

109TH CONGRESS  
1ST SESSION

# S. 726

To promote the conservation and production of natural gas.

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IN THE SENATE OF THE UNITED STATES

APRIL 6, 2005

Mr. ALEXANDER (for himself and Mr. JOHNSON) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Nat-  
ural Resources

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## A BILL

To promote the conservation and production of natural gas.

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 “Natural Gas Price Reduction Act of 2005”.

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

Sec. 1. Short title; table of contents.

### TITLE I—ENERGY CONSERVATION AND ENERGY EFFICIENCY

Sec. 101. Public education and conservation initiative.

Sec. 102. Reducing residential demand; appliance and equipment efficiency standards.

Sec. 103. Deployment for distributed generation, solar energy technologies, and biomass.

- Sec. 104. Hydrogen and fuel cell initiative.
- Sec. 105. Clarification of cogeneration contracts.
- Sec. 106. Cogeneration development.
- Sec. 107. Efficient dispatch of natural gas power plants.
- Sec. 108. Demand side management for industrials and utilities: net metering and other standards.
- Sec. 109. Demand side management for residential customers: smart metering.
- Sec. 110. Protecting industrial cogenerators.
- Sec. 111. Reduction of dependence on imported petroleum.
- Sec. 112. National gasification strategy for power sector.
- Sec. 113. Industrial gasification demonstration and deployment program.
- Sec. 114. Carbon capture and sequestration energy efficiency research and development.

#### TITLE II—PRODUCTION

- Sec. 201. Gas only leases.
- Sec. 202. Eastern Gulf of Mexico.
- Sec. 203. Review of State requests to examine OCS energy areas.
- Sec. 204. Royalty relief for deep water production.
- Sec. 205. Coastal impact assistance program.
- Sec. 206. Rocky Mountain gas production.
- Sec. 207. Gas methane research.
- Sec. 208. Alaska Natural Gas Pipeline Act.
- Sec. 209. Gas hydrate production incentives.
- Sec. 210. Oil and gas exploration and production defined.
- Sec. 211. Marginal property production incentives.
- Sec. 212. Efficient government processing of permit applications.
- Sec. 213. Deadline for decision on appeals of consistency determination.
- Sec. 214. Outer Continental Shelf provisions.
- Sec. 215. Office of Federal Energy Project Coordination.
- Sec. 216. Federal onshore oil and gas leasing and permitting practices.
- Sec. 217. Management of Federal oil and gas leasing programs.
- Sec. 218. Consultation regarding oil and gas leasing on public land.
- Sec. 219. Pilot project to improve Federal permit coordination.
- Sec. 220. Deadline for consideration of applications for permits.

#### TITLE III—ENERGY INFRASTRUCTURE

- Sec. 301. Exportation and importation of natural gas.
- Sec. 302. Exportation and importation of natural gas for offshore facilities.
- Sec. 303. Natural gas pipeline infrastructure.
- Sec. 304. Natural gas storage facilities.
- Sec. 305. Backup fuel capability study.

1 **TITLE I—ENERGY CONSERVA-**  
2 **TION AND ENERGY EFFI-**  
3 **CIENCY**

4 **SEC. 101. PUBLIC EDUCATION AND CONSERVATION INITIA-**  
5 **TIVE.**

6 (a) IN GENERAL.—The Secretary of Energy shall  
7 carry out a comprehensive national program, including ad-  
8 vertising and media awareness, to educate consumers and  
9 other persons with respect to—

10 (1) the need to reduce consumption of elec-  
11 tricity and natural gas during the 4-year period be-  
12 ginning on the date of enactment of this Act;

13 (2) the costs and benefits of reducing consump-  
14 tion of electricity and natural gas;

15 (3) methods for reducing consumption of elec-  
16 tricity and natural gas, including the significant ben-  
17 efits of maintaining and repairing heating and cool-  
18 ing ducts and equipment, weatherization tech-  
19 nologies, and energy smart purchases;

20 (4) the importance of tire maintenance to con-  
21 serving gasoline;

22 (5) the relationship between gasoline prices and  
23 natural gas prices; and

1           (6) the importance of low energy costs to pre-  
2       serving and keeping manufacturing jobs in the  
3       United States and maintaining economic growth.

4       (b) INCLUSION.—The program described in sub-  
5       section (a) shall include—

6           (1) information regarding the need to reduce  
7       consumption of electricity and natural gas during  
8       peak use periods;

9           (2) information regarding practicable, action-  
10      able measures consumers can carry out to reduce the  
11      demand for natural gas, oil, and electricity.

12          (3) if practicable, 1 or more examples of public  
13      education described in the State of California Execu-  
14      tive Order D–18–01; and

15          (4) if practicable, collaboration between Fed-  
16      eral, State, and local government officials and local  
17      utilities.

18      (c) REPORT.—Not later than July 1, 2009, the Sec-  
19      retary of Energy shall submit to Congress a report de-  
20      scribing the effectiveness of the program under this sec-  
21      tion.

22      (d) TERMINATION OF AUTHORITY.—The program  
23      carried out under this section shall terminate on December  
24      31, 2010.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 \$90,000,000 for each of fiscal years 2007 through 2010.

4 **SEC. 102. REDUCING RESIDENTIAL DEMAND; APPLIANCE**  
5 **AND EQUIPMENT EFFICIENCY STANDARDS.**

6 (a) ENERGY CONSERVATION STANDARDS FOR ADDI-  
7 TIONAL PRODUCTS.—

8 (1) DEFINITIONS.—Section 321 of the Energy  
9 Policy and Conservation Act (42 U.S.C. 6291) is  
10 amended—

11 (A) in paragraph (30)(S)—

12 (i) by inserting “(i)” after “(S)”; and

13 (ii) by adding at the end the fol-  
14 lowing:

15 “(ii) The term ‘medium base fluorescent  
16 lamp’ does not include—

17 “(I) any lamp specifically designed to  
18 be used for special purpose applications  
19 and that is unlikely to be used in general  
20 purpose applications such as those de-  
21 scribed in subparagraph (D); or

22 “(II) any lamp not described in sub-  
23 paragraph (D) that is excluded by the Sec-  
24 retary, by rule, because the lamp is de-  
25 signed for special applications and is un-

1                   likely to be used in general purpose appli-  
2                   cations.”; and

3                   (B) by adding at the end the following:

4           “(32) The term ‘battery charger’ means a device that  
5 charges batteries for consumer products, including a bat-  
6 tery charger embedded in another consumer product.

7           “(33) The term ‘external power supply’ means an ex-  
8 ternal power supply circuit that is used to convert house-  
9 hold electric current into either DC current or lower-volt-  
10 age alternating current to operate a consumer product.

11          “(34) The term ‘illuminated exit sign’ means a sign  
12 that—

13               “(A) is designed to be permanently fixed in  
14 place to identify an exit; and

15               “(B) consists of an electrically powered integral  
16 light source that—

17                       “(i) illuminates the legend ‘EXIT’ and any  
18 directional indicators; and

19                       “(ii) provides contrast between the legend,  
20 any directional indicators, and the background.

21          “(35)(A) The term ‘distribution transformer’ means  
22 a transformer that—

23               “(i) has an input voltage of 34.5 kilovolts or  
24 less;

1           “(ii) has an output voltage of 600 volts or less;

2           and

3           “(iii) is rated for operation at a frequency of 60

4           Hertz.

5           “(B) The term ‘distribution transformer’ does not in-

6           clude—

7           “(i) a transformer with multiple voltage taps,

8           with the highest voltage tap equaling at least 20 per-

9           cent more than the lowest voltage tap;

10          “(ii) a transformer (such as those commonly

11          known as a drive transformer, rectifier transformer,

12          auto-transformer, uninterruptible power system

13          transformer, impedance transformer, regulating

14          transformer, sealed or nonventilating transformer,

15          machine tool transformer, welding transformer,

16          grounding transformer, or testing transformer) that

17          is designed to be used in a special purpose applica-

18          tion and is unlikely to be used in a general purpose

19          application; or

20          “(iii) any transformer not listed in clause (ii)

21          that is excluded by the Secretary by rule because—

22                  “(I) the transformer is designed for a spe-

23                  cial application;

24                  “(II) the transformer is unlikely to be used

25                  in a general purpose application; and

1           “(III) the application of standards to the  
2           transformer would not result in significant en-  
3           ergy savings.

4           “(36) The term ‘low-voltage dry-type distribution  
5 transformer’ means a distribution transformer that—

6           “(A) has an input voltage of 600 volts or less;

7           “(B) is air-cooled; and

8           “(C) does not use oil as a coolant.

9           “(37) The term ‘standby mode’ means the lowest  
10 power consumption mode that—

11           “(A) cannot be switched off or influenced by  
12 the user; and

13           “(B) may persist for an indefinite time when an  
14 appliance is connected to the main electricity supply  
15 and used in accordance with the instructions of the  
16 manufacturer, as defined on an individual product  
17 basis by the Secretary.

18           “(38) The term ‘torchiere’ means a portable electric  
19 lamp with a reflector bowl that directs light upward so  
20 as to give indirect illumination.

21           “(39) The term ‘traffic signal module’ means a  
22 standard 8-inch (200mm) or 12-inch (300mm) traffic sig-  
23 nal indication, consisting of a light source, a lens, and all  
24 other parts necessary for operation, that communicates

1 movement messages to drivers through red, amber, and  
2 green colors.

3 “(40) The term ‘pedestrian module’ means a light  
4 signal used to convey movement information to pedes-  
5 trians.

6 “(41) The term ‘transformer’ means a device con-  
7 sisting of 2 or more coils of insulated wire that transfers  
8 alternating current by electromagnetic induction from 1  
9 coil to another to change the original voltage or current  
10 value.

11 “(42) The term ‘unit heater’ means a self-contained  
12 fan-type heater designed to be installed within the heated  
13 space, except that the term does not include a warm-air  
14 furnace.

15 “(43) The term ‘ceiling fan’ means a nonportable de-  
16 vice that is suspended from a ceiling for circulating air  
17 via the rotation of fan blades.

18 “(44) The term ‘ceiling fan light kit’ means equip-  
19 ment designed to provide light from a ceiling fan that can  
20 be—

21 “(A) integral, such that the equipment is at-  
22 tached to the ceiling fan prior to the time of retail  
23 sale; or

24 “(B) attachable, such that at the time of retail  
25 sale the equipment is not physically attached to the

1 ceiling fan, but may be included inside the ceiling  
2 fan package at the time of sale or sold separately for  
3 subsequent attachment to the fan.

4 “(45) The term ‘dehumidifier’ means a self-con-  
5 tained, electrically operated, and mechanically encased as-  
6 sembly consisting of—

7 “(A) a refrigerated surface (evaporator) that  
8 condenses moisture from the atmosphere;

9 “(B) a refrigerating system, including an elec-  
10 tric motor;

11 “(C) an air-circulating fan; and

12 “(D) means for collecting or disposing of the  
13 condensate.

14 “(46)(A) The term ‘commercial prerinse spray valve’  
15 means a handheld device designed and marketed for use  
16 with commercial dishwashing and ware washing equip-  
17 ment that sprays water on dishes, flatware, and other food  
18 service items for the purpose of removing food residue be-  
19 fore cleaning the items.

20 “(B) The Secretary may modify the definition of  
21 ‘commercial prerinse spray valve’ by rule—

22 “(i) to include products—

23 “(I) that are extensively used in conjunc-  
24 tion with commercial dishwashing and ware  
25 washing equipment;

1           “(II) the application of standards to which  
2 would result in significant energy savings; and

3           “(III) the application of standards to  
4 which would meet the criteria specified in sub-  
5 section (o)(4); and

6           “(ii) to exclude products—

7           “(I) that are used for special food service  
8 applications;

9           “(II) that are unlikely to be widely used in  
10 conjunction with commercial dishwashing and  
11 ware washing equipment; and

12           “(III) the application of standards to  
13 which would not result in significant energy  
14 savings.

15       “(47) The term ‘digital television adapter’ means a  
16 commercially-available electronic product the sole purpose  
17 of which is to convert digital video broadcast signals to  
18 analog National Television Standards Committee video  
19 signals for use by a television or video cassette recorder.

20       “(48)(A) The term ‘high intensity discharge lamp’  
21 means an electric-discharge lamp in which—

22           “(i) the light-producing arc is stabilized by bulb  
23 wall temperature; and

24           “(ii) the arc tube has a bulb wall loading in ex-  
25 cess of 3 watts per square centimeter.

1       “(B) The term ‘high intensity discharge lamp’ in-  
2 cludes mercury vapor, metal halide, and high-pressure so-  
3 dium lamps.

4       “(49)(A) The term ‘mercury vapor lamp’ means a  
5 high-intensity discharge lamp in which the major portion  
6 of the light is produced by radiation from mercury oper-  
7 ating at a partial pressure in excess of 100,000 Pascals  
8 (approximately 1 asynchronous transfer mode).

9       “(B) The term ‘mercury vapor lamp’ includes clear,  
10 phosphor-coated, and self-ballasted lamps.

11       “(50) The term ‘cold climate State’ means a State  
12 that experiences not less than 5,000 long-term population-  
13 weighted average heating degree days, as determined by  
14 the National Oceanic and Atmospheric Administration.”.

15               (2) TEST PROCEDURES.—Section 323 of the  
16 Energy Policy and Conservation Act (42 U.S.C.  
17 6293) is amended—

18                       (A) in subsection (b), by adding at the end  
19               the following:

20       “(9) Test procedures for illuminated exit signs shall  
21 be based on the test method used under Version 2.0 of  
22 the Energy Star program of the Environmental Protection  
23 Agency for illuminated exit signs.

24       “(10)(A) Test procedures for distribution trans-  
25 formers and low voltage dry-type distribution transformers

1 shall be based on the ‘Standard Test Method for Meas-  
2 uring the Energy Consumption of Distribution Trans-  
3 formers’ prescribed by the National Electrical Manufac-  
4 turers Association (NEMA TP 2–1998).

5       “(B) The Secretary may review and revise those test  
6 procedures.

7       “(C) For purposes of section 346(a), those test proce-  
8 dures shall be considered to be testing requirements pre-  
9 scribed by the Secretary under section 346(a)(1) for dis-  
10 tribution transformers for which the Secretary makes a  
11 determination that energy conservation standards would  
12 be technologically feasible and economically justified, and  
13 would result in significant energy savings.

14       “(11) Test procedures for traffic signal modules and  
15 pedestrian modules shall be based on the test method used  
16 under the Energy Star program of the Environmental  
17 Protection Agency for traffic signal modules, as in effect  
18 on the date of enactment of this paragraph.

19       “(12)(A) Test procedures for medium base compact  
20 fluorescent lamps shall be based on the test methods used  
21 under the August 9, 2001, version of the Energy Star pro-  
22 gram of the Environmental Protection Agency and De-  
23 partment of Energy for compact fluorescent lamps.

1       “(B)(i) Except as provided in clause (ii), covered  
2 products shall meet all test requirements for regulated pa-  
3 rameters established under section 325(bb).

4       “(ii) Covered products may be marketed prior to com-  
5 pletion of lamp life and lumen maintenance at 40 percent  
6 of rated life testing provided manufacturers document en-  
7 gineering predictions and analysis that support expected  
8 attainment of lumen maintenance at 40 percent rated life  
9 and lamp life time.

10       “(13) Air movement test procedures for ceiling fans  
11 shall be based on the test procedure contained in the En-  
12 ergy Star Program Requirements for Residential Ceiling  
13 Fans, version 2.0, developed by the Environmental Protec-  
14 tion Agency, unless, pursuant to this section, the Sec-  
15 retary promulgates an alternative test procedure.

16       “(14) Test procedures for dehumidifiers shall be  
17 based on the test criteria used under the Energy Star Pro-  
18 gram Requirements for Dehumidifiers developed by the  
19 Environmental Protection Agency, as in effect on the date  
20 of enactment of this paragraph unless revised by the Sec-  
21 retary pursuant to this section.

22       “(15) The test procedure for measuring flow rate for  
23 commercial prerinse spray valves shall be based on Amer-  
24 ican Society for Testing and Materials Standard F2324,

1 entitled ‘Standard Test Method for Prerinse Spray  
2 Valves.’

3 “(16) The test procedure for digital television adapt-  
4 ers shall be based on the International Electrotechnical  
5 Commissions Standard 62087:2002(E), entitled ‘Methods  
6 of Measurement for the Power Consumption of Audio,  
7 Video, and Related Equipment’.

8 “(17) The test procedure for refrigerated bottled or  
9 canned beverage vending machines shall be based on  
10 American Society of Heating, Refrigerating and Air-Con-  
11 ditioning Engineers Standard 32.1–2004, entitled ‘Meth-  
12 ods of Testing for Rating Vending Machines for Bottled,  
13 Canned or Other Sealed Beverages’.”; and

14 (B) by adding at the end the following:

15 “(f)(1) ADDITIONAL TESTING REQUIREMENTS.—Not  
16 later than 2 years after the date of enactment of this sub-  
17 section, the Secretary shall prescribe testing requirements  
18 for any product for which—

19 “(A) a standard is provided under the Natural  
20 Gas Price Reduction Act of 2005; and

21 “(B) there was no testing requirement before  
22 the date of enactment of that Act.

23 “(2) The testing requirements under paragraph (1)  
24 shall be based on test procedures used in industry to the  
25 maximum extent practicable and reasonable.”.

1           (3) NEW LABELING.—Section 324(a)(2) of the  
2           Energy Policy Act and Conservation Act (42 U.S.C.  
3           6294(a)(2)) is amended by adding at the end the  
4           following:

5           “(F)(i) Not later than 90 days after the date of en-  
6           actment of this subparagraph, the Commission shall ini-  
7           tiate a rulemaking to consider—

8                   “(I) the effectiveness of the consumer products  
9           labeling program in existence on the date of enact-  
10          ment of this subparagraph in assisting consumers in  
11          making purchasing decisions and improving energy  
12          efficiency; and

13                   “(II) changes to the labeling rules that would  
14          improve the effectiveness of consumer product labels.

15          “(ii) The rulemaking shall be completed not later  
16          than 2 years after the date of enactment of this subpara-  
17          graph.”.

18           (4) NEW STANDARDS.—Section 325 of the En-  
19           ergy Policy and Conservation Act (42 U.S.C. 6295)  
20           is amended—

21                   (A) in subsection (o), by adding at the end  
22           the following:

23           “(5)(A) Notwithstanding any other provision in this  
24           section, the Secretary may set 2 standards for space heat-  
25           ing and air conditioning equipment by dividing the United

1 States into 2 climate zones to achieve the maximum level  
 2 of energy savings that are technically feasible and eco-  
 3 nomically justified.

4 “(B) The climate zone boundaries described in sub-  
 5 paragraph (A)—

6 “(i) shall follow State borders; and

7 “(ii) shall include only contiguous States.

8 “(C) In determining whether to set 2 standards as  
 9 described in subparagraph (A), the Secretary shall con-  
 10 sider all factors described in paragraphs (1) through (4).

11 “(D) If the Secretary sets 2 standards as described  
 12 in subparagraph (A), it shall be illegal to transport non-  
 13 complying products into a State for retail sale or installa-  
 14 tion in that State.

15 “(6) The Secretary may set more than 1 efficiency  
 16 standard for products that serve more than 1 major func-  
 17 tion by setting 1 standard for each major function.”; and

18 (B) by adding at the end the following:

19 “(u) BATTERY CHARGER AND EXTERNAL POWER  
 20 SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A)(i)  
 21 Not later than 18 months after the date of enactment of  
 22 this subsection, the Secretary shall prescribe by notice and  
 23 comment, definitions and test procedures for the power  
 24 use of battery chargers and external power supplies.

1       “(ii) In establishing the test procedures, the Sec-  
2 retary shall consider, among other factors, definitions and  
3 test procedures used for measuring energy consumption  
4 in standby mode and other modes and assess the current  
5 and projected future market for battery chargers and ex-  
6 ternal power supplies.

7       “(iii) The assessment shall include estimates of the  
8 significance of potential energy savings from technical im-  
9 provements to the products and suggested product classes  
10 for standards.

11       “(iv) Not later than the end of the time period re-  
12 ferred to in clause (i), the Secretary shall hold a scoping  
13 workshop to discuss and receive comments on plans for  
14 developing energy conservation standards for energy use  
15 for these products.

16       “(B)(i) Not later than 3 years after the date of enact-  
17 ment of this subsection, the Secretary shall promulgate  
18 a final rule that determines whether energy conservation  
19 standards shall be issued for battery chargers and external  
20 power supplies or classes thereof.

21       “(ii) For each product class, any such standards shall  
22 be set at the lowest level of energy use that—

23               “(I) meets the criteria and procedures of sub-  
24 sections (o), (p), (q), (r), (s), and (t); and

1           “(II) will result in significant overall annual en-  
2           ergy savings, considering both standby mode and  
3           other operating modes.

4           “(2) In determining pursuant to section 323 whether  
5           test procedures and energy conservation standards pursu-  
6           ant to this section should be revised, the Secretary shall  
7           consider, for covered products that are major sources of  
8           standby mode energy consumption, whether to incorporate  
9           standby mode into such test procedures and energy con-  
10          servation standards, taking into account, among other rel-  
11          evant factors, standby mode power consumption compared  
12          to overall product energy consumption.

13          “(3) The Secretary shall not propose a standard  
14          under this section unless the Secretary has issued applica-  
15          ble test procedures for each product pursuant to section  
16          323.

17          “(4) Any standard issued under this subsection shall  
18          be applicable to products manufactured or imported on or  
19          after the date that is 3 years after the date of issuance.

20          “(5) The Secretary and the Administrator shall col-  
21          laborate and develop programs, including Energy Star  
22          Programs and other voluntary industry agreements or  
23          codes of conduct, that are designed to reduce standby  
24          mode energy use.

1       “(v) VENDING MACHINES.—(1) Not later than 36  
2 months after the date of enactment of this subsection, the  
3 Secretary shall prescribe, by rule, energy conservation  
4 standards for refrigerated bottled or canned beverage  
5 vending machines.

6       “(2) In establishing standards under this subsection,  
7 the Secretary shall use the criteria and procedures de-  
8 scribed in subsections (o) and (p).

9       “(3) Any standard prescribed under this subsection  
10 shall apply to products manufactured on or after the date  
11 that is 3 years after the date of publication of a final rule  
12 establishing the standard.

13       “(w) ILLUMINATED EXIT SIGNS.—Illuminated exit  
14 signs manufactured on or after January 1, 2006, shall  
15 meet the Version 2.0 Energy Star Program performance  
16 requirements for illuminated exit signs prescribed by the  
17 Environmental Protection Agency.

18       “(x) TORCHIERES.—Torchieres manufactured on or  
19 after January 1, 2006—

20               “(1) shall consume not more than 190 watts of  
21 power; and

22               “(2) shall not be capable of operating with  
23 lamps that total more than 190 watts.

24       “(y) LOW VOLTAGE DRY-TYPE DISTRIBUTION  
25 TRANSFORMERS.—The efficiency of low voltage dry-type

1 distribution transformers manufactured on or after Janu-  
2 ary 1, 2006, shall be the Class I Efficiency Levels for dis-  
3 tribution transformers specified in Table 4–2 of the ‘Guide  
4 for Determining Energy Efficiency for Distribution Trans-  
5 formers’ published by the National Electrical Manufactur-  
6 ers Association (NEMA TP–1–2002).

7 “(z) TRAFFIC SIGNAL MODULES.—(1) Traffic signal  
8 modules manufactured on or after January 1, 2006,  
9 shall—

10 “(A) meet the performance requirements used  
11 under the Energy Star program of the Environ-  
12 mental Protection Agency for traffic signals, as in  
13 effect on the date of enactment of this subsection;  
14 and

15 “(B) be installed with compatible, electrically  
16 connected signal control interface devices and con-  
17 flict monitoring systems.

18 “(2) Pedestrian modules manufactured on or after  
19 January 1, 2006, shall meet the performance require-  
20 ments adopted by the California Energy Commission on  
21 December 15, 2004.

22 “(aa) UNIT HEATERS.—Unit heaters manufactured  
23 on or after the date that is 3 years after the date of enact-  
24 ment of this subsection shall be equipped with an intermit-

1 tent ignition device and shall have either power venting  
2 or an automatic flue damper.

3 “(bb) MEDIUM BASE COMPACT FLUORESCENT  
4 LAMPS.—(1) Bare lamp and covered lamp (no reflector)  
5 medium base compact fluorescent lamps manufactured on  
6 or after January 1, 2006, shall meet the following require-  
7 ments prescribed by the August 9, 2001, version of the  
8 Energy Star Program Requirements for Compact Fluores-  
9 cent Lamps, Energy Star Eligibility Criteria, Energy-Effi-  
10 ciency Specification issued by the Environmental Protec-  
11 tion Agency and Department of Energy:

12 “(A) Minimum initial efficacy.

13 “(B) Lumen maintenance at 1000 hours.

14 “(C) Lumen maintenance at 40 percent of  
15 rated life.

16 “(D) Rapid cycle stress test.

17 “(E) Lamp life.

18 “(2) The Secretary may, by rule, establish require-  
19 ments for—

20 “(A) color quality (CRI);

21 “(B) power factor;

22 “(C) operating frequency; and

23 “(D) maximum allowable start time based on  
24 the requirements prescribed by the August 9, 2001,

1 version of the Energy Star Program Requirements  
2 for Compact Fluorescent Lamps.

3 “(3) The Secretary may, by rule, revise the require-  
4 ments of this subsection or establish other requirements  
5 considering energy savings, cost effectiveness, and con-  
6 sumer satisfaction.

7 “(cc) CEILING FANS AND CEILING FAN LIGHT  
8 KITS.—(1)(A) All ceiling fans manufactured on or after  
9 January 1, 2007, shall have the following features:

10 “(i) Lighting controls separate from fan speed  
11 controls.

12 “(ii) Adjustable speed controls (either more  
13 than 1 speed or variable speed).

14 “(iii) The capability of reversible fan action, ex-  
15 cept for fans sold for industrial applications, outdoor  
16 applications, and where safety standards would be  
17 violated by the use of the reversible mode.

18 “(B) The Secretary may promulgate regulations to  
19 define in greater detail the exceptions provided under sub-  
20 paragraph (A)(iii) but may not substantively expand the  
21 exceptions.

22 “(2) Ceiling fan light kits manufactured on or after  
23 January 1, 2007, shall—

24 “(A) meet the Energy Star Program Require-  
25 ments for Residential Light Fixtures, version 3.1,

1 issued by the Environmental Protection Agency, and  
2 be packaged with lamps to fill all sockets;

3 “(B) be packaged with screw-based compact  
4 fluorescent lamps to fill all sockets and meet the En-  
5 ergy Star Program Requirements for Compact Fluo-  
6 rescent Lamps, version 3.0, issued by the Depart-  
7 ment of Energy; or

8 “(C) use and be packaged with light sources  
9 other than compact fluorescent lamps that meet the  
10 minimum efficacy requirements, as measured in  
11 lumens per watt, of the Energy Star Program Re-  
12 quirements for Compact Fluorescent Lamps, version  
13 3.0, issued by the Department of Energy.

14 “(3)(A) Notwithstanding any provision of this Act,  
15 if the requirements of subsections (o) and (p) are met,  
16 the Secretary may consider and prescribe energy efficiency  
17 or energy use standards for electricity used by ceiling fans  
18 to circulate air in a room.

19 “(B) If the Secretary sets the standards, the Sec-  
20 retary shall consider—

21 “(i) exempting or setting different standards  
22 for certain product classes for which the primary  
23 standards are not technically feasible or economically  
24 justified; and

1           “(ii) establishing separate exempted product  
 2           classes for highly decorative fans for which air move-  
 3           ment performance is a secondary design feature.

4           “(C) Any air movement standard prescribed under  
 5 this subsection shall apply to products manufactured on  
 6 or after the date that is 3 years after the date of publica-  
 7 tion of a final rule establishing the standard.

8           “(dd) DEHUMIDIFIERS.—(1) Dehumidifiers manu-  
 9 factured on or after October 1, 2007, shall have an Energy  
 10 Factor that meets or exceeds the following values:

<b>“Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh)</b>
≤ 25 .....	1.00
> 25 – ≥35 .....	1.20
> 35 – ≥54 .....	1.30
> 54 – < 75 .....	1.50
≤ 75 .....	2.25.

11           “(2)(A) Not later than October 1, 2009, the Sec-  
 12 retary shall publish a final rule in accordance with sub-  
 13 sections (o) and (p), to determine whether the standards  
 14 established under paragraph (1) should be amended.

15           “(B) The final rule shall contain any amendment by  
 16 the Secretary and shall provide that the amendment shall  
 17 apply to products manufactured on or after October 1,  
 18 2012.

