

# Union Calendar No.135

109TH CONGRESS  
1ST SESSION

# H. R. 3893

**[Report No. 109–244, Part I]**

To expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2005

Mr. BARTON of Texas introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, Armed Services, and Resources, 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

OCTOBER 6, 2005

Reported from the Committee on Energy and Commerce with an amendment  
[Strike out all after the enacting clause and insert the part printed in italic]

OCTOBER 6, 2005

Committees on Transportation and Infrastructure, Armed Services, and Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on September 26, 2005]

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## A BILL

To expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4        (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5        *“Gasoline for America’s Security Act of 2005”.*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Findings.*

*Sec. 3. Definitions.*

**TITLE I—INCREASING REFINERY CAPACITY**

*Sec. 101. State participation and presidential designation.*

*Sec. 102. Process coordination and rules of procedure.*

*Sec. 103. Refinery revitalization repeal.*

*Sec. 104. Standby support for refineries.*

*Sec. 105. Military use refinery.*

*Sec. 106. New source review under Clean Air Act.*

*Sec. 107. Waiver authority for extreme fuel supply emergencies.*

*Sec. 108. List of fuel blends.*

*Sec. 109. Attainment dates for downwind ozone nonattainment areas.*

*Sec. 110. Northwest crude oil supply.*

*Sec. 111. Discounted sales of royalty-in-kind oil to qualified small refineries.*

*Sec. 112. Study and report relating to streamlining paperwork requirements.*

*Sec. 113. Response to biomass debris emergency.*

**TITLE II—INCREASING DELIVERY INFRASTRUCTURE**

*Sec. 201. Federal-State regulatory coordination.*

*Sec. 202. Process coordination and rules of procedure.*

*Sec. 203. Backup power capacity study.*

*Sec. 204. Sunset of loan guarantees.*

*Sec. 205. Offshore pipelines.*

*Sec. 206. Savings clause.*

*Sec. 207. Carbon-based fuel cell development.*

**TITLE III—CONSERVATION AND EDUCATION**

*Sec. 301. Department of Energy carpooling and vanpooling program.*

*Sec. 302. Evaluation and assessment of carpool and vanpool projects.*

*Sec. 303. Internet utilization study.*

*Sec. 304. Fuel consumption education campaign.*

*Sec. 305. Procurement of energy efficient lighting devices.*

*Sec. 306. Minority employment.*

**TITLE IV—GASOLINE PRICE REFORM**

*Sec. 401. Short title.*

*Sec. 402. Gasoline price gouging prohibited.*  
*Sec. 403. FTC investigation on price-gouging.*  
*Sec. 404. FTC study of petroleum prices on exchange.*

#### *TITLE V—STRATEGIC PETROLEUM RESERVE*

*Sec. 501. Strategic Petroleum Reserve capacity.*  
*Sec. 502. Strategic Petroleum Reserve sale.*  
*Sec. 503. Northeast Home Heating Oil Reserve capacity.*

#### *TITLE VI—COMMISSION FOR THE DEPLOYMENT OF THE HYDROGEN ECONOMY*

*Sec. 601. Establishment.*  
*Sec. 602. Duties of Commission.*  
*Sec. 603. Membership.*  
*Sec. 604. Staff of Commission; experts and consultants.*  
*Sec. 605. Powers of Commission.*  
*Sec. 606. Report.*

#### *TITLE VII—CRITICAL ENERGY ASSURANCE*

*Sec. 701. Evacuation plan review.*  
*Sec. 702. Disaster assistance.*  
*Sec. 703. Critical Energy Assurance Account.*  
*Sec. 704. Regulations.*

### **1 SEC. 2. FINDINGS.**

2       *The Congress makes the following findings:*

3               *(1) No new refinery has been constructed in the*  
4       *United States since 1976. There are 148 operating re-*  
5       *fineries in the United States, down from 324 in 1981.*  
6       *Refined petroleum product imports are currently pro-*  
7       *jected to grow from 7.9 percent to 10.7 percent of total*  
8       *refined product by 2025 to satisfy increasing demand.*

9               *(2) While the number of American refineries in*  
10       *operation has reduced over the last 20 years, much of*  
11       *the resulting lost capacity has been replaced by gains*  
12       *from more efficient refineries.*

13               *(3) Hurricanes Katrina and Rita substantially*  
14       *disrupted petroleum production, refining, and pipe-*

1        *line systems in the Gulf Coast region, affecting energy*  
2        *prices and supply nationwide. In the immediate*  
3        *aftermath of Katrina alone, United States refining*  
4        *capacity was reduced by more than 2,000,000 barrels*  
5        *per day. However, before Hurricanes Katrina and*  
6        *Rita, United States refining capacity was already*  
7        *significantly strained by increased levels of produc-*  
8        *tion, with industry average utilization rates of 95*  
9        *percent of capacity or higher.*

10            *(4) It serves the national interest to increase re-*  
11        *finery capacity for gasoline, heating oil, diesel fuel,*  
12        *and jet fuel wherever located within the United*  
13        *States, to bring more reliable and economic supply to*  
14        *the American people.*

15            *(5) According to economic analysis, households*  
16        *are conservatively estimated to spend an average of*  
17        *\$1,948 this year on gasoline, up 45 percent from 3*  
18        *years ago, and households with incomes under*  
19        *\$15,000 ( $\frac{1}{5}$  of all households) this year will spend, on*  
20        *average, more than  $\frac{1}{10}$  of their income just on gaso-*  
21        *line.*

22            *(6) According to economic analysis, rural Amer-*  
23        *ican households will spend \$2,087 on gasoline this*  
24        *year. Rural Americans are paying an estimated 22*

1       percent more for gasoline than their urban counter-  
2       parts because they must drive longer distances.

3               (7) *A growing reliance on foreign sources of re-*  
4       *fined petroleum products impairs our national secu-*  
5       *urity interests and global competitiveness.*

6               (8) *Refiners are subject to significant environ-*  
7       *mental and other regulations and face several new*  
8       *Clean Air Act requirements over the next decade. New*  
9       *Clean Air Act requirements will benefit the environ-*  
10       *ment but will also require substantial capital invest-*  
11       *ment and additional government permits. These new*  
12       *requirements increase business uncertainty and dis-*  
13       *suade investment in new refinery capacity.*

14              (9) *There is currently a lack of coordination in*  
15       *permitting requirements and other regulations affect-*  
16       *ing refineries at the Federal, State, and local levels.*  
17       *There is no consistent national permitting program*  
18       *for refineries, compared with the Federal Energy Reg-*  
19       *ulatory Commission's lead agency role over interstate*  
20       *natural gas pipelines, liquefied natural gas, and hy-*  
21       *droelectric power and the Nuclear Regulatory Com-*  
22       *mission's role over nuclear plant licensing. More regu-*  
23       *latory certainty and coordination is needed for refin-*  
24       *ery owners to stimulate investment in increased refin-*  
25       *ery capacity.*

1 **SEC. 3. DEFINITIONS.**

2 *For purposes of this Act—*

3 *(1) the term “Administrator” means the Admin-*  
4 *istrator of the Environmental Protection Agency;*

5 *(2) the term “refinery” means—*

6 *(A) a facility designed and operated to re-*  
7 *ceive, load, unload, store, transport, process, and*  
8 *refine crude oil by any chemical or physical*  
9 *process, including distillation, fluid catalytic*  
10 *cracking, hydrocracking, coking, alkylation,*  
11 *etherification, polymerization, catalytic reform-*  
12 *ing, isomerization, hydrotreating, blending, and*  
13 *any combination thereof, in order to produce*  
14 *gasoline or other fuel; or*

15 *(B) a facility designed and operated to re-*  
16 *ceive, load, unload, store, transport, process, and*  
17 *refine coal by any chemical or physical process,*  
18 *including liquefaction, in order to produce gaso-*  
19 *line, diesel, or other liquid fuel as its primary*  
20 *output; and*

21 *(3) the term “Secretary” means the Secretary of*  
22 *Energy.*

1 ***TITLE I—INCREASING REFINERY***  
2 ***CAPACITY***

3 ***SEC. 101. STATE PARTICIPATION AND PRESIDENTIAL DES-***  
4 ***IGNATION.***

5 *(a) FEDERAL-STATE REGULATORY COORDINATION*  
6 *AND ASSISTANCE.—*

7 *(1) GOVERNOR’S REQUEST.—The governor of a*  
8 *State may submit a request to the Secretary for the*  
9 *application of process coordination and rules of pro-*  
10 *cedure under section 102 to the siting, construction,*  
11 *expansion, or operation of any refinery in that State.*

12 *(2) STATE ASSISTANCE.—The Secretary and the*  
13 *Administrator are authorized to provide financial as-*  
14 *sistance to State governments to facilitate the hiring*  
15 *of additional personnel with expertise in fields rel-*  
16 *evant to consideration of applications to site, con-*  
17 *struct, expand, or operate any refinery in that State.*

18 *(3) OTHER ASSISTANCE.—The Secretary and the*  
19 *Administrator shall provide technical, legal, or other*  
20 *assistance to State governments to facilitate their re-*  
21 *view of applications to site, construct, expand, or op-*  
22 *erate any refinery in that State.*

23 *(b) PRESIDENTIAL DESIGNATION.—*

24 *(1) REQUIREMENT.—Not later than 90 days*  
25 *after the date of enactment of this Act, the President*

1        *shall designate sites on Federal lands, including*  
2        *closed military installations, that are appropriate for*  
3        *the purposes of siting a refinery. Any such designa-*  
4        *tion may be based on an analysis of—*

5                *(A) the availability of crude oil supplies to*  
6                *the site, including supplies from domestic pro-*  
7                *duction of shale oil and tar sands and other*  
8                *strategic unconventional fuels;*

9                *(B) the distribution of the Nation's refined*  
10               *petroleum product demand;*

11               *(C) whether such sites are in close prox-*  
12               *imity to substantial pipeline infrastructure, in-*  
13               *cluding both crude oil and refined petroleum*  
14               *product pipelines, and potential infrastructure*  
15               *feasibility;*

16               *(D) the need to diversify the geographical*  
17               *location of the Nation's domestic refining capac-*  
18               *ity;*

19               *(E) the effect that increased refined petro-*  
20               *leum products from a refinery on that site may*  
21               *have on the price and supply of gasoline to con-*  
22               *sumers;*

23               *(F) national defense; and*

24               *(G) such other factors as the President con-*  
25               *siders appropriate.*



1           (2) *MILITARY INSTALLATIONS.*—

2                   (A) *DESIGNATION.*—Among the sites des-  
3                   ignated pursuant to this subsection, the Presi-  
4                   dent shall designate no less than 3 closed mili-  
5                   tary installations, or portions thereof, as suitable  
6                   for the construction of a refinery. Except as pro-  
7                   vided in subparagraph (B), until the expiration  
8                   of 2 years after the date of enactment of this Act,  
9                   the Federal Government shall not sell or other-  
10                  wise dispose of the military installations des-  
11                  ignated pursuant to this subsection.

