ozone odor nonattainment areas which includes the area that all my great friends over here live in and I live in. We need a fair bill that addresses the urgent need for clean air for ourselves and our children.

Mr. Speaker, prolonging our dirty air problem is not the solution. I urge my colleagues that desire clean air for themselves and their constituents to oppose this rule and oppose this bill. I am from an energy-producing State.

Mr. SESSIONS. Mr. Speaker, I reserve the balance of my time.

Mr. McGovern. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon (Mr. Blumenauer).

Mr. McGovern. Mr. Speaker, I appreciate the gentleman’s courtesy.

We are fond of saying around here that the world changed after September 11, but the energy bill did not. This bill is virtually identical to Dick Cheney’s energy task force and where the House has been these last 4 years with concerns, notwithstanding the Enron scandal, skyrocketing gasoline prices and demands on scarce oil supplies unless it is the last place America should look for oil, not the next place.

They oppose a waiver and relief to the MTBE manufacturers at the expense of State and local authorities and the future of America’s drinking water.

This bill is looking at our energy problem through a rearview mirror. It gives too much to the wrong people to do the wrong thing and is dramatically out of step with what the American public wants and needs.

The politics of today and yesterday’s policies do not provide an energy road map for the future. It is true that lots of people have been working very hard on this bill, and I would suggest that never have so many worked so hard and so long to do so little to change the direction of this country’s energy future.

For the sake of the country, one hopes that there will come a time when the needs and wishes of the public is heard and it will be reflected in an energy policy for this century, cost-effective and rational; preserving the quality of life, rather than operating on the cheap.

Mr. McGovern. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, first of all, with regard to the rule, the majority just does not get it. Out of 90 amendments that were offered on the Committee on Rules, there were 22 Democratic amendments made in order.

Thanks for making the 22 amendments in order; but quite frankly, it is not enough. This is the energy bill. This is not just the energy bill. As my colleagues have heard from various Members here today, a lot of important amendments were not made in order.

The gentleman from California (Mrs. Capito) talked about the MTBE issue. Her amendment was not made in order.

The gentleman from Texas (Ms. Eddie Bernice Johnson) just talked about her clean air amendment which was not made in order.

The gentleman from West Virginia (Mr. Rahall) had a coal amendment which was not made in order.

The gentleman from Maryland (Mr. Gillcherest), the gentleman from Massachusetts (Mr. Oliver), and the gentleman from Maryland (Mr. Van Hollen) had an amendment on global warming, to come up with a strategy to deal with it. That was not made in order.

My colleagues heard from the gentlewoman from Nevada (Ms. Berkley) talk about Yucca Mountain. Her amendment was not made in order.

Tax credits for hybrid cars. The gentleman from Michigan (Mr. Dingell) talked about hydroelectric licensing. That was not made in order.

So a lot of very important and vital issues, we have been shut out from offering them here today. If we are going to have a real democracy and a real debate on this issue, these important issues should have a place for debate here on the House floor.

Let me just finally say instead of bringing up yet another bill that rewards corporate donors, I wish the leadership on the other side would think about the future, about the world our children and grandchildren will inherit and give us an energy bill that actually makes the world a better place.

This bill does not do it, and I would urge my colleagues to vote against it.

Mr. Sessions. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my colleagues on the other side of the aisle for their vigorous debate that took place, not only yesterday in the Committee on Rules. The gentleman from Texas (Chairman Barton) spoke about the days and days and hours of debate and amendment process of preparing this bill.

I think we have got a good bill. I think we are going to find out when the ultimate vote comes that a vast majority of Members of this House are going to say we want to make sure that America has an energy policy, an energy policy that encourages not only conservation but also the opportunity for America to be less dependent on foreign oil, one that makes sure the Federal Government begins the process to form a critical mass in solar energy and other new technologies to make sure that America’s businesses catches on to this and that we become environmentally sensitive and comprehensive in our future, but mostly that we are able to grow our economy, continue job growth, and make sure that we protect jobs that exist.

Mr. Speaker, I think that this rule was fair. I believe that the underlying legislation is common sense. America not only wants and deserves an energy policy, but today our four committee chairmen, the gentleman from New York (Mr. Boehlert); the gentleman from California (Mr. Pombo); the gentleman from California (Mr. Thomas); the gentleman from Texas (Mr. Barton), the chairmen of the Committee on Energy and Commerce, have led us down a path to where we have an opportunity to make history right in front of us, produce this bill, produce for the American public something that will help America to grow and become competitive in the world.

Mr. Speaker, I would say that I support this legislation.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered. The resolution was agreed to. A motion to reconsider was laid on the table.

Mr. Barton of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 6.

The SPEAKER pro tempore (Mr. LaHood). Is there objection to the request of the gentleman from Texas?

There was no objection.

ENERGY POLICY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 219 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6.

The Chair designates the gentlewoman from West Virginia (Mrs. Capito) as Chairman of the Committee of the Whole, and requests the gentleman from Iowa (Mr. Latham) to assume the chair temporarily.

The Clerk read the title of the bill.

The Acting CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour and 30 minutes, with 30 minutes equally divided and controlled by the chair and ranking member of the Committee on Energy and Commerce, and 20 minutes equally divided and controlled by the chair and ranking member of each of the committees on Science, Resources, and Ways and Means.

The gentleman from Texas (Mr. Barton) and the gentleman from Michigan
Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. DINGELL asked and was given permission to revise and extend his remarks.

Mr. DINGELL. Mr. Chairman, we have a bad bill. It is represented as being something which is going to save money and increase energy supplies. The Energy Information agency says neither of these cases is true. It is not going to reduce energy prices, but rather will raise the cost of gasoline.

Let us look at what our country needs. It needs Congress to pass a real energy bill, not a flawed bill that will hurt the environment, hurt consumers, and cost taxpayers a bundle of money. Democrats have been trying to work with our Republican colleagues to get balanced, sensible legislation, starting with a clean slate in a bipartisan fashion.

We have been denied that opportunity. The Republican leadership chose, instead, to push an outdated energy bill which had its origins in the secret Cheney Energy Task Force and was negotiated in secret conference meetings which excluded the Democrats.

The administration’s own Energy Information Administration analyzed the old bill saying changes to production, consumption, imports, and prices are negligible. It even found, as I noted, that gasoline prices under the bill would increase more than if the bill were not enacted.

While this bill will little help our energy independence, it is far from benign. Despite our efforts to overturn the antienvironmental provisions of the bill, it weakens laws such as the Safe Drinking Water Act and the Leaking Underground Storage Tank Program that protect the environment and public health.

The bill also changes hydroelectric power policies by undercutting safeguards for dam relicensing, it gives power producers more and better rights than States, tribes, and other public entities. It jeopardizes not only fish, but the overall health of our river systems and the recreational activities that they support, unfair, rights on people, while not taking the same care of the concern of the citizenry generally.

The bill eliminates requirements for public participation and deference to the States in decisions about the siting of electric transmission lines and natural gas facilities.

As far as consumers are concerned, it is hard to imagine a better case for increasing consumer protections than the debacle which took place in the West Coast electricity markets in 2000 and 2001. The Federal Energy Regulatory Commission has determined widespread fraud existed, and there are tapes to prove it; yet this bill gives only cosmetic reforms in law and, in point of fact, repeals the Public Utility Holding Company Act of 1935, which protects consumers and investors. And it does nothing to assure refunds of unearned electric bills. While blackouts cost the consumers $80 billion, this bill holds a senator hostage to consumer refunds.

What can I anticipate on participatory funding down the road? Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, as the gentleman well knows, the electric title is very, very important to my constituents and my constituents in the Southeast as well as in the northwest, and one of the provisions in the title that is not there is regarding participatory funding.

Since that is a fairly standard thought-out thing in regional transmission organizations, I am concerned that the bill does not have any language in there to assure me and my constituents that they are not going to have to pay extra. We do really want to help people that are having blackouts and disruptions, but we do not think we should pay the whole load.

What can I anticipate on participatory funding down the road? Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. NORWOOD. Mr. Chairman, as my colleague from Texas knows, the electricity title is very, very important to my constituents and I am concerned that the bill does not have any language in there to assure me and my constituents that they are not going to have to pay extra. We do really want to help people that are having blackouts and disruptions, but we do not think we should pay the whole load.