19           “(C) If the Secretary does not publish an amendment  
 20 that takes effect by October 1, **[2012]**, dehumidifiers  
 21 manufactured on or after October 1, **[2012]**, shall have

1 an Energy Factor that meets or exceeds the following val-  
 2 ues:

<b>“Product Capacity (pints/day):</b>	<b>Minimum Energy Factor (Liters/kWh)</b>
≤ 25 .....	1.20
> 25 – ≥35 .....	1.30
> 35 – ≥45 .....	1.40
> 45 – ≥54 .....	1.50
> 54 – < 75 .....	1.60
≤ 75 .....	2.5.

3 “(ee) COMMERCIAL PRERINSE SPRAY VALVES.—  
 4 Commercial prerinse spray valves manufactured on or  
 5 after January 1, 2006, shall have a flow rate less than  
 6 or equal to 1.6 gallons per minute.

7 “(ff) DIGITAL TELEVISION ADAPTERS.—Digital tele-  
 8 vision adapters manufactured on or after January 1,  
 9 2007, shall use—

10 “(A) not more than 1 watt while in scan true  
 11 bearing standby-passive mode; and

12 “(B) not more than 8 watts while in scan true  
 13 bearing on-mode.

14 “(gg) HIGH-INTENSITY DISCHARGE LAMPS.—High-  
 15 intensity discharge lamp ballasts shall not be designed or  
 16 marketed for operating a mercury vapor lamp.

17 “(hh) STANDARDS FOR CERTAIN FURNACES.—(1)  
 18 Notwithstanding subsection (f) and except as provided in  
 19 paragraphs (2) and (3), a furnace (including a furnace  
 20 designed solely for installation in a mobile home) manufac-  
 21 tured 3 or more years after the date of enactment of this

1 subsection shall have an annual fuel utilization efficiency  
2 of—

3 “(A) for natural gas- and propane-fired equip-  
4 ment, not less than 80 percent; and

5 “(B) for oil-fired equipment not less than 83  
6 percent.

7 “(2)(A) Notwithstanding subsection (f) and except as  
8 provided in paragraph (3)—

9 “(i) a boiler (other than a gas steam boiler)  
10 manufactured 3 or more years after the date of en-  
11 actment of this subsection shall have an annual fuel  
12 utilization efficiency of not less than 84 percent; and

13 “(ii) a gas steam boiler manufactured 3 or  
14 more years after the date of enactment of this sub-  
15 section shall have an annual fuel utilization effi-  
16 ciency of not less than 82 percent.

17 “(B)(i) Notwithstanding subsection (f), if, after the  
18 date of enactment of this subsection, the Governor of a  
19 cold climate State files with the Secretary a notice that  
20 the State has implemented a requirement for an annual  
21 fuel utilization efficiency of not less than 90 percent for  
22 furnaces (other than boilers and furnaces designed solely  
23 for installation in a mobile home or boiler), the annual  
24 fuel utilization efficiency of a furnace sold in that State  
25 shall be not less than 90 percent.

1       “(ii) If a State described in clause (i) fails to imple-  
2 ment or reasonably enforce (as determined by the Sec-  
3 retary) annual fuel utilization efficiency in accordance  
4 with that clause, the annual fuel use efficiency for fur-  
5 naces (other than boilers and furnaces designed solely for  
6 installation in a mobile home or boiler) in that State shall  
7 be the fuel utilization efficiency established under para-  
8 graph (1).

9       “(3)(i) Not later than 5 years after the date on which  
10 a standard for a product under this subsection takes ef-  
11 fect, the Secretary shall promulgate a final rule to deter-  
12 mine whether that standard should be amended.

13       “(ii) If the Secretary determines that a standard  
14 under clause (i) should be amended—

15               “(I) the final rule promulgated pursuant to  
16 clause (i) shall contain the new standard; and

17               “(II) the new standard shall apply to any prod-  
18 uct manufactured after the date that is 5 years after  
19 the date on which the final rule is promulgated.”.

20       “(ii) APPLICATION DATE.—Section 327 applies—

21               “(1) to products for which standards are to be  
22 established under subsections (l), (u), and (v) begin-  
23 ning on the date on which a final rule is promul-  
24 gated by the Secretary of Energy, except that any  
25 State or local standards prescribed or enacted for

1 any such product prior to the date on which the  
2 final rule is issued shall not be preempted until the  
3 standard established under subsection (l), (u), or (v)  
4 for that product takes effect; and

5 “(2) to products for which standards are estab-  
6 lished under subsections (w) through (ff) on the date  
7 of enactment of those subsections, except that any  
8 State or local standards prescribed or enacted prior  
9 to the date of enactment of those subsections shall  
10 not be preempted until the standards established  
11 under subsections (w) through (ff) take effect.”.

12 (5) RESIDENTIAL FURNACE FANS.—Section  
13 325(f)(3) of the Energy Policy and Conservation Act  
14 (42 U.S.C. 6295(f)(3)) is amended by adding at the  
15 end the following:

16 “(D) Notwithstanding any provision of this Act, the  
17 Secretary may consider, and prescribe, if the requirements  
18 of subsection (o) are met, energy efficiency or energy use  
19 standards for electricity used for purposes of circulating  
20 air through duct work.”.

21 (6) GENERAL RULE OF PREEMPTION.—Section  
22 327(c) of the Energy Policy and Conservation Act  
23 (42 U.S.C. 6297(c)) is amended—

24 (A) in paragraph (5), by striking “or” at  
25 the end;

1 (B) in paragraph (6), by striking the pe-  
2 riod at the end and inserting “; or”; and

3 (C) by adding at the end the following:

4 “(7) is a regulation concerning standards for  
5 commercial prerinse spray valves adopted by the  
6 California Energy Commission before January 1,  
7 2005, or is an amendment to such a regulation de-  
8 veloped to align California regulations with changes  
9 in American Society for Testing and Materials  
10 Standard F2324.”.

11 (b) ENERGY LABELING.—Section 324(a) of the En-  
12 ergy Policy and Conservation Act (42 U.S.C. 6294(a)) is  
13 amended by adding at the end the following:

14 “(5)(A) The Secretary or the Commission, as appro-  
15 priate, may, for covered products referred to in sub-  
16 sections (u) through (ff) of section 325, prescribe, by rule,  
17 pursuant to this section, labeling requirements for the  
18 products after a test procedure has been set pursuant to  
19 section 323.

20 “(B) In the case of products to which TP–1 stand-  
21 ards under section 325(y) apply, labeling requirements  
22 shall be based on the ‘Standard for the Labeling of Dis-  
23 tribution Transformer Efficiency’ prescribed by the Na-  
24 tional Electrical Manufacturers Association (NEMA TP–  
25 3) as in effect on the date of enactment of this paragraph.

1 “(C) In the case of dehumidifiers covered under sec-  
2 tion 325(dd), the Commission shall not require an Energy  
3 Guide label.

4 “(6)(A) Not later than July 1, 2006, the Commission  
5 shall prescribe by rule, pursuant to this section, labeling  
6 requirements for the electricity used by ceiling fans to cir-  
7 culate air in a room.

8 “(B) The requirements shall be based on the test pro-  
9 cedure and labeling requirements contained in the Energy  
10 Star Program Requirements for Residential Ceiling Fans,  
11 version 2.0, issued by the Environmental Protection Agen-  
12 cy, except that third party testing and other non-labeling  
13 requirements shall not be promulgated unless the Commis-  
14 sion determines the requirements are necessary to achieve  
15 compliance.

16 “(C) The rule shall apply to products manufactured  
17 after the later of—

18 “(i) January 1, 2007; or

19 “(ii) the date that is 60 days after the final rule  
20 is prescribed.”.

21 (c) COMMERCIAL PACKAGE AIR CONDITIONING AND  
22 HEATING EQUIPMENT.—

23 (1) DEFINITIONS.—Section 340 of the Energy  
24 Policy and Conservation Act (42 U.S.C. 6311) is  
25 amended—

1 (A) in paragraph (1)—

2 (i) by redesignating subparagraphs

3 (D) through (G) as subparagraphs (E)

4 through (H), respectively; and

5 (ii) by inserting after subparagraph

6 (C) the following:

7 “(D) Very large commercial package air  
8 conditioning and heating equipment.”;

9 (B) in paragraph (2)(B), by striking  
10 “small and large”;

11 (C) by striking paragraphs (8) and (9) and  
12 inserting the following:

13 “(8)(A) The term ‘commercial package air con-  
14 ditioning and heating equipment’ means air-cooled,  
15 water-cooled, evaporatively-cooled, or water source  
16 (not including ground water source) electrically oper-  
17 ated, unitary central air conditioners and central air  
18 conditioning heat pumps for commercial application.

19 “(B) The term ‘small commercial package air  
20 conditioning and heating equipment’ means commer-  
21 cial package air conditioning and heating equipment  
22 that is rated below 135,000 Btu per hour (cooling  
23 capacity).

24 “(C) The term ‘large commercial package air  
25 conditioning and heating equipment’ means commer-

1        cial package air conditioning and heating equipment  
 2        that is rated at or above 135,000 Btu per hour and  
 3        below 240,000 Btu per hour (cooling capacity).

4            “(D) The term ‘very large commercial package  
 5        air conditioning and heating equipment’ means com-  
 6        mercial package air conditioning and heating equip-  
 7        ment that is rated at or above 240,000 Btu per hour  
 8        and below 760,000 Btu per hour (cooling capac-  
 9        ity).”;

10            (D) by redesignating paragraphs (10)  
 11            through (18) as paragraphs (9) through (17),  
 12            respectively; and

13            (E) in paragraph (10) (as redesignated by  
 14            subparagraph (D)), by inserting “, except for  
 15            gas unit heaters and gas duct furnaces” after  
 16            “furnaces”.

17            (2) STANDARDS.—Section 342(a) of the Energy  
 18            Policy and Conservation Act (42 U.S.C. 6313(a)) is  
 19            amended—

20            (A) in the subsection heading, by striking  
 21            “SMALL AND LARGE” and inserting “SMALL,  
 22            LARGE, AND VERY LARGE”;

23            (B) in paragraph (1), by inserting “but be-  
 24            fore January 1, 2010,” after “January 1,  
 25            1994,”;

1 (C) in paragraph (2), by inserting “but be-  
2 fore January 1, 2010,” after “January 1,  
3 1995,”;

4 (D) in paragraph (4), by inserting “, ex-  
5 cept for a gas unit heater or gas duct furnace,”  
6 after “boiler”;

7 (E) in paragraph (6)—

8 (i) in subparagraph (A)—

9 (I) by inserting “(i)” after “(A)”;

10 (II) by striking “the date of en-  
11 actment of the Energy Policy Act of  
12 1992” and inserting “January 1,  
13 2010”;

14 (III) by inserting after “large  
15 commercial package air conditioning  
16 and heating equipment” the following:  
17 “and very large commercial package  
18 air conditioning and heating equip-  
19 ment, or if ASHRAE/IES Standard  
20 90.1, as in effect on October 24,  
21 1992, is amended with respect to  
22 any”; and

23 (IV) by adding at the end the fol-  
24 lowing:

1       “(ii) If ASHRAE/IES Standard 90.1 is not amended  
2 with respect to small commercial package air conditioning  
3 and heating equipment, large commercial package air con-  
4 ditioning and heating equipment, and very large commer-  
5 cial package air conditioning and heating equipment dur-  
6 ing the 5-year period beginning on the effective date of  
7 a standard, the Secretary may initiate a rulemaking to  
8 determine whether a more stringent standard would result  
9 in significant additional conservation of energy and is  
10 technologically feasible and economically justified.

11       “(iii) This subparagraph does not apply to gas-fired  
12 warm-air furnaces, gas-fired package boilers, storage  
13 water heaters, gas unit heaters, or gas duct furnaces man-  
14 ufactured 5 or more years after the date of enactment of  
15 the Natural Gas Price Reduction Act of 2005.”; and

16                       (ii) in subparagraph (C)(ii), by insert-  
17                       ing “and very large commercial package  
18                       air conditioning and heating equipment”  
19                       after “large commercial package air condi-  
20                       tioning and heating equipment”; and

21                       (F) by adding at the end the following:

22       “(7) Each small commercial package air conditioning  
23 and heating equipment manufactured on or after January  
24 1, 2010, shall meet the following standards:

1           “(A) The minimum energy efficiency ratio of  
2 air-cooled central air conditioners at or above 65,000  
3 Btu per hour (cooling capacity) and less than  
4 135,000 Btu per hour (cooling capacity) shall be—

5                   “(i) 11.2 for equipment with no heating or  
6 electric resistance heating; and

7                   “(ii) 11.0 for equipment with all other  
8 heating system types that are integrated into  
9 the equipment (at a standard rating of 95 de-  
10 grees F db).

11           “(B) The minimum energy efficiency ratio of  
12 air-cooled central air conditioner heat pumps at or  
13 above 65,000 Btu per hour (cooling capacity) and  
14 less than 135,000 Btu per hour (cooling capacity)  
15 shall be—

16                   “(i) 11.0 for equipment with no heating or  
17 electric resistance heating; and

18                   “(ii) 10.8 for equipment with all other  
19 heating system types that are integrated into  
20 the equipment (at a standard rating of 95 de-  
21 grees F db).

22           “(C) The minimum coefficient of performance  
23 in the heating mode of air-cooled central air condi-  
24 tioning heat pumps at or above 65,000 Btu per hour  
25 (cooling capacity) and less than 135,000 Btu per

1 hour (cooling capacity) shall be 3.3 (at a high tem-  
2 perature rating of 47 degrees F db).

3 “(8) Each large commercial package air conditioning  
4 and heating equipment manufactured on or after January  
5 1, 2010, shall meet the following standards:

6 “(A) The minimum energy efficiency ratio of  
7 air-cooled central air conditioners at or above  
8 135,000 Btu per hour (cooling capacity) and less  
9 than 240,000 Btu per hour (cooling capacity) shall  
10 be—

11 “(i) 11.0 for equipment with no heating or  
12 electric resistance heating; and

13 “(ii) 10.8 for equipment with all other  
14 heating system types that are integrated into  
15 the equipment (at a standard rating of 95 de-  
16 grees F db).

17 “(B) The minimum energy efficiency ratio of  
18 air-cooled central air conditioner heat pumps at or  
19 above 135,000 Btu per hour (cooling capacity) and  
20 less than 240,000 Btu per hour (cooling capacity)  
21 shall be—

22 “(i) 10.6 for equipment with no heating or  
23 electric resistance heating; and

24 “(ii) 10.4 for equipment with all other  
25 heating system types that are integrated into

1 the equipment (at a standard rating of 95 de-  
2 grees F db).

3 “(C) The minimum coefficient of performance  
4 in the heating mode of air-cooled central air condi-  
5 tioning heat pumps at or above 135,000 Btu per  
6 hour (cooling capacity) and less than 240,000 Btu  
7 per hour (cooling capacity) shall be 3.2 (at a high  
8 temperature rating of 47 degrees F db).

9 “(9) Each very large commercial package air condi-  
10 tioning and heating equipment manufactured on or after  
11 January 1, 2010, shall meet the following standards:

12 “(A) The minimum energy efficiency ratio of  
13 air-cooled central air conditioners at or above  
14 240,000 Btu per hour (cooling capacity) and less  
15 than 760,000 Btu per hour (cooling capacity) shall  
16 be—

17 “(i) 10.0 for equipment with no heating or  
18 electric resistance heating; and

19 “(ii) 9.8 for equipment with all other heat-  
20 ing system types that are integrated into the  
21 equipment (at a standard rating of 95 degrees  
22 F db).

23 “(B) The minimum energy efficiency ratio of  
24 air-cooled central air conditioner heat pumps at or  
25 above 240,000 Btu per hour (cooling capacity) and

1 less than 760,000 Btu per hour (cooling capacity)  
2 shall be—

3 “(i) 9.5 for equipment with no heating or  
4 electric resistance heating; and

5 “(ii) 9.3 for equipment with all other heat-  
6 ing system types that are integrated into the  
7 equipment (at a standard rating of 95 degrees  
8 F db).

9 “(C) The minimum coefficient of performance  
10 in the heating mode of air-cooled central air condi-  
11 tioning heat pumps at or above 240,000 Btu per  
12 hour (cooling capacity) and less than 760,000 Btu  
13 per hour (cooling capacity) shall be 3.2 (at a high  
14 temperature rating of 47 degrees F db).

15 “(10) Notwithstanding paragraph (4) and except as  
16 provided in paragraph (14), the minimum thermal effi-  
17 ciency at the maximum rated capacity of a gas-fired  
18 warm-air furnace with the capacity of 225,000 Btu per  
19 hour or more manufactured 4 or more years after the date  
20 of enactment of this paragraph shall be 79.5 percent.

21 “(11) Notwithstanding paragraph (4) and except as  
22 provided in paragraph (14), the minimum thermal effi-  
23 ciency at the maximum rated capacity of a gas-fired pack-  
24 age boiler with the capacity of 300,000 Btu per hour or

1 more manufactured 4 or more years after the date of en-  
2 actment of this paragraph shall be 79 percent.

3 “(12) Notwithstanding paragraph (5) (excluding  
4 paragraph (5)(G)), and except as provided in paragraph  
5 (14)—

6 “(A) the maximum standby loss (expressed as  
7 a percent per hour) of a gas-fired storage water  
8 heater shall be 1.30 (expressed as a measurement of  
9 storage volume in gallons); and

10 “(B) the minimal thermal efficiency of a gas-  
11 fired storage water heater shall be 82 percent.

12 “(13)(A) Not later than 5 years after the date on  
13 which a standard for a product under paragraph (10),  
14 (11), or (12) takes effect, the Secretary shall promulgate  
15 a final rule to determine whether the standard for that  
16 product should be amended.

17 “(B) If the Secretary determines that a standard  
18 should be amended under subparagraph (A)—

19 “(i) the final rule promulgated pursuant to sub-  
20 paragraph (A) shall contain the new standard; and

21 “(ii) the new standard shall apply to any prod-  
22 uct manufactured 4 or more years after the date on  
23 which the final rule is promulgated.”.

24 (3) TEST PROCEDURES.—Section 343 of the  
25 Energy Policy and Conservation Act (42 U.S.C.

1       6314) is amended in subsections (a)(4) and (d)(1),  
2       by inserting “very large commercial package air con-  
3       ditioning and heating equipment,” after “large com-  
4       mercial package air conditioning and heating equip-  
5       ment,” each place it appears.

6               (4) LABELING.—Section 344(e) of the Energy  
7       Policy and Conservation Act (42 U.S.C. 6315(e)) is  
8       amended in the first and second sentences, by in-  
9       serting “very large commercial package air condi-  
10      tioning and heating equipment,” after “large com-  
11      mercial package air conditioning and heating equip-  
12      ment,” each place it appears.

13              (5) ADMINISTRATION, PENALTIES, ENFORCE-  
14      MENT, AND PREEMPTION.—Section 345 of the En-  
15      ergy Policy and Conservation Act (42 U.S.C. 6316)  
16      is amended by adding at the end the following:

17      “(d)(1) Except as provided in paragraphs (2) and  
18      (3), section 327 shall apply with respect to the equipment  
19      specified in section 340(1)(D) to the same extent and in  
20      the same manner as section 327 applies under part A on  
21      the date of enactment of this subsection.

22      “(2) Any State or local standard prescribed or en-  
23      acted prior to the date of enactment of this subsection  
24      shall not be preempted until the standards established  
25      under section 342(a)(9) take effect on January 1, 2010.

1       “(3) If the California Energy Commission adopts, not  
 2 later than March 31, 2005, a regulation concerning the  
 3 energy efficiency or energy use of the equipment specified  
 4 in section 340(1)(D), the regulation shall be effective  
 5 until, and shall no longer be effective after, the standards  
 6 established under section 342(a)(9) take effect on January  
 7 1, 2010.”.

8           (6)       TECHNICAL        AMENDMENT.—Section  
 9       345(b)(1) of the Energy Policy and Conservation  
 10       Act (42 U.S.C. 6316(b)(1)) is amended in the first  
 11       sentence by striking “part B” and inserting “part  
 12       A”.

13       (d)       COMMERCIAL REFRIGERATORS, FREEZERS, AND  
 14       REFRIGERATOR-FREEZERS.—

15           (1)       DEFINITIONS.—Section 340 of the Energy  
 16       Policy and Conservation Act (42 U.S.C. 6311) (as  
 17       amended by subsection (c)(1)) is amended—

18                   (A) in paragraph (1)—

19                           (i) by redesignating subparagraph (H)  
 20                           as subparagraph (I); and

21                           (ii) by inserting after subparagraph  
 22                           (G) the following:

23                           “(H) Commercial refrigerators, freezers, and  
 24                           refrigerator-freezers.”; and

25                           (B) by adding at the end the following:

1           “(18)(A) The term ‘commercial refrigerator,  
2 freezer, and refrigerator-freezer’ means refrigeration  
3 equipment that—

4                   “(i) is not a consumer product (as defined  
5 in section 321);

6                   “(ii) operates at a chilled, frozen, combina-  
7 tion chilled and frozen, or variable temperature;

8                   “(iii) displays or stores merchandise and  
9 other perishable materials horizontally,  
10 semivertically, or vertically;

11                   “(iv) has transparent or solid doors, sliding  
12 or hinged doors, a combination of hinged, slid-  
13 ing, transparent, or solid doors, or no doors;

14                   “(v) is designed for pull-down temperature  
15 applications or holding temperature applica-  
16 tions; and

17                   “(vi) is connected to a self-contained con-  
18 densing unit or to a remote condensing unit.

19           “(B) The term ‘holding temperature applica-  
20 tion’ means a use of commercial refrigeration equip-  
21 ment other than a pull-down temperature applica-  
22 tion, except a blast chiller or freezer.

23           “(C) The term ‘integrated average temperature’  
24 means the average temperature of all test package  
25 measurements taken during the test.

1           “(D) The term ‘pull-down temperature applica-  
2           tion’ means a commercial refrigerator with doors  
3           that, when fully loaded with 12 ounce beverage cans  
4           at 90 degrees F, can cool those beverages to an av-  
5           erage stable temperature of 38 degrees F in 12  
6           hours or less.

7           “(E) The term ‘remote condensing unit’ means  
8           a factory-made assembly of refrigerating components  
9           designed to compress and liquefy a specific refrig-  
10          erant that is remotely located from the refrigerated  
11          equipment and consists of 1 or more refrigerant  
12          compressors, refrigerant condensers, condenser fans  
13          and motors, and factory supplied accessories.

14          “(F) The term ‘self-contained condensing unit’  
15          means a factory-made assembly of refrigerating com-  
16          ponents designed to compress and liquefy a specific  
17          refrigerant that is an integral part of the refrig-  
18          erated equipment and consists of 1 or more refrig-  
19          erant compressors, refrigerant condensers, condenser  
20          fans and motors, and factory supplied accessories.”.

21           (2) STANDARDS.—

22           (A) IN GENERAL.—Section 342 of the En-  
23           ergy Policy and Conservation Act (42 U.S.C.  
24           6313) is amended by adding at the end the fol-  
25           lowing:

1 “(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND  
 2 REFRIGERATOR-FREEZERS.—(1) In this subsection:

3 “(A) The term ‘AV’ means the adjusted volume  
 4 (ft<sup>3</sup>) (defined as 1.63 x frozen temperature compart-  
 5 ment volume (ft<sup>3</sup>) + chilled temperature compart-  
 6 ment volume (ft<sup>3</sup>)) with compartment volumes meas-  
 7 ured in accordance with the Association of Home  
 8 Appliance Manufacturers Standard HRF1–1979.

9 “(B) The term ‘V’ means the chilled or frozen  
 10 compartment volume (ft<sup>3</sup>) (as defined in the Asso-  
 11 ciation of Home Appliance Manufacturers Standard  
 12 HRF1–1979).

13 “(C) Other terms have the meanings estab-  
 14 lished by the Secretary, based on industry-accepted  
 15 definitions and practice.

16 “(2) Each commercial refrigerator, freezer, and re-  
 17 frigerator-freezer with a self-contained condensing unit de-  
 18 signed for holding temperature applications manufactured  
 19 on or after January 1, 2010, shall meet the following  
 20 standard levels in kilowatt hours per day:

“Refrigerators with solid doors .....	0.10 V + 2.04
Refrigerators with transparent doors .....	0.12 V + 3.34
Freezers with solid doors .....	0.40 V + 1.38
Freezers with transparent doors .....	0.75 V + 4.10
Refrigerators/freezers with solid doors...the great- er of.	0.27 AV – 0.71 or 0.70

1       “(3) Each commercial refrigerator with a self-con-  
2 tained condensing unit designed for pull-down tempera-  
3 ture applications manufactured on or after January 1,  
4 2010, shall meet the following standard levels in kilowatt  
5 hours per day: Refrigerators with transparent doors  $0.126$   
6  $V + 3.51$ .”.

7                   (B) ESTABLISHMENT OF STANDARDS.—

8                   (i) SPECIFIED TYPES.—Not later than  
9 January 1, 2009, the Secretary of Energy  
10 may prescribe, by rule, standard levels for  
11 ice-cream freezers, self-contained commer-  
12 cial refrigerators, freezers, and refrig-  
13 erator-freezers without doors, and remote  
14 condensing commercial refrigerators, freez-  
15 ers, and refrigerator-freezers, with the  
16 standard levels effective for equipment  
17 manufactured on or after January 1, 2012.

18                   (ii) OTHER TYPES.—Not later than  
19 January 1, 2009, the Secretary may pre-  
20 scribe, by rule, standard levels for other  
21 types of commercial refrigerators, freezers,  
22 and refrigerator-freezers not covered by  
23 clause (i) or section 342(c) of the Energy  
24 Policy and Conservation Act (as added by  
25 subparagraph (A)), with the standard lev-

1           els effective for equipment manufactured  
2           on or after January 1, 2012.

3           (C) REVISIONS TO STANDARDS.—

4                 (i) INITIAL REVISION OF STAND-  
5                 ARDS.—

6                         (I) IN GENERAL.—Not later than  
7                         January 1, 2013, the Secretary shall  
8                         publish a final rule to determine if the  
9                         standards established under section  
10                        342(c) of the Energy Policy and Con-  
11                        servation Act (as added by subpara-  
12                        graph (A)) should be amended.

13                        (II) APPLICATION DATE.—The  
14                        rule shall provide that any amended  
15                        standards shall apply to products  
16                        manufactured on or after the date  
17                        that is 3 years after the final amend-  
18                        ed standard is published unless the  
19                        Secretary determines, by rule, that 3  
20                        years is inadequate, in which case the  
21                        Secretary may establish an application  
22                        date for products manufactured not  
23                        later than 5 years after the final  
24                        amended standard is published.

1 (ii) SUBSEQUENT REVISION OF  
2 STANDARDS.—

3 (I) IN GENERAL.—Not later than  
4 3 years after the amended final stand-  
5 ard referred to in subparagraph (A)  
6 takes effect or after the Secretary  
7 publishes a final rule determining that  
8 the standard should not be amended,  
9 the Secretary shall publish a final rule  
10 to determine if the standards estab-  
11 lished under section 342(c) of the En-  
12 ergy Policy and Conservation Act (as  
13 added by subparagraph (A)) should be  
14 amended.

15 (II) APPLICATION DATE.—The  
16 rule shall provide that any amended  
17 standards shall apply to products  
18 manufactured on or after the date  
19 that is 3 years after the final amend-  
20 ed standard is published unless the  
21 Secretary determines, by rule, that 3  
22 years is inadequate, in which case the  
23 Secretary may establish an application  
24 date for products manufactured not

1 later than 5 years after the final  
2 amended standard is published.

3 (3) TEST PROCEDURES.—Section 343 of the  
4 Energy Policy and Conservation Act (42 U.S.C.  
5 6314) is amended—

6 (A) in subsection (a), by adding at the end  
7 the following:

8 “(6)(A)(i) In the case of commercial refrigerators,  
9 freezers, and refrigerator-freezers, the test procedures  
10 shall be the test procedures determined by the Secretary  
11 to be generally accepted industry testing procedures or  
12 rating procedures developed or recognized by the  
13 ASHRAE or by the American National Standards Insti-  
14 tute.

15 “(ii) In the case of self-contained refrigerators, freez-  
16 ers, and refrigerator-freezers to which standards are appli-  
17 cable under subsection 342(c)(1), the initial test proce-  
18 dures shall be ASHRAE 117 that is in effect on January  
19 1, 2005.

20 “(B) In the case of commercial refrigerators, freez-  
21 ers, and refrigerators-freezers with doors covered by the  
22 standards adopted in February 2002, by the California  
23 Energy Commission, the rating temperatures shall be an  
24 integrated average temperature of 38 degrees F (+/- 2

1 degrees F) for refrigerator compartments and 0 degrees  
2 F (+/- 2 degrees F) for freezer compartments.

3 “(C) The Secretary shall prescribe a rule, that meets  
4 the requirements of paragraphs (2) and (3), to establish  
5 the appropriate rating temperatures for the other products  
6 for which standards will be established under subsection  
7 342(c)(2).

8 “(D) In establishing the appropriate test tempera-  
9 tures under this subparagraph, the Secretary shall follow  
10 the procedures and meet the requirements specified in sec-  
11 tion 323(e).