12                  (B) *GOVERNOR’S OBJECTION.*—No site may  
13                  be used for a refinery under this title if, not later  
14                  than 60 days after designation of the site under  
15                  subparagraph (A), the Governor of the State in  
16                  which the site is located transmits to the Presi-  
17                  dent an objection to the designation, unless, not  
18                  later than 60 days after the President receives  
19                  such objection, the Congress has by law over-  
20                  ridden the objection.

21                  (c) *LEASE OF SITES.*—The Federal Government shall  
22                  offer for lease, or select under section 105(a), any site des-  
23                  ignated by the President under subsection (b), consistent  
24                  with procedures for the disposition of such site under appli-  
25                  cable Federal property laws. Notwithstanding any provi-

1 sion of such Federal property laws providing for the dis-  
 2 position or reuse of the site, a lease under this subsection,  
 3 or selection under section 105(a), shall be deemed to be the  
 4 appropriate disposition of the site. A site shall not be leased  
 5 under this subsection except for the purpose of construction  
 6 of a refinery.

7 (d) *APPLICABILITY.*—Section 102 shall only apply to  
 8 refineries sited or proposed to be sited or expanded or pro-  
 9 posed to be expanded—

10 (1) in a State whose governor has requested ap-  
 11 plicability of such section pursuant to subsection (a)  
 12 of this section; or

13 (2) on a site designated by the President under  
 14 subsection (b) of this section.

15 (e) *DEFINITION.*—For purposes of this section—

16 (1) the term “closed military installations”  
 17 means facilities closed pursuant to a base closure law  
 18 (as defined in section 101(a)(17) of title 10, United  
 19 States Code) and facilities identified for closure in  
 20 2005 and included on the list of installations for-  
 21 ward by the President to Congress on September 15,  
 22 2005, pursuant to a base closure law;

23 (2) the term “Federal lands” means all land  
 24 owned by the United States, except that such term  
 25 does not include land—

1                   (A) *within the National Park System;*

2                   (B) *within the National Wilderness Preser-*  
3                   *vation System; and*

4                   (C) *designated as a National Monument;*  
5                   *and*

6                   (3) *the term “State” means a State, the District*  
7                   *of Columbia, the Commonwealth of Puerto Rico, and*  
8                   *any other territory or possession of the United States.*

9   **SEC. 102. PROCESS COORDINATION AND RULES OF PROCE-**  
10                   **DURE.**

11           (a) *DEFINITION.—For purposes of this section and sec-*  
12           *tion 105, the term “Federal refinery authorization”—*

13                   (1) *means any authorization required under*  
14                   *Federal law, whether administered by a Federal or*  
15                   *State administrative agency or official, with respect*  
16                   *to siting, construction, expansion, or operation of a*  
17                   *refinery; and*

18                   (2) *includes any permits, special use authoriza-*  
19                   *tions, certifications, opinions, or other approvals re-*  
20                   *quired under Federal law with respect to siting, con-*  
21                   *struction, expansion, or operation of a refinery.*

22           (b) *DESIGNATION AS LEAD AGENCY.—*

23                   (1) *IN GENERAL.—The Department of Energy*  
24                   *shall act as the lead agency for the purposes of coordi-*  
25                   *nating all applicable Federal refinery authorizations*

1       *and related environmental reviews with respect to a*  
2       *refinery.*

3               (2) *OTHER AGENCIES.—Each Federal and State*  
4       *agency or official required to provide a Federal refin-*  
5       *ery authorization shall cooperate with the Secretary*  
6       *and comply with the deadlines established by the Sec-*  
7       *retary.*

8       (c) *SCHEDULE.—*

9               (1) *SECRETARY'S AUTHORITY TO SET SCHED-*  
10       *ULE.—The Secretary shall establish a schedule for all*  
11       *Federal refinery authorizations with respect to a re-*  
12       *finery. In establishing the schedule, the Secretary*  
13       *shall—*

14                       (A) *ensure expeditious completion of all*  
15                       *such proceedings; and*

16                       (B) *accommodate the applicable schedules*  
17                       *established by Federal law for such proceedings.*

18               (2) *FAILURE TO MEET SCHEDULE.—If a Federal*  
19       *or State administrative agency or official does not*  
20       *complete a proceeding for an approval that is re-*  
21       *quired for a Federal refinery authorization in accord-*  
22       *ance with the schedule established by the Secretary*  
23       *under this subsection, the applicant may pursue rem-*  
24       *edies under subsection (e).*

1       (d) *CONSOLIDATED RECORD.*—*The Secretary shall,*  
 2 *with the cooperation of Federal and State administrative*  
 3 *agencies and officials, maintain a complete consolidated*  
 4 *record of all decisions made or actions taken by the Sec-*  
 5 *retary or by a Federal administrative agency or officer (or*  
 6 *State administrative agency or officer acting under dele-*  
 7 *gated Federal authority) with respect to any Federal refin-*  
 8 *ery authorization. Such record shall be the record for judi-*  
 9 *cial review under subsection (e) of decisions made or actions*  
 10 *taken by Federal and State administrative agencies and of-*  
 11 *ficials, except that, if the Court determines that the record*  
 12 *does not contain sufficient information, the Court may re-*  
 13 *mand the proceeding to the Secretary for further develop-*  
 14 *ment of the consolidated record.*

15       (e) *JUDICIAL REVIEW.*—

16           (1) *IN GENERAL.*—*The United States Court of*  
 17 *Appeals for the District of Columbia shall have origi-*  
 18 *nal and exclusive jurisdiction over any civil action*  
 19 *for the review of—*

20                   (A) *an order or action, related to a Federal*  
 21 *refinery authorization, by a Federal or State ad-*  
 22 *ministrative agency or official; and*

23                   (B) *an alleged failure to act by a Federal*  
 24 *or State administrative agency or official acting*  
 25 *pursuant to a Federal refinery authorization.*

1       *The failure of an agency or official to act on a Fed-*  
2       *eral refinery authorization in accordance with the*  
3       *Secretary's schedule established pursuant to subsection*  
4       *(c) shall be considered inconsistent with Federal law*  
5       *for the purposes of paragraph (2) of this subsection.*

6               (2) *COURT ACTION.—If the Court finds that an*  
7       *order or action described in paragraph (1)(A) is in-*  
8       *consistent with the Federal law governing such Fed-*  
9       *eral refinery authorization, or that a failure to act as*  
10       *described in paragraph (1)(B) has occurred, and the*  
11       *order, action, or failure to act would prevent the*  
12       *siting, construction, expansion, or operation of the re-*  
13       *finery, the Court shall remand the proceeding to the*  
14       *agency or official to take appropriate action con-*  
15       *sistent with the order of the Court. If the Court re-*  
16       *mands the order, action, or failure to act to the Fed-*  
17       *eral or State administrative agency or official, the*  
18       *Court shall set a reasonable schedule and deadline for*  
19       *the agency or official to act on remand.*

20               (3) *SECRETARY'S ACTION.—For any civil action*  
21       *brought under this subsection, the Secretary shall*  
22       *promptly file with the Court the consolidated record*  
23       *compiled by the Secretary pursuant to subsection (d).*

1           (4) *EXPEDITED REVIEW.*—*The Court shall set*  
 2           *any civil action brought under this subsection for ex-*  
 3           *pedited consideration.*

4           (5) *ATTORNEY’S FEES.*—*In any action chal-*  
 5           *lenging a Federal refinery authorization that has been*  
 6           *granted, reasonable attorney’s fees and other expenses*  
 7           *of litigation shall be awarded to the prevailing party.*  
 8           *This paragraph shall not apply to any action seeking*  
 9           *remedies for denial of a Federal refinery authoriza-*  
 10          *tion or failure to act on an application for a Federal*  
 11          *refinery authorization.*

12 **SEC. 103. REFINERY REVITALIZATION REPEAL.**

13          *Subtitle H of title III of the Energy Policy Act of 2005*  
 14          *and the items relating thereto in the table of contents of*  
 15          *such Act are repealed.*

16 **SEC. 104. STANDBY SUPPORT FOR REFINERIES.**

17          (a) *DEFINITION.*—*For purposes of this section, the*  
 18          *term “authorization” means any authorization or permit*  
 19          *required under State or Federal law.*

20          (b) *CONTRACT AUTHORITY.*—

21               (1) *IN GENERAL.*—*The Secretary may enter into*  
 22          *contracts under this section with non-Federal entities*  
 23          *that the Secretary determines, at the sole discretion of*  
 24          *the Secretary, to be the first non-Federal entities to*  
 25          *enter into firm contracts after the date of enactment*

1       *of this Act to construct new refineries in the United*  
2       *States or refurbish and return to commercial oper-*  
3       *ation existing but nonoperating refineries in the*  
4       *United States. The Secretary may enter into contracts*  
5       *under this section with respect to new refineries or re-*  
6       *furbished refineries that add a total of no more than*  
7       *2,000,000 barrels per day of refining capacity to the*  
8       *refining capacity of the United States as in existence*  
9       *on the date of enactment of this Act.*

10           (2) *CONDITIONS.—Except as provided in para-*  
11       *graphs (4) and (5), under a contract authorized*  
12       *under paragraph (1), the Secretary shall pay to the*  
13       *non-Federal entity the costs specified in paragraph*  
14       *(3), using funds deposited in the Standby Refinery*  
15       *Support Account established under subsection (c), if—*

16           (A) *the non-Federal entity has substantially*  
17       *completed construction of the new refinery or the*  
18       *refurbished refinery and the initial commercial*  
19       *operation of the new refinery or of the refur-*  
20       *bished refinery is delayed because of—*

21           (i) *litigation that could not have been*  
22       *reasonably foreseen by the non-Federal enti-*  
23       *ty at the time the non-Federal entity en-*  
24       *tered into the firm contract to construct; or*



1                   (ii) a failure of an agency of the Fed-  
 2                   eral Government or of a State government  
 3                   to grant an authorization within a period  
 4                   specified in the contract authorized by this  
 5                   section; or

6                   (B) the throughput level of commercial oper-  
 7                   ation of the new or refurbished refinery is sub-  
 8                   stantially reduced due to—

9                   (i) State or Federal law or regulations  
 10                  enacted or implemented after the firm con-  
 11                  tract was entered into; or

12                  (ii) litigation, that could not have been  
 13                  reasonably foreseen by the non-Federal enti-  
 14                  ty, disputing actions taken by the non-Fed-  
 15                  eral entity to conform with and satisfy Fed-  
 16                  eral law or regulations enacted or imple-  
 17                  mented after the firm contract was entered  
 18                  into.