What can I anticipate on participatory funding down the road? Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, as the gentleman well knows, the electric title from this committee(ies) offered an amendment in the committee that struck the participatory funding language from the conference report, but at that time, I assured the gentleman from Georgia and the gentleman from Mississippi and several other interested Congressmen in the committee that when we go to conference with the Senate, we will work out language that is fair and balanced and protects the rights of the incumbent local utilities and also the independent power producers to find a fair and balanced way in which to build and maintain the transmission system for our great Nation’s electricity grid.

Mr. NORWOOD. Mr. Chairman, reclaiming my time, I thank the gentleman very much. As he knows, I agree participatory means “everybody pays,” and those that reap the advantages of this, which will be the generators of electricity and the receivers of electricity, need to pay. And I am all right with that.

I thank my colleague, and I look forward to working with him on this as we move forward toward conference.
Mr. Barton of Texas. If the gentleman will continue to yield, there will be a provision in the conference report that comes back when we report the conference out.

Mr. Norwood. I thank the Chairman.

Mr. Dingell. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. Waxman).

Mr. Waxman. Mr. Chairman, Republican leaders say that the bill before us is comprehensive energy legislation that will meet the Nation’s energy needs by protecting the environment and safeguarding consumers. Well, these are the right goals, but there is only one problem: The bill accomplishes none of them. This is an antienvironment, anticonsumer, anti-taxpayer bill.

This bill fails to provide secure, sustainable, and affordable energy supplies. It does nothing about the most important issues facing our nation, like addressing global warming and reducing the Nation’s dependence on foreign oil. Instead, this bill lavishes taxpayer subsidies on big energy companies, while weakening our environmental laws.

I have never encountered a time when the disconnect between rhetoric and reality has been so enormous. The President says he wants to save Social Security, yet he proposes a plan that would cut benefits and privatize the program. Bills introduced in Congress that they want limited government, yet they enact legislation intruding on the end-of-life decisions for the poor woman in Florida. Congressional leaders say they want to support high moral standards in government, yet they gut the ethics process in the House. And in this so-called energy bill we shower billions on special interests while ignoring our Nation’s serious energy needs.

The Republican energy plan is a bonanza for the energy industry. While natural gas, heating oil, and gasoline prices have skyrocketed, we are going to be giving these companies more money. Shell Oil reported the highest corporate profits in the history of the United Kingdom. ExxonMobil announced the largest annual profit ever made by a public company, $25 billion.

There are steps we could take to address our energy problems, but this legislation ignores them. We urgently need to reduce our dependence on foreign oil, yet America’s dependence on oil imports will grow by 75 percent over the next 20 years under this bill.

The bill fails to address the market abuse and manipulation that caused the California energy crisis, costing consumers in California and western States billions of dollars.

This bill carves a loophole in the laws protecting our coastlines, our forests, and our public lands. And under this bill, when a big oil company pollutes community drinking water, the oil companies will no longer be held responsible for cleaning it up. It is a windfall for Exxon Mobil, but an attack on communities all around this country facing contaminated drinking water.

This bill makes the most significant changes to the Clean Air Act in 15 years, allowing corporate polluters to expose 53 million Americans to air pollution for years longer than current law.

I urge my colleagues to oppose this fundamentally flawed legislation.

Mr. Barton of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri (Mr. Blunt), the distinguished majority whip and a member of the committee.

Mr. Blunt. Mr. Chairman, I thank the gentleman from Texas for yielding me this time to speak in favor of this bill, and I thank him for his great leadership to bring this bill to the floor.

For the United States has been saying that one of our primary failings as a country was to have an energy policy that moved forward. For three Congresses, our body has responded to that, first with the gentleman from Texas as chairman of the subcommittee, and now with his leadership as chairman of the full committee, bringing an energy bill to the House floor for three straight Congresses.

What we do here today and tomorrow can be extremely important to solve the problems that we see at the gas pumps today, to solve the problems that we see if you try to buy fertilizer today, to solve the natural gas problems.

Now, it will not solve these problems next week or next month, or even maybe the month after that. If, however, we had passed the bill my colleague from Florida was about 4 years ago, these problems we see today would not be the large problems that we see today.

And for the leadership of this chairman, the leadership of the chairman of the Committee on Ways and Means, and the gentleman from Massachusetts (Mr. Markey), I am grateful.

I am also grateful to our friends on the other side, led by the gentleman from Michigan (Mr. Dingell). They did the hard work they did in the markup. While they may not have agreed with all of the final product, certainly many parts of this product benefited from the work they did on this committee.

One of the things we have done is illustrated here by a map that just shows how many kinds of fuel there are all over the United States. We have tried to limit the numbers of those fuels in this bill, and even asked the EPA to look to the future and see what that right number is.

Every time you make gasoline less of a commodity and make it more of a specialty item, you increase the cost, reduce the reliability, and the access to gasoline. We hope to move away from the hope to do more things to use conservation and use renewable fuels.

This is the right step. It is after the right time. I wish I could say it is the right step at the right time, but, Mr. Chairman, it is not the fault of our committee or our body.

We need to move forward now. I urge passage of this bill.

Mr. Dingell. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. Markey).

Mr. Markey. Mr. Chairman, this is truly a bad bill. Every day we have pictures on the screen of consumers pulling up to the gas pump, paying an arm and a leg for gasoline. We have 150,000 young men and women over in the Middle East protecting our country in that region, and largely as well the oil supplies coming into our country.

This bill does nothing in order to deal with that problem. In fact, the Department of Energy analysis of an almost identical bill in the last Congress concluded that changes to production, consumption, imports, and prices are negligible. The bill will open the pristine Arctic National Wildlife Refuge to oil and natural gas exploration even though there is such a small supply of oil and gas there that most of the oil companies have pulled out of the coalition trying to open it to drilling.

This bill contains a liability waiver for the big oil companies that would force cities and States to spend billions to clean up drinking water supplies that have been contaminated with the gasoline additive MTBE which is known to cause cancer.

This bill tramples on the right of State and local governments to protect their citizens from potentially dangerous energy facilities such as large liquefied natural gas terminals that would be sited right in the middle of densely populated cities in our country, even though we know they would be the number one terrorist target constructed in that city.

This bill allows oil and gas companies, pollute our nation’s water supplies by granting them special exemptions from the Clean Water Act.

This bill allows refineries and utilities to increase air pollution with special exemptions from the Clean Air Act.

There is a special provision in this bill to protect Halliburton from ever facing any Federal regulation of a practice of drilling for oil using the hydraulic fracturing technique that actually injects diesel fuel into the water supply.

There is a special provision that authorizes grants and other assistance to something called the Dine Power Authority, an enterprise of the Navajo Nation. Are these the beneficiaries of that provision? Why do they deserve our largesse? We never had a hearing on it.

There is a special provision in the bill that provides a $1.3 billion subsidy to Idaho National Laboratory to build a special advance nuclear reactor to produce hydrogen for the hydrogen car. Bad bill; vote "no."
Mr. Chairman, I rise in opposition to H.R. 6. I have the greatest respect and affection for the Chairman of the Committee, the distinguished gentleman from Texas (Mr. Barton), but I must say in all honesty that this is really a terrible energy bill.

The chairman represents Texas, and I'm sure that from a Lone Star State perspective, this looks like a pretty good bill. But most of our constituents don't come from oil-producing states. Most of our constituents are energy consumers, and from a consumer perspective this bill is seriously deficient. In fact, I would suggest it is a bit like that old Clint Eastwood spaghetti Western: "The Good, the Bad and the Ugly." There is a tiny bit of good in the bill—like extending daylight saving time by a month in the spring and a month in the fall. Now, that was a good idea, it really was—and I'm glad that the gentleman from Michigan (Mr. Upton) and I were able to get it in the bill.

But in all honesty I think I have to say that for the most part, what we have here before us today is one truly Bad and Ugly bill:

First, let's take a look at the Bad:

This bill would open the pristine Arctic National Wildlife Refuge to oil and natural gas exploration, even though there is such a small supply of oil and gas there that most of the companies have pulled out of the coalition trying to open it to drilling.

This bill contains a liability waiver for the big oil companies that would force cities and states to spend billions to clean up drinking water supplies that have been contaminated with the gasoline additive MTBE, which is known to cause cancer.