12 “(E)(i) Not later than 180 days after the publication  
13 of a new ASHRAE 117 test procedure, if the ASHRAE  
14 117 test procedure for commercial refrigerators, freezers,  
15 and refrigerator-freezers is amended, the Secretary shall,  
16 by rule, amend the test procedure for the product as nec-  
17 essary to be consistent with the amended ASHRAE 117  
18 test procedure unless the Secretary makes a determina-  
19 tion, by rule, and supported by clear and convincing evi-  
20 dence, that to do so would not meet the requirements for  
21 test procedures described in paragraphs (2) and (3).

22 “(ii) If the Secretary needs more than 180 days to  
23 review and adopt the amended test procedure or rating  
24 procedure, the Secretary shall publish a notice in the Fed-  
25 eral Register stating the intent of the Secretary to take

1 up to an additional 1 year before the amended test proce-  
2 dure or rating procedure would become effective.

3 “(F)(i) If another test procedure besides ASHRAE  
4 117 is approved by the American National Standards In-  
5 stitute, the Secretary shall, by rule—

6 “(I) review the relative strengths and weak-  
7 nesses of the new test procedure relative to  
8 ASHRAE 117; and

9 “(II) based on that review, adopt 1 of those test  
10 procedures for subsequent use in the standards pro-  
11 gram.

12 “(ii) If a new test procedure is adopted—

13 “(I) section 323(e) shall apply; and

14 “(II) subparagraph (B) shall apply to the  
15 adopted test procedure.”; and

16 (B) in subsection (d)(1), by striking “and  
17 unfired hot water storage tanks,” and inserting:  
18 “unfired hot water storage tanks, and commer-  
19 cial refrigerators, freezers, and refrigerator-  
20 freezers,”.

21 (4) LABELING.—Section 344(e) of the Energy  
22 Policy and Conservation Act (42 U.S.C. 6315(e)) is  
23 amended by striking “and unfired hot water storage  
24 tanks” each place it appears and inserting “unfired

1 hot water storage tanks, and commercial refrigerators, freezers, and refrigerator-freezers”.

3 (5) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316)  
4 (as amended by subsection (c)(5)) is amended by  
5 adding at the end the following:  
6

7 “(e)(1)(A) The provisions of subsections (a), (b), and  
8 (d) of section 326, subsections (m) through (s) of section  
9 325, and sections 328 through 336 shall apply with re-  
10 spect to equipment specified in section 340(1)(G) to the  
11 same extent and in the same manner as those provisions  
12 apply under part A.  
13

14 “(B) In applying those provisions to that equipment,  
15 paragraphs (1), (2), (3), and (4) of subsection (a) shall  
16 apply.

17 “(2)(A)(i) The provisions of section 327 shall apply  
18 with respect to the equipment specified in section  
19 340(1)(G) that have standards established under section  
20 342(c)(2) to the same extent and in the same manner as  
21 those provisions apply under part A on the date of enact-  
22 ment of this subsection, except that any State or local  
23 standard prescribed or enacted before the date of enact-  
24 ment of this subsection shall not be preempted until the  
25 standards established under section 342(c) take effect.

1       “(ii) In applying those provisions to that equipment,  
2 paragraphs (1), (2), and (3) of subsection (a) shall apply.

3       “(B) Notwithstanding subparagraph (A), if the Cali-  
4 fornia Energy Commission adopts, not later than March  
5 31, 2005, a regulation concerning the energy efficiency or  
6 energy use of the equipment specified in section 340(1)(G)  
7 that have standards established under section 342(c)(2),  
8 those standards shall be effective until, and shall no longer  
9 be effective after, the standards established under section  
10 342(c)(2) take effect on January 1, 2010.

11       “(3)(A) The provisions of section 327 shall apply  
12 with respect to the equipment specified in 340(1)(G) that  
13 have standards established under section 342(c)(3) to the  
14 same extent and in the same manner as they apply under  
15 part A on the date of publication of the final rule by the  
16 Secretary, except that any State or local standard pre-  
17 scribed or enacted before the date of publication of the  
18 final rule by the Secretary shall not be preempted until  
19 the standards take effect.

20       “(B) In applying those provisions for the purpose of  
21 that equipment, paragraphs (1), (2), and (3) of subsection  
22 (a) shall apply.

23       “(4) If the Secretary does not issue a final rule for  
24 a specific type of equipment specified in section 340(1)(G)  
25 within the time frame specified in section 342(c)(3), the

1 provisions of subsections (b) and (c) of section 327 shall  
2 no longer apply to that specific type of equipment begin-  
3 ning on the date that is 2 years after the scheduled date  
4 for a final rule and until the Secretary publishes a final  
5 rule covering the specific type of equipment, at which time  
6 those provisions shall apply to the specific type of equip-  
7 ment.

8 “(5)(A) In the case of any commercial refrigerator,  
9 freezer, and refrigerator-freezer to which standards are  
10 applicable under section 342(c)(2), the Secretary shall re-  
11 quire manufacturers to certify, through an independent  
12 testing or certification program nationally recognized in  
13 the United States, that the commercial refrigerator, freez-  
14 er, and refrigerator-freezer meets the applicable standard.

15 “(B) The Secretary shall, to the maximum extent  
16 practicable, encourage the establishment of at least 2 such  
17 independent testing and certification programs.

18 “(C) As part of certification, information on equip-  
19 ment energy use and interior volume shall be made avail-  
20 able to the Secretary.”.

21 **SEC. 103. DEPLOYMENT FOR DISTRIBUTED GENERATION,**  
22 **SOLAR ENERGY TECHNOLOGIES, AND BIO-**  
23 **MASS.**

24 (a) DISTRIBUTED POWER SYSTEMS.—

1           (1) REQUIREMENT.—Not later than 1 year  
2 after the date of enactment of this Act, the Sec-  
3 retary of Energy shall develop and transmit to Con-  
4 gress a strategy for a comprehensive research, devel-  
5 opment, demonstration, and commercial application  
6 program to develop distributed power systems that  
7 use non-intermittent electric power generation tech-  
8 nologies suitable for use in a distributed power sys-  
9 tem.

10           (2) CONTENTS.—The strategy shall—

11           (A) identify the needs best met with such  
12 distributed power systems and the technological  
13 barriers to the use of the systems;

14           (B) provide for the development of meth-  
15 ods to design, test, integrate into systems, and  
16 operate the distributed power systems;

17           (C) include, as appropriate, research, de-  
18 velopment, demonstration, and commercial ap-  
19 plication on related technologies needed for the  
20 adoption of the distributed power systems, in-  
21 cluding energy storage devices and environ-  
22 mental control technologies;

23           (D) include research, development, dem-  
24 onstration, and commercial application of inter-  
25 connection technologies for communications and

1 controls of distributed generation architectures,  
 2 particularly technologies promoting real-time re-  
 3 sponse to power market information and phys-  
 4 ical conditions on the electrical grid; and

5 (E) describe how activities under the strat-  
 6 egy will be integrated with other research, de-  
 7 velopment, demonstration, and commercial ap-  
 8 plication activities supported by the Department  
 9 of Energy related to electric power technologies.

10 (b) MICRO-COGENERATION ENERGY TECH-  
 11 NOLOGY.—The Secretary of Energy shall make competi-  
 12 tive, merit-based grants to consortia for the development  
 13 of micro-cogeneration energy technology that explore—

14 (1) the use of small-scale combined heat and  
 15 power in residential heating appliances; and

16 (2) the use of excess power to operate other ap-  
 17 pliances within the residence and supply excess gen-  
 18 erated power to the power grid.

19 (c) SOLAR ENERGY TECHNOLOGIES DEMONSTRA-  
 20 TION PROGRAM.—

21 (1) IN GENERAL.—The Secretary of Energy  
 22 shall conduct a program under which the Secretary  
 23 makes grants to State energy offices and other ap-  
 24 propriate State entities, as determined by the Sec-  
 25 retary, to provide the Federal share of the cost of

1 demonstrating the use of advanced photovoltaic,  
2 solar water heating, and hybrid solar lighting tech-  
3 nologies to generate and displace electricity.

4 (2) FEDERAL SHARE.—The Federal share of  
5 the cost of an activity described in paragraph (7)  
6 shall be not more than 40 percent, as determined by  
7 the Secretary.

8 (3) PROPOSALS.—

9 (A) IN GENERAL.—Not later than 180  
10 days after the date of enactment of this Act,  
11 the Secretary shall solicit from State energy of-  
12 fices and other appropriate State entities, as  
13 determined by the Secretary, proposals to re-  
14 ceive grants under this subsection.

15 (B) CONTENTS.—A proposal under this  
16 paragraph shall contain provisions that—

17 (i) meet the cost-sharing requirement  
18 of this subsection;

19 (ii) maximize the quantity of photo-  
20 voltaic, solar water heating, and hybrid  
21 solar lighting technologies installed for  
22 each Federal dollar expended under this  
23 subsection, including by increasing the  
24 non-Federal share of the cost of an activity  
25 under this subsection;

1 (iii) measure and verify the output of  
2 a photovoltaic, solar water heating, or hy-  
3 brid solar lighting technology under this  
4 subsection for a period of not less than 20  
5 years after the date on which the tech-  
6 nology is installed; and

7 (iv) for each building on which a pho-  
8 tovoltaic, solar water heating, or hybrid  
9 solar lighting technology is installed under  
10 this subsection, require that the building  
11 receive an energy efficiency audit not ear-  
12 lier than 180 days before the date on  
13 which the technology is installed.

14 (4) PREFERENCE.—In making a grant under  
15 this subsection, the Secretary shall give preference  
16 to a State energy office or entity if making a grant  
17 to that office or entity—

18 (A) promotes the geographic diversity of  
19 demonstration sites, as determined by the Sec-  
20 retary; or

21 (B) limits overhead costs under this sub-  
22 section, including the administrative costs to  
23 the Department of Energy or a State.

24 (5) AMOUNTS.—

1 (A) DISTRIBUTION.—Of the amount of  
2 funds made available to provide grants under  
3 this subsection for a fiscal year, the Secretary  
4 shall use 75 percent of that amount to dis-  
5 tribute the grants described in paragraph (1)—

6 (i) to State energy offices or entities  
7 based on the ratio that—

8 (I) the percentage contribution of  
9 the State of the energy office or entity  
10 to the cost of an activity described in  
11 paragraph (7); bears to

12 (II) the percentage contribution  
13 of all States to the cost of an activity  
14 described in paragraph (7); and

15 (ii) if a recipient of a grant under this  
16 subsection is a commercial, industrial, or  
17 residential recipient, proportionally to the  
18 use of electricity by the recipient.

19 (B) REMAINDER OF FUNDS.—Of the  
20 amount of funds made available to provide  
21 grants under this subsection for a fiscal year,  
22 the Secretary shall use 25 percent of that  
23 amount to distribute the grants described in  
24 paragraph (1) to any State energy office or en-  
25 tity the proposal of which the Secretary con-

1           siders highly likely to encourage widespread  
2           adoption of solar energy technologies.

3           (C) LIMITATION.—The amount of a grant  
4           under this subsection shall not exceed  
5           \$5,000,000.

6           (6) TERMINATION.—

7           (A) INDIVIDUAL GRANTS.—If the Sec-  
8           retary determines that the recipient of a grant  
9           under this subsection fails to act in accordance  
10          with the approved proposal of the recipient, the  
11          Secretary—

12                  (i) shall take such action as is nec-  
13                  essary to obtain repayment of the Federal  
14                  share of the amount of the grant; and

15                  (ii) shall not provide any further  
16                  grants to that recipient under this sub-  
17                  section.

18           (B) ALL GRANTS.—Not later than 1 year  
19           after the date on which the United States  
20           achieves a total installed capacity of 10,000  
21           megawatts (or the equivalent of that capacity)  
22           under the program, the Secretary shall not  
23           make any further grants under this subsection.

1           (7) USE OF FUNDS.—A State energy office or  
2 other appropriate entity may use a grant provided  
3 under paragraph (1) to—

4           (A) demonstrate the commercial applica-  
5 tion of using a concentrated solar power, ad-  
6 vanced photovoltaic, solar water heating, or hy-  
7 brid solar lighting technology to generate or  
8 displace not less than 10 kilowatts at a dem-  
9 onstration site;

10          (B) install a photovoltaic, solar water heat-  
11 ing, or hybrid solar lighting technology on a  
12 public, private, commercial, industrial, or resi-  
13 dential demonstration site;

14          (C) monitor an installation described in  
15 paragraph (2) to ensure the successful oper-  
16 ation, and quantify the results, of the tech-  
17 nology; and

18          (D) increase public awareness of the use of  
19 advanced photovoltaic, solar water heating, or  
20 hybrid solar lighting technology.

21           (8) AUTHORIZATION OF APPROPRIATIONS.—  
22 There are authorized to be appropriated such sums  
23 as are necessary to carry out this subsection.

24           (d) SOLAR LIGHTING DEVELOPMENT PROGRAM.—

25           (1) DEFINITIONS.—In this subsection:

1 (A) DEVELOPMENT ACTIVITY.—The term  
2 “development activity” includes the develop-  
3 ment of a technology, material, or manufac-  
4 turing process required—

5 (i) to collect direct, nondiffuse sun-  
6 light;

7 (ii) to transmit or otherwise direct  
8 and distribute sunlight into buildings  
9 through any method (including through op-  
10 tical fibers);

11 (iii) to integrate sunlight with an elec-  
12 tric lighting system in a hybrid configura-  
13 tion with collocated electric lamps;

14 (iv) to control the spatial, temporal,  
15 or spectral quality of sunlight to improve  
16 energy efficiency, worker productivity, or  
17 retail sales; or

18 (v) to remotely monitor the perform-  
19 ance of a solar energy system through web-  
20 based metering.

21 (B) FOR-PROFIT PARTICIPANT.—The term  
22 “for-profit participant” includes the following  
23 entities that operate for profit:

1 (i) An organization that manufactures  
2 original equipment for emerging compo-  
3 nents or systems used in solar lighting.

4 (ii) A lighting designer.

5 (iii) An illumination or architectural  
6 engineer.

7 (C) SOLAR LIGHTING.—

8 (i) IN GENERAL.—The term “solar  
9 lighting” means a lighting system that in-  
10 corporates sunlight in accordance with  
11 paragraph (2) and offers the flexibility,  
12 convenience, reliability, and control avail-  
13 able in electric-only lighting.

14 (ii) EXCLUSIONS.—The term “solar  
15 lighting” does not include an  
16 architecturally-intrusive product in exist-  
17 ence on the date of enactment of this Act,  
18 including—

19 (I) a skylight;

20 (II) a lightwell;

21 (III) a light shelf; or

22 (IV) a roof monitor.

23 (2) PURPOSE.—The purpose of this subsection  
24 is to support the development of advanced solar  
25 lighting systems that are—

- 1 (A) multifunctional;
- 2 (B) compatible with different electric  
3 lamps and light fixtures used for direct, indi-  
4 rect, ambient, task, or accent lighting;
- 5 (C) reconfigurable;
- 6 (D) easily added, removed, or modified as  
7 lighting needs change;
- 8 (E) easily integrated with electric lights  
9 and controllable to—
- 10 (i) ensure that disruptions in lighting  
11 quality or quantity do not occur on cloudy  
12 days or at night; and
- 13 (ii) provide dimming and on/off  
14 switching capabilities;
- 15 (F) designed to eliminate architectural de-  
16 sign and maintenance problems that limit the  
17 conventional use of daylighting in most build-  
18 ings;
- 19 (G) more efficient than electric lighting  
20 systems used in the same lighting applications;  
21 and
- 22 (H) more efficient and cost-efficient than  
23 solar generation technologies used in buildings  
24 to convert sunlight into electricity and reconvert

1 the sunlight back into electrically-generated  
2 light through electric lamps.

3 (3) DEVELOPMENT ACTIVITIES.—

4 (A) IN GENERAL.—The Secretary shall  
5 conduct a program under which the Secretary  
6 makes grants to provide the Federal share of  
7 the cost of a development activity under this  
8 subsection to solar lighting technology devel-  
9 opers, including—

- 10 (i) for-profit participants;  
11 (ii) National Laboratories; and  
12 (iii) educational institutions.

13 (B) FEDERAL SHARE.—The Federal share  
14 of the cost of a development activity under this  
15 subsection shall be not more than 50 percent,  
16 as determined by the Secretary.

17 (C) PROPOSALS.—

18 (i) IN GENERAL.—To receive a grant  
19 under this section, a solar lighting tech-  
20 nology developer shall submit to the Sec-  
21 retary an application at the time, in the  
22 manner, and containing any information  
23 that the Secretary requires.

24 (ii) PREFERENCE.—In making a  
25 grant under this subsection, the Secretary

1           may give preference to a development ac-  
2           tivity led by a for-profit participant.

3           (4) NATIONAL ACADEMY OF SCIENCES.—

4           (A) IN GENERAL.—Not later than 2 years  
5           after the date of enactment of this Act, the Sec-  
6           retary shall offer to enter into a contract with  
7           the National Academy of Sciences to conduct a  
8           biannual review of each development activity  
9           carried out during the preceding year under  
10          this subsection.

11          (B) INCLUSIONS.—The review under this  
12          paragraph shall include, for each development  
13          activity—

14                 (i) an assessment of—

15                         (I) priorities;

16                         (II) technical milestones; and

17                         (III) if appropriate, plans for  
18                         technology transfer and any progress  
19                         made towards achieving the plans;  
20                         and

21                 (ii) a comparison of the merits of  
22                 solar lighting with other practicable uses of  
23                 solar energy technologies in a building to  
24                 reduce the use by the building of non-  
25                 renewable energy.

1           (5) AUTHORIZATION OF APPROPRIATIONS.—

2           There is authorized to be appropriated to carry out  
3           this subsection—

4                   (A) for fiscal year 2006, \$10,000,000;

5                   (B) for fiscal year 2007, \$15,000,000;

6                   (C) for fiscal year 2008, \$20,000,000;

7                   (D) for fiscal year 2009, \$15,000,000; and

8                   (E) for fiscal year 2010, \$10,000,000.

9           (e) DISTRIBUTED ENERGY.—

10           (1) IN GENERAL.—The Secretary shall conduct  
11           program under which the Secretary provides grants  
12           to eligible consortia (as determined by the Secretary)  
13           to provide the Federal share of the cost of devel-  
14           oping microcogeneration energy technology.

15           (2) FEDERAL SHARE.—The Federal share of  
16           the cost of an activity under this subsection shall be  
17           not greater than 40 percent.

18           (3) USE OF FUNDS.—

19                   (A) IN GENERAL.—A consortium may use  
20           funds provided under this subsection for a  
21           project relating to—

22                           (i) the use of small-scale combined  
23                           heat and power in residential heating ap-  
24                           pliances; or

25                           (ii) the use of excess power to—

1 (I) operate other appliances in a  
2 residence; and

3 (II) supply power to a power  
4 grid.

5 (B) INCLUSIONS.— A project under sub-  
6 paragraph (A) shall include the use of—

7 (i) a fuel cell;

8 (ii) a combined heat and power sys-  
9 tem;

10 (iii) a microturbine;

11 (iv) an advanced natural gas turbine;

12 (v) an advanced internal combustion  
13 engine generator;

14 (vi) an energy storage device;

15 (vi) an interconnection standard, pro-  
16 tocol, or piece of equipment;

17 (vii) ancillary equipment for dispatch  
18 and control; or

19 (ix) any other energy technologies, as  
20 appropriate.

21 (4) REPORT.—Concurrent with the submission  
22 by the President of the annual budget request for  
23 fiscal year 2007, the Secretary shall submit to Con-  
24 gress a report describing—

1 (A) the goals of the Secretary relating to  
2 microcogeneration energy technology projects  
3 under this subsection, including cost and energy  
4 savings targets for fiscal years 2007 through  
5 2012;

6 (B) progress made during the preceding  
7 year toward achieving the goals of the Secretary  
8 relating to microcogeneration energy tech-  
9 nology; and

10 (C) the results of each project carried out  
11 by an eligible consortium under this subsection.

12 (f) BIOENERGY PROGRAMS.—

13 (1) IN GENERAL.—The Secretary shall conduct  
14 a program of research, development, and demonstra-  
15 tion of commercial applications of cellulosic biomass,  
16 including—

17 (A) converting biomass to heat and elec-  
18 tricity;

19 (B) converting biomass to liquid fuels;

20 (C) biobased products;

21 (D) the use of integrated biorefineries to  
22 produce heat, electricity, liquid fuels, and  
23 biobased products;

24 (E) cross-cutting activities on feedstocks  
25 and enzymes; and

1 (F) economic analysis of applications of  
2 cellulosic biomass.

3 (2) BIOFUELS AND BIOBASED PRODUCTS.—In  
4 carrying out a program relating to a biofuel or  
5 biobased product under paragraph (1), the Sec-  
6 retary, in cooperation with the energy industry, shall  
7 develop—

8 (A) advanced biochemical and  
9 thermochemical conversion technologies to make  
10 high-value biobased chemical feedstocks and  
11 products, to substitute for petroleum-based  
12 feedstocks and products;

13 (B) biofuels that are price-competitive with  
14 gasoline or diesel in—

15 (i) internal combustion engines; or

16 (ii) fuel cell-powered vehicles;

17 (C) biobased products from a variety of  
18 feedstocks, including grains, cellulosic biomass,  
19 and agricultural byproducts; and

20 (D) advanced biotechnology processes to  
21 make biofuels and biobased products, with em-  
22 phasis on development of biorefinery tech-  
23 nologies, including enzyme-based processing  
24 technologies.

1           (3) BIOMASS INTEGRATED REFINERY DEM-  
2           ONSTRATION.—

3           (A) IN GENERAL.—The Secretary shall  
4           conduct a program under which the Secretary  
5           provides grants to advanced biorefineries to  
6           provide the Federal share of the cost of dem-  
7           onstrating the commercial application of inte-  
8           grated biorefineries.

9           (B) LIMITATIONS.—

10           (i) QUANTITY OF GRANTS.—The Sec-  
11           retary shall provide grants under this  
12           paragraph to not fewer than 5 advanced  
13           biorefineries.

14           (ii) FEDERAL SHARE.—The Federal  
15           share of the cost of a demonstration under  
16           this paragraph shall not exceed 40 percent.

17           (iii) MAXIMUM AMOUNT.—The Sec-  
18           retary shall provide not greater than  
19           \$100,000,000 for a biorefinery demonstra-  
20           tion under this paragraph.

21           (C) FACTORS.—The Secretary shall select  
22           biorefinery demonstrations under this sub-  
23           section in a manner that supports—

24           (i) the geographic diversity of the  
25           demonstrations;

1 (ii) the demonstration of a wide vari-  
2 ety of cellulosic biomass feedstocks;

3 (iii) the commercial application of bio-  
4 mass technologies for a variety of uses, in-  
5 cluding—

6 (I) liquid transportation fuels;

7 (II) high-value biobased chemi-  
8 cals;

9 (III) substitutes for petroleum-  
10 based feedstocks and products; and

11 (IV) energy in the form of elec-  
12 tricity or useful heat; and

13 (iv) the demonstration of the collec-  
14 tion and treatment of a variety of biomass  
15 feedstocks.

16 (D) PROPOSALS.—

17 (i) IN GENERAL.—To obtain a grant  
18 under this subsection, not later than 180  
19 days after the date of enactment of this  
20 Act, an advanced biorefinery shall submit  
21 to the Secretary a proposal in the time and  
22 in the manner, and containing any infor-  
23 mation, that the Secretary requires.

24 (ii) CONSIDERATION.—In making a  
25 grant under this subsection, the Secretary

1 shall select advanced biorefineries the pro-  
2 posals of which—

3 (I) demonstrate that the project  
4 of the biorefinery will operate profit-  
5 ably without a direct Federal subsidy  
6 after initial construction costs are  
7 paid; and

8 (II) allow for easy replication of  
9 the biorefinery, as determined by the  
10 Secretary.

11 **SEC. 104. HYDROGEN AND FUEL CELL INITIATIVE.**

12 (a) DEFINITIONS.—In this section:

13 (1) ADVISORY COMMITTEE.—The term “Advi-  
14 sory Committee” means the Hydrogen Technical and  
15 Fuel Cell Advisory Committee established by sub-  
16 section (e)(1).

17 (2) DEPARTMENT.—The term “Department”  
18 means the Department of Energy.

19 (3) FUEL CELL.—The term “fuel cell” means a  
20 device that directly converts the chemical energy of  
21 a fuel and an oxidant into electricity by an electro-  
22 chemical process that take place at separate elec-  
23 trodes in the device.

1           (4) INFRASTRUCTURE.—The term “infrastruc-  
2           ture” means any equipment, system, or facility used  
3           to produce, distribute, deliver, or store hydrogen.

4           (5) LIGHT DUTY VEHICLE.—The term “light  
5           duty vehicle” means a car or truck classified by the  
6           Department of Transportation as a Class I or IIA  
7           vehicle.

8           (6) SECRETARY.—The term “Secretary” means  
9           the Secretary of Energy.

10          (b) PLAN.—

11           (1) IN GENERAL.—Not later than 180 days  
12           after the date of enactment of this Act, the Sec-  
13           retary shall submit to Congress a coordinated plan  
14           for carrying out—

15           (A) the programs described in this section;

16           and

17           (B) any other program of the Department  
18           that is directly related to fuel cells or hydrogen.

19           (2) INCLUSIONS.—The plan shall include a de-  
20           scription of—

21           (A) for the first 5 years beginning on the  
22           date of enactment of this Act, an agenda for  
23           each program under this section, including the  
24           agenda for each activity under subsection  
25           (c)(1);

1 (B) each type of entity that will carry out  
2 an activity under this section and the role each  
3 entity is expected to play;

4 (C) any milestone that will be used to  
5 evaluate a program carried out during the first  
6 5 years beginning on the date of enactment of  
7 this Act;

8 (D) the most significant technical and non-  
9 technical obstacles to achieving the goals de-  
10 scribed in subsection (c)(2) and the means by  
11 which each program under this section will ad-  
12 dress the obstacles; and

13 (E) any policy assumption that is implicit  
14 in the plan, including any assumption that af-  
15 fects a source of hydrogen or the marketability  
16 of hydrogen-related products.

17 (c) PROGRAMS.—

18 (1) ACTIVITIES.—The Secretary, in partnership  
19 with the private sector, shall conduct programs to  
20 address—

21 (A) the production of hydrogen from di-  
22 verse energy sources, including—

23 (i) fossil fuels (including carbon cap-  
24 ture and sequestration);

- 1                   (ii) hydrogen-carrier fuels (including  
2 ethanol and methanol);
- 3                   (iii) renewable energy resources, in-  
4 cluding biomass; and
- 5                   (iv) nuclear energy;
- 6                   (B) the use of hydrogen for commercial,  
7 industrial, and residential electric power genera-  
8 tion;
- 9                   (C) safe delivery of hydrogen or hydrogen-  
10 carrier fuels, including—
- 11                   (i) transmission by pipeline and other  
12 distribution methods; and
- 13                   (ii) convenient and economic refueling  
14 of vehicles—
- 15                   (I) at central refueling stations;  
16 or
- 17                   (II) through distributed on-site  
18 generation;
- 19                   (D) advanced vehicle technologies, includ-  
20 ing—
- 21                   (i) engine and emission control sys-  
22 tems;
- 23                   (ii) energy storage, electric propulsion,  
24 and hybrid systems;
- 25                   (iii) automotive materials; and

1 (iv) other advanced vehicle tech-  
2 nologies;

3 (E) storage of hydrogen and hydrogen-car-  
4 rier fuels, including development of materials  
5 for safe and economic storage in gaseous, liq-  
6 uid, or solid form at refueling facilities and on-  
7 board vehicles;

8 (F) the development of safe, durable, af-  
9 fordable, and efficient fuel cells, including—

10 (i) fuel-flexible fuel cell power sys-  
11 tems;

12 (ii) improved manufacturing proc-  
13 esses;

14 (iii) high-temperature membranes;

15 (iv) cost-effective fuel processing for  
16 natural gas;

17 (v) fuel cell stack and system reli-  
18 ability;

19 (vi) low temperature operation; and

20 (vii) cold start capability;

21 (G) development, after consultation with  
22 the private sector, of necessary codes and  
23 standards (including international codes and  
24 standards and voluntary consensus standards  
25 adopted in accordance with Office of Manage-

1           ment and Budget Circular A-119) and safety  
2           practices for the production, distribution, stor-  
3           age, and use of hydrogen, hydrogen-carrier  
4           fuels, and related products; and

5           (H) a public information program to im-  
6           prove the knowledge and acceptance of the pub-  
7           lic of hydrogen-based systems.