19                  (3) COVERED COSTS.—Under a contract author-  
 20                  ized under this section, the Secretary shall pay—

21                  (A) in the case of a delay described in para-  
 22                  graph (2)(A), all costs of the delay in the initial  
 23                  commercial operation of a new refining or a re-  
 24                  furbished refinery, including the principal or in-  
 25                  terest due on any debt obligation of the new re-

1        *finery or of the refurbished refinery during the*  
 2        *delay, and any consequential damages; and*

3                *(B) in the case of a substantial reduction*  
 4        *described in paragraph (2)(B), all costs nec-*  
 5        *essary to offset the costs of the reduced through-*  
 6        *put and the costs of complying with the new*  
 7        *State or Federal law or regulations.*

8                *(4) COSTS NOT COVERED.—The Secretary shall*  
 9        *not enter into a contract under this section that*  
 10        *would obligate the Secretary to pay any costs result-*  
 11        *ing from—*

12                *(A) except as provided in paragraph (3)(B),*  
 13        *a failure of the non-Federal entity to take any*  
 14        *action required by law or regulation; or*

15                *(B) events within the control of the non-*  
 16        *Federal entity.*

17                *(5) DEPOSIT.—The Secretary shall not enter into*  
 18        *a contract authorized under this section until the Sec-*  
 19        *retary has deposited into the Standby Refinery Sup-*  
 20        *port Account amounts sufficient to cover the costs*  
 21        *specified in paragraph (3).*

22                *(c) STANDBY REFINERY SUPPORT ACCOUNT.—There is*  
 23        *established in the Treasury an account known as the Stand-*  
 24        *by Refinery Support Account. The Secretary shall deposit*  
 25        *into this account amounts appropriated, in advance of en-*

1 *tering into a contract authorized by this section, to the Sec-*  
 2 *retary for the purpose of carrying out this section and pay-*  
 3 *ments paid to the Secretary by any non-Federal source for*  
 4 *the purpose of carrying out this section. The Secretary may*  
 5 *receive and accept payments from any non-Federal source,*  
 6 *which shall be made available without further appropria-*  
 7 *tion for the payment of the covered costs.*

8 *(d) REGULATIONS.—The Secretary may issue regula-*  
 9 *tions necessary or appropriate to carry out this section.*

10 *(e) REPORTS.—The Secretary shall file with Congress*  
 11 *annually a report of the Secretary’s activities under this*  
 12 *section and the activities of the non-Federal entity under*  
 13 *any contract entered into under this section.*

14 *(f) AUTHORIZATION OF APPROPRIATIONS.—There are*  
 15 *authorized to be appropriated to the Secretary such sums*  
 16 *as are necessary to carry out this section.*

17 *(g) APPLICABILITY.—This section shall only apply to*  
 18 *refineries sited or proposed to be sited—*

19 *(1) in a State whose governor has requested ap-*  
 20 *plicability of this section pursuant to section*  
 21 *101(a)(1); or*

22 *(2) on a site designated by the President under*  
 23 *section 101(b).*

1 **SEC. 105. MILITARY USE REFINERY.**

2       (a) *AUTHORIZATION.*—*If the President determines that*  
3 *there is not sufficient refining capacity in the United*  
4 *States, the President, to the extent provided in advance in*  
5 *appropriations Acts, may authorize the design and con-*  
6 *struction of and select an appropriate site for, a refinery*  
7 *for the exclusive purpose of manufacturing petroleum prod-*  
8 *ucts for consumption by the Armed Forces of the United*  
9 *States. A refinery constructed under this section shall be*  
10 *located at a site designated by the President under section*  
11 *101(b). Such site shall be leased, for its fair market value,*  
12 *to the applicant selected to operate the refinery pursuant*  
13 *to subsection (b).*

14       (b) *SOLICITATION FOR DESIGN, CONSTRUCTION, AND*  
15 *OPERATION.*—*The President shall solicit proposals for the*  
16 *design, construction, and operation of a refinery under this*  
17 *section. In selecting a proposal or proposals under this sub-*  
18 *section, the President shall consider—*

19               (1) *the ability of the applicant to undertake and*  
20               *complete the project;*

21               (2) *the extent to which the applicant's proposal*  
22               *serves the purposes of the project; and*

23               (3) *the ability of the applicant to best satisfy the*  
24               *criteria set forth in subsection (c).*

1       (c) *REFINERY CRITERIA.*—*A refinery constructed*  
 2 *under this section shall meet or exceed the industry average*  
 3 *for—*

4               (1) *construction efficiencies; and*

5               (2) *operational efficiencies, including cost effi-*  
 6 *ciencies.*

7       (d) *USE OF PRODUCTS.*—*All petroleum products man-*  
 8 *ufactured at a refinery constructed under this section shall*  
 9 *be sold to the Federal Government at a price not to exceed*  
 10 *their fair market value for use by the Armed Forces of the*  
 11 *United States.*

12 **SEC. 106. NEW SOURCE REVIEW UNDER CLEAN AIR ACT.**

13       (a) *RULEMAKING.*—*Considering the devastation*  
 14 *brought about by the recent natural disasters, and the ad-*  
 15 *verse impact of such disasters on the United States energy*  
 16 *markets, including both the availability and the price of*  
 17 *energy, the Administrator shall initiate a rulemaking, issue*  
 18 *guidance, and take all other appropriate steps to reform,*  
 19 *as expeditiously as practicable, the New Source Review pro-*  
 20 *grams under title I, parts C and D of the Clean Air Act.*  
 21 *Taking into account the urgent need to increase the effi-*  
 22 *ciency and availability and to improve the reliability of*  
 23 *the energy supply to consumers and industrial sources, and*  
 24 *to secure a decrease in energy prices, the Administrator,*  
 25 *in undertaking these reform efforts, shall utilize and draw*

1 upon the maximum legal flexibility available under existing  
 2 law, in order to enable energy industry facilities, including,  
 3 but not limited to, refineries, electric power generating sta-  
 4 tions, and compressor stations, to undertake without hin-  
 5 drance, promptly and in the least-cost manner, projects to  
 6 maintain, to restore, and to improve the efficiency, the reli-  
 7 ability, or the availability of such facilities.

8 (b) *DEFINITION.*—Section 302 of the Clean Air Act (42  
 9 U.S.C. 7602) is amended by adding the following new sub-  
 10 section at the end thereof:

11 “(aa) *PHYSICAL CHANGE, OR CHANGE IN THE METH-*  
 12 *OD OF OPERATION OF EXISTING EMISSIONS UNIT.*—For  
 13 purposes of parts C and D of this title, the term ‘physical  
 14 change, or change in the method of operation of,’ as applied  
 15 to an existing emissions unit, means a ‘modification’ as  
 16 defined in paragraphs (a), (b), (c), (e), and (h) of title 40  
 17 of the Code of Federal Regulations, section 60.14 (as in ef-  
 18 fect on September 22, 2005), except that paragraph (h) shall  
 19 apply to all industrial categories and paragraph (e)(1)  
 20 shall include all repairs and replacements covered by sec-  
 21 tion 51.166(y) of title 40 of the Code of Federal Regulations  
 22 (as in effect on December 31, 2004).”.

1 **SEC. 107. WAIVER AUTHORITY FOR EXTREME FUEL SUPPLY**  
2 **EMERGENCIES.**

3 *Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.*  
4 *7545) is amended—*

5 *(1) by redesignating the second clause (v) as*  
6 *clause (viii);*

7 *(2) by redesignating clause (v) as clause (vii);*

8 *(3) by inserting after clause (iv) the following:*

9 *“(v)(I) For the purpose of alleviating an extreme and*  
10 *unusual fuel or fuel additive supply emergency resulting*  
11 *from a natural disaster, the President, in consultation with*  
12 *the Administrator and the Secretary of Energy—*

13 *“(aa) may temporarily waive any control or*  
14 *prohibition respecting the use of a fuel or fuel addi-*  
15 *tive required by this section; and*

16 *“(bb) may preempt and temporarily waive any*  
17 *related or equivalent control or prohibition respecting*  
18 *the use of a fuel or fuel additive prescribed by a State*  
19 *or local statute or regulation, including any such re-*  
20 *quirement in a State implementation plan.*

21 *“(II) The effective period of a waiver under this clause*  
22 *shall be the time period necessary to permit the correction*  
23 *of the extreme and unusual fuel or fuel additive supply*  
24 *emergency caused by the natural disaster, except that such*  
25 *period shall not be longer than 90 days.*

1       “(III) A temporary waiver issued under this clause  
 2 shall not permit an alteration of the properties of the fuel  
 3 to the extent that the use of the fuel prevents the normal  
 4 functioning of the vehicle, engine, component, system, or  
 5 equipment in which the fuel is used or would materially  
 6 degrade such functioning over the useful life of the vehicle,  
 7 engine, component, system, or equipment.”; and

8               (4) by inserting after clause (v) (as inserted by  
 9 paragraph (3)) the following:

10       “(vi) A State shall not be subject to any finding, dis-  
 11 approval, or determination by the Administrator under sec-  
 12 tion 179, no person may bring an action against a State  
 13 or the Administrator under section 304, and the Adminis-  
 14 trator shall not take any action under section 110(c) to re-  
 15 quire the revision of an applicable implementation plan,  
 16 because of any emissions attributable to a waiver granted  
 17 by the Administrator under clause (ii) or by the President  
 18 under clause (v).”.

19 **SEC. 108. LIST OF FUEL BLENDS.**

20       (a) *LIST OF BLENDS*.—Section 211(c)(4)(C)(viii) of  
 21 the Clean Air Act (42 U.S.C. 7545(c)(4)(C)(viii)), as so re-  
 22 designated by section 107(1) of this Act, is amended—

23               (1) by striking subclauses (I) through (V);

24               (2) by redesignating subclause (VI) as subclause

25       (V); and



1           (3) by inserting the following before subclause  
2           (V), as so redesignated by paragraph (2) of this sub-  
3           section:

4           “(I) The Administrator, in coordination with the Sec-  
5           retary of Energy (hereinafter in this clause referred to as  
6           the ‘Secretary’), shall identify and publish in the Federal  
7           Register, within 12 months after the enactment of this sub-  
8           clause and after notice and opportunity for public com-  
9           ment, a list of 6 gasoline and diesel fuel blends to be used  
10          in States that have not received a waiver under section  
11          209(b) of this Act or any State dependent on refineries in  
12          such State for gasoline or diesel fuel supplies. The list shall  
13          be referred to as the ‘Federal Fuels List’ and shall include  
14          one Federal diesel fuel, one alternative diesel fuel blend ap-  
15          proved under this subparagraph before enactment of this  
16          subclause, one conventional gasoline for ozone attainment  
17          areas, one reformulated gasoline (RFG) meeting the re-  
18          quirements of subsection (k), and 2 additional gasoline  
19          blends with Reid vapor pressure (RVP) controls for use in  
20          ozone nonattainment areas of varying degrees of severity.  
21          None of the fuel blends identified under this subclause shall  
22          control fuel sulfur or toxics levels beyond levels required by  
23          regulations of the Administrator.

