3 (G) animal wastes and other waste mate-
- 4 rials; and
- 5 (H) municipal solid waste.
- 6 (6) The term “cellulosic biomass ethanol facil-
- 7 ity” means a facility that produces cellulosic biomass
- 8 ethanol.
- 9 (7) The term “closed-loop biomass” means any
- 10 organic material from a plant which is planted exclu-
- 11 sively for purposes of being used at a biomass facil-
- 12 ity to produce electricity.”
- 13 (8) The term “geothermal energy facility”
- 14 means a facility that generates electricity from geo-
- 15 thermal energy.
- 16 (9) The term “ninety percent sequestration coal
- 17 power facility” means a facility that generates elec-
- 18 tricity using coal as a fuel source and sequesters,
- 19 rather than releases to the atmosphere, at least 90
- 20 percent of the carbon dioxide emissions resulting
- 21 from such coal combustion.
- 22 (10) The term “ocean energy facility” means a
- 23 facility that generates electricity from ocean tidal,
- 24 wave, current or thermal processes.

1 (11) The term “open-loop biomass” means any
2 agricultural livestock waste nutrients, or any solid,
3 nonhazardous, cellulosic waste material which is seg-
4 regated from other waste materials and which is de-
5 rived from:

6 (A) any of the following forest-related re-
7 sources: mill and harvesting residues,
8 precommercial thinnings, slash, and brush, but
9 not including old-growth timber or black liquor,

10 (B) old wood waste materials, including
11 waste pallets, crates, dunnage, manufacturing
12 and construction wood wastes (other than pres-
13 sure-treated, chemically-treated, or painted
14 wood wastes), and landscape or right-of-way
15 tree trimmings, but not including unsegregated
16 municipal solid waste (garbage) or
17 postconsumer wastepaper which can be recycled
18 affordably, or

19 (C) agriculture sources, including orchard
20 tree crops, vineyard, grain, legumes, sugar, and
21 other crop by-products or residues.

22 Such term shall not include closed-loop biomass or
23 biomass burned in conjunction with fossil fuel (co-
24 firing) beyond such fossil fuel required for startup
25 and flame stabilization.

1 (12) The term “sequestration” means the cap-
2 ture, long-term separation, isolation, or removal of
3 greenhouse gases from the atmosphere.

4 (13) The term “solar energy facility” means a
5 facility that generates electricity from solar energy
6 with a capacity of 25 kilowatts or more.

7 (14) The term “wind energy facility” means a
8 facility that generates electricity from from wind en-
9 ergy.

10 (g) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary of En-
12 ergy such sums as may be necessary to cover the cost of
13 loan guarantees, as defined by section 502(5) of the Fed-
14 eral Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

15 **TITLE VIII—TAX OFFSETS**

16 **SEC. 801. REFERENCES.**

17 (a) SHORT TITLE.—This title may be cited as the
18 “Balanced Energy Supply Tax Policy Act of 2005” .

19 (b) AMENDMENT OF 1986 CODE.—Except as other-
20 wise expressly provided, whenever in this title an amend-
21 ment or repeal is expressed in terms of an amendment
22 to, or repeal of, a section or other provision, the reference
23 shall be considered to be made to a section or other provi-
24 sion of the Internal Revenue Code of 1986.

1 **Subtitle A—Budget Neutrality**

2 **SEC. 811. TAX REDUCTIONS LIMITED TO REVENUE RAISED** 3 **BY TAX OFFSETS.**

4 (a) **IN GENERAL.**—The aggregate tax benefits pro-
5 vided by this Act, and any amendment made by this Act,
6 shall not exceed the revenue raised by this Act, and any
7 amendment made by this Act.

8 (b) **ADJUSTMENT OF TAX BENEFITS.**—If the Sec-
9 retary of the Treasury determines for any year that the
10 tax benefits provided by this Act, and any amendment
11 made by this Act, exceed the revenue raised by this Act,
12 and any amendment made by this Act, the Secretary shall
13 reduce such excess to zero by adjusting such benefits in
14 the manner determined by the Secretary in his sole discre-
15 tion.