8           (2) PROGRAM GOALS.—

9           (A) VEHICLES.—The goals of programs  
10          under this section relating to vehicles include  
11          the facilitation of—

12           (i) the making of a commitment by  
13           automakers to offer safe, affordable, and  
14           technically viable hydrogen fuel cell vehi-  
15           cles in the mass market in the United  
16           States by 2015; and

17           (ii) the production, delivery, and ac-  
18           ceptance by consumers in the United  
19           States of model year 2020 hydrogen fuel  
20           cell and other hydrogen-powered vehicles  
21           with—

22                   (I) a range of at least 300 miles;

23                   (II) improved performance and  
24                   ease of driving;

1 (III) safety and performance  
 2 comparable to vehicle technologies in  
 3 the market on the date of enactment  
 4 of this Act; and

5 (IV) compared to light duty vehi-  
 6 cles produced for model year 2005—

7 (aa) substantially higher fuel  
 8 economy;

9 (bb) substantially lower  
 10 emissions of air pollutants; and

11 (cc) equivalent or improved  
 12 vehicle fuel system crash integ-  
 13 rity and occupant protection.

14 (B) HYDROGEN ENERGY AND ENERGY IN-  
 15 FRASTRUCTURE.—The goals of programs under  
 16 this section relating to hydrogen energy and en-  
 17 ergy infrastructure include establishing infra-  
 18 structure by not later than 2020 that will pro-  
 19 vide—

20 (i) safe and convenient refueling;

21 (ii) improved overall efficiency;

22 (iii) widespread availability of hydro-  
 23 gen from domestic energy sources  
 24 through—

- 1 (I) production, taking into con-  
2 sideration emissions levels;
- 3 (II) delivery, including trans-  
4 mission by pipeline and other distribu-  
5 tion methods for hydrogen; and
- 6 (III) storage, including storage in  
7 surface transportation vehicles;
- 8 (iv) hydrogen for fuel cells, internal  
9 combustion engines, and other energy con-  
10 version devices for portable, stationary,  
11 and transportation applications; and
- 12 (v) other technologies in accordance  
13 with the plan of the Department under  
14 subsection (b).
- 15 (C) FUEL CELLS.—The goals of programs  
16 under this section relating to fuel cells and the  
17 portable, stationary, and transportation applica-  
18 tions of fuel cells include—
- 19 (i) producing safe, economical, and  
20 environmentally sound hydrogen fuel cells;
- 21 (ii) producing fuel cells for light duty  
22 vehicles and other vehicles; and
- 23 (iii) producing other technologies in  
24 accordance with the plan of the Depart-  
25 ment under subsection (b).

1 (3) DEMONSTRATION PROJECTS.—

2 (A) IN GENERAL.—In carrying out pro-  
3 grams under this section, the Secretary shall  
4 fund a limited number of demonstration  
5 projects, taking into consideration the maturity,  
6 cost-effectiveness, and environmental impacts of  
7 the technologies supporting each project.

8 (B) PROJECT SELECTION.—

9 (i) IN GENERAL.—In selecting  
10 projects under this paragraph, the Sec-  
11 retary shall, to the maximum extent prac-  
12 ticable and in accordance with public inter-  
13 est, select projects that—

14 (I) use hydrogen and related  
15 products at facilities or installations  
16 in existence on the date of enactment  
17 of this Act, including office buildings,  
18 military bases, vehicle fleet centers,  
19 transit bus authorities, and units of  
20 the National Park System;

21 (II) depend on reliable power  
22 from hydrogen to carry out essential  
23 activities;

1 (III) lead to the replication of hy-  
2 drogen technologies and draw hydro-  
3 gen technologies into the marketplace;

4 (IV) include vehicle, portable,  
5 and stationary demonstrations of fuel  
6 cell and hydrogen-based energy tech-  
7 nologies;

8 (V) address the interdependency  
9 of demand for hydrogen fuel cell ap-  
10 plications and hydrogen fuel infra-  
11 structure;

12 (VI) raise awareness of hydrogen  
13 technology among the public;

14 (VII) facilitate the identification  
15 of an optimum technology among  
16 competing alternatives;

17 (VIII) address distributed gen-  
18 eration using renewable sources; and

19 (IX) address applications specific  
20 to rural or remote locations, including  
21 isolated villages and islands, the Na-  
22 tional Park System, and Indian res-  
23 ervations.

24 (ii) PREFERENCE.—The Secretary  
25 shall give preference to a project that ad-

1 dresses more than 1 element described in  
2 clause (i).

3 (4) DEPLOYMENT.—In carrying out programs  
4 under this section, the Secretary, in partnership with  
5 the private sector, shall conduct activities to facili-  
6 tate the deployment of hydrogen energy and energy  
7 infrastructure, fuel cells, and advanced vehicle tech-  
8 nologies.

9 (5) FUNDING.—

10 (A) IN GENERAL.—The Secretary shall  
11 carry out the programs under this section using  
12 a competitive, merit-based review process in ac-  
13 cordance with the generally applicable Federal  
14 law (including regulations) governing awards of  
15 financial assistance, contracts, and other agree-  
16 ments.

17 (B) RESEARCH CENTERS.—The Secretary  
18 may carry out an activity under this section by  
19 funding a nationally recognized university-based  
20 or Federal laboratory research center.

21 (6) COST SHARING.—

22 (A) RESEARCH AND DEVELOPMENT.—

23 (i) NON-FEDERAL SHARE.—Except as  
24 otherwise provided in this section, to be eli-  
25 gible for assistance under this section, the

1 Secretary shall require each non-Federal  
2 source of a research and development pro-  
3 gram under this section to provide at least  
4 20 percent of the cost of the project.

5 (ii) REDUCING AND ELIMINATING  
6 NON-FEDERAL SHARE.—The Secretary  
7 may reduce or eliminate the non-Federal  
8 share required under clause (i) if the Sec-  
9 retary determines that the research and  
10 development—

11 (I) is of a basic or fundamental  
12 nature; or

13 (II) involves a technical analysis  
14 or an educational activity.

15 (B) DEMONSTRATION AND COMMERCIAL  
16 APPLICATION.—

17 (i) NON-FEDERAL SHARE.—Except as  
18 otherwise provided in this section, to be eli-  
19 gible for assistance under this section, the  
20 Secretary shall require that at least 50  
21 percent of the costs directly and specifi-  
22 cally related to any demonstration or com-  
23 mercial application project under this sec-  
24 tion be provided by non-Federal sources.

1                   (ii)       REDUCING       NON-FEDERAL  
2                   SHARE.—The Secretary may reduce the  
3                   non-Federal share required under clause  
4                   (i) if the Secretary determines that the re-  
5                   duction—

6                               (I) is necessary and appropriate,  
7                               taking into consideration any techno-  
8                               logical risk involved in the project;  
9                               and

10                              (II) is necessary to achieve the  
11                              goals of this section.

12                   (C) CALCULATION OF AMOUNT.—In calcu-  
13                   lating the amount of the non-Federal share pro-  
14                   vided under subparagraphs (A) and (B), the  
15                   Secretary may include the costs of personnel,  
16                   services, equipment, and other resources relat-  
17                   ing to a project.

18                   (D) SIZE OF NON-FEDERAL SHARE.—The  
19                   Secretary may consider the amount of the non-  
20                   Federal share in selecting a project under this  
21                   section.

22                   (7) DISCLOSURE.—Section 623 of the Energy  
23                   Policy Act of 1992 (42 U.S.C. 13293) shall apply to  
24                   any project carried out through a grant, a coopera-  
25                   tive agreement, or a contract under this section.

1 (d) INTERAGENCY TASK FORCE.—

2 (1) ESTABLISHMENT.—Not later than 120 days  
3 after the date of enactment of this Act, the Presi-  
4 dent shall establish an interagency task force—

5 (A) the chairperson of which shall be the  
6 Secretary; and

7 (B) that includes representatives from—

8 (i) the Office of Science and Tech-  
9 nology Policy within the Executive Office  
10 of the President;

11 (ii) the Department of Transpor-  
12 tation;

13 (iii) the Department of Defense;

14 (iv) the Department of Commerce (in-  
15 cluding the National Institute of Standards  
16 and Technology);

17 (v) the Department of State;

18 (vi) the Environmental Protection  
19 Agency;

20 (vii) the National Aeronautics and  
21 Space Administration; and

22 (viii) other Federal agencies as the  
23 President determines appropriate.

24 (2) GOALS.—The goals of the interagency task  
25 force shall be—

1 (i) to provide a safe, economical, and  
2 environmentally sound fuel infrastructure  
3 for hydrogen and hydrogen-carrier fuels,  
4 including an infrastructure that supports  
5 buses and other fleet transportation;

6 (ii) to support the use of fuel cells in  
7 government and other applications, includ-  
8 ing portable, stationary, and transpor-  
9 tation applications;

10 (iii) to promote distributed power gen-  
11 eration, including the generation of com-  
12 bined heat, power, and clean fuels (includ-  
13 ing hydrogen);

14 (iv) to develop uniform hydrogen  
15 codes, standards, and safety protocols; and

16 (v) to support the integrity, safety,  
17 and performance of vehicle hydrogen fuel  
18 systems.

19 (B) DUTIES.—

20 (i) IN GENERAL.—The interagency  
21 task force may organize workshops and  
22 conferences, issue publications, and create  
23 databases to carry out any activity de-  
24 scribed in clause (ii).

1 (ii) ACTIVITIES.—The activities re-  
2 ferred to in clause (i) are—

3 (I) to foster the exchange of ge-  
4 neric, nonproprietary information and  
5 technology among industry, academia,  
6 and government;

7 (II) to develop and maintain an  
8 inventory and assessment of hydrogen,  
9 fuel cells, and other advanced tech-  
10 nologies, including the commercial ca-  
11 pability of each technology for the  
12 economic and environmentally safe  
13 production, distribution, delivery, stor-  
14 age, and use of hydrogen;

15 (III) to integrate technical and  
16 other information made available as a  
17 result of the programs and activities  
18 under this section;

19 (IV) to promote introduction to  
20 the market of infrastructure for hy-  
21 drogen fuel vehicles; and

22 (V) to conduct an informative  
23 program to provide hydrogen and fuel  
24 cell information to potential end-users.

1           (3) AGENCY COOPERATION.—The head of each  
2 Federal agency shall cooperate with and furnish in-  
3 formation to the interagency task force, the Advisory  
4 Committee, and the Department.

5 (e) ADVISORY COMMITTEE.—

6           (1) ESTABLISHMENT.—The Hydrogen Tech-  
7 nical and Fuel Cell Advisory Committee is estab-  
8 lished to advise the Secretary on programs and ac-  
9 tivities under this section.

10           (2) MEMBERSHIP.—

11           (A) MEMBERS.—

12           (i) IN GENERAL.—The Advisory Com-  
13 mittee shall consist of not less than 12,  
14 and not more than 25, members.

15           (ii) APPOINTMENT.—Each member of  
16 the Advisory Committee shall be appointed  
17 by the Secretary.

18           (iii) REQUIREMENTS.—In making an  
19 appointment under clause (ii), the Sec-  
20 retary shall appoint a member to rep-  
21 resent—

22                   (I) domestic automobile industry;

23                   (II) academia;

24                   (III) professional societies;

25                   (IV) government agencies;

1 (V) Federal laboratories;  
2 (VI) foreign automobile industry;  
3 and  
4 (VII) financial, environmental,  
5 and other organizations, as the Sec-  
6 retary determines appropriated based  
7 on an assessment of the technical and  
8 other qualifications of each committee  
9 member and the needs of the Advisory  
10 Committee.

11 (B) TERMS.—

12 (i) IN GENERAL.—The term of a  
13 member of the Advisory Committee shall  
14 be not more than 3 years.

15 (ii) INTERVALS.—The Secretary may  
16 appoint members of the Advisory Com-  
17 mittee in a manner that allows the terms  
18 of the members serving at any time to ex-  
19 pire at staggered intervals to ensure con-  
20 tinuity in the functioning of the Advisory  
21 Committee.

22 (iii) REAPPOINTMENT.—A member of  
23 the Advisory Committee may be re-  
24 appointed when the term of the member  
25 expires.

1           (C) CHAIRPERSON.—The Advisory Com-  
2           mittee shall elect a chairperson at the initial  
3           meeting of the Advisory Committee.

4           (3) DUTIES.—The Advisory Committee shall re-  
5           view and make recommendations to the Secretary re-  
6           garding—

7           (A) carrying out programs and activities  
8           under this section;

9           (B) the safety, economical, and environ-  
10          mental consequences of technologies for the  
11          production, distribution, delivery, storage, or  
12          use of hydrogen energy and fuel cells; and

13          (C) the plan established under subsection  
14          (b).

15          (4) CONSIDERATION OF RECOMMENDATIONS.—  
16          The Secretary shall consider, but need not adopt,  
17          any recommendation of the Advisory Committee  
18          under paragraph (3).

19          (5) BIENNIAL REPORT.—

20               (A) IN GENERAL.—Not later than 2 years  
21               after the date of enactment of this Act, and bi-  
22               ennially thereafter, concurrent with the submis-  
23               sion to Congress by the President of a budget  
24               proposal, the Secretary shall submit to Con-  
25               gress a biennial report describing any rec-

1           ommendation made by the Advisory Committee  
2           during the preceding 2 years.

3           (B) INCLUSIONS.—The biennial report  
4           shall include—

5                   (i) a description of the means through  
6                   which the Secretary has carried out or  
7                   plans to carry out the recommendations  
8                   described in the report; or

9                   (ii) if the Secretary decides not to  
10                  carry out a recommendation described in  
11                  the report, an explanation of that decision.

12       (f) EXTERNAL REVIEW.—

13           (1) PLAN.—

14                   (A) IN GENERAL.—The Secretary shall  
15                   enter into an agreement with the National  
16                   Academy of Sciences to review the plan under  
17                   subsection (b).

18                   (B) TIMING OF REVIEW.—Not later than  
19                   180 days after receipt of the plan from the Sec-  
20                   retary, the National Academy of Sciences shall  
21                   submit to the Secretary the results of the re-  
22                   view under subparagraph (A).

23                   (C) TRANSMISSION OF REVIEW.—Not later  
24                   than 45 days after receipt of the results of the

1 review under subparagraph (B), the Secretary  
2 shall transmit to Congress—

3 (i) a copy of the results of the review;

4 and

5 (ii)(I) a plan to carry out any rec-  
6 ommendation described in the review; or

7 (II) if the Secretary decides not to  
8 carry out a recommendation described in  
9 the review, an explanation of that decision.

10 (2) ADDITIONAL REVIEW.—

11 (A) IN GENERAL.—The Secretary shall  
12 enter into an agreement with the National  
13 Academy of Sciences to review the programs de-  
14 scribed in subsection (c) during the fourth year  
15 after the date of enactment of this Act.

16 (B) INCLUSIONS.—The review under sub-  
17 paragraph (A) shall include—

18 (i) a description of any research pri-  
19 ority or technical milestone established  
20 during the preceding 3 years; and

21 (ii) an evaluation of any progress  
22 made toward achieving a priority or mile-  
23 stone described in clause (i) during the  
24 preceding 3 years.

1 (C) TIMING OF REVIEW.—Not later than 5  
2 years after the date of enactment of this Act,  
3 the National Academy of Sciences shall—

4 (i) complete the review under sub-  
5 paragraph (A); and

6 (ii) submit to the Secretary a report  
7 describing the results of the review.

8 (D) TRANSMISSION.—Not later than 45  
9 days after receipt of the results of the review  
10 under subparagraph (C)(ii), the Secretary shall  
11 transmit to Congress—

12 (i) a copy of the results of the review;  
13 and

14 (ii)(I) a plan to carry out any rec-  
15 ommendation described in the review; or

16 (II) if the Secretary decides not to  
17 carry out a recommendation described in  
18 the review, an explanation of that decision.

19 (g) REPRESENTATION.—The Secretary, in coordina-  
20 tion with the Department of Transportation, the National  
21 Institute of Standards and Technology, and other relevant  
22 Federal agencies, may represent the interests of the  
23 United States with respect to any activity or program  
24 under this section before a government or nongovern-  
25 mental organization, including—

1           (1) other Federal, State, regional, and local  
2 governments;

3           (2) industry (and industry representatives), in-  
4 cluding members of the energy and transportation  
5 industries; and

6           (3) in consultation with the Department of  
7 State, foreign governments and representatives of  
8 those governments, including international organiza-  
9 tions.

10       (h) EFFECT OF SECTION.—Nothing in this section  
11 decreases the authority of the Secretary of Transportation  
12 as in existence on the day before the date of enactment  
13 of this Act with respect to—

14           (1) representation of the interests of the United  
15 States with respect to activities and programs under  
16 title 49, United States Code;

17           (2) the regulation of hazardous materials trans-  
18 portation under chapter 51 of title 49, United States  
19 Code;

20           (3) the regulation of motor vehicle safety under  
21 chapter 301 of title 49, United States Code;

22           (4) automobile fuel economy under chapter 329  
23 of title 49, United States Code;

24           (5) the support and promotion of research, de-  
25 velopment, and deployment activities relating to ad-

1 vanced vehicle technologies under section 5506 of  
2 title 49, United States Code;

3 (6) research into, and regulation of, the fuel  
4 systems integrity, standards, and safety of hydrogen-  
5 powered vehicles under subtitle VI of title 49,  
6 United States Code; or

7 (7) the regulation of pipeline safety under chap-  
8 ter 601 of title 49, United States Code.

9 (i) **AUTHORIZATION OF APPROPRIATIONS.**—There is  
10 authorized to be appropriated to the Secretary to carry  
11 out this section—

12 (1) \$273,500,000 for fiscal year 2006;

13 (2) \$375,000,000 for fiscal year 2007;

14 (3) \$450,000,000 for fiscal year 2008;

15 (4) \$500,000,000 for fiscal year 2009; and

16 (5) \$550,000,000 for fiscal year 2010.

17 **SEC. 105. CLARIFICATION OF EXISTING COGENERATION**  
18 **CONTRACTS.**

19 (a) **TERMINATION OF MANDATORY PURCHASE AND**  
20 **SALE REQUIREMENTS.**—Section 210 of the Public Utility  
21 Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is  
22 amended—

23 (1) by redesignating subsections (k) and (l) as  
24 subsections (m) and (n), respectively; and

1           (2) by inserting after subsection (j) the fol-  
2           lowing:

3           “(k) TERMINATION OF MANDATORY PURCHASE AND  
4           SALE REQUIREMENTS.—(1) After the date of enactment  
5           of this subsection, no electric utility shall be required to  
6           enter into a new contract or obligation to purchase electric  
7           energy from a qualifying cogeneration facility or a quali-  
8           fying small power production facility under this section if  
9           the Commission finds that the qualifying cogeneration fa-  
10          cility or qualifying small power production facility has  
11          nondiscriminatory access to—

12           “(A)(i) independently administered, auction-  
13          based day ahead and real time wholesale markets for  
14          the sale of electric energy; and

15           “(ii) wholesale markets for long-term sales of  
16          capacity and electric energy; or

17           “(B)(i) transmission and interconnection serv-  
18          ices that are provided by a Commission-approved re-  
19          gional transmission entity and administered pursu-  
20          ant to an open access transmission tariff that af-  
21          fords nondiscriminatory treatment to all customers;  
22          and

23           “(ii) competitive wholesale markets that provide  
24          a meaningful opportunity to sell capacity, including  
25          long-term and short-term sales, and electric energy,

1 including long-term, short-term, and real-time sales,  
2 to buyers other than the utility to which the quali-  
3 fying facility is interconnected, except that, in deter-  
4 mining whether a meaningful opportunity to sell ex-  
5 ists, the Commission shall consider, among other  
6 factors, evidence of transactions within the relevant  
7 market; or

8 “(C) wholesale markets for the sale of capacity  
9 and electric energy that are, at a minimum, of com-  
10 parable competitive quality as markets described in  
11 subparagraphs (A) and (B).

12 “(2)(A) In this paragraph, the term ‘existing quali-  
13 fying cogeneration facility’ means a facility that—

14 “(i) was a qualifying cogeneration facility on  
15 the date of enactment of this paragraph; or

16 “(ii) had filed with the Commission a notice of  
17 self-certification, a self-recertification, or an applica-  
18 tion for Commission certification under section  
19 292.207 of title 18, Code of Federal Regulations (or  
20 a successor regulation), prior to the date on which  
21 the Commission issues the final rule required by  
22 subsection (l).

23 “(B) After the date of enactment of this subpara-  
24 graph, no electric utility shall be required pursuant to this  
25 section to enter into a new contract or obligation to pur-

1 chase from or sell electric energy to a facility that is not  
2 an existing qualifying cogeneration facility unless the facil-  
3 ity meets the criteria for qualifying cogeneration facilities  
4 established by the Commission pursuant to the rulemaking  
5 required by subsection (1).

6 “(3)(A) Any electric utility may file an application  
7 with the Commission for relief from the mandatory pur-  
8 chase obligation pursuant to this subsection on a service  
9 territory-wide basis.

10 “(B) The application shall set forth the factual basis  
11 on which relief is requested and describe why the condi-  
12 tions set forth in subparagraphs (A), (B) or (C) of para-  
13 graph (1) of this subsection have been met.

14 “(C) After notice (including sufficient notice to po-  
15 tentially affected qualifying cogeneration facilities and  
16 qualifying small power production facilities) and an oppor-  
17 tunity for comment, the Commission shall make a final  
18 determination within 90 days of receipt of the application  
19 regarding whether the conditions set forth in subpara-  
20 graphs (A), (B) or (C) of paragraph (1) have been met.

21 “(4)(A) At any time after the Commission makes a  
22 finding under paragraph (3) relieving an electric utility  
23 of the obligation of the electric utility to purchase electric  
24 energy, a qualifying cogeneration facility, a qualifying  
25 small power production facility, a State agency, or any

1 other affected person may apply to the Commission for  
2 an order reinstating the obligation of the electric utility  
3 to purchase electric energy under this section.

4 “(B) The application shall set forth the factual basis  
5 on which the application is based and describe why the  
6 conditions set forth in subparagraphs (A), (B) or (C) of  
7 paragraph (1) of this subsection are no longer met.

8 “(C) After notice (including sufficient notice to po-  
9 tentially affected utilities) and opportunity for comment,  
10 the Commission shall issue an order within 90 days after  
11 receipt of the application reinstating the obligation of the  
12 electric utility to purchase electric energy under this sec-  
13 tion if the Commission finds that the conditions set forth  
14 in subparagraph (A), (B), or (C) of paragraph (1) that  
15 relieved the obligation to purchase, are no longer met.

16 “(5) After the date of enactment of this subsection,  
17 no electric utility shall be required to enter into a new  
18 contract or obligation to sell electric energy to a qualifying  
19 cogeneration facility or a qualifying small power produc-  
20 tion facility under this section if the Commission finds  
21 that—

22 “(A) competing retail electric suppliers are will-  
23 ing and able to sell and deliver electric energy to the  
24 qualifying cogeneration facility or qualifying small  
25 power production facility; and

1           “(B) the electric utility is not required by State  
2           law to sell electric energy in the service territory of  
3           the electric utility.

4           “(6) Nothing in this subsection affects the rights or  
5           remedies of any party under any contract or obligation,  
6           in effect or pending approval before the appropriate State  
7           regulatory authority or non-regulated electric utility on  
8           the date of enactment of this subsection, to purchase elec-  
9           tric energy or capacity from or to sell electric energy or  
10          capacity to a qualifying cogeneration facility or qualifying  
11          small power production facility under this Act (including  
12          the right to recover costs of purchasing electric energy or  
13          capacity).

14          “(7)(A) The Commission shall issue and enforce such  
15          regulations as are necessary to ensure that an electric util-  
16          ity that purchases electric energy or capacity from a quali-  
17          fying cogeneration facility or qualifying small power pro-  
18          duction facility in accordance with any legally enforceable  
19          obligation entered into or imposed under this section re-  
20          covers all prudently incurred costs associated with the pur-  
21          chase.

22          “(B) A regulation under subparagraph (A) shall be  
23          enforceable in accordance with the provisions of law appli-  
24          cable to enforcement of regulations under the Federal  
25          Power Act (16 U.S.C. 791a et seq.).

1       “(1) RULEMAKING FOR NEW QUALIFYING FACILI-  
2 TIES.—(1)(A) Not later than 180 days after the date of  
3 enactment of this subparagraph, the Commission shall  
4 issue a rule revising the criteria established under section  
5 292.205 of title 18, Code of Federal Regulations (or a suc-  
6 cessor regulation), for new qualifying cogeneration facili-  
7 ties seeking to sell electric energy pursuant to section 210  
8 to ensure that—

9               “(i) the thermal energy output of a new quali-  
10 fying cogeneration facility is used in a productive  
11 and beneficial manner;

12               “(ii) the electrical, thermal, and chemical out-  
13 put of the cogeneration facility is used fundamen-  
14 tally for industrial, commercial, or institutional pur-  
15 poses and is not intended fundamentally for sale to  
16 an electric utility, taking into account technological,  
17 efficiency, economic, and variable thermal energy re-  
18 quirements, as well as State laws applicable to sales  
19 of electric energy from a qualifying facility to the  
20 host facility of the qualifying facility; and

21               “(iii) continuing progress is made in the devel-  
22 opment of efficient electric energy generating tech-  
23 nology.

1       “(B)(i) The rule issued pursuant to subparagraph  
2 (A) shall be applicable only to facilities that seek to sell  
3 electric energy pursuant to section 210.

4       “(ii) For all other purposes, except as specifically pro-  
5 vided in section (k)(2)(A), qualifying facility status shall  
6 be determined in accordance with this Act.

7       “(2) Notwithstanding rule revisions under paragraph  
8 (1), the criteria of the Commission for qualifying cogen-  
9 eration facilities in effect prior to the date on which the  
10 Commission issues the final rule required by paragraph  
11 (1) shall continue to apply to any cogeneration facility  
12 that—

13               “(A) was a qualifying cogeneration facility on  
14 the date of enactment of this paragraph, or

15               “(B) had filed with the Commission a notice of  
16 self-certification, self-recertification, or an applica-  
17 tion for Commission certification under section  
18 292.207 of title 18, Code of Federal Regulations (or  
19 a successor regulation) prior to the date on which  
20 the Commission issues the final rule required by  
21 paragraph (1).”.

22       (b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

23               (1) QUALIFYING SMALL POWER PRODUCTION  
24 FACILITY.—Section 3(17) of the Federal Power Act

1 (16 U.S.C. 796(17)) is amended by striking sub-  
 2 paragraph (C) and inserting the following:

3 “(C) ‘qualifying small power production facility’  
 4 means a small power production facility that the Commis-  
 5 sion determines, by rule, meets such requirements (includ-  
 6 ing requirements respecting fuel use, fuel efficiency, and  
 7 reliability) as the Commission may, by rule, prescribe;”.

8 (2) QUALIFYING COGENERATION FACILITY.—

9 Section 3(18) of the Federal Power Act (16 U.S.C.  
 10 796(18)) is amended by striking subparagraph (B)  
 11 and inserting the following:

12 “(B) ‘qualifying cogeneration facility’ means a cogen-  
 13 eration facility that the Commission determines, by rule,  
 14 meets such requirements (including requirements respect-  
 15 ing minimum size, fuel use, and fuel efficiency) as the  
 16 Commission may, by rule, prescribe;”.

17 **SEC. 106. COGENERATION DEVELOPMENT.**

18 (a) ELECTRICAL GENERATION AND RATES.—

19 (1) BENEFITS OF DISTRIBUTED GENERATION  
 20 OF ELECTRICITY.—Part II of the Federal Power Act  
 21 (16 U.S.C. 824 et seq.) (as amended by section 105)  
 22 is amended by adding at the end the following:

23 **“SEC. 215. BENEFITS OF DISTRIBUTED GENERATION OF**  
 24 **ELECTRICITY.**

25 “(a) STUDY.—

1 “(1) IN GENERAL.—

2 “(A) POTENTIAL BENEFITS.—The Sec-  
3 retary, in consultation with the Commission,  
4 shall conduct a study of the potential benefits  
5 of cogeneration and small power production.

6 “(B) RECIPIENTS.—The benefits described  
7 in subparagraph (A) include benefits that are  
8 received directly or indirectly by—

9 “(i) an electricity distribution or  
10 transmission service provider;

11 “(ii) other customers served by an  
12 electricity distribution or transmission  
13 service provider; and

14 “(iii) the general public in the area  
15 served by the public utility in which the co-  
16 generator or small power producer is lo-  
17 cated.

18 “(2) INCLUSIONS.—The study shall include an  
19 analysis of the potential benefits of—

20 “(A) increased system reliability;

21 “(B) improved power quality;

22 “(C) the provision of ancillary services;

23 “(D) reduction of peak power requirements  
24 through onsite generation;

1           “(E) the provision of reactive power or  
2           volt-ampere reactives;

3           “(F) an emergency supply of power;

4           “(G) offsets to investments in generation,  
5           transmission, or distribution facilities that  
6           would otherwise be recovered through rates;

7           “(H) diminished land use effects and  
8           right-of-way acquisition costs; and

9           “(I) reducing the vulnerability of a system  
10          to terrorism.

11          “(3) VALUATION OF BENEFITS.—In carrying  
12          out the study, the Secretary shall determine an ap-  
13          propriate method of valuing potential benefits under  
14          varying circumstances for individual cogeneration or  
15          small power production units.