This bill tramples on the right of state and local governments to protect their citizens from potentially dangerous energy facilities, such as large Liquefied Natural Gas (LNG) terminals situated in the middle of densely populated urban areas.

This bill allows oil and gas companies to pollute drinking water by granting them special exemptions from the Clean Water Act.

This bill allows refineries and utilities to increase air pollution with special exemptions from the Clean Air Act.

This bill gives utilities who dam the public's waterways special rights to appeal and change conditions federal resource agencies placed on their hydropower license in order to protect fish, the environmental, irrigation, navigation or other public uses of our nation's rivers.

This bill repeals the Public Utility Holding Company Act, a consumer and investor protection law that restricts utilities from self-dealing and limits their ability to diversify into risky unregulated businesses ventures at the expense of utility consumers.

Second, let's take a look at the just plain Ugly.

There's a special provision in this bill for Home Depot that preempts several states existing or proposed energy efficiency standards for ceiling fans.

There's a special provision in here to protect Halliburton from ever facing any Federal regulation of the practice of drilling for oil using the hydraulic fracturing technique that actually injects diesel fuel into aquifers.

There's the special provision added that authorizes "grants and other assistance" to something called "the Dine Power Authority," which is Navajoeat Enron. Who are they? Why do they deserve our largesse?

There's the special provision added that provides a special exemption from our Nation's nuclear nonproliferation law for a Canadian company named Nordion, so that they won't be required to ever agree to convert their nuclear reactor to using Low-Enriched Uranium fuel and targets, but can instead continue to use bomb-grade Highly Enriched Uranium that is a potential terrorist target.

There's the special provision in the bill that provides a $1.3 billion subsidy to the Idaho National Laboratory to build a special advanced nuclear reactor to produce hydrogen for the hydrogen car.

This is not what a national energy policy should be—a tiny bit of Good in a sea of Bad and Ugly provisions. No. We should try to seek a fair balance between the interests of consumers and producers, between the need for new production and the preservation of our natural environment. We should take advantage of America's strength—our technological superiority—and not play to our weakness (the fact that we are the world's largest consumer of the world's oil reserves, while OPEC controls more than 70 percent).

Americans own more cars than there are licensed drivers, and yet this energy bill does nothing to address the fuel efficiency of cars. Instead it offers us a false hope that drilling in the Arctic Refuge will solve our energy problems, ignoring that the United States' 3 percent of world oil reserves will never match our 25 percent of world oil consumption. For some fuzzy math, we would sacrifice the last great wilderness in America, an area biologically unique within the American Arctic.

It didn't have to be this way. I lived through the energy policy battles of the late It didn't have to be this way. It really didn't. But the Republican Majority that controls this Congress today has an energy policy partisan with a bill that is extreme and overreaching. So I would say to my Republican Colleagues, you may have the votes to prevail here on the House floor this week, but this extreme bill will not become law. Democrats in the Senate, along with our colleagues in the bipartisan majority that passed it out of the committee, will work to protect the chairman for his work.

Mr. Dingell. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Chairman, I rise in opposition, strong opposition to this bill. My colleagues have outlined the many problems with it. It does nothing to impact gas prices. In fact, according to the Energy Information Agency, it will actually help the oil industry by giving billions to industries with already-soaring profits, and it weakens a host of environmental laws.

Mr. Chairman, one provision epitomizes the bill's failings. It grants and other assistance liability protection for people who make MTBE who are responsible for polluting groundwater in dozens of States, leaving hundreds of communities saddled with billions of dollars in cleanup costs. Supporters claim it is fair to protect MTBE producers from liability since Congress mandated its use in the Clean Air Act, but there is no mandate for MTBE and even the chairman of the committee has acknowledged as much. As many as 1 million barrels were added to gasoline before the clean air regulations were ever issued. Most damning, documents unearthed in court cases show that manufacturers knew the dangers MTBE posed to groundwater, and they still added it to gasoline. The result is what we have today, over 1,800 contamination sites in 29 different States serving 45 million Americans.

Mr. Barton wanted to offer an amendment to strike this provision because in its wisdom the House leadership would not want to vote on this. Perhaps it is because too many Members on both sides of our work pay off because I think this time we will get it across the finish line because it meets the demands of the country. We have to diversify our energy portfolio. We can no longer rely on one fuel source, whether it is for the electricity generation or our vehicles. We have to diversify our energy portfolio, and that is what this bill does.

This bill brings clean coal technology, strengthens nuclear power; and it actually helps people to move in the wind power. It does great things for relicensing hydroelectric power. It helps expand the transmission grid and block the backlogs that helped cause the major blackout that we had 2 years ago. It addresses a diversified energy portfolio on fuels.

It brings renewable fuels to the forefront in this debate. Gasoline is $2.20, $2.30. Consumers can buy E-85 ethanol which will raise prices at the same rate that has been doing in the past is working. This bill addresses the supply end, and it also addresses the demand end. We have to have a national energy policy. We can no longer allow the country to have no plan.

I am excited about an opportunity to pass this bill on the floor tomorrow, move it to conference, and get it to the President's desk. I want to commend the bipartisan majority that passed it out of the committee, and commend the chairman for his work.

Mr. Barton of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. SHIMKUS).

Mr. SHIMKUS. Mr. Chairman, I thank the gentleman from Texas (Mr. Barton) for yielding me this time and for his great work on this bill. It sounds like it is not the bill that I voted on, but I am very pleased to support it. There is no more important bill in my time here in Congress than the bill we have today, and there is no more important bill for the State of Illinois than the bill we are addressing today. It makes all of the years of...
of the aisle represent districts with bad MTBE problems in places where lawsuits are pending. Because of the MTBE provisions alone, we should reject this bill.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN), one of nine Democrats on the Committee on Energy and Commerce who voted for this bill in committee.

Mr. GENE GREEN of Texas. Mr. Chairman, I thank the gentleman for yielding me this time.

There was pressure to rush this bill out of the committee without a markup, but I am glad the committee made the right decision. We had a 3-day full committee markup where almost every imaginable energy issue was raised, from cow manure energy to ocean power. We even extended daylight savings time to save energy.

Overall, there are many beneficial provisions in this bill, such as resolving permit confusion, improving electric reliability, and mandating Federal energy conservation.

Importantly, the bill provides incentives to clean coal technology, renewable energies like wind and solar; and it also increases LIHEAP funding authorization to $8 billion for this year.

Very quickly, I want to thank the chairman for inclusion of a number of provisions in the bill, such as the provision encouraging the siting on liquefied natural gas (LNG), which is important to energy security to cut into the rising natural gas prices that threaten our economy.

The top concern of homeowners and manufacturers in our district are the high natural gas prices. If we keep offshore production limits, we have to have LNG to import from other countries. We included some modern incentives for petroleum coke gasification so we can see what we can do with a byproduct, and important coal gasification incentives. Energy diversity benefits us economy-wide benefits.

I commend the authorization of a complex well-testing project at the Rocky Mountain Oilfield Testing Center. The ability to tap more resources with fewer wells provides a public benefit for environmental protection.

The bill contains a study on LIHEAP reform. Providing energy assistance to families in cold and hot weather is a public necessity, and I thank the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. BARTON) for accepting two new amendments, one which would require the Department of Energy and the National Cancer Institute to conduct a health assessment of those living in proximity to petrochemical and refineries facilities.

Many of my constituents live and work near these facilities. The communities are concerned, and they deserve the most accurate health information about these facilities.

There is a lot to be said about this bill. We have an energy bill for the first time in my 12 years in Congress. Mr. DINGELL. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, today I rise in opposition to the energy bill. The bill limits States' rights to protect their water supplies and protect their air quality, risks the public health of our working families, and leaves our States to pick up the tab for contamination.

First, the bill puts important groundwater supplies at risk by allowing diesel fuel and other contaminants to be injected into the ground with no oversight by EPA.

Second, supporters of the bill refuse to take steps to prevent leaks into the groundwater from underground storage tanks by rejecting attempts to require new replacement storage tanks near drinking water wells or sensitive areas to be secondarily contained.

Third, the bill would make States weaken programs to prevent leaks during fuel delivery or risk losing Federal cleanup funds.

Finally, the language unnecessarily targets provisions that undermined communities' rights to protect their water supplies and protect their air.