16 (c) **REPORT TO CONGRESS.**—Not later than 1 year
17 after the date of the enactment of this Act, and annually
18 thereafter, the Secretary of the Treasury shall submit a
19 report to Congress on the total budget authority granted
20 by this Act, and the amendments made by this Act, to-
21 gether with such recommendations as the Secretary deter-
22 mines necessary or appropriate to either—

23 (1) reduce such authority, or

24 (2) to increase receipts to the Treasury of the
25 United States to pay for such authority.

1 **Subtitle B—Denial of Treaty**
2 **Benefits**

3 **SEC. 821. DENIAL OF TREATY BENEFITS FOR CERTAIN DE-**
4 **DUCTIBLE PAYMENTS.**

5 (a) IN GENERAL.—Section 894 (relating to income
6 affected by treaty) is amended by adding at the end the
7 following new subsection:

8 “(d) DENIAL OF TREATY BENEFITS FOR CERTAIN
9 DEDUCTIBLE PAYMENTS.—

10 “(1) IN GENERAL.—A foreign entity shall not
11 be entitled under any income tax treaty of the
12 United States with a foreign country to any reduced
13 rate of any withholding tax imposed by this title on
14 any deductible foreign payment unless such entity is
15 predominantly owned by individuals who are resi-
16 dents of such foreign country.

17 “(2) DEDUCTIBLE FOREIGN PAYMENT.—For
18 purposes of paragraph (1), the term ‘deductible for-
19 eign payment’ means any payment—

20 “(A) which is made by a domestic entity
21 directly or indirectly to a related person which
22 is a foreign entity, and

23 “(B) which is allowable as a deduction
24 under this chapter.

1 “(3) DOMESTIC AND FOREIGN ENTITIES; RE-
2 LATED PERSON.—For purposes of this subsection—

3 “(A) DOMESTIC ENTITY.—The term ‘do-
4 mestic entity’ means any domestic corporation
5 or domestic partnership.

6 “(B) FOREIGN ENTITY.—The term ‘for-
7 eign entity’ means any foreign corporation or
8 foreign partnership.

9 “(C) RELATED PERSON.—The term ‘re-
10 lated person’ has the meaning given such term
11 by section 954(d)(3) (determined by sub-
12 stituting ‘domestic entity’ for ‘controlled foreign
13 corporation’ each place it appears).

14 “(4) PREDOMINANT OWNERSHIP.—For pur-
15 poses of this subsection—

16 “(A) IN GENERAL.—An entity is predomi-
17 nantly owned by individuals who are residents
18 of a foreign country if—

19 “(i) in the case of a corporation, more
20 than 50 percent (by value) of the stock of
21 such corporation is owned (within the
22 meaning of section 883(c)(4)) by individ-
23 uals who are residents of such foreign
24 country, or

1 “(ii) in the case of a partnership,
2 more than 50 percent (by value) of the
3 beneficial interests in such partnership are
4 so owned.

5 “(B) PUBLICLY TRADED CORPORATIONS.—
6 A foreign corporation also shall be treated as
7 predominantly owned by individuals who are
8 residents of a foreign country if—

9 “(i)(I) the stock of such corporation is
10 primarily and regularly traded on an estab-
11 lished securities market in such foreign
12 country, and

13 “(II) such corporation has activities
14 within such foreign country which are sub-
15 stantial in relation to the total activities of
16 such corporation and its related persons,
17 or

18 “(ii) such corporation is wholly owned
19 (directly or indirectly) by another foreign
20 corporation which is described in clause (i).