16          “(b) REPORT.—Not later than 18 months after the  
17          date of enactment of this section, the Secretary shall—

18                 “(1) complete the study;

19                 “(2) provide an opportunity for public comment  
20                 on the results of the study; and

21                 “(3) submit to the President and Congress a  
22                 report describing—

23                         “(A) the results of the study; and

24                         “(B) information relating to the public  
25                         comments received under paragraph (2).

1       “(c) PUBLICATION.—After submission of the report  
2 under subsection (b) to the President and Congress, the  
3 Secretary shall publish the report.”.

4           (2) RATE AND CHARGES; SCHEDULES; SUSPEN-  
5 SION OF NEW RATES.—Section 205 of the Federal  
6 Power Act (16 U.S.C. 824d) is amended by adding  
7 at the end the following:

8       “(g)(1) Subject to paragraph (2), if a rate or charge  
9 made, demanded, or received by a public utility subject  
10 to regulation by the Commission varies because of (or in-  
11 cludes any component reflecting) the existence or volume  
12 of any self-generation, cogeneration, or small power pro-  
13 duction by the ratepayer (or by any third party wholly in-  
14 side the premises of the ratepayer and on the side of the  
15 ratepayer of the meter that measures services received  
16 from that public utility), the rate or charge shall not be  
17 considered just, reasonable, or nondiscriminatory.

18       “(2) If a rate or charge described in paragraph (1)  
19 varies because of (or a component of the rate or charge  
20 reflects) an actual difference in the cost to the public util-  
21 ity of service relative to the cost to the utility of serving  
22 ratepayers without self-generation, cogeneration, or small-  
23 power production, the rate or charge shall be considered  
24 just, reasonable, and nondiscriminatory.

1       “(3) Not later than the date of enactment of this sub-  
2 section, any public utility in the jurisdiction of the Com-  
3 mission shall—

4               “(A) modify any tariff charged by the utility so  
5 that a customer that installs, owns, or operates self-  
6 generation, cogeneration, or small power production  
7 is served under rates, rules, and requirements iden-  
8 tical to those that apply to a customer of the same  
9 class that does not install, own, or operate self-gen-  
10 eration, cogeneration, or small power production;  
11 and

12               “(B) withdraw any provision that provides for  
13 punitive terms, rates, or rules if a customer installs,  
14 owns, or operates self-generation, cogeneration or  
15 small power production equipment.”.

16               (3) CERTAIN INTERCONNECTION AUTHORITY.—  
17 Section 210 of the Federal Power Act (16 U.S.C.  
18 824i) is amended—

19                       (A) by redesignating subsection (e) as sub-  
20 section (f); and

21                       (B) by inserting after subsection (d) the  
22 following:

23               “(e)(1) Notwithstanding any other provision of this  
24 section, to the extent any cogenerator or small power pro-  
25 ducer seeks to interconnect the generator of the cogener-

1 ator or small power producer to the facilities of any public  
 2 utility under the jurisdiction of the Commission for the  
 3 purpose of engaging in a transaction under the jurisdic-  
 4 tion of the Commission, the cogenerator or small power  
 5 producer shall be entitled to elect to apply—

6           “(A) the interconnection rules and procedures  
 7           adopted by the Commission by rule; or

8           “(B) the interconnection rules and procedures  
 9           adopted by the State in which the cogenerator or  
 10          small power producer is located.

11          “(2) The choice under paragraph (1) does not affect  
 12 jurisdiction over the terms and conditions of services by  
 13 the public utility to the cogenerator or small power pro-  
 14 ducer.”.

15          (b) TRANSPORTATION AND SALE OF NATURAL  
 16 GAS.—Section 4(b) of the Natural Gas Act (15 U.S.C.  
 17 717c(b)) is amended by striking subsection (b) and insert-  
 18 ing the following:

19           “(b)(1) No natural-gas company shall, with respect  
 20 to any transportation or sale of natural gas subject to the  
 21 jurisdiction of the Commission, as between localities or  
 22 classes of service—

23           “(A) make or grant any undue preference or  
 24           advantage to any person or subject any person to  
 25           undue prejudice or disadvantage; or

1           “(B) maintain any unreasonable difference in  
2           rates, charges, service, facilities, or in any other re-  
3           spect.

4           “(2) A person using natural gas for cogeneration  
5           shall obtain from a natural-gas company rates and condi-  
6           tions of service not less advantageous than the rates and  
7           conditions of service for a person using natural gas pri-  
8           marily to generate electricity.

9           “(3) Not later than 1 year after the date of enact-  
10          ment of this paragraph, each natural gas company shall  
11          amend any existing schedule of rates and conditions of  
12          service as necessary to comply with this subsection.”.

13       **SEC. 107. EFFICIENT USE OF NATURAL GAS FOR ELECTRIC**  
14                               **ENERGY GENERATION.**

15          (a) FINDINGS.—Congress finds that it is in the na-  
16          tional interest to ensure that electric energy is generated  
17          from natural gas in the most efficient manner practicable.

18          (b) POLICY.—If 2 or more natural gas-fired electric  
19          energy generation facilities are capable of meeting demand  
20          for electric energy, the facility that generates electric en-  
21          ergy at the greatest level of thermal efficiency, and at the  
22          lowest cost to consumers of electric energy, shall be used  
23          first, in accordance with any operational or reliability re-  
24          quirement of an electric energy transmission system.

25          (c) ACTION BY STATES.—

1           (1) IN GENERAL.—Not later than 1 year after  
2           the date of enactment of this Act, the Governor (or  
3           other appropriate regulatory authority) of each State  
4           may establish and carry out a program to achieve  
5           the policy described in subsection (b) with respect to  
6           electric energy generation facilities that are subject  
7           to the regulatory jurisdiction of the State.

8           (2) CERTIFICATION.—If the Governor (or other  
9           appropriate regulatory authority) of a State deter-  
10          mines that the policy described in subsection (b) is  
11          carried out appropriately in the State through a  
12          State program, or another program, in existence on  
13          the date of enactment of this Act, the Governor shall  
14          submit to the Secretary of Energy a certification of  
15          that determination.

16          (d) ACTION BY FEDERAL GOVERNMENT.—The Sec-  
17          retary of Energy shall promulgate regulations to carry out  
18          the policy described in subsection (b) to apply to any  
19          State—

20                 (1) the Governor (or other appropriate regu-  
21                 latory authority) of which fails to act in accordance  
22                 with subsection (c); and

23                 (2) the electric energy generation facilities of  
24                 which are not subject to State regulatory authority.

1 **SEC. 108. DEMAND SIDE MANAGEMENT FOR INDUSTRIALS**  
2 **AND UTILITIES: NET METERING AND OTHER**  
3 **STANDARDS.**

4 (a) ADOPTION OF STANDARDS.—Section 111(d) of  
5 the Public Utility Regulatory Policies Act of 1978 (16  
6 U.S.C. 2621(d)) is amended by adding at the end the fol-  
7 lowing:

8 “(11) NET METERING.—

9 “(A) DEFINITION OF NET METERING  
10 SERVICE.—In this paragraph, the term ‘net me-  
11 tering service’ means service to an electric con-  
12 sumer under which electric energy generated by  
13 that electric consumer from an eligible on-site  
14 generating facility and delivered to the local dis-  
15 tribution facilities may be used to offset electric  
16 energy provided by the electric utility to the  
17 electric consumer during the applicable billing  
18 period.

19 “(B) AVAILABILITY.—Each electric utility  
20 shall make available on request net metering  
21 service to any electric consumer that the electric  
22 utility serves.

23 “(12) FUEL SOURCES.—Each electric utility  
24 shall develop a plan to minimize dependence on 1  
25 fuel source and to ensure that the electric energy the  
26 electric utility sells to consumers is generated using

1 a diverse range of fuels and technologies, including  
2 renewable technologies.

3 “(13) FOSSIL FUEL GENERATION EFFI-  
4 CIENCY.—Each electric utility shall develop and im-  
5 plement a 10-year plan to increase the efficiency of  
6 the fossil fuel generation of the electric utility.”.

7 (b) COMPLIANCE.—

8 (1) TIME LIMITATIONS.—Section 112(b) of the  
9 Public Utility Regulatory Policies Act of 1978 (16  
10 U.S.C. 2622(b)) is amended by adding at the end  
11 the following:

12 “(3)(A) Not later than 2 years after the date of en-  
13 actment of this paragraph, each State regulatory authority  
14 (with respect to each electric utility for which the state  
15 regulatory authority has ratemaking authority) and each  
16 nonregulated electric utility shall commence the consider-  
17 ation referred to in section 111, or set a hearing date for  
18 the consideration, with respect to each standard estab-  
19 lished under paragraphs (11) through (13) of section  
20 111(d).

21 “(B) Not later than 3 years after the date of enact-  
22 ment of this paragraph, each State regulatory authority  
23 (with respect to each electric utility for which the state  
24 regulatory authority has ratemaking authority), and each  
25 nonregulated electric utility, shall complete the consider-

1 ation, and shall make the determination, referred to in  
2 section 111 with respect to each standard established  
3 under paragraphs (11) through (13) of section 111(d).”.

4 (2) FAILURE TO COMPLY.—Section 112(c) of  
5 the Public Utility Regulatory Policies Act of 1978  
6 (16 U.S.C. 2622(c)) is amended—

7 (A) by inserting “(1)” before “Each”; and

8 (B) by adding at the end the following:

9 “(2) In the case of each standard established  
10 under paragraphs (11) through (13) of section  
11 111(d), the reference contained in this subsection to  
12 the date of enactment of this Act shall be deemed  
13 to be a reference to the date of enactment of those  
14 paragraphs.”.

15 (3) PRIOR STATE ACTIONS.—

16 (A) IN GENERAL.—Section 112 of the  
17 Public Utility Regulatory Policies Act of 1978  
18 (16 U.S.C. 2622) is amended by adding at the  
19 end the following:

20 “(d) PRIOR STATE ACTIONS.—Subsections (b) and  
21 (c) shall not apply to the standards established under  
22 paragraphs (11) through (13) of section 111(d) in the case  
23 of any electric utility in a State if, before the date of enact-  
24 ment of this subsection—

1           “(1) the State has implemented for the utility  
2 the standard concerned (or a comparable standard);

3           “(2) the State regulatory authority for the  
4 State or relevant nonregulated electric utility has  
5 conducted a proceeding to consider implementation  
6 of the standard concerned (or a comparable stand-  
7 ard) for the utility; or

8           “(3) the State legislature has voted on the im-  
9 plementation of the standard (or a comparable  
10 standard) for the utility.”.

11           (B) CROSS REFERENCE.—Section 124 of  
12 the Public Utility Regulatory Policies Act of  
13 1978 (16 U.S.C. 2634) is amended—

14           (i) in the first sentence, by inserting  
15           “(A) COMPLETED PROCEEDINGS AND AC-  
16 TIONS.—” before “For”;

17           (ii) in the second sentence, by insert-  
18 ing “(B) INCOMPLETE PROCEEDINGS AND  
19 ACTIONS.—” before “For”; and

20           (iii) by adding at the end the fol-  
21 lowing:

22           “(c) CROSS REFERENCE.—In the case of each stand-  
23 ard established under paragraphs (11) through (13) of  
24 section 111(d), the reference contained in this subsection  
25 to the date of enactment of this Act shall be deemed to

1 be a reference to the date of enactment of those para-  
2 graphs.”.

3 **SEC. 109. DEMAND SIDE MANAGEMENT FOR RESIDENTIAL**  
4 **CUSTOMERS: SMART METERING.**

5 (a) IN GENERAL.—Section 111(d) of the Public Utili-  
6 ties Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))  
7 is amended by adding at the end the following:

8 “(14) TIME-BASED METERING AND COMMU-  
9 NICATIONS.—(A) Not later than 18 months after the  
10 date of enactment of this paragraph, each electric  
11 utility shall offer each customer class of the electric  
12 utility, and provide individual customers on customer  
13 request, a time-based rate schedule under which the  
14 rate charged by the electric utility varies during dif-  
15 ferent time periods and reflects the variance, if any,  
16 in the costs of the electric utility of generating and  
17 purchasing electricity at the wholesale level.

18 “(B) The time-based rate schedule shall enable  
19 the electric consumer to manage energy use and cost  
20 through advanced metering and communications  
21 technology.

22 “(C) The types of time-based rate schedules  
23 that may be offered under the schedule referred to  
24 in subparagraph (A) include, among others—

25 “(i) time-of-use pricing under which—

1           “(I) electricity prices are set for a  
2           specific time period on an advance or for-  
3           ward basis, typically not changing more  
4           often than twice a year, based on the cost  
5           to the utility of generating or purchasing  
6           such electricity at the wholesale level for  
7           the benefit of the consumer; and

8           “(II) policy prices paid for energy  
9           consumed during those periods shall be  
10          pre-established and known to consumers in  
11          advance of the consumption, allowing the  
12          consumers to vary the demand and usage  
13          of the consumers in response to such  
14          prices and manage the energy costs of the  
15          consumers by shifting usage to a lower  
16          cost period or reducing the overall con-  
17          sumption of the consumers;

18          “(ii) critical peak pricing under which  
19          time-of-use prices are in effect except for cer-  
20          tain peak days, when prices may reflect the  
21          costs of generating or purchasing electricity at  
22          the wholesale level and when consumers may re-  
23          ceive additional discounts for reducing peak pe-  
24          riod energy consumption; and

1           “(iii) real-time pricing under which elec-  
2           tricity prices are set for a specific time period  
3           on an advanced or forward basis, reflecting the  
4           cost to the utility of generating or purchasing  
5           electricity at the wholesale level, and may  
6           change as often as hourly.

7           “(D) Each electric utility subject to subpara-  
8           graph (A) shall provide each customer requesting a  
9           time-based rate with a time-based meter capable of  
10          enabling the utility and customer to offer and re-  
11          ceive that rate, respectively.

12          “(E) For purposes of implementing this para-  
13          graph, any reference contained in this section to the  
14          date of enactment of the Public Utility Regulatory  
15          Policies Act of 1978 (16 U.S.C. 2601 et seq.) shall  
16          be deemed to be a reference to the date of enact-  
17          ment of this paragraph.

18          “(F) In a State that permits third-party mar-  
19          keters to sell electric energy to retail electric con-  
20          sumers, the consumers shall be entitled to receive  
21          the same time-based metering and communications  
22          device and service as a retail electric consumer of  
23          the electric utility.

24          “(G) Notwithstanding subsections (b) and (c)  
25          of section 112, not later than 18 months after the

1 date of enactment of this paragraph, each State reg-  
 2 ulatory authority shall—

3 “(i) conduct an investigation in accordance  
 4 with section 115(i); and

5 “(ii) issue a decision whether it is appro-  
 6 priate to implement the standards set out in  
 7 subparagraphs (A) and (C).”.

8 (b) STATE INVESTIGATION OF DEMAND RESPONSE  
 9 AND TIME-BASED METERING.—Section 115 of the Public  
 10 Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625)  
 11 is amended—

12 (1) in subsection (b)—

13 (A) by inserting “and the standard for  
 14 time-based metering and communications estab-  
 15 lished by section 111(d)(14)” after “the stand-  
 16 ard for time-of-day rates established by section  
 17 111(d)(3)”; and

18 (B) by inserting “and communications”  
 19 after “are likely to exceed the metering”; and

20 (2) by adding the at the end the following:

21 “(i) TIME-BASED METERING AND COMMUNICA-  
 22 TIONS.—(1) In making a determination with respect to  
 23 the standard established by section 111(d)(14), the inves-  
 24 tigation requirement of section 111(d)(14)(F) shall apply  
 25 in accordance with this subsection.

1       “(2) A state regulatory authority shall conduct an in-  
2 vestigation and issue a decision whether or not it is appro-  
3 priate for electric utilities to provide and install time-based  
4 meters and communications devices for each of their cus-  
5 tomers that enable the customers to participate in time-  
6 based pricing rate schedules and other demand response  
7 programs.”.

8       (c) FEDERAL ASSISTANCE ON DEMAND RE-  
9 SPONSE.—Section 132(a) of the Public Utility Regulatory  
10 Policies Act of 1978 (16 U.S.C. 2642(a)) is amended—

11           (1) in paragraph (3), by striking “and” at the  
12 end;

13           (2) by striking the period at the end of para-  
14 graph (4) and inserting “; and”; and

15           (3) by adding at the end the following:

16           “(5) technologies, techniques, and ratemaking  
17 methods relating to advanced metering and commu-  
18 nications and the use of those technologies, tech-  
19 niques, and methods in demand response pro-  
20 grams.”.

21       (d) FEDERAL GUIDANCE.—Section 132 of the Public  
22 Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642)  
23 is amended—

24           (1) by redesignating subsection (c) as sub-  
25 section (d); and

1           (2) by inserting after subsection (b) the fol-  
2           lowing:

3           “(c) DEMAND RESPONSE.—The Secretary shall be  
4           responsible for—

5           “(1) informing consumers of the availability,  
6           advantages, and benefits of advanced metering and  
7           communications technologies, including the funding  
8           of demonstration or pilot projects;

9           “(2) working with States, utilities, other energy  
10          providers, and advanced metering and communica-  
11          tions experts to identify and address barriers to the  
12          adoption of demand response programs; and

13          “(3) not later than 180 days after the date of  
14          enactment of the Natural Gas Price Reduction Act  
15          of 2005, providing Congress with a report that iden-  
16          tifies and quantifies the national benefits of demand  
17          response and makes a recommendation on achieving  
18          specific levels of those benefits by January 1,  
19          2008.”.

20          (e) DEMAND RESPONSE AND REGIONAL COORDINA-  
21          TION.—

22          (1) IN GENERAL.—It is the policy of the United  
23          States to encourage States to coordinate, on a re-  
24          gional basis, State energy policies to provide reliable

1 and affordable electricity demand response services  
2 to the public.

3 (2) TECHNICAL ASSISTANCE.—The Secretary of  
4 Energy shall provide technical assistance to States  
5 and regional organizations formed by 2 or more  
6 States to assist the organizations in—

7 (A) identifying the areas with the greatest  
8 electricity demand response potential;

9 (B) identifying and resolving problems in  
10 transmission and distribution networks, includ-  
11 ing through the use of demand response;

12 (C) developing plans and programs to use  
13 demand response to respond to peak demand or  
14 emergency needs; and

15 (D) identifying specific measures con-  
16 sumers can take to participate in those demand  
17 response programs.

18 (3) REPORT.—Not later than 1 year after the  
19 date of enactment of this Act, the Federal Energy  
20 Regulatory Commission shall prepare and publish an  
21 annual report, by appropriate region, that assesses  
22 electricity demand response resources, including  
23 those available from all consumer classes, and that  
24 identifies and reviews—

1 (A) saturation and penetration rate of ad-  
2 vanced meters and communications tech-  
3 nologies, devices, and systems;

4 (B) existing demand response programs  
5 and time-based rate programs;

6 (C) the annual resource contribution of de-  
7 mand resources;

8 (D) the potential for demand response as  
9 a quantifiable, reliable resource for regional  
10 planning purposes; and

11 (E) steps taken to ensure that, in regional  
12 transmission planning and operations, demand  
13 resources are provided equitable treatment as a  
14 quantifiable, reliable resource relative to the re-  
15 source obligations of any load-serving entity,  
16 transmission provider, or transmitting party.

17 (f) FEDERAL ENCOURAGEMENT OF DEMAND RE-  
18 SPONSE DEVICES.—It is the policy of the United States  
19 that—

20 (1) time-based pricing and other forms of elec-  
21 tricity demand response, under which electricity cus-  
22 tomers are provided with electricity price signals and  
23 the ability to benefit by responding to the con-  
24 sumers, shall be encouraged, and the deployment of  
25 the technology and devices that enable electricity

1 customers to participate in the pricing and demand  
2 response systems shall be facilitated; and

3 (2) the benefits of the demand response that  
4 accrue to persons not deploying the technology and  
5 devices, but who are part of the same regional elec-  
6 tricity entity, shall be recognized.

7 (g) TIME LIMITATIONS.—Section 112(b) of the Pub-  
8 lic Utility Regulatory Policies Act of 1978 (16 U.S.C.  
9 2622(b)) is amended by adding at the end the following:

10 “(4)(A) Not later than 1 year after the date of enact-  
11 ment of this paragraph, each State regulatory authority  
12 (with respect to each electric utility for which the author-  
13 ity has ratemaking authority) and each nonregulated elec-  
14 tric utility shall commence the consideration referred to  
15 in section 111, or set a hearing date for the consideration,  
16 with respect to the standard established by section  
17 111(d)(14).

18 “(B) Not later than 2 years after the date of enact-  
19 ment of this paragraph, each State regulatory authority  
20 (with respect to each electric utility for which the author-  
21 ity has ratemaking authority), and each nonregulated elec-  
22 tric utility, shall complete the consideration, and shall  
23 make the determination, referred to in section 111 with  
24 respect to the standard established by section  
25 111(d)(14).”.

1 **SEC. 110. PROTECTING INDUSTRIAL COGENERATORS.**

2 Nothing in subtitle D of the Energy Conference Re-  
3 port (House of Representatives Report 108–375, 108th  
4 Congress, agreed to November 17, 2003) (relating to par-  
5 ticipant funding) shall apply to a qualifying facility, as de-  
6 termined under section 210(n) of the Public Utility Regu-  
7 latory Policies Act of 1978 (16 U.S.C. 824a–3) (as added  
8 by section 104).

9 **SEC. 111. REDUCTION OF DEPENDENCE ON IMPORTED PE-**  
10 **TROLEUM.**

11 (a) REPORT.—

12 (1) IN GENERAL.—Not later than July 1, 2007,  
13 and annually thereafter, the President shall submit  
14 to Congress a report, based on the most recent edi-  
15 tion of the Annual Energy Outlook published by the  
16 Energy Information Administration, assessing the  
17 progress made by the United States toward the goal  
18 of reducing dependence on imported petroleum  
19 sources by 2015.

20 (2) CONTENTS.—The report under paragraph  
21 (1) shall—

22 (A) include a description of the implemen-  
23 tation, during the previous fiscal year, of provi-  
24 sions of this Act and amendments made by this  
25 Act relating to domestic crude petroleum pro-  
26 duction;

1 (B) assess the effectiveness of those provi-  
2 sions in meeting the goal described in para-  
3 graph (1); and

4 (C) describe the progress in developing and  
5 implementing measures under subsection (b).

6 (b) MEASURES TO REDUCE IMPORT DEPENDENCE  
7 THROUGH INCREASED DOMESTIC PETROLEUM CON-  
8 SERVATION.—

9 (1) IN GENERAL.—Not later than 1 year after  
10 the date of enactment of this Act, the President  
11 shall develop and implement measures to conserve  
12 petroleum in end-uses throughout the economy of  
13 the United States that are sufficient to reduce total  
14 demand for petroleum in the United States by  
15 1,750,000 barrels per day from the quantity pro-  
16 jected for calendar year 2015 in the reference case  
17 contained in the report of the Energy Information  
18 Administration entitled “Annual Energy Outlook  
19 2005”.

20 (2) CONTENTS.—The measures under para-  
21 graph (1) shall be designed to ensure continued reli-  
22 able and affordable energy for consumers.

23 (3) IMPLEMENTATION.—The measures under  
24 paragraph (1) shall be implemented under existing

1 authorities of appropriate Federal executive agencies  
2 identified by the President.

3 **SEC. 112. NATIONAL GASIFICATION STRATEGY FOR POWER**  
4 **SECTOR.**

5 (a) STREAMLINED PERMITTING.—

6 (1) IN GENERAL.—Not later than 1 year after  
7 the date of enactment of this Act, the Administrator  
8 of the Environmental Protection Agency shall pro-  
9 mulgate regulations to revise the requirements under  
10 section 111 of the Clean Air Act (42 U.S.C. 7411),  
11 and parts C and D of title I of that Act (42 U.S.C.  
12 7470 et seq.), in accordance with this section.

13 (2) APPLICATION DATE.—The revised regula-  
14 tions adopted pursuant to this section shall apply  
15 until January 1, 2017, but may continue to apply  
16 after that date if the Environmental Protection  
17 Agency determines that such regulations are author-  
18 ized by another provision of the Clean Air Act (42  
19 U.S.C. 7401 et seq.).

20 (b) APPLICABILITY.—A qualifying project shall not  
21 be considered to be a major stationary source that is sub-  
22 ject to the preconstruction review requirements of parts  
23 C and D of title I of the Clean Air Act (42 U.S.C. 7470  
24 et seq.), for purposes of constructing such qualifying

1 projects, provided each of the following requirements of  
2 this subsection is met:

3 (1) Emissions reductions are achieved by other  
4 stationary sources located within the same air qual-  
5 ity region, as determined by the Administrator based  
6 on best available air quality modeling, and such  
7 emissions reductions offset the emissions of the  
8 qualifying project on a pollutant-by-pollutant basis.

9 (2) Such emissions reductions by other sta-  
10 tionary sources are achieved through a federally en-  
11 forceable limitation that is not otherwise required  
12 under the Clean Air Act, and occurred within a 5-  
13 year period prior to the date that the qualifying  
14 project commenced commercial operation.

15 (3)(A) The owner or operator of qualifying  
16 project demonstrates the following requirements are  
17 met prior to the commencement of construction of  
18 the project:

19 (i) In an area designated as attainment or  
20 unclassifiable under section 107(d) of the Clean  
21 Air Act (42 U.S.C. 7407(d)), the emissions in-  
22 crease resulting from the qualifying project will  
23 not cause or contribute to air pollution in ex-  
24 cess of any national ambient air quality stand-  
25 ard.

1           (ii) In an area designated as nonattain-  
2           ment under section 107(d) of the Clean Air Act  
3           (42 U.S.C. 7407(d)), the emissions increase re-  
4           sulting from the qualifying project will not  
5           interfere with any program to assure that the  
6           national ambient air quality standards are  
7           achieved and maintained.

8           (B) Demonstrations performed under this para-  
9           graph shall be based on the offsetting emissions re-  
10          ductions achieved under paragraphs (1) and (2), as  
11          well as other design and emissions parameters that  
12          are relevant for assessing air quality impacts of the  
13          emissions increase from the project.

14          (4) The qualifying project complies with the  
15          emissions standards that are established for inte-  
16          grated gasification combined cycle plants under sec-  
17          tion 111 of the Clean Air Act (42 U.S.C. 7411).

18          (c) EXPEDITED PERMITTING.—

19          (1) The permitting authority shall expedite the  
20          preconstruction review requirements of parts C and  
21          D of title I of the Clean Air Act (42 U.S.C. 7470  
22          et seq.) in the case of qualifying projects that do not  
23          obtain offsetting emissions reductions under sub-  
24          section (a).

1           (2) Expedited preconstruction review shall in-  
2       clude the following:

3           (A) Application of the emissions standards  
4       for integrated gasification combined cycle plants  
5       under section 111 of that Act (42 U.S.C.  
6       7411), instead of case-by-case performance  
7       standards based on best available control tech-  
8       nology or lowest achievable emissions rate  
9       under parts C and D of title I of that Act (42  
10      U.S.C. 7470 et seq.).

11          (B) Other appropriate measures to accel-  
12      erate preconstruction review and issuance of all  
13      necessary air permits for the construction and  
14      operation of qualifying projects under parts C  
15      and D of title I of that Act (42 U.S.C. 7470  
16      et seq.).

17      (d) DEFINITIONS.—In this section:

18          (1) The term “biomass” means any animal, ag-  
19      ricultural or plant waste, by-product of wood or  
20      paper mill operations such as lignin in spent pulping  
21      liquors, and other products of forestry maintenance,  
22      but does not include paper that is commonly recy-  
23      cled.

1           (2) The term “electric generation unit” means  
2 any facility at least 50 percent of the total annual  
3 net output of which is electrical power.

4           (3) The term “industrial gasification tech-  
5 nology” means any process that converts an eligible  
6 solid or liquid into a gaseous condition for direct use  
7 or subsequent chemical or physical conversion. An  
8 eligible solid or liquid shall include the following ma-  
9 terials: coal, petroleum residue (such as carbon-  
10 ization product of high-boiling hydrocarbon fractions  
11 obtained in petroleum processing), biomass, carbon-  
12 ized or semi-carbonized matter (including peat) or  
13 other materials that are recovered for their feed-  
14 stock, fuel, or other energy value.

15           (4) The term “integrated gasification combined  
16 cycle technology” means any combination of equip-  
17 ment, including all related power generation equip-  
18 ment, that is used at a single location to convert  
19 coal or residuals into synthesis gas that is then used  
20 as a fuel to generate electricity.

21           (5) The term “natural gas combined cycle”  
22 means a system that—

23                   (A) is comprised of 1 or more combustion  
24                   turbines, heat recovery steam generators, and  
25                   steam turbines; and

1 (B) combusts only natural gas or fuel oil,  
2 with natural gas comprising at least 90 percent,  
3 and fuel oil not more than 10 percent, of the  
4 unit's annual heat input in any year.