Importantly, the bill provisions for the unrestricted siting of new refineries. Together, all these actions are environmental and public health injustices. While the bill benefits corporate America, it leaves communities like mine with more contaminated groundwater, increases the cost of cleanup borne by taxpayers and water providers, and increases the risks to public health for all Americans.

Mr. BARTON of Texas. Mr. Chairman, I yield to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Chairman, I thank the gentleman from Texas (Mr. BARTON) for yielding me this time. The gentleman has done a magnificent job leading the committee on this new bill.

I would just say, in America we face some great challenges with regard to formulation of our energy policy. The oil demand growth keeps rising due to the development of the emerging world. China consumes 7 million barrels per day; and if China’s rise in world prominence is similar to that of Korea and Japan, China will consume 20 million barrels per day in less than 10 years.

The last big oil discovery was 30 years ago in the North Sea. China is trying to buy oil companies in Canada; India is trying to buy oil companies in Russia; the present world production capacity is a million barrels a day; and we are running an estimated 81.5 million barrels today, which means we are in the red zone. The 14 largest oil fields in the world are 40 years old. Once they are taken out to 50 percent, water and fluids co to keep production at existing levels. We have some significant challenges. Support this bill.

Mr. DINGELL. Mr. Chairman, I re- serve the balance of my time. Mr. BARTON of Texas. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from Connecticut (Mr. SHAYS).
souces that will provide infinite energy without impinging our last remaining wilderness areas. I look forward to the day when we will have an opportunity to vote for a fiscally-prudent, environmentall-responsible national energy policy. Today is not that day.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentle-
man from Ohio (Mr. GILLMOR), another distinguished subcommittee chairman.

Mr. GILLMOR. I thank the gentleman for yielding me this time and for his great work on this bill.

Mr. Chairman, this country needs to create a new energy landscape that begins shrinking our disproportionate reliance on foreign energy sources and begins building one that places American ingenuity, producers and consumers at the forefront.

I want to highlight one provision and that is the provision that significantly strengthens the important Leaking Underground Storage Tank program. The bill increases State funding from the LUST trust fund for States containing a larger number of tanks or whose leaking tanks present a greater threat to groundwater, it requires onsite inspections of industry-owned storage tanks every 3 years, it institutes operator training requirements for tank owners and operators, and the legislation allows States to stop deliveries of fuel to noncompliant regulated tanks in order to achieve legal enforcement.

These are all strong recommendations not only made by the General Accounting Office, but they have also been previously passed by the House. They are proenvironment, antipolluter provisions, and I particularly want to call attention to the smart metering title

The Department of Energy predicts that by the year 2025, U.S. oil and natural gas demand will rise by 46 percent with energy demand increasing 1 percent for every 2 percent in GDP growth. This increase in demand at home, coupled with the explosion of demand worldwide, has led to an increase in the cost of crude oil. To combat this and the resulting pressure that we are experiencing, the Department of Energy projects this number will increase to 73 percent by the year 2025. In order to ensure reliable and secure supplies of oil, we have no choice but to increase the domestic supply.

Another way H.R. 6 increases domestic production of oil is by opening ANWR to oil and gas exploration. USGS estimates that there is between 5.7 and 16.0 billion barrels of oil that is technically recoverable. This estimate does not take into account that with new technology the share will become higher. A resource of this magnitude cannot simply be ignored. H.R. 6 goes a long way to end our reliance on foreign oil.

I once again urge my colleagues to support H.R. 6 and finally enact solid, comprehensive energy legislation for the American people.

Mr. Chairman, here we go again. As they say, the third time’s the charm. This is the third Congress in a row that we have tried to pass comprehensive energy legislation. I know I speak for a lot of my colleagues in saying I hope we can finally move forward after the large increases in gasoline. This is a timely piece of legislation.

The Department of Energy predicts that by the year 2025, U.S. oil and natural gas demand will rise by 46 percent with energy demand increasing 1 percent for every 2 percent in GDP growth. This increase in demand at home, coupled with the explosion of demand worldwide, has led to an increase in the cost of crude oil.

To combat this, and the resulting record gas prices, the American people today are looking for Congress to act and we are doing it. This legislation contains a number of provisions that will lower gas prices. H.R. 6 encourages more production of oil, promotes a greater refining capacity, and increases the gasoline supply by stopping the proliferation of expensive regional boutique fuels.

Mr. Chairman, I urge my colleagues to support H.R. 6 and finally enact solid, comprehensive energy legislation for the American people.

Mr. Chairman, here we go again. As they say, the third time’s the charm. This is the third time, and it should be a charm.

I was glad to see that my bipartisan amendment extending daylight saving time for 2 months was included in this bill. Estimates show that it will save more than 100,000 barrels of oil for every day that we extend daylight saving time. I want to remind my colleagues that 2 years ago, we had a blackout, an electric blackout through much of the Midwest. In this bill we finally impose reliability standards on the electric industry so that, hopefully, this will not happen again.

I want to say, too, as the cochair of the Auto Caucus, it was important for the chairman to agree to add $200 million for hybrid and alternative fuel cell vehicles. We hope that the Senate legislation will even go more in terms of incentives so that private consumers going to the showroom are going to be able to take advantage of those incentives to purchase those vehicles so that we get to those vehicles.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Mr. Chairman, I want to thank the gentleman from Michigan for yielding this time to me and commend him on his outstanding leadership with regard to the energy bill now before us.

I have supported the passage of comprehensive energy legislation for the last two Congresses, and I rise in support of the measure that is before the House this afternoon. While I do not support all of the sections of the bill, there are a number of provisions in the energy measure that I believe will enhance our Nation’s energy policy and energy security. For example, the legislation makes valuable improvements in the area of energy efficiency and renewable energy and would make permanent the Northeast Home Heating Oil Reserve.

Of particular interest to me is the title on coal which would provide for the implementation of the Clean Coal Power Initiative to develop projects that would utilize clean coal technologies. The coal title also provides for the clean air coal program to enhance the deployment of fully developed clean coal technologies. Coal is our Nation’s most abundant natural resource for energy production, and it is imperative that we accomplish the goal of incenting coal use and thereby relieving to some extent the pressure that we are experiencing at the present time on natural gas prices. The Clean Air Coal Program would help to advance that objective.

The electricity title in the energy bill contains some beneficial provisions, and I particularly want to call attention to the smart metering title which I proposed 2 years ago in order to accelerate the deployment of real-time metering. When consumers have knowledge of the savings they can realize by using appliances during offpeak
hours, the peaks can be flattened and the utilities can avoid the necessity of having to build some very expensive new generating facilities.

I am pleased that during the last Congress, we were able to reach a compromise which is also reflected in the bill before us. I recognize the application of section 210 of PURPA, and the legislation contains the non- controversial and much-needed section that would make transmission reliability standards mandatory.

I am concerned, however, that the bill before us includes a provision that would cap spending on the implementation of the reliability standards. I am concerned about that and would hope that when this measure becomes law, enough money will be available for adequate enforcement.

I also remain concerned about the total repeal of the Public Utilities Holding Company Act without ensuring that adequate consumer protections are in place. And I have not been convinced that there is a need to give the Federal Energy Regulatory Commission the ultimate authority to site transmission power lines.

I support the legislation and I encourage colleagues to vote for it. And I want to conclude these remarks by complimenting again the gentleman from Michigan (Mr. DINGELL) on his outstanding leadership and also complimenting the gentleman from Texas (Mr. BARTON) and the Committee on Energy and Commerce. He was willing to work in a bipartisan fashion in order to establish consensus on a number of these measures. I applaud him for that willingness and for the effective work that he has done in bringing this measure to the floor.

Mr. Chairman, I encourage the passage of the bill.

Mr. BARTON of Texas. Mr. Chairman, I yield myself the balance of my time.

The Acting CHAIRMAN (Mr. LATHAM). The gentleman from Texas is recognized for 1 minute.

Mr. BARTON of Texas. Mr. Chairman, I want to compliment the members of the Committee on Energy and Commerce on both sides of the aisle for the way we prepared this legislation. It was reported out of committee 39-16 last Wednesday night after a 31/2-day markup. Every amendment that was offered was wanted to be voted on and considered was.

Most of the members who have spoken in opposition to the bill on the floor from the Committee on Energy and Commerce had amendments that were accepted in committee. I think every member that has said something negative about the bill actually got something in the bill, and yet it was not exactly the way they wanted it in terms of the total package, so they are obviously reserving their right to vote against the bill.