21 “(C) SPECIAL RULE.—

22 “(i) IN GENERAL.—A foreign corpora-
23 tion shall be treated as meeting the re-
24 quirements of subparagraph (A) if—

1 “(I) such requirements would be
2 met if ‘30 percent’ were substituted
3 for ‘50 percent’ in subparagraph
4 (A)(i),

5 “(II) the treaty country is a
6 member of a multinational economic
7 association such as the European
8 Union, and

9 “(III) at least 50 percent of the
10 value of the stock of the corporation is
11 owned (within the meaning of section
12 883(c)(4)) by individuals who are resi-
13 dents of the treaty country or other
14 qualified foreign countries.

15 “(ii) QUALIFIED FOREIGN COUN-
16 TRY.—For purposes of this subparagraph,
17 the term ‘qualified foreign country’ means
18 any foreign country if—

19 “(I) such foreign country is a
20 member of the multinational economic
21 association of which the treaty coun-
22 try is a member, and

23 “(II) such foreign country has a
24 tax treaty with the United States pro-
25 viding a withholding tax rate reduc-

1 tion which is not less than the with-
2 holding tax rate reduction applicable
3 (without regard to this subsection) to
4 the payment received by such foreign
5 corporation.

6 “(5) EXCEPTION FOR CORPORATIONS WITH
7 SUBSTANTIAL BUSINESS ACTIVITIES IN TREATY
8 COUNTRY.—Paragraph (1) shall not apply to a pay-
9 ment received by a foreign corporation if such cor-
10 poration has substantial business activities in the
11 treaty country and if such corporation establishes to
12 the satisfaction of the Secretary that the payment is
13 subject to an effective rate of income tax imposed by
14 such country greater than 90 percent of the max-
15 imum rate of tax specified in section 11.

16 “(6) EXCEPTION FOR PAYMENTS RECEIVED BY
17 CONTROLLED FOREIGN CORPORATION.—Paragraph
18 (1) shall not apply to any deductible foreign pay-
19 ment made by a corporation if the recipient of the
20 payment is a controlled foreign corporation and the
21 payor is a United States shareholder (as defined in
22 section 951(b)) of such corporation.

23 “(7) CONDUIT PAYMENTS.—Under regulations
24 prescribed by the Secretary, paragraph (1) shall not

1 apply to a payment received by a foreign entity re-
2 ferred to in paragraph (1) if—

3 “(A) within a reasonable period after such
4 entity receives such payment, such entity makes
5 a comparable payment directly or indirectly to
6 another related person,

7 “(B) such related person is a resident of a
8 foreign country with which the United States
9 has an income tax treaty,

10 “(C) such related person is predominantly
11 owned by individuals who are residents of such
12 country, and

13 “(D) the withholding tax rate applicable
14 under such treaty is equal to or greater than
15 the withholding tax rate applicable (without re-
16 gard to this paragraph) to the payment received
17 by such foreign entity.

18 A similar rule shall apply where the payment is in-
19 cludible in the gross income of a related person by
20 reason of a foreign law comparable to subpart F of
21 part III of subchapter N.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall take effect on the date of the enactment
24 of this Act.

1 **Subtitle C—Abusive Tax Shelter**
2 **Shutdown and Taxpayer Ac-**
3 **countability**

4 **SEC. 831. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—The Congress hereby finds that:

6 (1) Many corporate tax shelter transactions are
7 complicated ways of accomplishing nothing aside
8 from claimed tax benefits, and the legal opinions
9 justifying those transactions take an inappropriately
10 narrow and restrictive view of well-developed court
11 doctrines under which—

12 (A) the taxation of a transaction is deter-
13 mined in accordance with its substance and not
14 merely its form,

15 (B) transactions which have no significant
16 effect on the taxpayer's economic or beneficial
17 interests except for tax benefits are treated as
18 sham transactions and disregarded,

19 (C) transactions involving multiple steps
20 are collapsed when those steps have no substan-
21 tial economic meaning and are merely designed
22 to create tax benefits,

23 (D) transactions with no business purpose
24 are not given effect, and

1 “(1) GENERAL RULES.—

2 “(A) IN GENERAL.—In applying the eco-
3 nomic substance doctrine, the determination of
4 whether a transaction has economic substance
5 shall be made as provided in this paragraph.