24          “(II) Gasoline and diesel fuel blends shall be included  
25          on the Federal Fuels List based on the Administrator’s

1 *analysis of their ability to reduce ozone emissions to assist*  
2 *States in attaining established ozone standards under this*  
3 *Act, and on an analysis by the Secretary that the adoption*  
4 *of the Federal Fuels List will not result in a reduction in*  
5 *supply or in producibility, including that caused by a re-*  
6 *duction in domestic refining capacity triggered by this*  
7 *clause. In the event the Secretary concludes that adoption*  
8 *of the Federal Fuels List will result in a reduction in sup-*  
9 *ply or in producibility, the Administrator and the Sec-*  
10 *retary shall report that conclusion to Congress, and suspend*  
11 *implementation of this clause. The Administrator and the*  
12 *Secretary shall conduct the study required under section*  
13 *1541(c) of the Energy Policy Act of 2005 on the timetable*  
14 *required in that section to provide Congress with legislative*  
15 *recommendations for modifications to the proposed Federal*  
16 *Fuels List only if the Secretary concludes that adoption of*  
17 *the Federal Fuels List will result in a reduction in supply*  
18 *or in producibility.*

19       “(III) Upon publication of the Federal Fuels List, the  
20 Administrator shall have no authority, when considering  
21 a State implementation plan or State implementation plan  
22 revision, to approve under this subparagraph any fuel in-  
23 cluded in such plan or plan revision if the fuel proposed  
24 is not one of the fuels included on the Federal Fuels List;  
25 or to approve such plan or revision unless, after consulta-

1 tion with the Secretary, the Administrator publishes in the  
2 Federal Register, after notice and opportunity for public  
3 comment, a finding that, in the Administrator's judgment,  
4 such revisions to newly adopt one of the fuels included on  
5 the Federal Fuels List will not cause fuel supply or dis-  
6 tribution interruptions or have a significant adverse im-  
7 pact on fuel producibility in the affected area or contiguous  
8 area. The Administrator's findings shall include an assess-  
9 ment of reasonably foreseeable supply distribution emer-  
10 gencies that could occur in the affected area or contiguous  
11 area and how adoption of the particular fuel revision would  
12 effect supply opportunities during reasonably foreseeable  
13 supply distribution emergencies.

14 “(IV) The Administrator, in consultation with the Sec-  
15 retary, shall develop a plan to harmonize the currently ap-  
16 proved fuel blends in State implementation plans with the  
17 blends included on the Federal Fuels List and shall promul-  
18 gate implementing regulations for this plan not later than  
19 18 months after enactment of this subclause. This harmoni-  
20 zation shall be fully implemented by the States by December  
21 31, 2008.”.

22 (b) STUDY.—Section 1541(c)(2) of the Energy Policy  
23 Act of 2005 is amended to read as follows:

24 “(2) FOCUS OF STUDY.—The primary focus of  
25 the study required under paragraph (1) shall be to de-

1        *termine how to develop a Federal fuels system that*  
2        *maximizes motor fuel fungibility and supply, pre-*  
3        *serves air quality standards, and reduces motor fuel*  
4        *price volatility that results from the proliferation of*  
5        *boutique fuels, and to recommend to Congress such*  
6        *legislative changes as are necessary to implement such*  
7        *a system. The study should include the impacts on*  
8        *overall energy supply, distribution, and use as a re-*  
9        *sult of the legislative changes recommended. The study*  
10       *should include an analysis of the impact on ozone*  
11       *emissions and supply of a mandatory reduction in*  
12       *the number of fuel blends to 6, including one Federal*  
13       *diesel fuel, one alternative diesel fuel blend, one con-*  
14       *ventional gasoline for ozone attainment areas, one re-*  
15       *formulated gasoline (RFG) meeting the requirements*  
16       *of subsection (k), and 2 additional gasoline blends*  
17       *with Reid vapor pressure (RVP) controls for use in*  
18       *ozone nonattainment areas of varying degrees of se-*  
19       *verity.”.*

20    **SEC. 109. ATTAINMENT DATES FOR DOWNWIND OZONE**  
21                    **NONATTAINMENT AREAS.**

22        *Section 181 of the Clean Air Act (42 U.S.C. 7511) is*  
23        *amended by adding the following new subsection at the end*  
24        *thereof:*

1       “(d) *EXTENDED ATTAINMENT DATE FOR CERTAIN*  
 2 *DOWNWIND AREAS.*—

3               “(1) *DEFINITIONS.*—*In this subsection:*

4                       “(A) *The term ‘upwind area’ means an*  
 5 *area that—*

6                               “(i) *affects nonattainment in another*  
 7 *area, hereinafter referred to as a downwind*  
 8 *area; and*

9                               “(ii) *is either—*

10                                       “(I) *a nonattainment area with a*  
 11 *later attainment date than the down-*  
 12 *wind area, or*

13                                       “(II) *an area in another State*  
 14 *that the Administrator has found to be*  
 15 *significantly contributing to non-*  
 16 *attainment in the downwind area in*  
 17 *violation of section 110(a)(2)(D) and*  
 18 *for which the Administrator has estab-*  
 19 *lished requirements through notice and*  
 20 *comment rulemaking to eliminate the*  
 21 *emissions causing such significant con-*  
 22 *tribution.*

23                               “(B) *The term ‘current classification’ means*  
 24 *the classification of a downwind area under this*

1           *section at the time of the determination under*  
2           *paragraph (2).*

3           “(2) *EXTENSION.*—*Notwithstanding the provi-*  
4           *sions of subsection (b)(2) of this section, a downwind*  
5           *area that is not in attainment within 18 months of*  
6           *the attainment deadline required under this section*  
7           *may seek an extension of time to come into attain-*  
8           *ment by petitioning the Administrator for such an ex-*  
9           *ension. If the Administrator—*

10           “(A) *determines that any area is a down-*  
11           *wind area with respect to a particular national*  
12           *ambient air quality standard for ozone;*

13           “(B) *approves a plan revision for such area*  
14           *as provided in paragraph (3) prior to a reclassi-*  
15           *fication under subsection (b)(2)(A); and*

16           “(C) *determines that the petitioning down-*  
17           *wind area has demonstrated that it is affected by*  
18           *transport from an upwind area to a degree that*  
19           *affects the area’s ability to attain,*  
20           *the Administrator, in lieu of such reclassification,*  
21           *may extend the attainment date for such downwind*  
22           *area for such standard in accordance with paragraph*  
23           *(5).*

24           “(3) *APPROVAL.*—*In order to extend the attain-*  
25           *ment date for a downwind area under this subsection,*

1        *the Administrator may approve a revision of the ap-*  
2        *plicable implementation plan for the downwind area*  
3        *for such standard that—*

4                *“(A) complies with all requirements of this*  
5        *Act applicable under the current classification of*  
6        *the downwind area, including any requirements*  
7        *applicable to the area under section 172(c) for*  
8        *such standard;*

9                *“(B) includes any additional measures*  
10        *needed to demonstrate attainment by the ex-*  
11        *tended attainment date provided under this sub-*  
12        *section, and provides for implementation of those*  
13        *measures as expeditiously as practicable; and*

14                *“(C) provides appropriate measures to en-*  
15        *sure that no area downwind of the area receiving*  
16        *the extended attainment date will be affected by*  
17        *transport to a degree that affects the area’s abil-*  
18        *ity to attain, from the area receiving the exten-*  
19        *sion.*

20                *“(4) PRIOR RECLASSIFICATION DETERMINA-*  
21        *TION.—If, after April 1, 2003, and prior to the time*  
22        *the 1-hour ozone standard no longer applies to a*  
23        *downwind area, the Administrator made a reclassi-*  
24        *fication determination under subsection (b)(2)(A) for*  
25        *such downwind area, and the Administrator approves*

1        *a plan consistent with subparagraphs (A) and (B) for*  
2        *such area, the reclassification shall be withdrawn*  
3        *and, for purposes of implementing the 8-hour ozone*  
4        *national ambient air quality standard, the area shall*  
5        *be treated as if the reclassification never occurred.*  
6        *Such plan must be submitted no later than 12 months*  
7        *following enactment of this subsection, and—*

8                *“(A) the plan revision for the downwind*  
9                *area must comply with all control and planning*  
10               *requirements of this Act applicable under the*  
11               *classification that applied immediately prior to*  
12               *reclassification, including any requirements ap-*  
13               *plicable to the area under section 172(c) for such*  
14               *standard; and*

15               *“(B) the plan must include any additional*  
16               *measures needed to demonstrate attainment no*  
17               *later than the date on which the last reductions*  
18               *in pollution transport that have been found by*  
19               *the Administrator to significantly contribute to*  
20               *nonattainment are required to be achieved by the*  
21               *upwind area or areas.*

22        *The attainment date extended under this subsection*  
23        *shall provide for attainment of such national ambient*  
24        *air quality standard for ozone in the downwind area*  
25        *as expeditiously as practicable but no later than the*



1        *end of the first complete ozone season following the*  
 2        *date on which the last reductions in pollution trans-*  
 3        *port that have been found by the Administrator to*  
 4        *significantly contribute to nonattainment are re-*  
 5        *quired to be achieved by the upwind area or areas.*

6            *“(5) EXTENDED DATE.—The attainment date ex-*  
 7        *tended under this subsection shall provide for attain-*  
 8        *ment of such national ambient air quality standard*  
 9        *for ozone in the downwind area as expeditiously as*  
 10       *practicable but no later than the new date that the*  
 11       *area would have been subject to had it been reclassi-*  
 12       *fied under subsection (b)(2).*

13           *“(6) RULEMAKING.—Within 12 months after the*  
 14        *enactment of this subsection, the Administrator shall,*  
 15        *through notice and comment, promulgate rules to de-*  
 16        *fine the term ‘affected by transport to a degree that*  
 17        *affects an areas ability to attain’ in order to ensure*  
 18        *that downwind areas are not unjustly penalized, and*  
 19        *for purposes of paragraphs (2) and (3) of this sub-*  
 20        *section.’”.*

21    **SEC. 110. NORTHWEST CRUDE OIL SUPPLY.**

22        *Section 5(b) of the Act entitled “An Act to authorize*  
 23        *appropriations for fiscal year 1978 to carry out the Marine*  
 24        *Mammal Protection Act of 1972”, enacted October 18, 1977*

1 *(Public Law 95–136) is amended by striking “for consump-*  
 2 *tion in the State of Washington”.*

3 **SEC. 111. DISCOUNTED SALES OF ROYALTY-IN-KIND OIL TO**  
 4 **QUALIFIED SMALL REFINERIES.**

5 (a) *REQUIREMENT.*—*The Secretary of the Interior*  
 6 *shall issue and begin implementing regulations by not later*  
 7 *than 60 days after the date of the enactment of this Act,*  
 8 *under which the Secretary of the Interior shall charge a*  
 9 *discounted price in any sale to a qualified small refinery*  
 10 *of crude oil obtained by the United States as royalty-in-*  
 11 *kind.*

12 (b) *AMOUNT OF DISCOUNT.*—*The regulations shall*  
 13 *provide that the amount of any discount applied pursuant*  
 14 *to this section in any sale of crude oil to a qualified small*  
 15 *refinery—*

16 (1) *shall reflect the actual costs of transporting*  
 17 *such oil from the point of origin to the qualified small*  
 18 *refinery; and*