5 (6) The term "qualifying electric generation  
6 project" means a project that meets each of the fol-  
7 lowing eligibility requirements:

8 (A) The project uses integrated gasifi-  
9 cation combined cycle technology in the con-  
10 struction of a new electric generating unit, the  
11 repowering of an existing coal-fired electric gen-  
12 eration unit, or the conversion of an existing  
13 natural gas combined cycle unit to operate on  
14 coal instead of natural gas.

15 (B) The project meets the emissions stand-  
16 ards that are established for integrated gasifi-  
17 cation combined cycle plants under section 111  
18 of the Clean Air Act (42 U.S.C. 7411).

19 (C) The project commences commercial op-  
20 eration after December 31, 2006.

21 (7) The term "qualifying industrial project"  
22 means any project that uses an industrial gasifi-  
23 cation technology that meets the following eligibility  
24 requirements:

1           (A) The energy output of the project is  
2 primarily used for applications in one or more  
3 of the following industries: chemicals, fertilizer,  
4 glass, steel, petroleum coke, forest products,  
5 and agriculture-feedlots.

6           (B) The gasification technology meets the  
7 emissions standards that are established for in-  
8 tegrated gasification combined cycle plants  
9 under section 111 of the Clean Air Act (42  
10 U.S.C. 7411).

11           (C) The gasification technology commenced  
12 commercial operation after December 31, 2006.

13           (8) The term “qualifying project” means a  
14 qualifying electric generation project or a qualifying  
15 industrial project.

16 (e) CONSTRUCTION INCENTIVES.—

17           (1) DEFINITIONS.—In this subsection:

18           (A) CARBON CAPTURE READY.—The term  
19 “carbon capture ready”, with respect to a facil-  
20 ity or equipment, means an industrial gasifi-  
21 cation project design that is determined by the  
22 Secretary to be capable of accommodating the  
23 equipment likely to be necessary to capture,  
24 separate on a long-term basis, isolate, or re-  
25 move carbon dioxide from the gaseous stream

1 (for later use or sequestration) that would oth-  
2 erwise be emitted during the generation of elec-  
3 tricity.

4 (B) GASIFICATION COMBINED CYCLE  
5 TECHNOLOGY FACILITY.—The term “gasifi-  
6 cation combined cycle technology facility”  
7 means an integrated gasification combined cycle  
8 facility that contains any combination of equip-  
9 ment (including power generation equipment)  
10 that—

11 (i) is used at a single location to con-  
12 vert coal or a residual into synthesis gas to  
13 be used as a fuel to generate electricity;

14 (ii) is carbon capture ready;

15 (iii) is depreciable or that can be am-  
16 ortized; and

17 (iv) achieves—

18 (I) a nitrogen emissions rate of  
19 at least 0.06 lbs/mmBtu; and

20 (II) a sulfur dioxide emissions  
21 rate of at least 0.08 lbs/mmBtu.

22 (C) SECRETARY.—The term “Secretary”  
23 means the Secretary of Energy.

24 (2) INCENTIVES.—The Secretary shall establish  
25 a program under which construction incentives are

1 provided for eligible facilities that are certified by  
2 the Secretary in accordance with this subsection.

3 (3) CERTIFICATION.—

4 (A) IN GENERAL.—Subject to subpara-  
5 graph (D), the Secretary shall certify the first  
6 eligible facilities for which an application for  
7 certification is submitted to the Secretary.

8 (B) ELIGIBLE FACILITIES.—To be eligible  
9 to receive certification under this subsection, a  
10 facility shall be permitted—

11 (i) to be a gasification combined cycle  
12 technology facility;

13 (ii) to be built and in continuous oper-  
14 ation beginning not later than December  
15 31, 2013;

16 (iii) to have a fuel input of coal of not  
17 less than 75 percent; and

18 (iv) to have a design capability of not  
19 less than 500 megawatts.

20 (v) to own or have all land rights for  
21 construction and for operation of the facil-  
22 ity; and

23 (vi) to demonstrate a financial condi-  
24 tion that is necessary to achieve financial  
25 closing for the facility.

1 (C) APPLICATION.—

2 (i) IN GENERAL.—To receive certifi-  
3 cation under subparagraph (A), on receipt  
4 for an eligible facility of a prevention of  
5 significant deterioration of air quality  
6 (PSD) permit from the Administrator of  
7 the Environmental Protection Agency and  
8 all other required Federal, State, and local  
9 permits, the owner or operator of the facil-  
10 ity shall submit to the Secretary an appli-  
11 cation in the manner required by the Sec-  
12 retary.

13 (ii) CONTENTS.—An application under  
14 this subparagraph shall contain—

15 (I) a plan for the construction of  
16 the eligible facility; and

17 (II) any other information the  
18 Secretary may require.

19 (D) SELECTION.—The Secretary shall se-  
20 lect for certification under subparagraph (A)—

21 (i) 4 eligible facilities that are—

22 (I) investor-owned utilities; or

23 (II) independent power pro-  
24 ducers; and

25 (ii) 2 eligible facilities that are—

1 (I) public utilities; or

2 (II) rural power cooperatives.

3 (4) GRANTS.—

4 (A) IN GENERAL.—The Secretary shall es-  
5 tablish a program under which the Secretary  
6 shall provide grants to the eligible facilities de-  
7 scribed in paragraph (3)(D)(ii) to pay the Fed-  
8 eral share of the costs of construction of those  
9 eligible facilities.

10 (B) TIMING.—The Secretary shall make a  
11 grant under this paragraph commencing on the  
12 date the Secretary determines that an eligible  
13 facility has achieved financial closing and ob-  
14 tained financing from 1 or more commercial  
15 lending institutions.

16 (C) FEDERAL SHARE.—The Federal share  
17 of the certified costs of construction of an eligi-  
18 ble facility under this paragraph shall be, as de-  
19 termined by the Secretary—

20 (i) in the case of an eligible entity  
21 that was among the first 3 eligible entities  
22 to receive certification under paragraph  
23 (3)(A), not more than 40 percent; and

24 (ii) in the case of an eligible entity  
25 that was among the last 3 eligible entities

1 to receive certification under paragraph  
2 (3)(A), not more than 30 percent.

3 (5) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized such sums as are necessary to  
5 carry out this subsection, to remain available until  
6 expended.

7 **SEC. 113. INDUSTRIAL GASIFICATION DEMONSTRATION**  
8 **AND DEPLOYMENT PROGRAM.**

9 (a) DEFINITIONS.—In this section:

10 (1) BIOMASS.—

11 (A) IN GENERAL.—The term “biomass”  
12 means—

13 (i) any agricultural or plant waste;

14 (ii) a byproduct of a wood or paper  
15 mill, such as lignin in spent pulping liq-  
16 uors; and

17 (iii) any other product of forestry  
18 maintenance.

19 (B) EXCLUSION.—The term “biomass”  
20 does not include paper that is commonly recy-  
21 cled.

22 (2) CARBON-CAPTURE READY.—The term “car-  
23 bon-capture ready” means an industrial gasification  
24 plant design that is determined by the Secretary to  
25 be capable of accommodating the equipment likely to

1 be necessary to capture carbon dioxide from the gas-  
2 eous stream, for later use or sequestration, that  
3 would otherwise be emitted in the flue gas from a  
4 project that uses a non-renewable fuel.

5 (3) COAL.—The term “coal” means any carbon-  
6 ized or semi-carbonized matter, including peat.

7 (4) ELIGIBLE ENTITY.—The term “eligible enti-  
8 ty” means any entity that applies for Federal assist-  
9 ance that will principally be used for applications  
10 with a standard industrial classification relating par-  
11 ticularly to chemicals, fertilizers, glass, steel,  
12 petcoke, forest products, or agriculture feedlots, as  
13 determined by the Secretary.

14 (5) GASIFICATION TECHNOLOGY.—The term  
15 “gasification technology” means any process by  
16 which a solid or liquid product from coal, petroleum  
17 residue, biomass, or other material recovered for its  
18 energy or feedstock value is converted into a gaseous  
19 condition for—

20 (A) direct use; or

21 (B) subsequent chemical or physical con-  
22 version.

23 (6) INDUSTRIAL GASIFICATION PROJECT.—The  
24 term “industrial gasification project” means a  
25 project that—

1 (A) is proposed by an eligible entity; and

2 (B) employs gasification technology.

3 (7) PETROLEUM RESIDUE.—The term “petro-  
4 leum residue” means a carbonization product of  
5 high-boiling hydrocarbon fractions obtained through  
6 petroleum processing.

7 (8) SECRETARY.—The term “Secretary” means  
8 the Secretary of Energy.

9 (9) TOTAL PROJECT INVESTMENT.—The term  
10 “total project investment” means—

11 (A) the total project cost for engineering,  
12 design, procurement, construction, project de-  
13 velopment, and financing; and

14 (B) reasonable contingency reserves (as de-  
15 termined by the Secretary and the project spon-  
16 sor).

17 (b) FINDING; PURPOSE.—

18 (1) FINDING.—Congress finds that widespread  
19 domestic use of gasification technologies can signifi-  
20 cantly contribute to the economy, the environment,  
21 and the general welfare of the people of the United  
22 States.

23 (2) PURPOSE.—The purpose of this section is  
24 to significantly accelerate the deployment of gasifi-

1 cation technologies for industrial application in order  
2 to—

3 (A) to produce the natural gas equivalent  
4 of 1,000,000,000 cubic feet of natural gas an-  
5 nually, or 5 percent of the total demand for  
6 natural gas;

7 (B) to reduce imports of energy from for-  
8 eign energy sources;

9 (C) to preserve domestic jobs;

10 (D) to reduce the demand pressure on do-  
11 mestic natural gas prices and supply for all  
12 consumers by promoting the use of gas derived  
13 from—

14 (i) domestic coal;

15 (ii) biomass; and

16 (iii) other domestic fuel sources for in-  
17 dustrial use;

18 (E) to avoid dependence on remote foreign  
19 sources for chemicals, ammonia-based fer-  
20 tilizers, and other strategic products for which  
21 natural gas is traditionally a significant compo-  
22 nent in the manufacturing process;

23 (F) to promote the use of domestic coal,  
24 biomass, and other fuel sources in an environ-  
25 mentally benign manner;

1 (G) to promote the position of the United  
2 States as a global leader in advanced gasifi-  
3 cation technology and related sales; and

4 (H) to promote the potential for future use  
5 or sequestration of industrial carbon emissions  
6 in an efficient manner.

7 (c) INDUSTRIAL GASIFICATION DEMONSTRATION  
8 AND DEPLOYMENT PROGRAM.—

9 (1) ESTABLISHMENT.—The Secretary shall es-  
10 tablish and implement an industrial gasification  
11 demonstration and deployment program.

12 (2) SOLICITATION OF APPLICATIONS.—Not less  
13 frequently than every 18 months, the Secretary, in  
14 consultation with the Secretary of the Treasury,  
15 shall solicit from eligible entities applications for  
16 Federal assistance described in subsection (e) for the  
17 construction and operation of facilities that gasify  
18 coal, petroleum residues, or biomass.

19 (3) REGULATIONS.—

20 (A) IN GENERAL.—Not later than 180  
21 days after the date of enactment of this Act,  
22 the Secretary, after consultation with the Sec-  
23 retary of the Treasury, shall issue final regula-  
24 tions to carry out this section.

1 (B) LIMITATION.—The regulations shall  
2 be—

3 (i) limited to the activities described  
4 in this section; and

5 (ii) generally consistent with the Fed-  
6 eral Nonnuclear Energy Research and De-  
7 velopment Act of 1974 (42 U.S.C. 5901 et  
8 seq.).

9 (4) STUDY OF REGULATORY BARRIERS.—

10 (A) IN GENERAL.—The Secretary shall  
11 conduct a study of the barriers to timely de-  
12 ployment of commercial gasification projects  
13 under this subsection.

14 (B) CONSULTATION.—In carrying out the  
15 study, the Secretary shall consult with—

16 (i) Federal and State regulatory agen-  
17 cies;

18 (ii) potential industrial and utility  
19 users and vendors of gasification tech-  
20 nology;

21 (iii) suppliers and transporters of any  
22 feedstock materials or plant products;

23 (iv) financial institutions; and

24 (v) knowledgeable public citizens.

1           (5) REPORT.—Not later than 1 year after the  
2 date of enactment of this Act, the Secretary shall  
3 submit to the Committee on Energy and Natural  
4 Resources of the Senate a report describing—

5                   (A) the results of the study under para-  
6 graph (4); and

7                   (B) recommendations of the Secretary that  
8 may facilitate the introduction of gasification  
9 technology.

10 (d) PROJECT CRITERIA.—

11           (1) IN GENERAL.—On evaluating an application  
12 for Federal financial assistance described in sub-  
13 section (e), the Secretary, in consultation with the  
14 Secretary of the Treasury, shall consider—

15                   (A) the potential of the proposed project to  
16 surpass existing environmental standards in the  
17 proposed project area;

18                   (B) the likelihood of the project to preserve  
19 domestic jobs at the proposed site and through  
20 subsequent replications of the technology;

21                   (C) the degree to which the proposed  
22 project, and anticipated replications of the tech-  
23 nology used in the project, may provide sub-  
24 stitutes for natural gas on a cost-effective basis

1 compared to other applications proposed by eli-  
2 gible entities;

3 (D) the technical and economic feasibility  
4 of the project;

5 (E) the financial viability of the project;

6 (F) an expectation that private equity in  
7 the project will equal at least 20 percent of  
8 total plant investment;

9 (G) the likelihood that replications of the  
10 technology will create significant markets for  
11 domestic vendors of the technology;

12 (H) the diversity of the technological ap-  
13 proaches and regional locations of the projects  
14 selected, except that, unless no such project is  
15 proposed by an eligible entity—

16 (i) at least 1 of the industrial gasifi-  
17 cation projects selected shall use coal; and

18 (ii) at least 1 of the industrial gasifi-  
19 cation projects selected shall use biomass;

20 (I) a determination that the plant will be  
21 carbon-capture ready, as applicable; and

22 (J) any other criteria the Secretary pub-  
23 lishes in a solicitation to achieve the purpose of  
24 this section.

1           (2) FACTORS OF ADDITIONAL WEIGHT.—In  
2     evaluating a project that gasifies coal or petroleum  
3     residue, the Secretary shall give additional weight to  
4     a project proposal that contains separation, seques-  
5     tration, or use of carbon or other gases in the proc-  
6     ess waste stream that have a radiative index greater  
7     than or equal to that of carbon dioxide.

8     (e) FINANCIAL ASSISTANCE.—

9           (1) TYPES OF ASSISTANCE.—

10           (A) IN GENERAL.—In carrying out this  
11     section, the Secretary may award to an eligible  
12     entity selected by the Secretary—

13                   (i) a loan;

14                   (ii) a loan guarantee;

15                   (iii) price supports; or

16                   (iv) goods the purchase prices of  
17     which are incurred by the Secretary.

18           (B) LOANS AND LOAN GUARANTEES.—

19                   (i) IN GENERAL.—A loan or loan  
20     guarantee provided under clause (i) or (ii)  
21     of subparagraph (A)—

22                           (I) shall not exceed 80 percent of  
23     the total project investment; and

24                           (II) shall be backed by the full  
25     faith and credit of the United States.

1 (ii) NON-FEDERAL EQUITY INVEST-  
2 MENT.—An eligible entity shall—

3 (I) provide a non-Federal equity  
4 investment equal to not less than 20  
5 percent of the total project invest-  
6 ment; and

7 (II) apply the non-Federal equity  
8 investment to the long-term debt obli-  
9 gations of the project, which—

10 (aa) may, at the discretion  
11 of the Secretary, be nonrecourse;  
12 and

13 (bb) shall have a term not  
14 greater than 30 years.

15 (2) ELIGIBILITY FOR MORE THAN 1 TYPE OF  
16 ASSISTANCE.—

17 (A) LIMITATIONS.—The Secretary may  
18 provide, or certify an eligible entity to receive,  
19 any financial incentive described in paragraph  
20 (1) for a project if the aggregate value of incen-  
21 tives made available to an applicant (as deter-  
22 mined by the Congressional Budget Office) does  
23 not exceed—

1 (i) \$175,000,000 for each incentive,  
2 as of the date of enactment of this Act;  
3 and

4 (ii) 20 percent of the total capital cost  
5 of the project.

6 (B) CONTRACTS BETWEEN THE SEC-  
7 RETARY AND PROJECT SPONSORS.—A contract  
8 between the Secretary and a project sponsor re-  
9 garding an industrial gasification project shall  
10 not count against the limitations described in  
11 subparagraph (A).

12 (f) AUTHORIZATION OF APPROPRIATIONS.—

13 (1) IN GENERAL.—There is authorized to be  
14 appropriated to the Secretary to carry out this sec-  
15 tion \$2,000,000,000, to remain available until ex-  
16 pended.

17 (2) SCHEDULE.—The amount authorized to be  
18 appropriated under paragraph (1) shall be available  
19 to the Secretary on the following schedule:

20 (A) For fiscal year 2006, \$400,000,000.

21 (B) For fiscal year 2007, \$300,000,000.

22 (C) For fiscal year 2008, \$300,000,000.

23 (D) For fiscal year 2009, \$300,000,000.

24 (E) For fiscal year 2010, \$200,000,000.

25 (F) For fiscal year 2011, \$125,000,000.

1 (G) For fiscal year 2012, \$100,000,000.

2 (H) For fiscal year 2013, \$75,000,000.

3 (I) For fiscal year 2014, \$50,000,000.

4 (J) For fiscal year 2015, \$50,000,000.

5 **SEC. 114. CARBON CAPTURE AND SEQUESTRATION ENERGY**  
6 **EFFICIENCY RESEARCH AND DEVELOPMENT.**

7 (a) RESEARCH AND DEVELOPMENT PROGRAM.—The  
8 Secretary shall carry out a program of research and devel-  
9 opment to improve the efficiency and reduce the capital  
10 cost of processes used to capture and sequester carbon di-  
11 oxide that is produced by coal-fired power plants to reduce  
12 the cost of carbon capture and sequestration.

13 (b) GRANTS AND COOPERATIVE AGREEMENTS.—In  
14 carrying out the program under subsection (a), the Sec-  
15 retary may make any grant or enter into any cooperative  
16 agreement that the Secretary determines to be appro-  
17 priate, in accordance with the Federal Nonnuclear Energy  
18 Research and Development Act of 1974 (42 U.S.C. 5901  
19 et seq.) or any other Federal law.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated such sums as are nec-  
22 essary to carry out this section.

1           **TITLE II—PRODUCTION**

2   **SEC. 201. GAS ONLY LEASES.**

3           Section 8 of the Outer Continental Shelf Lands Act  
4 (43 U.S.C. 1337) is amended by adding at the end the  
5 following:

6           “(p)(1) The Secretary may issue a lease under this  
7 section beginning at the 2007–2012 plan period that au-  
8 thorizes development and production only of gas and asso-  
9 ciated condensate in accordance with regulations issued  
10 under paragraph (2).

11           “(2) Before July 1, 2006, the Secretary shall issue  
12 regulations that, for purposes of this section—

13           “(A) define what constitutes gas, condensate,  
14 and oil;

15           “(B) establish the rights and obligations of a  
16 lessee regarding condensate produced in association  
17 with gas;

18           “(C) prescribe procedures and requirements  
19 that the lessee shall follow if the lessee discovers oil  
20 deposits in the course of exploration or development;  
21 and

22           “(D) establish any other requirements for gas-  
23 only leases that the Secretary determines are appro-  
24 priate.

1 “(3) At the request of a lessee or the producing State,  
2 the Secretary may restrict development under such a lease  
3 to gas and associated condensate.

4 “(4) Any Federal law (including a regulation) that  
5 applies to an oil and gas lease on the Outer Continental  
6 Shelf applies to a gas-only lease issued under this sec-  
7 tion.”.

8 **SEC. 202. EASTERN GULF OF MEXICO.**

9 Section 4(a)(2) of the Outer Continental Shelf Lands  
10 Act (43 U.S.C. 1333(a)(2)) is amended—

11 (1) by inserting “(i)” after “(A)”;

12 (2) in the first sentence—

13 (A) by striking “President” and inserting  
14 “Secretary”; and

15 (B) by inserting before the period at the  
16 end the following: “not later than 270 days  
17 after the date of enactment of the Natural Gas  
18 Price Reduction Act of 2005”; and

19 (3) by adding at the end the following:

20 “(ii) For the purpose solely of determining bound-  
21 aries for offshore oil and gas development and revenue  
22 sharing, the Secretary shall delimit the lateral boundaries  
23 between coastal States, to the extent of the exclusive eco-  
24 nomic zone of the United States, in accordance with—

1           “(I) any judicial decree or interstate compact  
2 delimiting lateral offshore boundaries between coast-  
3 al States;

4           “(II) any principles of domestic and inter-  
5 national law governing the delimitation of lateral off-  
6 shore boundaries; and

7           “(III) to the maximum extent practicable, exist-  
8 ing lease boundaries and block lines based on the of-  
9 ficial protraction diagrams of the Secretary.

10          “(iii) Not later than December 31, 2007, the Sec-  
11 retary shall amend any 5-year leasing program relating  
12 to the outer Continental Shelf and offer for gas, or oil  
13 and gas, leasing the unleased blocks in the Lease Sale 181  
14 area if the lease sale—

15           “(I) is not in the State of Florida; and

16           “(II) does not conflict with training or oper-  
17 ations of the United States military.

18          “(iv) If a lease sale under clause (iii) is located more  
19 than 20 miles off the coast of the State of Alabama and  
20 the State of Florida, the lease shall be considered by the  
21 Secretary of Commerce and the Secretary of the Interior  
22 to be necessary to the interest of national security for pur-  
23 poses of the Coastal Zone Management Act (16 U.S.C.  
24 1451 et seq.).”.

1 **SEC. 203. REVIEW OF STATE REQUESTS TO EXAMINE OCS**  
2 **ENERGY AREAS.**

3 Section 18 of the Outer Continental Shelf Lands Act  
4 (43 U.S.C. 1344) is amended by adding at the end the  
5 following:

6 “(i)(1) In this subsection:

7 “(A) The term ‘lease’ includes a gas-only lease  
8 under section 8.

9 “(B) The term ‘moratorium area’ means—

10 “(i) any area withdrawn from disposition  
11 by leasing by the ‘Memorandum on Withdrawal  
12 of Certain Areas of the United States Outer  
13 Continental Shelf from Leasing Disposition’,  
14 from 34 Weekly Comp. Pres. Doc. 1111, dated  
15 June 12, 1998; and

16 “(ii) any area of the outer Continental  
17 Shelf as to which Congress has denied the use  
18 of appropriated funds or other means for  
19 preleasing, leasing, or related activities.

20 “(2)(A) A moratorium on gas, or oil and gas, leasing  
21 on the outer Continental Shelf shall be effective with re-  
22 spect to the area off the coast of a State only if the Gov-  
23 ernor of the State consents to the moratorium.

24 “(B) At any time, the Governor of an affected State,  
25 acting on behalf of the State, may request the Secretary  
26 to provide a current estimate of proven and potential gas,

1 or oil and gas, resources in any moratorium area (or any  
2 part of the area the Governor identifies) adjacent, or lying  
3 seaward of the coastline, to that State.

4 “(C) Not later than the date that is 45 days after  
5 a Governor of a State requests an estimate under subpara-  
6 graph (B), the Secretary shall provide—

7 “(i) a delimitation of the lateral boundaries be-  
8 tween the coastal States in accordance with section  
9 4(a)(2);

10 “(ii) a current inventory of proven and potential  
11 gas, or oil and gas, resources in any moratorium  
12 areas in the State, as requested by the Governor;  
13 and

14 “(iii) an explanation of the planning processes  
15 that could lead to the leasing, exploration, develop-  
16 ment, and production of the gas, or oil and gas, re-  
17 sources within the area identified.

18 “(3)(A) On consideration of the information received  
19 from the Secretary, the Governor (acting on behalf of the  
20 State of the Governor) may decide—

21 “(i) not to consent to a moratorium on gas, or  
22 oil and gas, leasing on the outer Continental Shelf  
23 off the coast of the State of the Governor; or

24 “(ii) to repeal any restriction preventing spend-  
25 ing appropriated funds for preleasing, leasing, and

1 related activities as to the area identified in the re-  
2 quest of the Governor.

3 “(B) If the Governor makes a decision under sub-  
4 paragraph (A), the Governor shall submit to the Presi-  
5 dent, the Secretary, and Congress a notification of the de-  
6 cision, including a description of—

7 “(i) the area on which a moratorium on gas, or  
8 oil and gas, leasing would have been imposed; and

9 “(ii) any restriction repealed under subpara-  
10 graph (A)(ii).

11 “(C) On receipt of notification by a Governor under  
12 subparagraph (B), the Secretary shall—

13 “(i) treat the notification as a proposed revision  
14 to the leasing program maintained under this sec-  
15 tion; and

16 “(ii) give expedited consideration to the pro-  
17 posed revision.

18 “(D) For purposes of title III of the Coastal Zone  
19 Management Act of 1972 (16 U.S.C. 1451 et seq.), any  
20 activity relating to leasing and subsequent production in  
21 an area restored to consideration for gas, or oil and gas,  
22 leasing under this paragraph shall—

23 “(i) if the leased area is located more than 20  
24 miles offshore of an adjacent State, be considered by  
25 the Secretary as necessary to the interest of national

1 security and be carried out notwithstanding the ob-  
2 jection of a State to a consistency certification under  
3 that Act; or

4 “(ii) if the leased area is located not greater  
5 than 20 miles offshore of an adjacent State, be sub-  
6 ject to section 307(c) of the Coastal Zone Manage-  
7 ment Act (16 U.S.C. 1456(c)).

8 “(E) An activity under subparagraph (C)(i) shall be  
9 carried out in accordance with any applicable approved  
10 State management program, to the maximum extent prac-  
11 ticable.

12 “(4)(A)(i) If the Governor of a State requests the  
13 President to allow gas, or oil or natural gas, leasing in  
14 the moratorium area and the President allows that leas-  
15 ing, the State shall, without further appropriation or ac-  
16 tion, receive 100 percent of any bonus bid paid for leasing  
17 rights in the area.

18 “(ii) The payments under clause (i) shall end not  
19 later than the earlier of—

20 “(I) the date that is 5 years after the first lease  
21 sale in the area; or

22 “(II) the date on which production begins in  
23 the area.

24 “(B)(i) On the commencement of production in an  
25 area under this subsection, the State shall share in any

1 qualified revenues of the production without further action  
2 or appropriation in accordance with section 32(b).

3 “(ii) The share of the State under clause (i) shall be  
4 not less than 12.5 percent of the total qualified revenues  
5 of the production.

6 “(iii) For the purposes of section 32—

7 “(I) the State shall be considered to be a coast-  
8 al producing State; and

9 “(II) the share of the State under clause (i)  
10 shall be considered to be qualified revenues.

11 “(C) After making distributions in accordance with  
12 subparagraphs (A) and (B), and in accordance with sec-  
13 tion 31, the Secretary shall, without further appropriation  
14 or action, distribute a conservation royalty of at least 12.5  
15 percent of any remaining qualified revenues from an area  
16 leased under this section in equal amounts, not to exceed  
17 \$1,250,000,000 for any year, to—

18 “(I) the Land and Water Conservation Fund to  
19 provide financial assistance to the Federal Govern-  
20 ment under section 5 of the Land and Water Con-  
21 servation Fund Act of 1965 (16 U.S.C. 460l-7);

22 “(II) the Land and Water Conservation Fund  
23 to provide financial assistance to States under sec-  
24 tion 6 of that Act (16 U.S.C. 460l-8); and

1           “(III) the wildlife restoration fund established  
2           under section 3 of the Pittman-Robertson Wildlife  
3           Restoration Act (16 U.S.C. 669b).

4           “(4) The State shall be entitled to any revenues that  
5           a coastal State would be entitled to receive under section  
6           8(g).

7           “(5) This subsection shall not apply to any area des-  
8           ignated as a national marine sanctuary or a national wild-  
9           life refuge.”.

10       **SEC. 204. ROYALTY RELIEF FOR DEEP WATER PRODUC-**  
11                               **TION.**

12           (a) IN GENERAL.—For all tracts located in water  
13           depths of greater than 400 meters in the Western and  
14           Central Planning Area of the Gulf of Mexico (including  
15           the portion of the Eastern Planning Area of the Gulf of  
16           Mexico encompassing whole lease blocks lying west of 87  
17           degrees, 30 minutes West longitude) any oil or gas lease  
18           sale under the Outer Continental Shelf Lands Act (43  
19           U.S.C. 1331 et seq.) occurring within 5 years after the  
20           date of enactment of this Act shall use the bidding system  
21           authorized in section 8(a)(1)(H) of the Outer Continental  
22           Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that  
23           the suspension of royalties shall be set at a volume of not  
24           less than—

1           (1) 5,000,000 barrels of oil equivalent for each  
2 lease in water depths of 400 to 800 meters;

3           (2) 9,000,000 barrels of oil equivalent for each  
4 lease in water depths of 800 to 1,600 meters; and

5           (3) 12,000,000 barrels of oil equivalent for each  
6 lease in water depths greater than 1,600 meters.