6 “(B) DEFINITION OF ECONOMIC SUB-
7 STANCE.—For purposes of subparagraph (A)—

8 “(i) IN GENERAL.—A transaction has
9 economic substance only if—

10 “(I) the transaction changes in a
11 meaningful way (apart from Federal
12 tax effects and, if there are any Fed-
13 eral tax effects, also apart from any
14 foreign, State, or local tax effects) the
15 taxpayer’s economic position, and

16 “(II) the taxpayer has a substan-
17 tial nontax purpose for entering into
18 such transaction and the transaction
19 is a reasonable means of accom-
20 plishing such purpose.

21 “(ii) SPECIAL RULE WHERE TAX-
22 PAYER RELIES ON PROFIT POTENTIAL.—A
23 transaction shall not be treated as having
24 economic substance by reason of having a
25 potential for profit unless—

1 “(I) the present value of the rea-
2 sonably expected pre-tax profit from
3 the transaction is substantial in rela-
4 tion to the present value of the ex-
5 pected net tax benefits that would be
6 allowed if the transaction were re-
7 spected, and

8 “(II) the reasonably expected
9 pre-tax profit from the transaction ex-
10 ceeds a risk-free rate of return.

11 “(C) TREATMENT OF FEES AND FOREIGN
12 TAXES.—Fees and other transaction expenses
13 and foreign taxes shall be taken into account as
14 expenses in determining pre-tax profit under
15 subparagraph (B)(ii).

16 “(2) SPECIAL RULES FOR TRANSACTIONS WITH
17 TAX-INDIFFERENT PARTIES.—

18 “(A) SPECIAL RULES FOR FINANCING
19 TRANSACTIONS.—The form of a transaction
20 which is in substance the borrowing of money
21 or the acquisition of financial capital directly or
22 indirectly from a tax-indifferent party shall not
23 be respected if the present value of the deduc-
24 tions to be claimed with respect to the trans-
25 action is substantially in excess of the present

1 value of the anticipated economic returns of the
2 person lending the money or providing the fi-
3 nancial capital. A public offering shall be treat-
4 ed as a borrowing, or an acquisition of financial
5 capital, from a tax-indifferent party if it is rea-
6 sonably expected that at least 50 percent of the
7 offering will be placed with tax-indifferent par-
8 ties.

9 “(B) ARTIFICIAL INCOME SHIFTING AND
10 BASIS ADJUSTMENTS.—The form of a trans-
11 action with a tax-indifferent party shall not be
12 respected if—

13 “(i) it results in an allocation of in-
14 come or gain to the tax-indifferent party in
15 excess of such party’s economic income or
16 gain, or

17 “(ii) it results in a basis adjustment
18 or shifting of basis on account of over-
19 stating the income or gain of the tax-indif-
20 ferent party.

21 “(3) DEFINITIONS AND SPECIAL RULES.—For
22 purposes of this subsection—

23 “(A) ECONOMIC SUBSTANCE DOCTRINE.—
24 The term ‘economic substance doctrine’ means
25 the common law doctrine under which tax bene-

1 fits under subtitle A with respect to a trans-
2 action are not allowable if the transaction does
3 not have economic substance or lacks a business
4 purpose.

5 “(B) TAX-INDIFFERENT PARTY.—The
6 term ‘tax-indifferent party’ means any person
7 or entity not subject to tax imposed by subtitle
8 A. A person shall be treated as a tax-indifferent
9 party with respect to a transaction if the items
10 taken into account with respect to the trans-
11 action have no substantial impact on such per-
12 son’s liability under subtitle A.

13 “(C) SUBSTANTIAL NONTAX PURPOSE.—In
14 applying subclause (II) of paragraph (1)(B)(i),
15 a purpose of achieving a financial accounting
16 benefit shall not be taken into account in deter-
17 mining whether a transaction has a substantial
18 nontax purpose if the origin of such financial
19 accounting benefit is a reduction of income tax.