19 (2) *shall not exceed \$4.50 per barrel of oil sold.*

20 (c) *TERMINATION OF DISCOUNT.*—*This section and*  
 21 *any regulations issued under this section shall not apply*  
 22 *on and after any date on which the Secretary of Energy*  
 23 *determines that United States domestic refining capacity*  
 24 *is sufficient.*

1       (d) *QUALIFIED SMALL REFINERY.*—*In this section the*  
 2 *term “qualified small refinery” means a refinery of a small*  
 3 *business refiner (as that term is defined in section*  
 4 *45H(c)(1) of the Internal Revenue Code of 1986) that dem-*  
 5 *onstrates to the Secretary of the Interior that it had unused*  
 6 *crude oil processing capacity in 2004.*

7       **SEC. 112. STUDY AND REPORT RELATING TO STREAM-**  
 8                   **LINING PAPERWORK REQUIREMENTS.**

9       (a) *STUDY.*—*The Administrator shall study ways to*  
 10 *streamline the paperwork requirements associated with title*  
 11 *V of the Clean Air Act and corresponding requirements*  
 12 *under State laws, particularly with regard to States that*  
 13 *have more stringent requirements than the Federal Govern-*  
 14 *ment in this area.*

15       (b) *REPORT.*—*Not later than one year after the date*  
 16 *of the enactment of this Act, the Administrator shall report*  
 17 *to Congress the results of the study made under subsection*  
 18 *(a), together with recommendations on how to streamline*  
 19 *those paperwork requirements.*

20       **SEC. 113. RESPONSE TO BIOMASS DEBRIS EMERGENCY.**

21       (a) *USE OF BIOMASS DEBRIS AS FUEL.*—*Notwith-*  
 22 *standing any other provision of law, the Secretary of En-*  
 23 *ergy may authorize any facility to use as fuel biomass de-*  
 24 *bris if—*

1           (1) *the debris results from a major disaster de-*  
2           *clared in accordance with section 401 of the Robert*  
3           *T. Stafford Disaster Relief and Emergency Assistance*  
4           *Act (42 U.S.C. 5170);*

5           (2) *the debris is located in the area for which the*  
6           *major disaster is declared; and*

7           (3) *the requirements of subsection (b) are met.*

8           (b) *CERTIFICATION.*—*A facility described in subsection*  
9           *(a)—*

10           (1) *shall certify to the State in which the facility*  
11           *is located that no significant impact on meeting na-*  
12           *tional ambient air quality standards will result and*  
13           *shall propose emission limits adequate to support*  
14           *such certification; and*

15           (2) *may begin burning biomass debris fuel upon*  
16           *filing the certification required by paragraph (1) un-*  
17           *less the State notifies the facility to the contrary.*

18           (c) *EMISSION LIMITS.*—*The State in which a facility*  
19           *described in subsection (a) is located shall—*

20           (1) *adopt (or as appropriate amend) the pro-*  
21           *posed emission limits for the biomass burning at the*  
22           *facility; and*

23           (2) *retain other existing emissions limits wher-*  
24           *ever they are necessary and reasonable.*

1       (d) *NEW SOURCE REVIEW*.—No activities needed to  
 2       qualify a facility to burn biomass debris as fuel in accord-  
 3       ance with this section shall trigger the requirements of new  
 4       source review or new source performance standards under  
 5       the Clean Air Act.

6                   **TITLE II—INCREASING**  
 7       **DELIVERY INFRASTRUCTURE**

8       **SEC. 201. FEDERAL-STATE REGULATORY COORDINATION.**

9       (a) *GOVERNOR’S REQUEST*.—The Governor of a State  
 10       may submit a request to the Commission for the application  
 11       of process coordination and rules of procedure under section  
 12       202 to the siting of a crude oil or refined petroleum product  
 13       pipeline facility in that State.

14       (b) *APPLICABILITY*.—Section 202 shall only apply to  
 15       crude oil or refined petroleum product pipeline facilities  
 16       sited or proposed to be sited in a State whose Governor has  
 17       requested such applicability under subsection (a).

18       (c) *INTERSTATE COMPACTS*.—(1) The consent of Con-  
 19       gress is given for 2 or more contiguous States to enter into  
 20       an interstate compact, subject to approval by Congress, es-  
 21       tablishing regional pipeline siting agencies to facilitate  
 22       siting of future crude oil or refined petroleum product pipe-  
 23       line facilities within those States.

1       (2) *The Secretary may provide technical assistance to*  
 2 *regional pipeline siting agencies established under this sub-*  
 3 *section.*

4 **SEC. 202. PROCESS COORDINATION AND RULES OF PROCE-**  
 5 **DURE.**

6       (a) *DEFINITIONS.—For purposes of this title—*

7           (1) *the term “Commission” means the Federal*  
 8 *Energy Regulatory Commission; and*

9           (2) *the term “Federal pipeline authorization”—*

10           (A) *means any authorization required*  
 11 *under Federal law, whether administered by a*  
 12 *Federal or State administrative agency or offi-*  
 13 *cial, with respect to siting of a crude oil or re-*  
 14 *fined petroleum product pipeline facility in*  
 15 *interstate commerce; and*

16           (B) *includes any permits, special use au-*  
 17 *thorizations, certifications, opinions, or other ap-*  
 18 *provals required under Federal law with respect*  
 19 *to siting of a crude oil or refined petroleum*  
 20 *product pipeline facility in interstate commerce.*

21       (b) *DESIGNATION AS LEAD AGENCY.—*

22           (1) *IN GENERAL.—The Commission shall act as*  
 23 *the lead agency for the purposes of coordinating all*  
 24 *applicable Federal pipeline authorizations and re-*

1 *lated environmental reviews with respect to a crude*  
2 *oil or refined petroleum product pipeline facility.*

3 *(2) OTHER AGENCIES.—Each Federal and State*  
4 *agency or official required to provide Federal pipeline*  
5 *authorization shall cooperate with the Commission*  
6 *and comply with the deadlines established by the*  
7 *Commission.*

8 *(c) SCHEDULE.—*

9 *(1) COMMISSION’S AUTHORITY TO SET SCHED-*  
10 *ULE.—The Commission shall establish a schedule for*  
11 *all Federal pipeline authorizations with respect to a*  
12 *crude oil or refined petroleum product pipeline facil-*  
13 *ity. In establishing the schedule, the Commission*  
14 *shall—*

15 *(A) ensure expeditious completion of all*  
16 *such proceedings; and*

17 *(B) accommodate the applicable schedules*  
18 *established by Federal law for such proceedings.*

19 *(2) FAILURE TO MEET SCHEDULE.—If a Federal*  
20 *or State administrative agency or official does not*  
21 *complete a proceeding for an approval that is re-*  
22 *quired for a Federal pipeline authorization in accord-*  
23 *ance with the schedule established by the Commission*  
24 *under this subsection, the applicant may pursue rem-*  
25 *edies under subsection (e).*

1       (d) *CONSOLIDATED RECORD.*—*The Commission shall,*  
 2 *with the cooperation of Federal and State administrative*  
 3 *agencies and officials, maintain a complete consolidated*  
 4 *record of all decisions made or actions taken by the Com-*  
 5 *mission or by a Federal administrative agency or officer*  
 6 *(or State administrative agency or officer acting under del-*  
 7 *egated Federal authority) with respect to any Federal pipe-*  
 8 *line authorization. Such record shall be the record for judi-*  
 9 *cial review under subsection (e) of decisions made or actions*  
 10 *taken by Federal and State administrative agencies and of-*  
 11 *ficials, except that, if the Court determines that the record*  
 12 *does not contain sufficient information, the Court may re-*  
 13 *mand the proceeding to the Commission for further develop-*  
 14 *ment of the consolidated record.*

15       (e) *JUDICIAL REVIEW.*—

16           (1) *IN GENERAL.*—*The United States Court of*  
 17 *Appeals for the District of Columbia shall have origi-*  
 18 *nal and exclusive jurisdiction over any civil action*  
 19 *for the review of—*

20                   (A) *an order or action related to a Federal*  
 21 *pipeline authorization by a Federal or State ad-*  
 22 *ministrative agency or official; and*

23                   (B) *an alleged failure to act by a Federal*  
 24 *or State administrative agency or official acting*  
 25 *pursuant to a Federal pipeline authorization.*



1     *The failure of an agency or official to act on a Fed-*  
2     *eral pipeline authorization in accordance with the*  
3     *Commission's schedule established pursuant to sub-*  
4     *section (c) shall be considered inconsistent with Fed-*  
5     *eral law for the purposes of paragraph (2) of this sub-*  
6     *section.*

7             (2) *COURT ACTION.—If the Court finds that an*  
8     *order or action described in paragraph (1)(A) is in-*  
9     *consistent with the Federal law governing such Fed-*  
10    *eral pipeline authorization, or that a failure to act as*  
11    *described in paragraph (1)(B) has occurred, and the*  
12    *order, action, or failure to act would prevent the*  
13    *siting of the crude oil or refined petroleum product*  
14    *pipeline facility, the Court shall remand the pro-*  
15    *ceeding to the agency or official to take appropriate*  
16    *action consistent with the order of the Court. If the*  
17    *Court remands the order, action, or failure to act to*  
18    *the Federal or State administrative agency or official,*  
19    *the Court shall set a reasonable schedule and deadline*  
20    *for the agency or official to act on remand.*

21            (3) *COMMISSION'S ACTION.—For any civil action*  
22    *brought under this subsection, the Commission shall*  
23    *promptly file with the Court the consolidated record*  
24    *compiled by the Commission pursuant to subsection*  
25    *(d).*

1           (4) *EXPEDITED REVIEW.*—*The Court shall set*  
2           *any civil action brought under this subsection for ex-*  
3           *pedited consideration.*

4           (5) *ATTORNEY’S FEES.*—*In any action chal-*  
5           *lenging a Federal pipeline authorization that has*  
6           *been granted, reasonable attorney’s fees and other ex-*  
7           *penses of litigation shall be awarded to the prevailing*  
8           *party. This paragraph shall not apply to any action*  
9           *seeking remedies for denial of a Federal pipeline au-*  
10          *thorization or failure to act on an application for a*  
11          *Federal pipeline authorization.*

12 **SEC. 203. BACKUP POWER CAPACITY STUDY.**

13          *Not later than 6 months after the date of enactment*  
14          *of this Act, the Secretary shall transmit to the Congress a*  
15          *report assessing the adequacy of backup power capacity in*  
16          *place as of the date of enactment of this Act, and the need*  
17          *for any additional capacity, to provide for the continuing*  
18          *operation during any reasonably foreseeable emergency sit-*  
19          *uation, of those crude oil or refined petroleum product pipe-*  
20          *line facilities that the Secretary finds to be significant to*  
21          *the Nation’s supply needs, in areas that have historically*  
22          *been subject to higher incidents of natural disasters such*  
23          *as hurricanes, earthquakes, and tornados.*

1 **SEC. 204. SUNSET OF LOAN GUARANTEES.**

2 *Section 116(a) of the Alaska Natural Gas Pipeline Act*  
 3 *is amended by adding at the end the following new para-*  
 4 *graph:*

5 *“(4) The Secretary shall not enter into an agreement*  
 6 *under paragraph (1) or (2) after the date that is 24 months*  
 7 *after the date of enactment of the Gasoline for America’s*  
 8 *Security Act of 2005 if the State of Alaska has not entered*  
 9 *into an agreement pursuant to Alaska Stranded Gas Devel-*  
 10 *opment Act which in good faith contractually binds the par-*  
 11 *ties to deliver North Slope natural gas to markets via the*  
 12 *proposed Alaska Natural Gas Pipeline.”.*

13 **SEC. 205. OFFSHORE PIPELINES.**

14 *The Natural Gas Act is amended—*

15 *(1) in section 1(b) 15 U.S.C. 717(b)) by insert-*  
 16 *ing after “to the production or” the following: “, ex-*  
 17 *cept as provided in section 4(g),”; and*

18 *(2) in section 4 (15 U.S.C. 717(b)) by adding at*  
 19 *the end the following:*

20 *“(g)(1) For the purposes of this subsection—*

21 *“(A) the term ‘gas service provider’ means an*  
 22 *entity that operates a facility located in the outer*  
 23 *Continental Shelf that is used to move natural gas on*  
 24 *or across the outer Continental Shelf; and*

1           “(B) the term ‘outer Continental Shelf’ has the  
2           meaning given that term in section 2(a) of the Outer  
3           Continental Shelf Lands Act (43 U.S.C. 1331(a)).