7           (b) LIMITATION.—The Secretary of the Interior may  
8 place limitations on the suspension of royalty relief grant-  
9 ed based on market price.

10 **SEC. 205. COASTAL IMPACT ASSISTANCE PROGRAM.**

11           The Outer Continental Shelf Lands Act (43 U.S.C.  
12 1331 et seq.) is amended by adding at the end the fol-  
13 lowing:

14 **“SEC. 32. COASTAL IMPACT ASSISTANCE PROGRAM.**

15           “(a) DEFINITIONS.—In this section:

16           “(1) COASTAL POLITICAL SUBDIVISION.—The  
17 term ‘coastal political subdivision’ means a political  
18 subdivision of a coastal State, any part of which—

19                   “(A) is within the coastal zone (as defined  
20 in section 304 of the Coastal Zone Management  
21 Act of 1972 (16 U.S.C. 1453)) of the State;  
22 and

23                   “(B) is not more than 200 miles from the  
24 geographic center of a leased tract.

1           “(2) COASTAL POPULATION.—The term ‘coastal  
2           population’ means the population, as determined by  
3           the most recent official data of the Census Bureau,  
4           of each political subdivision, any part of which lies  
5           within the designated coastal boundary of a State  
6           (as defined in a coastal zone management program  
7           of the State under the Coastal Zone Management  
8           Act of 1972 (16 U.S.C. 1451 et seq.)).

9           “(3) COASTAL STATE.—The term ‘coastal  
10          State’ has the meaning given the term in section  
11          304 of the Coastal Zone Management Act of 1972  
12          (16 U.S.C. 1453).

13          “(4) COASTLINE.—The term ‘coastline’ has the  
14          meaning given the term in section 2 of the Sub-  
15          merged Lands Act (43 U.S.C. 1301).

16          “(5) DISTANCE.—The term ‘distance’ means  
17          the minimum great circle distance, measured in stat-  
18          ute miles.

19          “(6) LEASED TRACT.—The term ‘leased tract’  
20          means a tract that is subject to a lease under section  
21          6 or 8 for the purpose of drilling for, developing,  
22          and producing oil or natural gas resources.

23          “(7) POLITICAL SUBDIVISION.—The term ‘polit-  
24          ical subdivision’ means the local political jurisdiction

1 immediately below the level of State government, in-  
2 cluding counties, parishes, and boroughs.

3 “(8) PRODUCING STATE.—

4 “(A) IN GENERAL.—The term ‘producing  
5 State’ means a coastal State with a coastal sea-  
6 ward boundary within 200 miles of the geo-  
7 graphic center of a leased tract.

8 “(B) EXCLUSION.—The term ‘producing  
9 State’ does not include a leased tract or portion  
10 of a leased tract that is located in a geographic  
11 area subject to a leasing moratorium on Janu-  
12 ary 1, 2005, unless the lease was in production  
13 on that date.

14 “(9) QUALIFIED OUTER CONTINENTAL SHELF  
15 REVENUES.—

16 “(A) IN GENERAL.—The term ‘qualified  
17 Outer Continental Shelf revenues’ means all  
18 amounts received by the United States from  
19 each leased tract or portion of a leased tract—

20 “(i) lying—

21 “(I) seaward of the zone covered  
22 by section 8(g); or

23 “(II) within the zone covered by  
24 section 8(g), but to which section 8(g)  
25 does not apply; and

1           “(ii) the geographic center of which  
2           lies within 200 miles of any part of the  
3           coastline of any coastal State.

4           “(B) INCLUSIONS.—The term ‘qualified  
5           Outer Continental Shelf revenues’ includes  
6           bonus bids, rents, royalties (including payments  
7           for royalty taken in kind and sold), net profit  
8           share payments, and related late-payment inter-  
9           est from natural gas and oil leases issued under  
10          this Act.

11          “(C) EXCLUSION.—The term ‘qualified  
12          Outer Continental Shelf revenues’ does not in-  
13          clude any revenues (other than revenues re-  
14          ceived under section 18(i)) from a leased tract  
15          or portion of a leased tract that is located in a  
16          geographic area subject to a leasing moratorium  
17          on January 1, 2005, unless the lease was in  
18          production on that date.

19          “(b) PAYMENTS TO PRODUCING STATES AND COAST-  
20          AL POLITICAL SUBDIVISIONS.—

21                 “(1) IN GENERAL.—For each of fiscal years  
22                 2006 through 2011, the Secretary shall, without fur-  
23                 ther appropriation, disburse an amount equal to not  
24                 more than 12.5 percent of qualified outer Conti-  
25                 nental Shelf revenues among producing States and

1 coastal political subdivisions, in accordance with this  
2 section.

3 “(2) DISBURSEMENT.—In each fiscal year, the  
4 Secretary shall, without further appropriation, dis-  
5 burse to each producing State for which the Sec-  
6 retary has approved a plan under subsection (c), and  
7 to coastal political subdivisions under paragraph (4),  
8 the funds allocated to the producing State or coastal  
9 political subdivision under this section for the fiscal  
10 year.

11 “(3) ALLOCATION AMONG PRODUCING  
12 STATES.—

13 “(A) IN GENERAL.—The transferred  
14 amount shall be allocated to each producing  
15 State based on the ratio that—

16 “(i) the amount of qualified outer  
17 Continental Shelf revenues generated off  
18 the coastline of the producing State; bears  
19 to

20 “(ii) the amount of qualified outer  
21 Continental Shelf revenues generated off  
22 the coastline of all producing States.

23 “(B) QUALIFIED OUTER CONTINENTAL  
24 SHELF REVENUES.—

1           “(i) FISCAL YEARS 2006 THROUGH  
2           2008.—For each of fiscal years 2006  
3           through 2008, a calculation of a payment  
4           under this subsection shall be based on  
5           qualified outer Continental Shelf revenues  
6           received during fiscal year 2005.

7           “(ii) FISCAL YEARS 2009 THROUGH  
8           2011.—For each of fiscal years 2009  
9           through 2011, a calculation of a payment  
10          under this subsection shall be based on  
11          qualified outer Continental Shelf revenues  
12          received during fiscal year 2008.

13          “(C) MULTIPLE PRODUCING STATES.—If  
14          more than 1 producing State is located within  
15          200 miles of any portion of a leased tract, the  
16          amount allocated to each producing State for  
17          the leased tract shall be inversely proportional  
18          to the distance between—

19                 “(i) the nearest point on the coastline  
20                 of the producing State; and

21                 “(ii) the geographic center of the  
22                 leased tract.

23          “(D) MINIMUM ALLOCATION.—An amount  
24          allocated to a producing State under this para-

1 graph shall be not less than 1 percent of the  
2 transferred amount.

3 “(4) PAYMENTS TO COASTAL POLITICAL SUB-  
4 DIVISIONS.—

5 “(A) IN GENERAL.—The Secretary shall  
6 pay 35 percent of the amount allocated under  
7 paragraph (3) to the coastal political subdivi-  
8 sions in the producing State.

9 “(B) FORMULA.—Of the amount paid by  
10 the Secretary to coastal political subdivisions  
11 under subparagraph (A)—

12 “(i) 25 percent shall be allocated to  
13 each coastal political subdivision in the  
14 proportion that—

15 “(I) the coastal population of the  
16 coastal political subdivision; bears to

17 “(II) the coastal population of all  
18 coastal political subdivisions in the  
19 producing State;

20 “(ii) 25 percent shall be allocated to  
21 each coastal political subdivision in the  
22 proportion that—

23 “(I) the number of miles of  
24 coastline of the coastal political sub-  
25 division; bears to

1                   “(II) the number of miles of  
2                   coastline of all coastal political sub-  
3                   divisions in the producing State; and

4                   “(iii) 50 percent shall be allocated in  
5                   amounts that are inversely proportional to  
6                   the respective distances between the points  
7                   in each coastal political subdivision that  
8                   are closest to the geographic center of each  
9                   leased tract, as determined by the Sec-  
10                  retary.

11                  “(C) EXCEPTION FOR LOUISIANA.—For  
12                  the purposes of subparagraph (B)(ii), the coast-  
13                  line for coastal political subdivisions in the  
14                  State of Louisiana without a coastline shall be  
15                  the average length of the coastline of all other  
16                  coastal political subdivisions in the State of  
17                  Louisiana.

18                  “(D) EXCEPTION FOR ALASKA.—For the  
19                  purposes of carrying out subparagraph (B)(iii)  
20                  in the State of Alaska, the amount allocated  
21                  shall be divided equally among the 2 coastal po-  
22                  litical subdivisions that are closest to the geo-  
23                  graphic center of a leased tract.

24                  “(E) EXCLUSION OF CERTAIN LEASED  
25                  TRACTS.—For purposes of subparagraph

1 (B)(iii), a leased tract or portion of a leased  
2 tract shall be excluded if the tract or portion of  
3 a leased tract is located in a geographic area  
4 subject to a leasing moratorium on January 1,  
5 2005, unless the lease was in production on  
6 that date.

7 “(5) NO APPROVED PLAN.—

8 “(A) IN GENERAL.—Subject to subpara-  
9 graph (B) and except as provided in subpara-  
10 graph (C), if any amount allocated to a pro-  
11 ducing State or coastal political subdivision  
12 under paragraph (3) or (4) is not disbursed be-  
13 cause the producing State does not have in ef-  
14 fect a plan that has been approved by the Sec-  
15 retary under subsection (c), the Secretary shall  
16 allocate the undisbursed amount equally among  
17 all other producing States.

18 “(B) RETENTION OF ALLOCATION.—The  
19 Secretary shall hold in escrow an undisbursed  
20 amount described in subparagraph (A) until the  
21 date that the final appeal regarding the dis-  
22 approval of a plan submitted under subsection  
23 (c) is decided.

24 “(C) WAIVER.—The Secretary may waive  
25 the requirements of subparagraph (A) with re-

1 spect to an allocated share of a producing State  
2 and hold the allocable share in escrow if the  
3 Secretary determines that the producing State  
4 is making a good faith effort to develop and  
5 submit, or update, a plan in accordance with  
6 subsection (c).

7 “(c) COASTAL IMPACT ASSISTANCE PLAN.—

8 “(1) SUBMISSION OF STATE PLAN.—

9 “(A) IN GENERAL.—Not later than July 1,  
10 2008, the Governor of a producing State shall  
11 submit to the Secretary a coastal impact assist-  
12 ance plan.

13 “(B) PUBLIC PARTICIPATION.—In carrying  
14 out subparagraph (A), the Governor shall solicit  
15 local input and provide for public participation  
16 in the development of the plan.

17 “(2) APPROVAL.—

18 “(A) IN GENERAL.—The Secretary shall  
19 approve a plan of a producing State submitted  
20 under paragraph (1) before disbursing any  
21 amount to the producing State, or to a coastal  
22 political subdivision located in the producing  
23 State, under this section.

1           “(B) COMPONENTS.—The Secretary shall  
2 approve a plan submitted under paragraph (1)  
3 if—

4           “(i) the Secretary determines that the  
5 plan is consistent with the uses described  
6 in subsection (d); and

7           “(ii) the plan contains—

8           “(I) the name of the State agen-  
9 cy that will have the authority to rep-  
10 resent and act on behalf of the pro-  
11 ducing State in dealing with the Sec-  
12 retary for purposes of this section;

13           “(II) a program for the imple-  
14 mentation of the plan that describes  
15 how the amounts provided under this  
16 section to the producing State will be  
17 used;

18           “(III) for each coastal political  
19 subdivision that receives an amount  
20 under this section—

21           “(aa) the name of a contact  
22 person; and

23           “(bb) a description of how  
24 the coastal political subdivision

1 will use amounts provided under  
2 this section;

3 “(IV) a certification by the Gov-  
4 ernor that ample opportunity has been  
5 provided for public participation in  
6 the development and revision of the  
7 plan; and

8 “(V) a description of measures  
9 that will be taken to determine the  
10 availability of assistance from other  
11 relevant Federal resources and pro-  
12 grams.

13 “(3) AMENDMENT TO A PLAN.—Any amend-  
14 ment to a plan submitted under paragraph (1) shall  
15 be—

16 “(A) developed in accordance with this  
17 subsection; and

18 “(B) submitted to the Secretary for ap-  
19 proval or disapproval under paragraph (4).

20 “(4) PROCEDURE.—Except as provided in sub-  
21 paragraph (B), not later than 90 days after the date  
22 on which a plan or amendment to a plan is sub-  
23 mitted under paragraph (1) or (3), the Secretary  
24 shall approve or disapprove the plan or amendment.

25 “(d) AUTHORIZED USES.—

1           “(1) IN GENERAL.—A producing State or coast-  
2 al political subdivision shall use any amount received  
3 under this section, including any amount deposited  
4 in a trust fund that is administered by the State or  
5 coastal political subdivision and dedicated to a use  
6 consistent with this section, in accordance with all  
7 applicable Federal and State law, only for 1 or more  
8 of the following purposes:

9           “(A) Projects and activities for the con-  
10 servation, protection, or restoration of coastal  
11 areas, including wetland.

12           “(B) Mitigation of damage to fish, wildlife,  
13 or natural resources.

14           “(C) Planning assistance and the adminis-  
15 trative costs of complying with this section.

16           “(D) Implementation of a federally-ap-  
17 proved marine, coastal, or comprehensive con-  
18 servation management plan.

19           “(E) Mitigation of the impact of outer  
20 Continental Shelf activities through funding of  
21 onshore infrastructure, education, health care,  
22 and public service needs.

23           “(2) COMPLIANCE WITH AUTHORIZED USES.—  
24 If the Secretary determines that any expenditure  
25 made by a producing State or coastal political sub-

1 division is not consistent with this subsection, the  
2 Secretary shall not disburse any additional amount  
3 under this section to the producing State or the  
4 coastal political subdivision until all amounts obli-  
5 gated for unauthorized uses have been repaid or re-  
6 obligated for authorized uses.”.

7 **SEC. 206. ROCKY MOUNTAIN GAS PRODUCTION.**

8 Section 1421(d) of the Safe Drinking Water Act (42  
9 U.S.C. 300h(d) is amended by striking paragraph (1) and  
10 inserting the following:

11 “(1) UNDERGROUND INJECTION.—

12 “(A) IN GENERAL.—The term ‘under-  
13 ground injection’ means the subsurface em-  
14 placement of fluids by well injection.

15 “(B) EXCLUSIONS.—The term ‘under-  
16 ground injection’ excludes—

17 “(i) the underground injection of nat-  
18 ural gas for purposes of storage; and

19 “(ii) the underground injection of  
20 fluids or propping agents pursuant to hy-  
21 draulic fracturing operations related to an  
22 oil or gas production activity.”.

1 **SEC. 207. GAS METHANE RESEARCH.**

2 (a) RESEARCH CENTER.—Section 3(b)(1) of the  
3 Methane Hydrate Research and Development Act of 2000  
4 (30 U.S.C. 1902 note) is amended—

5 (1) in subparagraph (F), by striking “and” at  
6 the end;

7 (2) in subparagraph (G), by striking the period  
8 at the end and inserting “; and”; and

9 (3) by adding at the end the following:

10 “(H) establish a Virginia Beach Methane  
11 Hydrates Research Center in Virginia Beach,  
12 Virginia.”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—Section  
14 5 of the Methane Hydrate Research and Development Act  
15 of 2000 (30 U.S.C. 1902 note) is amended to read as fol-  
16 lows:

17 **“SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

18 “There is authorized to be appropriated to the Sec-  
19 retary of Energy to carry out this Act \$50,000,000 for  
20 each of fiscal years 2006 through 2009, to remain avail-  
21 able until expended.”.

22 (c) SUNSET.—Section 6 of the Methane Hydrate Re-  
23 search and Development Act of 2000 (30 U.S.C. 1902  
24 note) is amended by striking “2005” and inserting  
25 “2009”.

1 **SEC. 208. ALASKA NATURAL GAS PIPELINE ACT.**

2 The Alaska Natural Gas Pipeline Act (15 U.S.C. 720  
3 et seq.) is amended—

4 (1) in section 103 (15 U.S.C. 720a), by adding  
5 at the end the following:

6 “(j) REPORT.—Not later than the date that is 180  
7 days after the date of enactment of the Natural Gas Price  
8 Reduction Act of 2005 and every 180 days thereafter until  
9 the Alaska natural gas pipeline begins operation, the Com-  
10 mission shall submit to Congress a report describing the  
11 progress made in licensing and constructing such pipeline  
12 and any issues impeding that progress.”; and

13 (2) in section 107(a) (15 U.S.C. 720e(a)), by  
14 striking paragraph (3) and inserting the following:

15 “(3) the validity of any determination, permit,  
16 approval, authorization, review, or other such action  
17 taken under any provision of law (including sub-  
18 chapter II of chapter 5, and chapter 7, of title 5,  
19 United States Code (commonly known as the Admin-  
20 istrative Procedure Act), the Endangered Species  
21 Act of 1973 (16 U.S.C. 1531 et seq.), the National  
22 Environmental Policy Act of 1969 (42 U.S.C. 4231  
23 et seq.), and the National Historic Preservation Act  
24 (16 U.S.C. 470 et seq.)) that relates to a gas trans-  
25 portation project under section 103.”.

1 **SEC. 209. GAS HYDRATE PRODUCTION INCENTIVES.**

2 (a) PURPOSE.—The purpose of this section is to pro-  
3 mote natural gas production from the abundant natural  
4 gas hydrate resources on the outer Continental Shelf and  
5 Federal land in Alaska by providing royalty incentives for  
6 the production.

7 (b) SUSPENSION OF ROYALTIES.—

8 (1) DEFINITIONS.—In this subsection:

9 (A) ELIGIBLE LEASE.—The term “eligible  
10 lease” means a lease—

11 (i) that is issued under the Outer  
12 Continental Shelf Lands Act (43 U.S.C.  
13 1331 et seq.);

14 (ii) that is issued before January 1,  
15 2016; and

16 (iii) in the case of a lease of natural  
17 gas, production from the gas hydrate re-  
18 source under that begins not later than  
19 December 31, 2017.

20 (B) GAS HYDRATE RESOURCE.—The term  
21 “gas hydrate resource” includes—

22 (i) the natural gas content of a gas  
23 hydrate within the hydrate stability zone;  
24 and

25 (ii) free natural gas trapped by and  
26 beneath the hydrate stability zone.

1 (2) SUSPENSION OF ROYALTIES.—

2 (A) IN GENERAL.—The Secretary of the  
3 Interior shall suspend royalties under this sec-  
4 tion for gas hydrate resources with a suspen-  
5 sion volume of not less than 50,000,000,000  
6 cubic feet of natural gas produced from the re-  
7 source per square mile of the leased tract.

8 (B) SIZE OF LEASED TRACTS.—The min-  
9 imum suspension volume under this section for  
10 a leased tract that is smaller or larger than 9  
11 square miles shall be adjusted proportionally.

12 (3) EFFECT OF SUSPENSION.—The suspension  
13 of royalties under this section shall be in addition to  
14 royalty relief under any law that does not grant a  
15 gas hydrate production incentive.

16 (c) RULEMAKING.—Not later than 1 year after the  
17 date of enactment of this Act, the Secretary shall complete  
18 any rulemaking necessary to carry out this section.

19 **SEC. 210. OIL AND GAS EXPLORATION AND PRODUCTION**  
20 **DEFINED.**

21 Section 502 of the Federal Water Pollution Control  
22 Act (33 U.S.C. 1362) is amended by adding at the end  
23 the following:

24 “(24) OIL AND GAS EXPLORATION AND PRO-  
25 Duction, PROCESSING, OR TREATMENT OPERATIONS

1 OR TRANSMISSION FACILITIES.—The term ‘oil and  
2 gas exploration and production, processing, or treat-  
3 ment operations or transmission facilities’ means all  
4 field activities or operations associated with oil or  
5 gas exploration, production, processing, or treatment  
6 operations, or with oil or gas transmission facilities,  
7 including activities necessary to prepare a site for  
8 drilling and for the movement and placement of  
9 drilling equipment, whether or not such field activi-  
10 ties or operations may be considered to be construc-  
11 tion activities.”.

12 **SEC. 211. MARGINAL PROPERTY PRODUCTION INCENTIVES.**

13 (a) DEFINITION OF MARGINAL PROPERTY.—

14 (1) IN GENERAL.—Until the Secretary of the  
15 Interior promulgates regulations under subsection  
16 (e) that prescribe a different definition, in this sec-  
17 tion the term “marginal property” means an on-  
18 shore unit, communitization agreement, or lease not  
19 within a unit or communitization agreement, that  
20 produces on average the combined equivalent of less  
21 than 15 barrels of oil per well per day or 90 million  
22 British thermal units of gas per well per day cal-  
23 culated based on the average over the 3 most recent  
24 production months, including only wells that produce

1 on more than half of the days during those 3 pro-  
2 duction months.

3 (b) CONDITIONS FOR REDUCTION OF ROYALTY  
4 RATE.—Until the Secretary of the Interior promulgates  
5 regulations under subsection (e) that prescribe different  
6 thresholds or standards, the Secretary of the Interior shall  
7 reduce the royalty rate on—

8 (1) oil production from marginal properties as  
9 described in subsection (c) if the spot price of West  
10 Texas Intermediate crude oil at Cushing, Oklahoma,  
11 is, on average, less than \$15 per barrel for 90 con-  
12 secutive trading days; and

13 (2) gas production from marginal properties as  
14 described in subsection (c) if the spot price of nat-  
15 ural gas delivered at Henry Hub, Louisiana, is, on  
16 average, less than \$2 per million British thermal  
17 units for 90 consecutive trading days.

18 (c) REDUCED ROYALTY RATE.—

19 (1) IN GENERAL.—When a marginal property  
20 meets the conditions described in subsection (b), the  
21 royalty rate shall be the lesser of—

22 (A) 5 percent; or

23 (B) the rate under any other statutory or  
24 regulatory royalty relief provision that applies  
25 to the affected production.

1           (2) PERIOD OF EFFECTIVENESS.—The reduced  
2           royalty rate under this subsection shall be effective  
3           beginning on the first day of the production month  
4           following the date on which the applicable condition  
5           specified in subsection (b) is met.

6           (d) TERMINATION OF REDUCED ROYALTY RATE.—  
7           A royalty rate described in subsection (c)(1)(A) shall ter-  
8           minate—

9           (1) with respect to oil production from a mar-  
10          ginal property, on the first day of the production  
11          month following the date on which—

12                 (A) the spot price of West Texas Inter-  
13                 mediate crude oil at Cushing, Oklahoma, on av-  
14                 erage, exceeds \$15 per barrel for 90 consecutive  
15                 trading days; or

16                 (B) the property no longer qualifies as a  
17                 marginal property; and

18          (2) with respect to gas production from a mar-  
19          ginal property, on the first day of the production  
20          month following the date on which—

21                 (A) the spot price of natural gas delivered  
22                 at Henry Hub, Louisiana, on average, exceeds  
23                 \$2 per million British thermal units for 90 con-  
24                 secutive trading days; or

1 (B) the property no longer qualifies as a  
2 marginal property.

3 (e) REGULATIONS PRESCRIBING DIFFERENT RE-  
4 LIEF.—

5 (1) DISCRETIONARY REGULATIONS.—The Sec-  
6 retary of the Interior may by regulation prescribe  
7 different parameters, standards, and requirements  
8 for, and a different degree or extent of royalty relief  
9 for, marginal properties in lieu of those prescribed in  
10 subsections (a) through (d).

11 (2) MANDATORY REGULATIONS.—Not later  
12 than 18 months after the date of enactment of this  
13 Act, the Secretary of the Interior shall by regula-  
14 tion—

15 (A) prescribe standards and requirements  
16 for, and the extent of royalty relief for, mar-  
17 ginal properties for oil and gas leases on the  
18 Outer Continental Shelf; and

19 (B) define what constitutes a marginal  
20 property on the Outer Continental Shelf for the  
21 purposes of this section.

22 (3) CONSIDERATIONS.—In promulgating regu-  
23 lations under this subsection, the Secretary of the  
24 Interior may consider—

25 (A) oil and gas prices and market trends;

- 1 (B) production costs;
- 2 (C) abandonment costs;
- 3 (D) Federal and State tax provisions and  
4 the effects of those provisions on production ec-  
5 onomics;
- 6 (E) other royalty relief programs;
- 7 (F) regional differences in average well-  
8 head prices;
- 9 (G) national energy security issues; and
- 10 (H) other relevant matters.

11 (f) SAVINGS PROVISION.—Nothing in this section  
12 prevents a lessee from receiving royalty relief or a royalty  
13 reduction pursuant to any other law (including a regula-  
14 tion) that provides more relief than the amounts provided  
15 by this section.

16 **SEC. 212. EFFICIENT GOVERNMENT PROCESSING OF PER-**  
17 **MIT APPLICATIONS.**

18 (a) EXECUTIVE ORDERS CODIFIED.—Executive Or-  
19 ders numbered 13211 and 13212, issued on May 18, 2001  
20 (66 Fed. Reg. 28,355; 66 Fed. Reg. 28,357), are enacted  
21 into law.

22 (b) PROCESSING PERFORMANCE REPORT.—

23 (1) IN GENERAL.—Not later than December 31,  
24 2006, and annually thereafter, the Secretary of En-  
25 ergy shall submit to Congress a report evaluating

1 the performance of the task force established under  
2 Executive Order number 13212 (66 Fed. Reg.  
3 28,357) in carrying out the duties of the task force.

4 (2) INCLUSION.—The report described in para-  
5 graph (1) shall include—

6 (A) the number of permits processed by  
7 the task force in the preceding year;

8 (B) the average time required by the task  
9 force to take a final action;

10 (C) a description of any environmental  
11 variance issued by the task force;

12 (D) an identification of any impediment to  
13 efficient processing of permits by the task force;  
14 and

15 (E) any incentive created to reduce proc-  
16 essing time of the task force.

17 **SEC. 213. DEADLINE FOR DECISION ON APPEALS OF CON-**  
18 **SISTENCY DETERMINATION.**

19 (a) IN GENERAL.—Section 319 of the Coastal Zone  
20 Management Act of 1972 (16 U.S.C. 1465) is amended  
21 to read as follows:

22 “APPEALS TO THE SECRETARY

23 “SEC. 319. (a) NOTICE.—The Secretary shall publish  
24 an initial notice in the Federal Register not later than 30  
25 days after the date of the filing of any appeal to the Sec-  
26 retary of a consistency determination under section 307.

1       “(b) CLOSURE OF RECORD.—(1) Not later than the  
2 end of the 120-day period beginning on the date of publi-  
3 cation of an initial notice under subsection (a)—

4               “(A) the Secretary shall receive no more filings  
5 on the appeal; and

6               “(B) the administrative record regarding the  
7 appeal shall be closed.

8       “(2) On the closure of the administrative record, the  
9 Secretary shall publish a notice that the administrative  
10 record has been closed.

11       “(c) DEADLINE FOR DECISION.—Not later than 120  
12 days after the closure of the administrative record, the  
13 Secretary shall issue a decision in any appeal filed under  
14 section 307.

15       “(d) APPLICATION.—This section applies to—

16               “(1) any appeal initiated by the Secretary; and

17               “(2) any appeal filed by an applicant.”.

18       (b) APPLICATION.—Section 319(a) of the Coastal  
19 Zone Management Act of 1972 (as amended by this sub-  
20 section (a)) shall not apply to an appeal initiated or filed  
21 before the date of enactment of this Act.

22       (c) CLOSURE OF RECORD FOR APPEAL FILED BE-  
23 FORE DATE OF ENACTMENT.—Notwithstanding section  
24 319(b)(1) of the Coastal Zone Management Act of 1972  
25 (as amended by subsection (a)), in the case of an appeal

1 of a consistency determination under section 307 of that  
2 Act initiated or filed before the date of enactment of this  
3 Act—

4 (1) the Secretary of Commerce shall receive no  
5 more filings on the appeal; and

6 (2) not later than 120 days after the date of  
7 enactment of this Act, the administrative record re-  
8 garding the appeal shall be closed.

9 **SEC. 214. OUTER CONTINENTAL SHELF PROVISIONS.**

10 (a) STORAGE ON THE OUTER CONTINENTAL  
11 SHELF.—Section 5(a)(5) of the Outer Continental Shelf  
12 Lands Act (43 U.S.C. 1334(a)(5)) is amended by insert-  
13 ing “from any source” after “oil and gas”.

14 (b) DEEPWATER PROJECTS.—Section 6 of the Deep-  
15 water Port Act of 1974 (33 U.S.C. 1505) is amended by  
16 adding at the end the following:

17 “(d) In carrying out section 5(f)—

18 “(1) to the extent that other Federal agencies  
19 have prepared environmental impact statements, are  
20 conducting studies, or are monitoring the affected  
21 human, marine, or coastal environment, the Sec-  
22 retary may use the information derived from those  
23 activities in lieu of directly conducting the activities;  
24 and

1           “(2) the Secretary may use information ob-  
2           tained from any State or local government or from  
3           any person.”.