20 “(D) EXCEPTION FOR PERSONAL TRANS-
21 ACTIONS OF INDIVIDUALS.—In the case of an
22 individual, this subsection shall apply only to
23 transactions entered into in connection with a
24 trade or business or an activity engaged in for
25 the production of income.

1 “(E) TREATMENT OF LESSORS.—In apply-
2 ing subclause (I) of paragraph (1)(B)(ii) to the
3 lessor of tangible property subject to a lease,
4 the expected net tax benefits shall not include
5 the benefits of depreciation, or any tax credit,
6 with respect to the leased property and sub-
7 clause (II) of paragraph (1)(B)(ii) shall be dis-
8 regarded in determining whether any of such
9 benefits are allowable.

10 “(4) OTHER COMMON LAW DOCTRINES NOT AF-
11 FECTED.—Except as specifically provided in this
12 subsection, the provisions of this subsection shall not
13 be construed as altering or supplanting any other
14 rule of law, and the requirements of this subsection
15 shall be construed as being in addition to any such
16 other rule of law.

17 “(5) REGULATIONS.—The Secretary shall pre-
18 scribe such regulations as may be necessary or ap-
19 propriate to carry out the purposes of this sub-
20 section. Such regulations may include exemptions
21 from the application of this subsection.”

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to transactions entered into after
24 the date of the enactment of this Act.

1 **SEC. 833. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
2 **UTABLE TO TRANSACTIONS LACKING ECO-**
3 **NOMIC SUBSTANCE, ETC.**

4 (a) IN GENERAL.—Subchapter A of chapter 68 is
5 amended by inserting after section 6662A the following
6 new section:

7 **“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIB-**
8 **UTABLE TO TRANSACTIONS LACKING ECO-**
9 **NOMIC SUBSTANCE, ETC.**

10 “(a) IMPOSITION OF PENALTY.—If a taxpayer has an
11 noneconomic substance transaction understatement for
12 any taxable year, there shall be added to the tax an
13 amount equal to 40 percent of the amount of such under-
14 statement.

15 “(b) REDUCTION OF PENALTY FOR DISCLOSED
16 TRANSACTIONS.—Subsection (a) shall be applied by sub-
17 stituting ‘20 percent’ for ‘40 percent’ with respect to the
18 portion of any noneconomic substance transaction under-
19 statement with respect to which the relevant facts affect-
20 ing the tax treatment of the item are adequately disclosed
21 in the return or a statement attached to the return.

22 “(c) NONECONOMIC SUBSTANCE TRANSACTION UN-
23 DERSTATEMENT.—For purposes of this section—

24 “(1) IN GENERAL.—The term ‘noneconomic
25 substance transaction understatement’ means any
26 amount which would be an understatement under

1 section 6662A(b)(1) if section 6662A were applied
2 by taking into account items attributable to non-
3 economic substance transactions rather than items
4 to which section 6662A would apply without regard
5 to this paragraph.

6 “(2) NONECONOMIC SUBSTANCE TRANS-
7 ACTION.—The term ‘noneconomic substance trans-
8 action’ means any transaction if—

9 “(A) there is a lack of economic substance
10 (within the meaning of section 7701(m)(1)) for
11 the transaction giving rise to the claimed tax
12 benefit or the transaction was not respected
13 under section 7701(m)(2), or

14 “(B) the transaction fails to meet the re-
15 quirements of any similar rule of law.

16 “(d) RULES APPLICABLE TO COMPROMISE OF PEN-
17 ALTY.—

18 “(1) IN GENERAL.—If the 1st letter of pro-
19 posed deficiency which allows the taxpayer an oppor-
20 tunity for administrative review in the Internal Rev-
21 enue Service Office of Appeals has been sent with
22 respect to a penalty to which this section applies,
23 only the Commissioner of Internal Revenue may
24 compromise all or any portion of such penalty.