4           “(2) All gas service providers shall submit to the Com-  
5           mission annually the conditions of service for each shipper  
6           served, consisting of—

7           “(A) the full legal name of the shipper receiving  
8           service;

9           “(B) a notation of shipper affiliation;

10          “(C) the type of service provided;

11          “(D) primary receipt points;

12          “(E) primary delivery points;

13          “(F) rates between each pair of points; and

14          “(G) other conditions of service deemed relevant  
15          by the gas service provider.

16          “(3) This subsection shall not apply to—

17          “(A) a gas service company that serves exclu-  
18          sively a single entity (either itself or one other party),  
19          until such time as—

20                  “(i) the gas service provider agrees to serve  
21                  a second shipper; or

22                  “(ii) a determination is made that the gas  
23                  service provider’s denial of a request for service  
24                  is unjustified;

1           “(B) a gas service provider that serves exclu-  
 2           sively shippers with ownership interests in both the  
 3           pipeline operated by the gas service provider and the  
 4           gas produced from a field or fields connected to a sin-  
 5           gle pipeline, until such time as—

6                     “(i) the gas service provider offers to serve  
 7                     a nonowner shipper; or

8                     “(ii) a determination is made that the gas  
 9                     service provider’s denial of a request for service  
 10                    is unjustified;

11           “(C) service rendered over facilities that feed into  
 12           a facility where natural gas is first collected, sepa-  
 13           rated, dehydrated, or otherwise processed; and

14           “(D) gas service providers’ facilities and service  
 15           regulated by the Commission under section 7 of this  
 16           Act.

17           “(4) When a gas service provider subject to this sub-  
 18           section alters its affiliates, customers, rates, conditions of  
 19           service, or facilities, within any calendar quarter, it must  
 20           then file with the Commission, on the first business day of  
 21           the subsequent quarter, a revised report describing the sta-  
 22           tus of its services and facilities.”.

23 **SEC. 206. SAVINGS CLAUSE.**

24           Nothing in this title shall be construed to amend, alter,  
 25           or in any way affect the jurisdiction or responsibilities of

1 *the Department of Transportation with respect to pipeline*  
2 *safety issues under chapter 601 of title 49, United States*  
3 *Code, or any other law.*

4 **SEC. 207. CARBON-BASED FUEL CELL DEVELOPMENT.**

5 (a) *GRANT AUTHORITY.—The Secretary is authorized*  
6 *to make a single grant to a qualified institution to design*  
7 *and fabricate a 5-kilowatt prototype coal-based fuel cell*  
8 *with the following performance objectives:*

9 (1) *A current density of 600 milliamps per*  
10 *square centimeter at a cell voltage of 0.8 volts.*

11 (2) *An operating temperature range not to ex-*  
12 *ceed 900 degrees Celsius.*

13 (b) *QUALIFIED INSTITUTION.—For the purposes of*  
14 *subsection (a), a qualified institution is a research-intensive*  
15 *institution of higher education with demonstrated expertise*  
16 *in the development of carbon-based fuel cells allowing the*  
17 *direct use of high sulfur content coal as fuel, and which*  
18 *has produced a laboratory-scale carbon-based fuel cell with*  
19 *a proven current density of 100 milliamps per square centi-*  
20 *meter at a voltage of 0.6 volts.*

21 (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*  
22 *authorized to be appropriated to the Secretary for carrying*  
23 *out this section \$850,000 for fiscal year 2006.*

1   ***TITLE III—CONSERVATION AND***  
2                   ***EDUCATION***

3   ***SEC. 301. DEPARTMENT OF ENERGY CARPOOLING AND VAN-***  
4                   ***POOLING PROGRAM.***

5           (a) *FINDINGS.*—Congress finds the following:

6                   (1) *Metropolitan transit organizations have re-*  
7                   *ported heightened interest in carpooling and van-*  
8                   *pooling projects in light of recent increases in gaso-*  
9                   *line prices.*

10                  (2) *The National Transportation Database re-*  
11                  *ports that, in 2003, American commuters traveled*  
12                  *over 440,000 miles using public transportation van-*  
13                  *pools, an increase of 60 percent since 1996.*

14                  (3) *According to the Natural Resource Defense*  
15                  *Council, if each commuter car carried just one more*  
16                  *passenger once a week, American gasoline consump-*  
17                  *tion would be reduced by about 2 percent.*

18           (b) *ESTABLISHMENT OF PROGRAM.*—*The Secretary*  
19           *shall establish and carry out a program to encourage the*  
20           *use of carpooling and vanpooling to reduce the consumption*  
21           *of gasoline. The program shall focus on carpool and vanpool*  
22           *operations, outreach activities, and marketing programs,*  
23           *including utilization of the Internet for marketing and out-*  
24           *reach.*

1       (c) *GRANTS TO STATE AND LOCAL GOVERNMENTS.*—

2   *As part of the program established under subsection (b), the*  
 3   *Secretary may make grants to State and local governments*  
 4   *for carpooling or vanpooling projects. The Secretary may*  
 5   *make such a grant only if at least 50 percent of the costs*  
 6   *of the project will be provided by the State or local govern-*  
 7   *ment. If a private sector entity provides vehicles for use in*  
 8   *a carpooling or vanpooling project supported under this*  
 9   *subsection, the value of those vehicles may be counted as*  
 10   *part of the State or local contribution to the project.*

11       (d) *CONSIDERATIONS.*—*In making grants for projects*  
 12   *under subsection (c), the Secretary shall consider each of*  
 13   *the following:*

14           (1) *The potential of the project to promote oil*  
 15       *conservation.*

16           (2) *The contribution of the project to State or*  
 17       *local disaster evacuation plans.*

18           (3) *Whether the area in which the project is lo-*  
 19       *cated is a nonattainment area (as that term is de-*  
 20       *finied in section 171 of the Clean Air Act (42 U.S.C.*  
 21       *7501)).*

22   **SEC. 302. EVALUATION AND ASSESSMENT OF CARPOOL AND**  
 23       **VANPOOL PROJECTS.**

24       (a) *IN GENERAL.*—*The Administrator, in consultation*  
 25   *with the Secretary, shall evaluate and assess carpool and*



1 *vanpool projects funded under the congestion mitigation*  
2 *and air quality program established under section 149 of*  
3 *title 23, United States Code, to—*

4           (1) *reduce consumption of gasoline;*

5           (2) *determine the direct and indirect impact of*  
6 *the projects on air quality and congestion levels; and*

7           (3) *ensure the effective implementation of the*  
8 *projects under such program.*

9       (b) *REPORT.*—*Not later than 180 days after the date*  
10 *of enactment of this Act, the Administrator, in consultation*  
11 *with the Secretary, shall submit to Congress a report in-*  
12 *cluding recommendations and findings that would improve*  
13 *the operation and evaluation of carpool and vanpool*  
14 *projects funded under the congestion mitigation and air*  
15 *quality improvement program and shall make such report*  
16 *available to all State and local metropolitan planning orga-*  
17 *nizations.*

18 **SEC. 303. INTERNET UTILIZATION STUDY.**

19       (a) *IN GENERAL.*—*The Secretary, under the program*  
20 *established in section 301, shall evaluate the capacity of the*  
21 *Internet to facilitate carpool and vanpool operations*  
22 *through—*

23           (1) *linking riders with local carpools and van-*  
24 *pools;*

1           (2) *providing real-time messaging communica-*  
2           *tion between drivers and riders;*

3           (3) *assisting employers to establish intercompany*  
4           *vanpool and carpool programs; and*

5           (4) *marketing existing vanpool and carpool pro-*  
6           *grams.*

7           (b) *REPORT.*—*Not later than 180 days after the date*  
8           *of enactment of this Act, the Secretary shall submit to Con-*  
9           *gress a report including recommendations and findings that*  
10          *would improve Internet utilization in carpool and vanpool*  
11          *operations and shall make such report available to all State*  
12          *and local metropolitan planning organizations.*

13   **SEC. 304. FUEL CONSUMPTION EDUCATION CAMPAIGN.**

14          (a) *PARTNERSHIP.*—*The Secretary shall enter into a*  
15          *partnership with interested industry groups to create an*  
16          *education campaign that provides information to United*  
17          *States drivers about measures that may be taken to conserve*  
18          *gasoline.*

19          (b) *ACCESSIBILITY.*—*The public information cam-*  
20          *paign shall be designed to reach the widest audience pos-*  
21          *sible. The education campaign may include television,*  
22          *print, Internet website, or any method designed to maxi-*  
23          *mize the dissemination of gasoline savings information to*  
24          *drivers.*

1       (c) *COST SHARING.*—*The Secretary shall provide no*  
2 *more than 50 percent of the cost of the campaign created*  
3 *under this section.*

4       (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
5 *authorized to be appropriated to the Secretary \$2,500,000*  
6 *for carrying out this section.*

7       **SEC. 305. PROCUREMENT OF ENERGY EFFICIENT LIGHTING**  
8                               **DEVICES.**

9       *Section 553(d) of the National Energy Conservation*  
10 *Policy Act is amended by adding at the end the following*  
11 *new paragraph:*

12       “(3) *The head of an agency shall procure the most en-*  
13 *ergy efficient and cost-effective light bulbs or other electrical*  
14 *lighting products, consistent with safety considerations, for*  
15 *use in that agency’s facilities and buildings.”.*

16       **SEC. 306. MINORITY EMPLOYMENT.**

17       *Section 385 of the Energy Policy Act of 2005 is*  
18 *amended by adding at the end the following:*