It is a fair and balanced bill. It helps the existing conventional resources. It also has a title on conservation. It will reform our electricity grid. It looks to the future in the hydrogen fuel initiative and the clean coal technology. While it is not a panacea, it is a bill that is right for this country. It is right to pass it at this time and send it to the other body so that we can go to conference and pass a law and put a bill on the President's desk.

I would urge a "yes" vote on final passage after all the amendments have been debated tomorrow afternoon.

Mrs. BIGGERT. Mr. Chairman, I claim the time on the majority side for the Committee on Science.

The Acting CHAIRMAN. The gentlewoman from Illinois is recognized.

Mrs. BIGGERT. Mr. Chairman, I yield myself 3 minutes.

As chairman of the Science Subcommittee on Energy, I rise today in strong support of H.R. 6, the Energy Policy Act of 2005, particularly those provisions that originated with the Science Committee and are now contained in Title IX of the bill, the Research and Development title.

H.R. 6 represents a good investment in advanced, cutting-edge energy technologies to expand and diversify our energy supply, meet growing demand for energy, reduce the environmental impact of energy production and use. The only changes to the R&D title from the 108th Congress are ones that reflect the latest research, the emergence of innovative technologies and new ways of thinking about energy that are not acceptable to many Democrats and Republicans, there are good points worth mentioning in Title IX. Of particular note are the provisions ensuring greater DOE cooperation with the smaller colleges and universities to train our next generation of scientists, mathematicians, technicians, and teachers. The Department, as well as the traditional large research universities, could benefit from the enormous pool of talented researchers at smaller colleges and universities, and I encourage greater collaboration.

I would also like to highlight the work of several of our Members on key components of DOE research and development in Title IX:

The interest of the gentleman from California (Mr. HONDA) in the progress of the Next Generation Lighting Initiative, the Stanford linear accelerator and the Joint Genomics Institute and the Department of Energy, the Joint Genomics Institute and the National Cancer Institute, could benefit from the tremendous pool of talented researchers at smaller colleges and universities, and I encourage greater collaboration.

I would also like to acknowledge the work of several of our Members on key components of DOE research and development in Title IX:

The interest of the gentleman from California (Mr. UDALL) to clean, renewable and efficient energy technologies.

The work of the gentleman from Colorado (Mr. UDALL) clean, renewable and efficient energy technologies.

The work of the gentleman from Tennessee (Mr. DAVIS) to ensure that utilization of our vast coal resources only gets cleaner and more efficient.

The work of the gentleman from California (Ms. LOFGREN) in support of domestic fusion energy research and international fusion projects.

The work of the gentleman from Tennessee (Mr. UDALL) to clean, renewable and efficient energy technologies.

The work of the gentleman from North Carolina (Mr. MILLER) to establish a nationwide network of advanced energy technology transfer centers to get technologies off the laboratory shelf and into the marketplace.

Finally, the tireless commitment of the gentlewoman from Texas (Ms.
Our growing dependence on foreign oil puts us at the mercy of unstable and unfriendly foreign regimes. It gives terrorists additional targets and puts money in their hands. It weakens the dollar by worsening the balance of trade. We would start every day $500 million-plus in the hole on our balance of trade because of the imported oil. It pumps money out of the domestic economy and into the hands of those who would wish us ill.

In short, our oil dependence represents a significant and growing threat to our national security, and national security should be first and foremost in the minds and hearts of every one in this Chamber.

So what do we do to reduce our dependence on foreign oil? Yes, we need to increase the supply of fossil and nuclear energy. But most importantly, we need to become more energy efficient. And does this bill do to make us more energy efficient? Virtually nothing.

The Federal Energy Information Administration found that last year’s energy bill would have almost no impact on our security and energy prices; and that bill, if anything, made more of an effort to tame consumption. The Alliance for an Energy Efficient Economy has estimated that this year’s energy bill would not save a single barrel of oil by 2020.

That is both tragedy and farce. We know how to treat our oil addiction. We can make appliances more energy efficient without inconveniencing anyone. We can make our cars more efficient without sacrificing safety. My CAPE amendment would reduce oil consumption in 2020 by 2 million barrels a day. That is more than twice the amount that is expected per day from drilling in the Arctic National Wildlife Refuge.

What does this bill do instead of trying to make us more energy efficient? At a time of fiscal crises and record oil prices, the bill provides new mandatory spending that will go directly to the oil industry, and it provides mandatory breaks for the oil industry on royalties.

The bill provides massive tax breaks for profitable oil companies and next to nothing for new technologies that could help wean us from foreign oil. Here is what the President said last week on that issue: “With $55 oil we don’t need incentives to oil and gas companies to explore.” The President’s budget devoted 72 percent of its proposed energy tax incentives to alternatives. This bill provides just 6 percent to alternatives while providing more than a billion dollars in additional tax breaks.

We would have to look far to come up with better ideas. While the House has been writing a bill based on ideological purity rather than careful analysis, others have come forward with bipartisan, sensible balanced approaches to energy policy. Groups like the National Commission on Energy Policy and the Alliance to Save Energy and the Energy Future Coalition have all offered carefully considered proposals that could have formed the basis of an effective bill with Republican credentials.

But instead, we have decided to close our minds and open our purse in a way that will harm taxpayers and consumers and weaken our economic health and national security. We can do better. We ought to do better. We have an obligation to do better. Let us defeat this bill and start over.

Mr. GORDON. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, the chairman of the Committee on Science knows what is right. The energy bill before us today is bad for the consumer, bad for the environment, and it does not make us energy independent. In fact, it is the ultimate reason we are insecure as a Nation.

In fact, by promoting the interests of corporations over consumers and pollution over conservation, this bill makes the United States much less secure. H.R. 6 will have the same impact on our environment, and our energy sources; and that bill, if anything, made more of an effort to tame consumption. The Alliance for an Energy Efficient Economy has estimated that this year’s energy bill would not save a single barrel of oil by 2020.

That is both tragedy and farce. We know how to treat our oil addiction. We can make appliances more energy efficient without inconveniencing anyone. We can make our cars more efficient without sacrificing safety. My CAPE amendment would reduce oil consumption in 2020 by 2 million barrels a day. That is more than twice the amount that is expected per day from drilling in the Arctic National Wildlife Refuge.

What does this bill do instead of trying to make us more energy efficient? At a time of fiscal crises and record oil prices, the bill provides new mandatory spending that will go directly to the oil industry, and it provides mandatory breaks for the oil industry on royalties.

The bill provides massive tax breaks for profitable oil companies and next to nothing for new technologies that could help wean us from foreign oil. Here is what the President said last week on that issue: “With $55 oil we don’t need incentives to oil and gas companies to explore.” The President’s budget devoted 72 percent of its proposed energy tax incentives to alternatives. This bill provides just 6 percent to alternatives while providing more than a billion dollars in additional tax breaks.

We would have to look far to come up with better ideas. While the House has been writing a bill based on ideological purity rather than careful analysis, others have come forward with bipartisan, sensible balanced approaches to energy policy. Groups like the National Commission on Energy Policy and the Alliance to Save Energy and the Energy Future Coalition have all offered carefully considered proposals that could have formed the basis of an effective bill with Republican credentials.

But instead, we have decided to close our minds and open our purse in a way that will harm taxpayers and consumers and weaken our economic health and national security. We can do better. We ought to do better. We have an obligation to do better. Let us defeat this bill and start over.

Mr. GORDON. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, the chairman of the Committee on Science knows what is right. The energy bill before us today is bad for the consumer, bad for the environment, and it does not make us energy independent. In fact, it is the ultimate reason we are insecure as a Nation.

In fact, by promoting the interests of corporations over consumers and pollution over conservation, this bill makes the United States much less secure. H.R. 6 will have the same impact on our environment, and our energy sources; and that bill, if anything, made more of an effort to tame consumption. The Alliance for an Energy Efficient Economy has estimated that this year’s energy bill would not save a single barrel of oil by 2020.

That is both tragedy and farce. We know how to treat our oil addiction. We can make appliances more energy efficient without inconveniencing anyone. We can make our cars more efficient without sacrificing safety. My CAPE amendment would reduce oil consumption in 2020 by 2 million barrels a day. That is more than twice the amount that is expected per day from drilling in the Arctic National Wildlife Refuge.