1 **SEC. 834. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY**
2 **INCOME TAX RETURN PREPARER.**

3 (a) STANDARDS CONFORMED TO TAXPAYER STAND-
4 ARDS.—Section 6694(a) (relating to understatements due
5 to unrealistic positions) is amended—

6 (1) by striking “realistic possibility of being
7 sustained on its merits” in paragraph (1) and in-
8 serting “reasonable belief that the tax treatment in
9 such position was more likely than not the proper
10 treatment”,

11 (2) by striking “or was frivolous” in paragraph
12 (3) and inserting “or there was no reasonable basis
13 for the tax treatment of such position”, and

14 (3) by striking “Unrealistic” in the heading and
15 inserting “Improper”.

16 (b) AMOUNT OF PENALTY.—Section 6694 is amend-
17 ed—

18 (1) by striking “\$250” in subsection (a) and in-
19 serting “\$1,000”, and

20 (2) by striking “\$1,000” in subsection (b) and
21 inserting “\$5,000”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to documents prepared after the
24 date of the enactment of this Act.

1 **SEC. 835. FRIVOLOUS TAX SUBMISSIONS.**

2 (a) CIVIL PENALTIES.—Section 6702 is amended to
3 read as follows:

4 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

5 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
6 TURNS.—A person shall pay a penalty of \$5,000 if—

7 “(1) such person files what purports to be a re-
8 turn of a tax imposed by this title but which—

9 “(A) does not contain information on
10 which the substantial correctness of the self-as-
11 sessment may be judged, or

12 “(B) contains information that on its face
13 indicates that the self-assessment is substan-
14 tially incorrect; and

15 “(2) the conduct referred to in paragraph (1)—

16 “(A) is based on a position which the Sec-
17 retary has identified as frivolous under sub-
18 section (c), or

19 “(B) reflects a desire to delay or impede
20 the administration of Federal tax laws.

21 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
22 SUBMISSIONS.—

23 “(1) IMPOSITION OF PENALTY.—Except as pro-
24 vided in paragraph (3), any person who submits a
25 specified frivolous submission shall pay a penalty of
26 \$5,000.

1 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
2 purposes of this section—

3 “(A) SPECIFIED FRIVOLOUS SUBMIS-
4 SION.—The term ‘specified frivolous submis-
5 sion’ means a specified submission if any por-
6 tion of such submission—

7 “(i) is based on a position which the
8 Secretary has identified as frivolous under
9 subsection (c), or

10 “(ii) reflects a desire to delay or im-
11 pede the administration of Federal tax
12 laws.

13 “(B) SPECIFIED SUBMISSION.—The term
14 ‘specified submission’ means—

15 “(i) a request for a hearing under—

16 “(I) section 6320 (relating to no-
17 tice and opportunity for hearing upon
18 filing of notice of lien), or

19 “(II) section 6330 (relating to
20 notice and opportunity for hearing be-
21 fore levy), and

22 “(ii) an application under—

23 “(I) section 6159 (relating to
24 agreements for payment of tax liabil-
25 ity in installments),

1 “(II) section 7122 (relating to
2 compromises), or

3 “(III) section 7811 (relating to
4 taxpayer assistance orders).

5 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
6 SION.—If the Secretary provides a person with no-
7 tice that a submission is a specified frivolous sub-
8 mission and such person withdraws such submission
9 within 30 days after such notice, the penalty im-
10 posed under paragraph (1) shall not apply with re-
11 spect to such submission.

12 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
13 retary shall prescribe (and periodically revise) a list of po-
14 sitions which the Secretary has identified as being frivo-
15 lous for purposes of this subsection. The Secretary shall
16 not include in such list any position that the Secretary
17 determines meets the requirement of section
18 6662(d)(2)(B)(ii)(II).

19 “(d) REDUCTION OF PENALTY.—The Secretary may
20 reduce the amount of any penalty imposed under this sec-
21 tion if the Secretary determines that such reduction would
22 promote compliance with and administration of the Fed-
23 eral tax laws.