19       “(d) *PROGRAM.*—*The Secretary of Energy is author-*  
20 *ized and directed to establish a program to encourage mi-*  
21 *nority students to study the earth sciences and enter the*  
22 *field of geology in order to qualify for employment in the*  
23 *oil, gas, and mineral industries. There are authorized to*  
24 *be appropriated for the program established under the pre-*  
25 *ceding sentence \$10,000,000.”.*

1       ***TITLE IV—GASOLINE PRICE***  
2                   ***REFORM***

3   ***SEC. 401. SHORT TITLE.***

4       *This title may be cited as the “Gas Price Gouging Pre-*  
5 *vention Act”.*

6   ***SEC. 402. GASOLINE PRICE GOUGING PROHIBITED.***

7       *(a) UNLAWFUL CONDUCT.—During a period and in*  
8 *an area of a major disaster, it shall be an unfair or decep-*  
9 *tive act or practice in violation of section 5 of the Federal*  
10 *Trade Commission Act for any person to sell gasoline or*  
11 *diesel fuel at a price which constitutes price gouging as de-*  
12 *finied by rule pursuant to subsection (b).*

13       *(b) PRICE GOUGING.—Not later than 1 year after the*  
14 *date of the enactment of this Act, the Commission shall pro-*  
15 *mulgate any rules necessary for the enforcement of this sec-*  
16 *tion. Based on its findings from the investigation required*  
17 *by section 403, the Commission shall, in such rules, define*  
18 *“price gouging” for purposes of this section. Such rules shall*  
19 *be consistent with the requirements for declaring unfair acts*  
20 *or practices in section 5(n) of the Federal Trade Commis-*  
21 *sion Act (15 U.S.C. 45(n)).*

22       *(c) ENFORCEMENT BY FTC.—A violation of subsection*  
23 *(a) shall be treated as a violation of a rule defining an*  
24 *unfair or deceptive act or practice prescribed under section*  
25 *18(a)(1)(B) of the Federal Trade Commission Act (15*

1 *U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall*  
2 *enforce this Act in the same manner, by the same means,*  
3 *and with the same jurisdiction as though all applicable*  
4 *terms and provisions of the Federal Trade Commission Act*  
5 *were incorporated into and made a part of this Act.*

6 *(d) PENALTIES.—Any person who violates subsection*  
7 *(a), or the rules promulgated pursuant to this section, shall*  
8 *be subject to a civil penalty of not more than \$11,000 per*  
9 *person per day in which a violation occurs.*

10 *(e) DEFINITION OF MAJOR DISASTER.—*

11 *(1) DETERMINATION.—As used in this section,*  
12 *and for purposes of any rule promulgated pursuant*  
13 *to this section, the term “major disaster” means a*  
14 *major disaster declared by the President as defined in*  
15 *section 102(2) of the Robert T. Stafford Disaster Re-*  
16 *lief and Emergency Assistance Act (42 U.S.C.*  
17 *5122(2)) that the Secretary of Energy determines to*  
18 *have substantially disrupted the production, distribu-*  
19 *tion, or supply of gasoline or diesel fuel.*

20 *(2) APPLICABLE AREA AND PERIOD.—The prohi-*  
21 *bition in subsection (a) shall apply in an area deter-*  
22 *mined to be a major disaster under paragraph (1)*  
23 *and for a period of 30 days after such determination*  
24 *is made.*

1 **SEC. 403. FTC INVESTIGATION ON PRICE-GOUGING.**

2 (a) *STUDY.*—*The Federal Trade Commission shall*  
3 *conduct an investigation into nationwide gasoline prices in*  
4 *the aftermath of Hurricane Katrina, including any evi-*  
5 *dence of price-gouging by subject companies described in*  
6 *subsection (b). Such investigation shall include—*

7 (1) *a comparison of, and analysis of the reasons*  
8 *for changes in, profit levels of subject companies dur-*  
9 *ing the 12-month period ending on August 31, 2005,*  
10 *and their profit levels for the month of September,*  
11 *2005, including information for particular companies*  
12 *on a basis that does not permit the identification of*  
13 *any company to which the information relates;*

14 (2) *a summary of tax expenditures (as defined*  
15 *in section 3(3) of the Congressional Budget and Im-*  
16 *poundment Control Act of 1974 (2 U.S.C. 622(3)) for*  
17 *such companies;*

18 (3) *an examination of the effects of increased*  
19 *gasoline prices and gasoline price-gouging on eco-*  
20 *nomie activity in the United States;*

21 (4) *an analysis of the overall cost of increased*  
22 *gasoline prices and gasoline price-gouging to the econ-*  
23 *omy, including the impact on consumers' purchasing*  
24 *power in both declared State and National disaster*  
25 *areas and elsewhere; and*

26 (5) *an analysis of—*

1           (A) the role and overall cost of credit card  
2           interchange rates on gasoline and diesel fuel re-  
3           tail prices; and

4           (B) the varying cost of credit card inter-  
5           change rates that are applied to different chan-  
6           nels of trade.

7       (b) *SUBJECT COMPANIES.*—The companies subject to  
8       the investigation required by this section shall be—

9           (1) any company with total United States whole-  
10          sale sales of gasoline and petroleum distillates for cal-  
11          endar year 2004 in excess of \$500,000,000; and

12          (2) any retail distributor of gasoline and petro-  
13          leum distillates against which multiple formal com-  
14          plaints (that identify the location of the particular re-  
15          tail distributor and provide contact information for  
16          the complainant) of price-gouging were filed in Au-  
17          gust or September 2005, with a Federal or State con-  
18          sumer protection agency.

19       (c) *EVIDENCE OF PRICE-GOUGING.*—In conducting its  
20       investigation, the Commission shall treat as evidence of  
21       price-gouging any finding that the average price of gasoline  
22       available for sale to the public in September, 2005, or there-  
23       after in a market area located in an area designated as  
24       a State or National disaster area because of Hurricane  
25       Katrina, or in any other area where price-gouging com-

1 *plaints have been filed because of Hurricane Katrina with*  
 2 *a Federal or State consumer protection agency, exceeded the*  
 3 *average price of such gasoline in that area for the month*  
 4 *of August, 2005, unless the Commission finds substantial*  
 5 *evidence that the increase is substantially attributable to*  
 6 *additional costs in connection with the production, trans-*  
 7 *portation, delivery, and sale of gasoline in that area or to*  
 8 *national or international market trends.*

9 *(d) REPORTS.—*

10 *(1) NOTIFICATION TO STATE AGENCIES.—In any*  
 11 *areas of markets in which the Commission determines*  
 12 *price increases are due to factors other than the addi-*  
 13 *tional costs, it shall also notify the appropriate State*  
 14 *agency of its findings.*

15 *(2) PROGRESS AND FINAL REPORTS TO CON-*  
 16 *GRESS.—The Commission shall provide information*  
 17 *on the progress of the investigation to the Appropria-*  
 18 *tions Committees of the House of Representatives and*  
 19 *the Senate, the Committee on Energy and Commerce*  
 20 *of the House of Representatives, and the Committee*  
 21 *on Commerce, Science, and Transportation of the*  
 22 *Senate, every 30 days after the date of enactment of*  
 23 *this Act. The Commission shall provide those Com-*  
 24 *mittees a written interim report 90 days after such*  
 25 *date, and shall transmit a final report to those Com-*



1        *mittees, together with its findings and recommenda-*  
 2        *tions, no later than 180 days after the date of enact-*  
 3        *ment of this Act. Such reports shall include rec-*  
 4        *ommendations, based on its findings, for any legisla-*  
 5        *tion necessary to protect consumers from gasoline*  
 6        *price-gouging in both State and National disaster*  
 7        *areas and elsewhere.*

8        *(e) EVIDENCE OF CRIMINAL MISCONDUCT.—If, during*  
 9        *the investigation required by this section, the Commission*  
 10       *obtains evidence that a person may have violated a crimi-*  
 11       *nal law, the Commission may transmit that evidence to ap-*  
 12       *propriate Federal or State authorities.*

13       **SEC. 404. FTC STUDY OF PETROLEUM PRICES ON EX-**  
 14       **CHANGE.**

15       *Not later than 180 days after the date of enactment*  
 16       *of this Act, the Federal Trade Commission shall transmit*  
 17       *to Congress a report on the price of refined petroleum prod-*  
 18       *ucts on the New York Mercantile Exchange and the effects*  
 19       *on such price, if any, of the following:*

20                *(1) The geographic size of the delivery market*  
 21                *and the number of delivery points.*

22                *(2) The proximity of energy futures markets in*  
 23                *relation to the source of supply.*

24                *(3) The specified grade of gasoline deliverable on*  
 25                *the exchange.*

1           (4) *The control of the storage and delivery mar-*  
 2       *ket infrastructure.*

3           (5) *The effectiveness of temporary trading halts*  
 4       *and the monetary threshold for such temporary trad-*  
 5       *ing halts.*

6                       ***TITLE V—STRATEGIC***  
 7                       ***PETROLEUM RESERVE***

8       ***SEC. 501. STRATEGIC PETROLEUM RESERVE CAPACITY.***

9           (a) *AUTHORITY TO DRAWDOWN AND SELL PETRO-*  
 10       *LEUM PRODUCTS FOR EXPANSION OF RESERVE.*—*Notwith-*  
 11       *standing any other provision of law, the Secretary may*  
 12       *drawdown and sell petroleum products from the Strategic*  
 13       *Petroleum Reserve to construct, purchase, lease, or otherwise*  
 14       *acquire additional capacity sufficient to permit filling the*  
 15       *Strategic Petroleum Reserve to its maximum authorized*  
 16       *level.*

17          (b) *ESTABLISHMENT OF SPR EXPANSION FUND.*—*The*  
 18       *Secretary of the Treasury shall establish in the Treasury*  
 19       *of the United States an account to be known as the “SPR*  
 20       *Expansion Fund” (in this section referred to as the*  
 21       *“Fund”), and the proceeds from any sale pursuant to sub-*  
 22       *section (a) shall be deposited into the Fund.*

23          (c) *OBLIGATION OF FUNDS FOR EXPANSION.*—  
 24       *Amounts in the Fund may be obligated by the Secretary*  
 25       *to carry out the purposes in subsection (a) to the extent*

1 *and in such aggregate amounts as may be appropriated in*  
2 *advance in appropriations Acts for such purposes.*

3 **SEC. 502. STRATEGIC PETROLEUM RESERVE SALE.**

4 *Section 161(e) of the Energy Policy and Conservation*  
5 *Act (42 U.S.C. 6241(e)) is amended by inserting after para-*  
6 *graph (2) a new paragraph as follows:*

7 *“(3) Any contract under which petroleum products are*  
8 *sold under this section shall include a requirement that the*  
9 *person or entity that acquires the petroleum products*  
10 *agrees—*

11 *“(A) not to resell the petroleum products before*  
12 *the products are refined; and*

13 *“(B) to refine the petroleum products primarily*  
14 *for consumption in the United States.”.*

15 **SEC. 503. NORTHEAST HOME HEATING OIL RESERVE CA-**  
16 **PACITY.**

17 *Section 181(a) of the Energy Policy and Conservation*  
18 *Act (42 U.S.C. 6250(a)) is amended by striking “2 million*  
19 *barrels” and inserting “5 million barrels”.*