What does this bill do instead of trying to make us more energy efficient? At a time of fiscal crises and record oil prices, the bill provides new mandatory spending that will go directly to the oil industry, and it provides mandatory breaks for the oil industry on royalties.

The bill provides massive tax breaks for profitable oil companies and next to nothing for new technologies that could help wean us from foreign oil. Here is what the President said last week on that issue: “With $55 oil we don’t need incentives to oil and gas companies to explore.” The President’s budget devoted 72 percent of its proposed energy tax incentives to alternatives. This bill provides just 6 percent to alternatives while providing more than a billion dollars in additional tax breaks.

We would have to look far to come up with better ideas. While the House has been writing a bill based on ideological purity rather than careful analysis, others have come forward with bipartisan, sensible balanced approaches to energy policy. Groups like the National Commission on Energy Policy and the Alliance to Save Energy and the Energy Future Coalition have all offered carefully considered proposals that could have formed the basis of an effective bill with Republican credentials.

But instead, we have decided to close our minds and open our purse in a way that will harm taxpayers and consumers and weaken our economic health and national security. We can do better. We ought to do better. We have an obligation to do better. Let us defeat this bill and start over.

Mr. GORDON. Mr. Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, the chairman of the Committee on Science knows what is right. The energy bill before us today is bad for the consumer, bad for the environment, and it does not make us energy independent. In fact, it is the ultimate reason we are insecure as a Nation.

In fact, by promoting the interests of corporations over consumers and pollution over conservation, this bill makes the United States much less secure. H.R. 6 will have the same impact on our environment, and our energy sources; and that bill, if anything, made more of an effort to tame consumption. The Alliance for an Energy Efficient Economy has estimated that this year’s energy bill would not save a single barrel of oil by 2020.

That is both tragedy and farce. We know how to treat our oil addiction. We can make appliances more energy efficient without inconveniencing anyone. We can make our cars more efficient without sacrificing safety. My CAPE amendment would reduce oil consumption in 2020 by 2 million barrels a day. That is more than twice the amount that is expected per day from drilling in the Arctic National Wildlife Refuge.
Mr. HONDA. Mr. Chairman, there are very few things I like about this energy bill. However, I do support title IX, and I am proud to be the ranking member of the Committee on Science’s Energy Subcommittee, which authored this portfolio of independence.

We have included such beneficial programs as energy efficiency and renewable energy research and development in the areas of solar, wind, geothermal, bioenergy, and other alternative energy sources that will be critical to our future energy independence.

Also included are research programs into distributed energy and electric energy systems, which will make us less reliant on fragile transmission grid, and the next generation lighting initiative, which will reduce future demand for electricity through efficiency.

We have also increased support for the basic sciences at the Department of Energy generally and focused on several programs in particular, such as nanotechnology research and development, advanced scientific computing research, and fusion energy sciences.

It is a credit to the collegial bipartisan nature of the Committee on Science members and staff that all of these provisions are included in a product that both sides of the aisle can support. There is so much agreement that I do not have any amendments to offer here today; and as a side bar, I would like to also commend the gentleman from New York (Mr. BOEHLERT), chairman; and the gentleman from Tennessee (Mr. GORDON), our ranking member, for this kind of collegial activity.

Unfortunately, I cannot say the same thing about the rest of the bill. Drilling in the Arctic National Wildlife Refuge and liability waivers for producers of MTBE are not going to reduce gas prices today and are not steps toward a sustainable energy future. And in contrast to the need to address increasing fuel economy standards, which is a concrete step we can take to reduce energy consumption.

Even President Bush, an oil man, admits that with $55 a barrel of oil, we do not need incentives for oil and gas companies to explore. He recently said, “There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent.”

This bill does not do enough to make this transition less dependent on energy, be it from imported or domestic sources. We need a bill that focuses on our long-term future needs, not one that is stuck in the past. I urge my colleagues to oppose this bill.

Mrs. BIGGERT. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Illinois (Mr. KIRK).

(Mr. KIRK asked and was given permission to revise and extend his remarks.)

Mr. KIRK. Mr. Chairman, I am concerned this bill will not clear the Budget responsibility. H.R. 6 technically does not violate the Budget Act because it is an unreported bill, and Budget Act points of order generally only apply to reported bills. The bill generally is inconsistent with the 302(a) allocations for both the 2005 and House-passed 2006 budget resolutions. The bill does, however, create a new entitlement program outside the budget window (specifically, FY 2016). It uses a portion of outer-continenta receipts to fund new mandatory state-run conservation, education, and infrastructure programs. Estimates indicate that the annual cost of this provision could be in the range of $1.75 billion. If H.R. 6 were a reported bill, such a provision might subject the bill to a section 303 point of order.

We just passed a Budget only after clarifying a point of order and defeat any Appropriations bill over Budget.

It appears that we have to expand this point to protect against bills like this.

Mr. GORDON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mrs. BIGGERT. Mr. Chairman, I yield myself such time as I may consume.

In closing, I express my appreciation for the leadership of the Committee on Science and my colleagues on the committee for their contributions to the development of the provisions in the R&D title of H.R. 6. They are bipartisan, forward thinking, balanced, and speak to the importance that we as a Congress place on the role of technology in our energy future.

I would also express my appreciation for the extremely professional staff of all the relevant committees, as well as the key leadership staff who worked diligently on this bill for months and in some cases years. I want to thank the able staff of Committee on Science and its Energy Subcommittee. Their contributions and those of countless others have made a better bill which I urge my colleagues to support.

Mr. Chairman, I yield back the balance of my time.

Mr. GORDON. Mr. Chairman, I ask unanimous consent to take back the balance of my time.

Mrs. JACKSON-LEE. The Acting CHAIRMAN (Mr. LATHAM). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. GORDON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished gentleman for yielding me this time.

First of all, I am grateful that the Committee on Science had an opportunity to provide insight into this legislation.

I have an amendment that I will be discussing later on in the day that speaks to the purpose of my standing today in general debate, and that is to make, I think, the declaration that we clearly need to have an energy policy.

My amendment will engage farmers and ranchers in Texas and all over the Nation to give them extra training and resources to assess the availability and viability of bioenergy. But it is important that, although this legislation may not be all that we want it to be, the very fact that there is going to be a review of electricity and transmission is important, the very fact that we acknowledge the high cost of gasoline, even though I might say to my distinguished friend from Tennessee I offered an amendment that might determine why there is such an increase in gasoline prices, why the transportation costs are so high, and of course that was not allowed.

But we will have a number of debates dealing with the price of gasoline. This is not a “get-you” time in America. This should not be. We get the industry or we get the consumer. This needs to be a time when we sit down and reconcile over these very frightening issues.

I want the American people to have a thriving energy industry. In fact, I had an initiative that would report on the deposits in Texas and Louisiana offshore so that we might be more independent of foreign oil and do more domestic drilling in a safe and environmentally manageable way.

This bill today will allow us to debate these questions.

Am I disappointed? In some sense, yes, that global warming is not mentioned, that more of the environmental emphasis is not mentioned; but if we do not move from point A to point B to point C to have a real energy policy, there will be no way, if you will, to ensure for the American people a safe and secure America.

It is a question of energy security. I would ask my colleagues to consider this legislation as we move forward.

Mr. Chairman, I speak today with mixed emotions. While I realize the importance of having a comprehensive energy bill, I am concerned that the bill does not do enough. Please do not misunderstand me, there are good aspects to the bill. For example, the bill provides for much needed advances in Energy Efficiency, Renewable Energy, and Nuclear. However, there is still much work to be done.

To this end, I plan to offer an amendment and work with Members, and industry with hopes of improving upon some key aspects of the bill.

Before going any further, I think it is important to touch upon the question everyone is asking, “Why Are Gas Prices So High?” Whether right or wrong, the common answer has been that supply is not able to keep up with demand. According to recent studies, overall prices are rising because of the razor-thin supply and demand balance in the global crude oil market (i.e. the increase demand for oil in China and India has played a major role in driving up oil prices around the world). In addition, the situation in Iraq has not helped. Unfortunately, there seems to be no end in sight for these problems.