1 “(e) PENALTIES IN ADDITION TO OTHER PEN-
2 ALTIES.—The penalties imposed by this section shall be
3 in addition to any other penalty provided by law.”

4 (b) TREATMENT OF FRIVOLOUS REQUESTS FOR
5 HEARINGS BEFORE LEVY.—

6 (1) FRIVOLOUS REQUESTS DISREGARDED.—
7 Section 6330 (relating to notice and opportunity for
8 hearing before levy) is amended by adding at the
9 end the following new subsection:

10 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—
11 Notwithstanding any other provision of this section, if the
12 Secretary determines that any portion of a request for a
13 hearing under this section or section 6320 meets the re-
14 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
15 then the Secretary may treat such portion as if it were
16 never submitted and such portion shall not be subject to
17 any further administrative or judicial review.”

18 (2) PRECLUSION FROM RAISING FRIVOLOUS
19 ISSUES AT HEARING.—Section 6330(c)(4) is amend-
20 ed—

21 (A) by striking “(A)” and inserting
22 “(A)(i)”;

23 (B) by striking “(B)” and inserting “(ii)”;

24 (C) by striking the period at the end of the
25 first sentence and inserting “; or”; and

1 (D) by inserting after subparagraph (A)(ii)
2 (as so redesignated) the following:

3 “(B) the issue meets the requirement of
4 clause (i) or (ii) of section 6702(b)(2)(A).”

5 (3) STATEMENT OF GROUNDS.—Section
6 6330(b)(1) is amended by striking “under sub-
7 section (a)(3)(B)” and inserting “in writing under
8 subsection (a)(3)(B) and states the grounds for the
9 requested hearing”.

10 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
11 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
12 6320 is amended—

13 (1) in subsection (b)(1), by striking “under sub-
14 section (a)(3)(B)” and inserting “in writing under
15 subsection (a)(3)(B) and states the grounds for the
16 requested hearing”, and

17 (2) in subsection (c), by striking “and (e)” and
18 inserting “(e), and (g)”.

19 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
20 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
21 MENTS.—Section 7122 is amended by adding at the end
22 the following new subsection:

23 “(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
24 standing any other provision of this section, if the Sec-
25 retary determines that any portion of an application for

1 an offer-in-compromise or installment agreement sub-
2 mitted under this section or section 6159 meets the re-
3 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
4 then the Secretary may treat such portion as if it were
5 never submitted and such portion shall not be subject to
6 any further administrative or judicial review.”

7 (e) CLERICAL AMENDMENT.—The table of sections
8 for part I of subchapter B of chapter 68 is amended by
9 striking the item relating to section 6702 and inserting
10 the following new item:

“Sec. 6702. Frivolous tax submissions.”

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to submissions made and issues
13 raised after the date on which the Secretary first pre-
14 scribes a list under section 6702(e) of the Internal Rev-
15 enue Code of 1986, as amended by subsection (a).

16 **SEC. 836. EXPANDED AUTHORITY TO DISALLOW TAX BENE-**
17 **FITS UNDER SECTION 269.**

18 (a) IN GENERAL.—Subsection (a) of section 269 (re-
19 lating to acquisitions made to evade or avoid income tax)
20 is amended to read as follows:

21 “(a) IN GENERAL.—If—

22 “(1)(A) any person acquires stock in a corpora-
23 tion, or

24 “(B) any corporation acquires, directly or indi-
25 rectly, property of another corporation and the basis

1 of such property, in the hands of the acquiring cor-
2 poration, is determined by reference to the basis in
3 the hands of the transferor corporation, and

4 “(2) the principal purpose for which such acqui-
5 sition was made is evasion or avoidance of Federal
6 income tax by securing the benefit of a deduction,
7 credit, or other allowance,

8 then the Secretary may disallow such deduction, credit,
9 or other allowance.”

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to stock and property acquired
12 after January 1, 2006.

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