1 **TITLE VI—COMMISSION FOR THE**  
2 **DEPLOYMENT OF THE HYDRO-**  
3 **GEN ECONOMY**

4 **SEC. 601. ESTABLISHMENT.**

5 *There is established a commission to be known as the*  
6 *“Commission for the Deployment of the Hydrogen Econ-*  
7 *omy” (in this title referred to as the “Commission”).*

8 **SEC. 602. DUTIES OF COMMISSION.**

9 *The Commission shall develop a strategic plan that*  
10 *identifies the best methods available to marshal the re-*  
11 *sources of the Federal Government, State governments, local*  
12 *governments, the private sector, and academia to achieve*  
13 *the mass commercialization of hydrogen as an energy source*  
14 *for stationary fuel cells and vehicle fuel cells at the soonest*  
15 *possible date. Such plan shall take into account actions pre-*  
16 *viously taken by the Federal Government, State govern-*  
17 *ments, local governments, the private sector, and academia.*  
18 *The Commission shall also examine ways to ensure that the*  
19 *United States can use all available feedstocks for hydrogen*  
20 *production, and shall make recommendations for an appro-*  
21 *priate entity to monitor ongoing progress in implementing*  
22 *the strategic plan.*

23 **SEC. 603. MEMBERSHIP.**

24 *(a) NUMBER AND APPOINTMENT.—The Commission*  
25 *shall be composed of 8 members appointed as follows:*

1           (1) 2 members appointed by the Speaker of the  
2       *House of Representatives.*

3           (2) 2 members appointed by the minority leader  
4       *of the House of Representatives.*

5           (3) 2 members appointed by the majority leader  
6       *of the Senate.*

7           (4) 2 members appointed by the minority leader  
8       *of the Senate.*

9       (b) *QUALIFICATIONS.*—Individuals appointed under  
10 subsection (a) shall have at least 5 years of professional-  
11 level experience in science, technology, engineering, or pub-  
12 lic policy. The appointing officials shall coordinate their  
13 appointments so as to ensure that the Commission has a  
14 diverse range of such experience.

15       (c) *APPOINTMENT DATE.*—Appointments under sub-  
16 section (a) shall be made not later than 2 months after the  
17 date of enactment of this Act.

18       (d) *VACANCIES.*—A vacancy in the Commission shall  
19 be filled in the manner in which the original appointment  
20 was made.

21       (e) *BASIC PAY.*—

22           (1) *RATES OF PAY.*—Members shall each be paid  
23 at a rate not to exceed the daily rate of basic pay for  
24 level V of the Executive Schedule for each day (includ-  
25 ing travel time) during which they are engaged in the

1       *actual performance of duties vested in the Commis-*  
2       *sion.*

3               (2) *PROHIBITION OF COMPENSATION OF FED-*  
4       *ERAL EMPLOYEES.—Members of the Commission who*  
5       *are full-time officers or employees of the United States*  
6       *may not receive additional pay, allowances, or bene-*  
7       *fits by reason of their service on the Commission.*

8               (f) *TRAVEL EXPENSES.—Each member shall receive*  
9       *travel expenses, including per diem in lieu of subsistence,*  
10       *in accordance with applicable provisions under subchapter*  
11       *I of chapter 57 of title 5, United States Code.*

12              (g) *QUORUM.—Five members of the Commission shall*  
13       *constitute a quorum but a lesser number may hold hearings.*

14              (h) *CHAIRPERSON; VICE CHAIRPERSON.—The Chair-*  
15       *person and Vice Chairperson of the Commission shall be*  
16       *elected by the members. The Vice Chairperson shall be a*  
17       *member of the Commission appointed by an appointing of-*  
18       *ficial of a different political party than the official who ap-*  
19       *pointed the Chairperson to the Commission.*

20       **SEC. 604. STAFF OF COMMISSION; EXPERTS AND CONSULT-**  
21               **ANTS.**

22              (a) *STAFF.—Subject to rules prescribed by the Com-*  
23       *mission, the Commission may appoint and fix the pay of*  
24       *personnel as it considers appropriate.*

1       (b) *APPLICABILITY OF CERTAIN CIVIL SERVICE*  
 2 *LAWS.*—*The staff of the Commission shall be appointed sub-*  
 3 *ject to the provisions of title 5, United States Code, gov-*  
 4 *erning appointments in the competitive service, and shall*  
 5 *be paid in accordance with the provisions of chapter 51 and*  
 6 *subchapter III of chapter 53 of that title relating to classi-*  
 7 *fication and General Schedule pay rates.*

8       (c) *EXPERTS AND CONSULTANTS.*—*The Commission*  
 9 *may procure temporary and intermittent services under*  
 10 *section 3109(b) of title 5, United States Code.*

11       (d) *STAFF OF FEDERAL AGENCIES.*—*Upon request of*  
 12 *the Commission, the head of any Federal department or*  
 13 *agency may detail, on a reimbursable basis, any of the per-*  
 14 *sonnel of that department or agency to the Commission to*  
 15 *assist it in carrying out its duties under this title.*

16 **SEC. 605. POWERS OF COMMISSION.**

17       (a) *HEARINGS AND SESSIONS.*—*The Commission may,*  
 18 *for the purpose of carrying out this title, hold hearings, sit*  
 19 *and act at times and places, take testimony, and receive*  
 20 *evidence as the Commission considers appropriate. The*  
 21 *Commission may administer oaths or affirmations to wit-*  
 22 *nesses appearing before it.*

23       (b) *POWERS OF MEMBERS AND AGENTS.*—*Any mem-*  
 24 *ber or agent of the Commission may, if authorized by the*

1 *Commission, take any action which the Commission is au-*  
2 *thorized to take by this section.*

3       (c) *OBTAINING OFFICIAL DATA.*—*The Commission*  
4 *may secure directly from any department or agency of the*  
5 *United States information necessary to enable it to carry*  
6 *out this title. Upon request of the Chairperson or Vice*  
7 *Chairperson of the Commission, the head of that department*  
8 *or agency shall furnish that information to the Commission.*

9       (d) *MAILS.*—*The Commission may use the United*  
10 *States mails in the same manner and under the same condi-*  
11 *tions as other departments and agencies of the United*  
12 *States.*

13       (e) *ADMINISTRATIVE SUPPORT SERVICES.*—*Upon the*  
14 *request of the Commission, the Administrator of General*  
15 *Services shall provide to the Commission, on a reimbursable*  
16 *basis, the administrative support services necessary for the*  
17 *Commission to carry out its responsibilities under this title.*

18       (f) *SUBPOENA POWER.*—

19           (1) *IN GENERAL.*—*The Commission may issue*  
20 *subpoenas requiring the attendance and testimony of*  
21 *witnesses and the production of any evidence relating*  
22 *to any matter under investigation by the Commis-*  
23 *sion. The attendance of witnesses and the production*  
24 *of evidence may be required from any place within*



1       *the United States at any designated place of hearing*  
2       *within the United States.*

3               (2) *FAILURE TO OBEY A SUBPOENA.*—*If a person*  
4       *refuses to obey a subpoena issued under paragraph*  
5       *(1), the Commission may apply to a United States*  
6       *district court for an order requiring that person to*  
7       *appear before the Commission to give testimony,*  
8       *produce evidence, or both, relating to the matter*  
9       *under investigation. The application may be made*  
10       *within the judicial district where the hearing is con-*  
11       *ducted or where that person is found, resides, or*  
12       *transacts business. Any failure to obey the order of*  
13       *the court may be punished by the court as civil con-*  
14       *tempt.*

15              (3) *SERVICE OF SUBPOENAS.*—*The subpoenas of*  
16       *the Commission shall be served in the manner pro-*  
17       *vided for subpoenas issued by a United States district*  
18       *court under the Federal Rules of Civil Procedure for*  
19       *the United States district courts.*

20              (4) *SERVICE OF PROCESS.*—*All process of any*  
21       *court to which application is made under paragraph*  
22       *(2) may be served in the judicial district in which the*  
23       *person required to be served resides or may be found.*

1 **SEC. 606. REPORT.**

2       *The Commission shall transmit a report to the Con-*  
 3 *gress not later than 8 months after the date of enactment*  
 4 *of this Act. The report shall contain a detailed statement*  
 5 *of the findings and conclusions of the Commission, together*  
 6 *with its recommendations for legislation, administrative ac-*  
 7 *tions, and such other actions as the Commission considers*  
 8 *appropriate.*

9       **TITLE VII—CRITICAL ENERGY**  
 10               **ASSURANCE**

11 **SEC. 701. EVACUATION PLAN REVIEW.**

12       *Not later than 6 months after the date of enactment*  
 13 *of this Act, the Secretary shall transmit to the Congress a*  
 14 *report of the Secretary's review of the fuel supply plan com-*  
 15 *ponents of State evacuation plans and the National Capitol*  
 16 *region. Such report shall determine the sufficiency of such*  
 17 *plans, and shall include recommendations for improve-*  
 18 *ments thereto. Annually after the transmittal of a report*  
 19 *under the preceding sentence, the Secretary shall transmit*  
 20 *a report to the Congress assessing plans found insufficient*  
 21 *under previous reports.*

22 **SEC. 702. DISASTER ASSISTANCE.**

23       *(a) AUTHORITY.—During any federally declared emer-*  
 24 *gency or disaster, the Secretary may provide direct assist-*  
 25 *ance to private sector entities that operate critical energy*  
 26 *infrastructure, including refineries.*

1       (b) *ASSISTANCE.*—Assistance under this section may  
2   include emergency preparation and recovery assistance, in-  
3   cluding power generation equipment, other protective or  
4   emergency recovery equipment, assistance to restore access  
5   to water, power, or other raw materials, and transportation  
6   and housing for critical employees. The Secretary may re-  
7   quest assistance from other Federal agencies in carrying out  
8   this section.

9   **SEC. 703. CRITICAL ENERGY ASSURANCE ACCOUNT.**

10       There is established in the Treasury an account known  
11   as the Critical Energy Assurance Account. The Secretary  
12   shall deposit into this account amounts appropriated to the  
13   Secretary for the purpose of carrying out this title and pay-  
14   ments paid to the Secretary by any non-Federal source for  
15   the purpose of carrying out this title. The Secretary may  
16   receive and accept payments from any non-Federal source,  
17   which shall be available to the Secretary, without further  
18   appropriation, for carrying out this title.

19   **SEC. 704. REGULATIONS.**

20       The Secretary may issue regulations necessary or ap-  
21   propriate to carry out this title.

Union Calendar No. 135

109TH CONGRESS  
1ST Session

**H. R. 3893**

[Report No. 109-244, Part I]

**A BILL**

To expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes.

OCTOBER 6, 2005

Reported from the Committee on Energy and Commerce  
with an amendment

OCTOBER 6, 2005

Committees on Transportation and Infrastructure,  
Armed Services, and Resources discharged; committed  
to the Committee of the Whole House on the State of  
the Union and ordered to be printed