According to the Energy Information Administration, EIA prices in 2005 are projected to remain high, at an expected average of $2.28
per gallon for the April to September summer season, 38 cents above last summer. Similar high motor gasoline prices are expected through 2006. Monthly average prices are projected to peak at about $2.35 per gallon in May. Summer diesel fuel prices are expected to average $2.24 per gallon. As in 2004, the primary factor behind these price increases is crude oil costs.

In the United States, additional changes in gasoline specifications and tight refinery capacity can be expected to increase operating costs slightly and to supply flexibility, adding further pressure on pump prices. Despite high prices, demand is expected to continue to rise due to the increasing number of drivers and vehicles and increasing per-capita vehicle miles traveled. While these may be the facts, it does not sit well with my constituents back in Texas, and for that matter with all Americans. Thus, as the bill moves along the legislative process, I will be working with Members and industry to establish a sense of the Congress that the Secretary of Energy, acting through the Administration officials, academia, industry leaders, environmental groups and consumers not to assume that we have learned all that is there is to know about energy extraction, refining, generation, or transportation but that we are still learning. We must bring to this debate a vigor and vitality that will enliven our efforts to have a future of energy and have notes, due to out of control energy demand with few creative minds working on the solution to this pressing problem. We know that the geological supply of fossil fuel in not infinite, but finite. We know that our Nation's best reserves of fuel sources are in the forms of coal and natural gas, among others.

I would only caution my colleagues, administration officials, academia, industry leaders, environmental groups and consumers not to assume that we have learned all that is there is to know about energy extraction, refining, generation, or transportation but that we are still learning. We must bring to this debate a vigor and vitality that will enliven our efforts to have a future of energy and have notes, due to out of control energy demand with few creative minds working on the solution to this pressing problem.

The CHAIRMAN. Pursuant to the rule, the gentleman from California (Mr. Pombo) is recognized for 10 minutes.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. Gibbons), the subcommittee chairman.

Mr. GIBBONS. Madam Chairman, I rise in strong support of H.R. 6. For too many years, Madam Chairman, our domestic energy policy has languished, driving investment overseas and increasing our reliance on foreign energy resources. Yet, we continue the cycle of tolerating irresponsible energy prices to discourage investment in domestic energy production and, subsequently, becoming more dependent on foreign sources of energy. Relying on foreign and sometimes, hostile nations for energy and minerals jeopardizes our national security. Madam Chairman. And for the safety and security of our homeland, I want the United States to be reasonably self-sufficient in meeting the demands of our current energy consumption. H.R. 6 makes strides in ensuring our domestic security by streamlining the permitting process for renewable and traditional sources of energy, while protecting the integrity of the environment. The bill also contains provisions to spur production of renewable energies such as geothermal so we can reduce our reliance on traditional sources.

Through this important legislation, we will have increased ability to utilize the vast renewable energy resources on our public lands in an environmentally responsible manner. I urge all of my colleagues to support the passage of this legislation that will allow us to capitalize on our Nation's energy exploration and development technology, commitment to environmental quality and conservation, and work ethic to develop our domestic energy resources.

The CHAIRMAN. Pursuant to the rule, the gentleman from West Virginia (Mr. Rahall) is recognized for 10 minutes.

Mr. RAHALL. Madam Chairman, I yield myself such time as I may consume.

I rise in opposition to the pending legislation, surprise, because it will do absolutely nothing to lower the price of motor fuel and reduce America's dependence on foreign oil. This legislation is antitaxpayer, anticonsumer, and anti-environmental. It is social security for the oil industry—something we need less of, not more. It is a bill that squanders what could have been a bold stroke for American energy independence. It could have been visionary, and it could have been daring in developing new energy technologies and fuel sources.

Instead, we have before us a bill which contains a litany of various tax breaks and polluter protections for energy producers who are already experiencing record profits at the expense of the American public. The bill contains $8 billion in tax breaks, largely for well-heeled oil and gas conglomerates who are already milking our constituents at the pump. In the Resources title alone, CBO says there is nearly a half a billion dollars of direct spending to subsidize the oil and gas industry over the next ten years. To put it bluntly, if the taxpayer is feeling the pain of an energy crisis, it is coming from the Senate—licking out of his back pocket, and this measure does nothing to ease it.

Even President Bush recently stated, "I will tell you, with $50 oil, we don't need to add another industr, energy, to the energy mix. We have the resources to do it on our own.

But has that stopped the Republican majority from bestowing such largesse on some of their biggest benefactors? Of course not. Because when one pulls the curtain aside on this bill, what we find is a wacky old fellow pulling the manipulating levers, reaching deep into the Treasury and deep into the pockets of ordinary Americans.

This bill, as I said, could have been a bold stroke, but it missed that mark. It ignores coal, America's most abundant energy resource. It pays mere lip service to coal. There is nothing here that abandons our role as the world's leading electric utility to install or invest in clean coal technology. There is nothing here that would advance bona fide technologies for coal gasification or liquefaction to run our factories and vehicles.

As a final point, I note that the single substantive coal provision in this bill favors Western Federal coal, primarily in the Powder River Basin of
Wyoming, over all other coals. It would give Federal coal from that region an artificial, competitive advantage to the detriment of coal producers and consumers in other States. Already, this Western coal has infiltrated utility markets traditionally served by Appalachian and Midwestern producers. To provide these producers of Federal coal with special treatment in the form of relief from competitive bidding and the payments of royalties is unseemly and has no part in what is supposed to be a national energy policy bill.

It is, in effect, a direct assault upon all other coal, including coal from my home State of West Virginia, and it is a direct assault on consumers, jobs, and the economy and the communities which rely on coal from States like West Virginia who are not given special treatment under this provision.

Yet, under the rule governing debate on this bill, I was denied the ability to offer an amendment to strike this provision, an effort that came very close to succeeding when the House last considered this bill. Could it be that because I came so close to knocking it out of this bill on the House Floor of the last Congress I was denied that opportunity this year? Could it be because the Republican leadership fears debate on this provision and will only allow amendments that they can bet the House will fail to pass? All of this, all of it is why every newspaper in my congressional district that has editorialized on this bill has editorialized against this bill.

We are engaging in an exercise of microwave legislating today. The Republican leadership has hauled out the remains of last year’s freeze-dried energy bill and are seeking to warm it up for yet another taxpayer-financed feast.

The people of America will not be played for fools. They will not allow us to believe that all of our energy problems will go away if we simply grant misplaced and inappropriate tax cuts to energy fat cats, and if we allow polluters to get off the hook and shortchange the health and safety protections of our citizens.

I urge a no vote on the bill.

Madam Chairman, I reserve the balance of my time.

Mr. POMBO. Madam Chairman, I yield 1/2 minutes to the gentleman from New Mexico (Mr. PEARCE), the subcommittee vice chairman.

Mr. PEARCE. Madam Chairman, I rise today in support of the energy bill that we are discussing on the floor.

Madam Chairman, the absolute truth is that Americans are paying more at the pump today than ever before. Home heating costs have escalated dramatically. These things are both reflections of the lack of an energy policy. All we are suggesting in this energy bill is that we ignore the economic forces that are at play in today’s economy, and that we need to take steps to correct it.

For instance, natural gas in this Nation is hovering in the $7 range, but if we look over in the Asian areas and in Russia, it is 95 cents and 70 cents. What is happening is that we are outsourcing jobs to those other nations because they are paying one-tenth the price for natural gas. We are paying here, we are paying in Wyoming, and yet our friends on the other side of the aisle some days want to talk about outsourcing jobs and the horrific effect that it has on the economy; and today we are doing something factual about it, and it is just nonsense. And I say, That is okay, send those jobs; we probably did not need them to start with.

They would have us believe that what we are facing and what we are giving is simply a handout to the oil companies, and what we are doing is simply trying to develop new sources of oil that is extremely expensive to reach. We are drilling on some offshore platforms that cost billions of dollars to see. We are drilling on those with great risk that we will lose money, and what we are simply saying is that deep well incentives should be in place.

Now, the incentives that are in place for onshore production are either very difficult areas to drill in or the incentives only kick in after the price falls to a certain level.

Madam Chairman, it is time for us to pass an energy bill. The consumers in this Nation depend on it, and they are not waiting; they are depending on Republicans because our friends on the other side of the aisle refuse to help.

Mr. RAHALL. Madam Chairman, I yield 4 minutes to the distinguished gentleman from California (Mr. GEORGE MILLER), the distinguished former chairman of the Committee on Resources.