4           (c) NATURAL GAS DEFINED.—Section 3 of the Deep-  
5           water Port Act of 1974 (33 U.S.C. 1502) is amended by  
6           striking paragraph (13) and inserting the following:

7           “(13) ‘natural gas’ means—

8                   “(A) natural gas unmixed; or

9                   “(B) any mixture of natural or artificial  
10                  gas, including compressed or liquefied natural  
11                  gas, natural gas liquids, liquefied petroleum  
12                  gas, and condensate recovered from natural  
13                  gas;”.

14   **SEC. 215. OFFICE OF FEDERAL ENERGY PROJECT COORDI-**  
15                   **NATION.**

16           (a) ESTABLISHMENT.—The President shall establish  
17           the Office of Federal Energy Project Coordination (re-  
18           ferred to in this section as the “Office”) within the Execu-  
19           tive Office of the President in the same manner and with  
20           the same mission as the White House Energy Projects  
21           Task Force established by Executive Order No. 13212 (42  
22           U.S.C. 13201 note).

23           (b) STAFF.—The Office shall be staffed by functional  
24           experts from relevant Federal agencies on a nonreimburs-  
25           able basis to carry out the mission of the Office.

1 (c) REPORT.—

2 (1) IN GENERAL.—Not later than 1 year after  
3 the date of enactment of this Act, and annually  
4 thereafter, the Office shall submit to Congress a re-  
5 port that describes any activity carried out under  
6 this section to coordinate and expedite Federal deci-  
7 sions on energy projects.

8 (2) INCLUSIONS.—The report shall include a  
9 description of—

10 (A) any progress made toward improving  
11 the Federal decisionmaking process; and

12 (B) any additional recommendation of the  
13 Office relating to a change required to establish  
14 a more effective and efficient Federal permit-  
15 ting process.

16 **SEC. 216. FEDERAL ONSHORE OIL AND GAS LEASING AND**  
17 **PERMITTING PRACTICES.**

18 (a) REVIEW OF ONSHORE OIL AND GAS LEASING  
19 PRACTICES.—

20 (1) IN GENERAL.—The Secretary of the Inte-  
21 rior, in consultation with the Secretary of Agri-  
22 culture with respect to National Forest System land  
23 under the jurisdiction of the Department of Agri-  
24 culture, shall perform an internal review of current

1 Federal onshore oil and gas leasing and permitting  
2 practices.

3 (2) INCLUSIONS.—The review shall include the  
4 process for—

5 (A) accepting or rejecting an offer to lease;

6 (B) an administrative appeal of a decision  
7 or order of an officer or employee of the Bu-  
8 reau of Land Management with respect to a  
9 Federal oil or gas lease;

10 (C) considering a surface use plan of oper-  
11 ation, including the timeframe during which a  
12 plan shall be considered and any recommenda-  
13 tion of the Secretary of the Interior for improv-  
14 ing and expediting the process; and

15 (D) identifying a stipulation to address a  
16 site-specific concern or condition, including a  
17 stipulation relating to an environment or re-  
18 source use conflict.

19 (b) REPORT.—Not later than 180 days after the date  
20 of enactment of this Act, the Secretary of the Interior and  
21 the Secretary of Agriculture shall submit to Congress a  
22 report that describes—

23 (1) any action taken under section 3 of Execu-  
24 tive Order No. 13212 (42 U.S.C. 13201 note); and

1           (2) any action taken relating to, or any plan to  
2           improve, the Federal onshore oil and gas leasing  
3           program.

4 **SEC. 217. MANAGEMENT OF FEDERAL OIL AND GAS LEAS-**  
5 **ING PROGRAMS.**

6           (a) **TIMELY ACTION ON LEASES AND PERMITS.**—To  
7           ensure timely action relating to oil and gas leases and ap-  
8           plications for permits to drill on land otherwise available  
9           for leasing, the Secretary of the Interior shall—

10           (1) ensure expeditious compliance with section  
11           102(2)(C) of the National Environmental Policy Act  
12           of 1969 (42 U.S.C. 4332(2)(C));

13           (2) improve consultation and coordination with  
14           the States and the public; and

15           (3) improve the collection, storage, and retrieval  
16           of information relating to a leasing activity.

17           (b) **BEST MANAGEMENT PRACTICES.**—

18           (1) **IN GENERAL.**—Not later than 18 months  
19           after the date of enactment of this Act, the Sec-  
20           retary shall develop and implement best manage-  
21           ment practices to—

22           (A) improve the administration of the on-  
23           shore oil and gas leasing program under the  
24           Mineral Leasing Act (30 U.S.C. 181 et seq.);  
25           and

1           (B) ensure timely action on any oil or gas  
2           lease or application for a permit to drill on land  
3           otherwise available for leasing.

4           (2) CONSIDERATIONS.—In developing the best  
5           management practices under paragraph (1), the Sec-  
6           retary shall consider any recommendations from the  
7           review under section 216.

8           (3) REGULATIONS.—Not later than 180 days  
9           after the development of best management practices  
10          under paragraph (1), the Secretary shall publish, for  
11          public comment, proposed regulations that set forth  
12          specific timeframes for processing leases and appli-  
13          cations in accordance with the practices, including  
14          deadlines for—

15                (A) approving or disapproving resource  
16                management plans and related documents, lease  
17                applications, and surface use plans; and

18                (B) related administrative appeals.

19          (c) IMPROVED ENFORCEMENT.—The Secretary shall  
20          improve inspection and enforcement of oil and gas activi-  
21          ties, including enforcement of terms and conditions in per-  
22          mits to drill.

23          (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-  
24          tion to amounts authorized to be appropriated to carry  
25          out section 17 of the Mineral Leasing Act (30 U.S.C.

1 226), there are authorized to be appropriated to the Sec-  
2 retary for each of fiscal years 2006 through 2009—

3 (1) \$40,000,000 to carry out subsections (a)  
4 and (b); and

5 (2) \$20,000,000 to carry out subsection (c).

6 **SEC. 218. CONSULTATION REGARDING OIL AND GAS LEAS-**  
7 **ING ON PUBLIC LAND.**

8 (a) IN GENERAL.—Not later than 180 days after the  
9 date of enactment of this Act, the Secretary of the Interior  
10 and the Secretary of Agriculture shall enter into a memo-  
11 randum of understanding regarding oil and gas leasing  
12 on—

13 (1) public land under the jurisdiction of the  
14 Secretary of the Interior; and

15 (2) National Forest System land under the ju-  
16 risdiction of the Secretary of Agriculture.

17 (b) CONTENTS.—The memorandum of understanding  
18 shall include provisions that—

19 (1) establish administrative procedures and  
20 lines of authority that ensure timely processing of oil  
21 and gas lease applications, surface use plans of oper-  
22 ation, and applications for permits to drill, including  
23 steps for processing surface use plans and applica-  
24 tions for permits to drill consistent with the

1 timelines established by the amendment made by  
2 section 220;

3 (2) eliminate duplication of effort by providing  
4 for coordination of planning and environmental com-  
5 pliance efforts; and

6 (3) ensure that any stipulation in a lease is—

7 (A) applied consistently;

8 (B) coordinated between agencies; and

9 (C) only as restrictive as necessary to pro-  
10 tect the resource for which the stipulation is ap-  
11 plied.

12 (c) DATA RETRIEVAL SYSTEM.—

13 (1) IN GENERAL.—Not later than 1 year after  
14 the date of enactment of this Act, the Secretary of  
15 the Interior and the Secretary of Agriculture shall  
16 establish a joint data retrieval system to—

17 (A) track applications and formal requests  
18 made in accordance with the Federal onshore  
19 oil and gas leasing program; and

20 (B) provide information regarding the sta-  
21 tus of an application or request in the Depart-  
22 ment of the Interior and the Department of Ag-  
23 riculture.

24 (2) RESOURCE MAPPING.—Not later than 2  
25 years after the date of enactment of this Act, the

1 Secretary of the Interior and the Secretary of Agri-  
2 culture shall establish a joint Geographic Informa-  
3 tion System mapping system to—

4 (A) track surface resource values to aid in  
5 resource management; and

6 (B) process surface use plans of operation  
7 and applications for permits to drill.

8 **SEC. 219. PILOT PROJECT TO IMPROVE FEDERAL PERMIT**  
9 **COORDINATION.**

10 (a) DEFINITIONS.—In this section:

11 (1) MEMORANDUM OF UNDERSTANDING.—The  
12 term “memorandum of understanding” means the  
13 memorandum of understanding entered into under  
14 subsection (c).

15 (2) PILOT PROJECT.—The term “pilot project”  
16 means the Federal permit streamline pilot project  
17 established under subsection (b).

18 (3) PILOT PROJECT OFFICE.—The term “pilot  
19 project office” means each of the following field of-  
20 fices of the Bureau of Land Management:

21 (A) Rawlins, Wyoming.

22 (B) Buffalo, Wyoming.

23 (C) Miles City, Montana

24 (D) Farmington, New Mexico.

25 (E) Carlsbad, New Mexico.

1 (F) Glenwood Springs, Colorado.

2 (G) Vernal, Utah.

3 (4) SECRETARY.—The term “Secretary” means  
4 the Secretary of the Interior.

5 (b) ESTABLISHMENT.—The Secretary shall establish  
6 a Federal permit streamlining pilot project.

7 (c) MEMORANDUM OF UNDERSTANDING.—

8 (1) IN GENERAL.—Not later than 90 days after  
9 the date of enactment of this Act, the Secretary  
10 shall enter into a memorandum of understanding  
11 with the Secretary of Agriculture, the Administrator  
12 of the Environmental Protection Agency, and the  
13 Chief of Engineers of the Corps of Engineers to  
14 carry out the pilot project.

15 (2) STATE PARTICIPATION.—The Secretary  
16 may request that the Governors of Wyoming, Mon-  
17 tana, Colorado, Utah, and New Mexico enter into  
18 the memorandum of understanding.

19 (d) PILOT PROJECT PERSONNEL.—

20 (1) DESIGNATION OF INITIAL PERSONNEL.—

21 (A) IN GENERAL.—Not later than 30 days  
22 after the date on which the memorandum of un-  
23 derstanding is entered into under subsection  
24 (c), each of the Federal signatories to the  
25 memorandum of understanding referred to in

1 subsection (c)(1) shall assign to each of the  
2 pilot project offices, on a nonreimbursable  
3 basis, an employee who has expertise in the reg-  
4 ulatory issues relating to the office in which the  
5 employee is employed, including, as applicable,  
6 the areas of expertise described in subpara-  
7 graph (B).

8 (B) AREAS OF EXPERTISE.—The areas of  
9 expertise referred to in subparagraph (A) in-  
10 clude expertise in—

11 (i) the consultations and the prepara-  
12 tion of biological opinions under section 7  
13 of the Endangered Species Act of 1973 (16  
14 U.S.C. 1536);

15 (ii) permits under section 404 of Fed-  
16 eral Water Pollution Control Act (33  
17 U.S.C. 1344);

18 (iii) regulatory matters under the  
19 Clean Air Act (42 U.S.C. 7401 et seq.);

20 (iv) planning under the National For-  
21 est Management Act of 1976 (16 U.S.C.  
22 472a et seq.); and

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

1 (C) DUTIES.—Each employee assigned  
2 under subparagraph (A) shall—

3 (i) not later than 90 days after the  
4 date of assignment, report to the field  
5 manager of the pilot project office to which  
6 the employee is assigned;

7 (ii) be responsible for all issues relat-  
8 ing to the jurisdiction of the assigning  
9 agency or office; and

10 (iii) participate as part of the team of  
11 personnel working on proposed energy  
12 projects, planning, and environmental anal-  
13 yses.

14 (2) ADDITIONAL PERSONNEL.—The Secretary  
15 shall assign to each pilot project office any addi-  
16 tional personnel the Secretary determines are nec-  
17 essary to ensure the effective implementation of—

18 (A) the pilot project; and

19 (B) other programs administered by the  
20 pilot project offices, including inspection and  
21 enforcement activities relating to energy devel-  
22 opment on Federal land, in accordance with the  
23 multiple use mandate of the Federal Land Pol-  
24 icy and Management Act of 1976 (43 U.S.C.  
25 1701 et seq).

1 (e) REPORTS.—Not later than 3 years after the date  
 2 of enactment of this Act, the Secretary shall submit to  
 3 the appropriate committees of Congress a report that—

4 (1) outlines the results of the pilot project; and

5 (2) makes a recommendation to the President  
 6 on whether the pilot project should be carried out  
 7 throughout the United States.

8 (f) EFFECT.—Nothing in this section affects—

9 (1) the operation of any Federal or State law;

10 or

11 (2) any delegation of authority made by the  
 12 head of a Federal agency, the employees of which  
 13 are participating in the pilot project.

14 **SEC. 220. DEADLINE FOR CONSIDERATION OF APPLICA-**  
 15 **TIONS FOR PERMITS.**

16 Section 17 of the Mineral Leasing Act (30 U.S.C.  
 17 226) is amended by adding at the end the following:

18 “(p)(1) Not later than 10 days after the date on  
 19 which the Secretary receives an application for a permit  
 20 to drill, the Secretary shall—

21 “(A) notify the applicant that the application is  
 22 complete; or

23 “(B)(i) notify the applicant that information is  
 24 missing from the application; and

1           “(ii) specify any information that is required to  
2           be submitted for the application to be complete.

3           “(2) Not later than 30 days after an applicant has  
4           submitted a complete application for a permit to drill, the  
5           Secretary shall—

6           “(A) issue the permit; or

7           “(B)(i) defer making a decision on the permit;

8           and

9           “(ii) provide notice to the applicant that speci-  
10          fies any steps that the applicant needs to take for  
11          the permit to drill to be issued.

12          “(3)(A) If the Secretary provides notice under para-  
13          graph (2)(B)(ii), the applicant shall have a period of 2  
14          years from the date of receipt of the notice in which to  
15          complete all requirements specified by the Secretary, in-  
16          cluding providing information needed for compliance with  
17          the National Environmental Policy Act of 1969 (42 U.S.C.  
18          4321 et seq.).

19          “(B) If the applicant completes the requirements  
20          within the period specified in subparagraph (A), the Sec-  
21          retary shall issue a decision on the permit not later than  
22          10 days after the date of completion of the requirements.

23          “(C) If the applicant does not complete the require-  
24          ments within the period specified in subparagraph (A), the  
25          Secretary shall deny the permit.

1 “(q) On a quarterly basis, each field office of the Bu-  
 2 reau of Land Management and the Forest Service shall  
 3 submit to the Secretary of the Interior or the Secretary  
 4 of Agriculture, respectively, a report that—

5 “(1) specifies the number of applications for  
 6 permits to drill received by the field office during the  
 7 period covered by the report; and

8 “(2) describes how each of the applications was  
 9 disposed of by the field office.”.

10 **TITLE III—ENERGY**  
 11 **INFRASTRUCTURE**

12 **SEC. 301. EXPORTATION AND IMPORTATION OF NATURAL**  
 13 **GAS.**

14 Section 3 of the Natural Gas Act (15 U.S.C. 717b)  
 15 is amended by adding at the end the following:

16 “(d) Nothing in subsections (e) through (h) affects  
 17 the rights of a State under—

18 “(1) the Coastal Zone Management Act of 1972  
 19 (16 U.S.C. 1451 et seq.);

20 “(2) the Clean Air Act (42 U.S.C. 7401); or

21 “(3) section 401 of the Federal Water Pollution  
 22 Control Act (33 U.S.C. 1341).

23 “(e)(1) The Commission shall have the exclusive au-  
 24 thority to approve or disapprove the siting, construction,  
 25 expansion, or operation of particular facilities (onshore or

1 in State waters) for the import or export of natural gas  
2 from a foreign country.

3 “(2) No person shall site, construct, expand, or oper-  
4 ate a natural gas import or export facility (onshore or in  
5 State waters) unless the Commission has authorized the  
6 activity.

7 “(3) Approval of an application under paragraph (1)  
8 shall not be conditioned on—

9 “(A) a requirement that a liquefied natural gas  
10 import terminal shall offer service to any person  
11 other than the person to whom approval under para-  
12 graph (1) is granted (including an affiliate of such  
13 a person);

14 “(B) any regulation relating to the rates,  
15 charges, terms, or conditions of service of a liquefied  
16 natural gas import terminal; or

17 “(C) a requirement that any schedule or con-  
18 tract relating to the rates, charges, terms, or condi-  
19 tions of service of a liquefied natural gas import ter-  
20 minal be filed with the Commission.

21 “(4) Notwithstanding paragraph (3), a determination  
22 of the Commission under paragraph (1) relating to the  
23 expansion of an existing liquefied natural gas import ter-  
24 minal that offers service to customers on an open-access  
25 basis shall not result in a subsidy by existing customers

1 of expansion capacity, degradation of service to existing  
2 customers, or undue discrimination against existing cus-  
3 tomers as to the terms or conditions of service of those  
4 customers at the terminal, as determined by the Commis-  
5 sion.

6 “(f)(1) Not later than 1 year after the application  
7 to site, construct, expand, or operate a natural gas import  
8 or export facility under subsection (d) is complete (as de-  
9 termined by the Commission) the Commission shall ap-  
10 prove or deny an application .

11 “(2) On the date on which approval is received from  
12 the Commission under paragraph (1), a natural gas devel-  
13 opment zone shall be deemed to exist in the immediate  
14 vicinity of the facility.

15 “(3)(A) With respect to each application approved  
16 under paragraph (1), the Commission shall establish, con-  
17 sistent with paragraph (1), a schedule for all Federal and  
18 State administrative proceedings commenced under Fed-  
19 eral law that are required to be completed before a person  
20 may site, construct, expand, or operate a natural gas im-  
21 port or export facility to ensure timely progress toward  
22 any such siting, construction, expansion, or operation.

23 “(B) The schedule shall include all Federal and State  
24 administrative proceedings authorized by Federal law for  
25 the siting, construction, expansion, or operation of natural

1 gas pipelines and facilities relating to the transportation  
2 of natural gas from the import or export facility.

3 “(C) In establishing the schedule, the Commission  
4 shall, to the maximum extent practicable, accommodate  
5 the applicable schedules established by Federal law for the  
6 proceedings.

7 “(D) If a Federal or State administrative agency or  
8 officer fails to complete a proceeding in accordance with  
9 the schedule established by the Commission—

10 “(i) the action of the Federal or State adminis-  
11 trative agency or officer that is required before a  
12 person may site, construct, expand, or operate the  
13 natural gas import or export facility shall be conclu-  
14 sively presumed; and

15 “(ii) the siting, construction, expansion, or op-  
16 eration shall proceed without further condition.

17 “(4) With respect to the siting, construction, expan-  
18 sion, or operation of a natural gas import or export facil-  
19 ity, the Commission shall compile a single, exclusive ad-  
20 ministrative record that consolidates the records of the  
21 proceedings described in paragraph (3).

22 “(5) Any Federal administrative proceeding that is  
23 an appeal or review of a decision made or action taken  
24 by a Federal administrative agency or officer (or State ad-  
25 ministrative agency or officer acting under delegated Fed-

1 eral authority) with respect to the siting, construction, ex-  
2 pansion, or operation of a natural gas import or export  
3 facility shall use as the exclusive record for all purposes  
4 the administrative record compiled by the Commission  
5 under paragraph (4).

6 “(g) With respect to the siting, construction, expan-  
7 sion, or operation of natural gas import or export facili-  
8 ties, the Commission shall be the lead Federal agency for  
9 purposes of complying with the National Environmental  
10 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

11 “(h) The Commission shall grant the request of any  
12 State or local agency that requests cooperating agency sta-  
13 tus in accordance with regulations promulgated pursuant  
14 to the National Environmental Policy Act (42 U.S.C.  
15 4321 et seq.) with respect to a facility that imports or  
16 exports natural gas.

17 “(i) Nothing in this section grants the Commission  
18 any right of eminent domain with respect to the siting,  
19 construction, expansion, or operation of a natural gas im-  
20 port or export facility.”.

21 **SEC. 302. EXPORTATION AND IMPORTATION OF NATURAL**  
22 **GAS FOR OFFSHORE FACILITIES.**

23 (a) PROCEDURE.—Section 5(e) of the Deepwater  
24 Port Act of 1974 (33 U.S.C. 1504(e)) is amended by add-  
25 ing at the end the following:

1 “(3) COORDINATION OF APPROVAL PROCESSES.—

2 “(A) IN GENERAL.—The Secretary, in coopera-  
3 tion with the Federal Energy Regulatory Commis-  
4 sion, shall develop a procedure to coordinate the  
5 processing of all approvals required by the Secretary  
6 or the Federal Energy Regulatory Commission for  
7 an offshore transmission facility, or a related facil-  
8 ity, that is—

9 “(i) used to transport natural gas from a  
10 deepwater port; and

11 “(ii) within the jurisdiction of the Federal  
12 Energy Regulatory Commission under the Nat-  
13 ural Gas Act (15 U.S.C. 717 et seq.).

14 “(B) INCLUSION.—The procedure developed  
15 under subparagraph (A) shall include a requirement  
16 that, on receiving an application relating to the  
17 siting, construction, expansion, or operation or an  
18 offshore transmission facility, or a related facility, in  
19 accordance with the Natural Gas Act (15 U.S.C.  
20 717 et seq.), the Federal Energy Regulatory Com-  
21 mission shall approve or deny the application under  
22 that Act in accordance with the timeline of the Sec-  
23 retary relating to a similar application under sub-  
24 sections (g) and (i)(1).”.

1 (b) ADJACENT COASTAL STATES.—Section 9(b)(1) of  
2 the Deepwater Port Act of 1974 (33 U.S.C. 1508(b)(1))  
3 is amended—

4 (1) in the second sentence, by striking “The  
5 Secretary” and inserting “Except in the case of a li-  
6 cense for a deepwater port for natural gas, the Sec-  
7 retary”; and

8 (2) by adding at the end the following: “In the  
9 case of a license for a deepwater port for natural gas  
10 located more than 20 miles from the coast of a  
11 State, a condition on the license shall not negatively  
12 affect the construction or operation of the project.”

13 **SEC. 303. NATURAL GAS PIPELINE INFRASTRUCTURE.**

14 (a) EXTENSION OF FACILITIES; ABANDONMENT OF  
15 SERVICE.—Section 7 of the Natural Gas Act (15 U.S.C.  
16 717f) is amended by adding at the end the following:

17 “(i)(1)(A) With respect to each application under  
18 subsection (d) for authorization to undertake the construc-  
19 tion or expansion of a facility under the jurisdiction of  
20 the Commission, the Commission shall establish a schedule  
21 for all Federal and State administrative proceedings com-  
22 menced under Federal law that are required to be com-  
23 pleted before a person may site, construct, expand, or op-  
24 erate a natural gas facility to ensure timely progress to-

1 ward any such siting, construction, expansion, or oper-  
2 ation.

3 “(B) In establishing the schedule, the Commission  
4 shall, to the maximum extent practicable, accommodate  
5 the applicable schedules established by Federal law for the  
6 proceedings.

7 “(C) If a Federal or State administrative agency or  
8 officer fails to complete a proceeding in accordance with  
9 the schedule established by the Commission—

10 “(i) the action of the Federal or State adminis-  
11 trative agency or officer that is required before a  
12 person may site, construct, expand, or operate the  
13 natural gas facility shall be conclusively presumed;  
14 and

15 “(ii) the siting, construction, expansion, or op-  
16 eration shall proceed without further condition.

17 “(2) With respect to the siting, construction, expan-  
18 sion, or operation of a natural gas facility subject to the  
19 jurisdiction of the Commission, the Commission shall com-  
20 pile a single administrative record that consolidates the  
21 records of the proceedings described in paragraph (1).

22 “(3) Any Federal administrative proceeding that is  
23 an appeal or review of a decision made or action taken  
24 by a Federal administrative agency or officer (or State ad-  
25 ministrative agency or officer acting under delegated Fed-

1 eral authority) with respect to the siting, construction, ex-  
2 pansion, or operation of a natural gas facility subject to  
3 the jurisdiction of the Commission shall use as the exclu-  
4 sive record for all purposes the administrative record com-  
5 piled by the Commission under paragraph (2).

6 “(j) With respect to the siting, construction, expan-  
7 sion, or operation of natural gas facilities subject to the  
8 jurisdiction of the Commission, the Commission shall be  
9 the lead Federal agency for purposes of complying with  
10 the National Environmental Policy Act of 1969 (42 U.S.C.  
11 4321 et seq.).”

12 (b) REHEARING; COURT REVIEW OF ORDERS.—Sec-  
13 tion 19 of the Natural Gas Act (15 U.S.C. 717r) is  
14 amended by adding at the end the following:

15 “(d)(1) The United States Court of Appeals for the  
16 District of Columbia Circuit shall have original and exclu-  
17 sive jurisdiction over any civil action—

18 “(A) for review of an order or action issued by  
19 the Commission under section 3;

20 “(B) for review of an order or action of a Fed-  
21 eral or State administrative agency or officer to  
22 issue, condition, or deny any permit, license, concur-  
23 rence, or approval issued under a Federal law re-  
24 quired for the siting, construction, expansion, or op-  
25 eration of a natural gas facility for which a certifi-

1       cate of public convenience and necessity is issued by  
2       the Commission under this Act;

3           “(C) alleging unreasonable delay or condi-  
4       tioning by a Federal or State administrative agency  
5       or officer in entering an order or taking other action  
6       described in subparagraph (B); or

7           “(D) challenging a decision made or action  
8       taken under this subsection.

9       “(2)(A) If the Court finds that an order, action, or  
10      failure to act is not consistent with the public convenience  
11      or necessity (as determined by the Commission under this  
12      Act), or would prevent the siting, construction, expansion,  
13      or operation of natural gas facilities authorized by a cer-  
14      tificate of public convenience or necessity, the permit, li-  
15      cense, concurrence, or approval that is the subject of the  
16      order, action, or failure to act shall be deemed to have  
17      been issued subject to any conditions set forth in the re-  
18      viewed order or action that the Court finds to be con-  
19      sistent with the public convenience or necessity.

20       “(B) For purposes of paragraph (1)(B), the failure  
21      of an agency or officer to issue a permit, license, concur-  
22      rence, or approval by the later of the date that is 1 year  
23      after the date of filing of an application for the permit,  
24      license, concurrence, or approval or the date that is 60  
25      days after the date of issuance of the certificate of public

1 convenience or necessity under this section, shall be con-  
2 sidered unreasonable delay unless the Court, for good  
3 cause shown, determines otherwise.

4 “(C) The Court shall expedite the consideration of  
5 any action brought under paragraph (1).”.

6 **SEC. 304. NATURAL GAS STORAGE FACILITIES.**

7 Section 4 of the Natural Gas Act (15 U.S.C. 717c)  
8 is amended by adding at the end the following:

9 “(f)(1) On receiving an application from a natural  
10 gas company that is the owner or operator of a natural  
11 gas storage facility, the Commission may allow the com-  
12 pany to charge a market-based rate for natural gas stor-  
13 age and storage-related services at the facility even if the  
14 Commission finds that the facility may have the ability  
15 to exercise market power, if, in the sole discretion of the  
16 Commission, allowing market-based rates is in the public  
17 interest.

18 “(2) The Commission may place reasonable condi-  
19 tions on the allowance of the Commission of market-based  
20 rates under this subsection, such as requiring the storage  
21 capacity to be sold through an open and transparent auc-  
22 tion.

23 “(3) If the Commission allows market-based rates  
24 under this subsection, the Commission shall review peri-

1 odically whether the storage facility continues to qualify  
2 under this subsection to charge market-based rates.”.

3 **SEC. 305. BACKUP FUEL CAPABILITY STUDY.**

4 (a) STUDY.—The Secretary of Energy shall conduct  
5 a study on the effect of having liquid and other fuel  
6 backup capability for gas-fired power generation facilities  
7 and for other gas-fired industrial facilities.

8 (b) CONTENTS.—The study shall address—

9 (1) the costs and benefits of adding a different  
10 fuel capability to power gas-fired power generating  
11 and industrial facilities, taking into consideration re-  
12 gional differences;

13 (2) Federal and State government methods of  
14 encouraging gas-fired power generators and indus-  
15 tries to develop a capability to power the facilities of  
16 the generators and industries by another fuel;

17 (3) the effect on the supply and cost of natural  
18 gas of a balanced portfolio of fuel choices in power  
19 generation and industrial applications;

20 (4) the effect on the supply and cost of natural  
21 gas of a State that permits agencies to carry out  
22 policies that encourage other fuel backup for gas-  
23 fired power generation; and

1           (5) changes required in the Clean Air Act (42  
2           U.S.C. 7401 et seq.) to allow natural gas generators  
3           to add clean backup fuel capabilities.

4           (c) REPORT TO CONGRESS.—Not later than 1 year  
5           after the date of enactment of this Act, the Secretary of  
6           Energy shall submit to Congress a report on the results  
7           of the study, including recommendations regarding further  
8           Federal Government activity regarding backup fuel capa-  
9           bility.

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