Mr. GEORGE MILLER of California. Madam Chairman, I thank the gentleman for yielding me this time.

This bill, first and foremost, should be rejected by this Congress, because it is very bad for the consumers, it is a very bad deal for the taxpayers, it is lousy for the environment, and it certainly does not do much for the American economy.

This bill is another missed opportunity to take America into the future, to take America into the leadership around the world in energy production, to create the synergy of innovation, and energy technology; to create a new generation of important products, and a new generation of jobs.

But what this bill does not understand is that energy sufficiency and sustainability is very different from energy oil independence. The first is achievable in the national interest and the other is not. Oil independence is not achievable in this bill or in any bill you can bring to the floor.

If we were really seeking to strengthen America’s largest asset, respect to energy and our economy, we would do all that is possible to develop a national sustainable energy policy that would minimize our dependence on foreign oil. That is not this bill.

Rather than placing too much of our emphasis on new oil supplies, we would build a national energy policy that is based upon the strength of our country, rather than its weaknesses. Those economic forces were truly unleashed to provide a national energy policy, the role of coal and oil would be greatly diminished and would still be important, but not to the extent that America’s future and the health and safety of our children are being put at risk.

America’s energy policy would evolve into one where business decisions, capital allocations, research commitments, and environmental policy would coincide to make businesses more efficient and productive, develop new products and services, would expand and cover the environment, would be easier and less expensive and clean.

Such a policy demands a synergy of every part of our nation’s policy. To date, these ideas have been treated as a stepchild, as they are in this bill.

To do so, the Congress would have to stop thinking about energy policy as an extension of the past. They would have to think about it as going out to ensure the future, for American technology, American ingenuity, American talent, American capital, and the American marketplace.

America should go out and embrace the future, rather than dumping billions and billions of dollars into trying to go back to the past a little bit further forward, to bring the fossil fuels a little bit further forward.

That is the mistake of this bill, that is the tragedy of this bill, and that is the missed opportunity. That is the reason why this bill does so little for the consumer.

In fact, it harms the consumer at the pump by increasing the price of gasoline. That is why it is such a bad deal for the taxpayer, because the taxes are used for old production, for old ideas, not for innovation, not for the future, and not for a sustainable energy policy.

That is why it is so bad for the environment, because they use tax policy to drive environmental decisions that otherwise would not be made and, of course, that is why it is bad for the economy, because it continues our dependence. In fact, it drives us deeper into the dependence on the most unstable of fuels, within the hands of those countries that simply cannot provide stable environments for the production of those energy resources.

That is why a different policy would be about a sustainable energy policy, not trying to achieve oil independence, or foreign oil independence as this bill does. It is unfortunate, because what we do is we miss the opportunity to bring about what the best and the brightest prospects of America have already begun to harness, such as innovation, new technologies, new discoveries, new capital formation, and a new economy. But this bill does not do it.
This bill resides in the past century. This bill resides with the old industries. This bill resides with the old ideas, and it certainly resides with the old and tired subsidies that milk the taxpayers, to turn around and give them to the most profitable companies in the American economy at this time.

It is very unfortunate, and it should be rejected.

Mr. POMBO. Madam Chairman, I yield 1% minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. Inslee. Madam Chairman, I hope in conference we can.

I applaud the next-generation nuclear technology.

I applaud the incentives for deep gas drilling. That is the one issue I do not think we do enough in this bill. I believe we need to do much more to increase the supply of natural gas, and I hope in conference we can.

Current natural gas prices are exporting thousands of American jobs, the best jobs we have, the chemical plants, fertilizer factories, and those who weld steel and ore and use a lot of national gas.

We as a country have an island to ourselves with natural gas; they are not world prices. When everybody pays $50 for oil, we have the highest prices for natural gas of all modern countries, and we are losing the companies who use large quantities of it.

Just to compare, we are 40 percent higher on natural gas than Europe. We are 50 percent higher than Japan. We are 80 percent higher on natural gas than Europe. We use large quantities of it.

And we are losing the companies who yield 1% 1% of the oil; we have only 3 percent of the world's oil reserves. If you drill in Mt. Ranier National Park, the Arctic and Yosemite, the oil is not there; the dead dinosaurs decided to live in this place.

This is a doomy policy of searching for dead dinosaurs. And it is a dinosaur-like philosophy that we should decide to subsidize technology being developed in the late 1800s in 2005. We should be giving these subsidies to the nascent wind, solar, wave power, energy-efficient cars so we can build energy-efficient cars here rather than in Japan.

You do not give mother's milk to a 65-year-old person; you give it to the nascent infant industries that need it. That is not what happened to this bill, where 94 percent of the subsidy goes to an industry, the most profitable in American history; one company had $8 billion profit in the third quarter last year on your $55 a barrel oil.

That is what is going on in this bill. What we should be doing is hearing lessons from our successful past, where we showed where we increase the efficiency of our energy future. We need the new Apollo energy plan, a visionary high-tech plan, not a dinosaur-like plan.

Mr. POMBO. Madam Chairman, I yield 2% minutes to the gentlewoman from Wyoming, the full committee vice chairwoman.

Mrs. CUBIN. Madam Chairman, I rise today in strong support of H.R. 6, the Energy Policy Act of 2005.

Wyoming is often called the energy basket of America, but people in my State who are taking out emergency loans just to fill up their pickup's tanks would not know it. In my home town of Casper, gas is $2.10 a gallon; in Cheyenne it is almost $2.20. It is $2.30 in Riverton and $2.40 in Jackson.

Madam Chairman, that is just too much. Some of the people around the country who pay close to $3 a gallon might think Wyoming's prices are a bargain. But remember, Wyoming covers almost 100,000 square miles. That is a lot of miles on the highway to do business, and a lot of money at the gas pump.

Wyoming cannot support subways or mass transit when we do not have mass transit in Wyoming. (Mr. CUBIN)

Mr. RAHALL. Madam Chairman, I yield the remainder of my time to the gentleman from Washington (Mr. INSLEE), a valued member of our Resources Committee.

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Madam Chairman, the best way that I can characterize this bill is that it is a Jurassic Park bill in that it has dinosaurs, of dinosaurs, and in a sense by dinosaurs.

It depends on the hope that somehow dead dinosaurs will appear underneath the continent of the United States where they just do not exist. We consume 25 percent of the oil; we have only 3 percent of the world's oil reserves. If you drill in Mt. Ranier National Park, the Arctic and Yosemite, the oil is not there; the dead dinosaurs decided to live in this place.

This is a doomy policy of searching for dead dinosaurs. And it is a dinosaur-like philosophy that we should decide to subsidize technology being developed in the late 1800s in 2005. We should be giving these subsidies to the nascent wind, solar, wave power, energy-efficient cars so we can build energy-efficient cars here rather than in Japan.

You do not give mother's milk to a 65-year-old person; you give it to the nascent infant industries that need it. That is not what happened to this bill, where 94 percent of the subsidy goes to an industry, the most profitable in American history; one company had $8 billion profit in the third quarter last year on your $55 a barrel oil.

That is what is going on in this bill. What we should be doing is hearing lessons from our successful past, where we showed where we increase the efficiency of our energy future. We need the new Apollo energy plan, a visionary high-tech plan, not a dinosaur-like plan.

Mr. POMBO. Madam Chairman, I yield 2% minutes to the gentlewoman from Wyoming, the full committee vice chairwoman.

Mrs. CUBIN. Madam Chairman, I rise today in strong support of H.R. 6, the Energy Policy Act of 2005.

Wyoming is often called the energy basket of America, but people in my State who are taking out emergency loans just to fill up their pickup's tanks would not know it. In my home town of Casper, gas is $2.10 a gallon; in Cheyenne it is almost $2.20. It is $2.30 in Riverton and $2.40 in Jackson.

Madam Chairman, that is just too much. Some of the people around the country who pay close to $3 a gallon might think Wyoming's prices are a bargain. But remember, Wyoming covers almost 100,000 square miles. That is a lot of miles on the highway to do business, and a lot of money at the gas pump.

Wyoming cannot support subways or mass transit when we do not have mass transit in Wyoming. (Mr. CUBIN)

Mr. RAHALL. Madam Chairman, I yield the remainder of my time to the gentleman from Washington (Mr. INSLEE), a valued member of our Resources Committee.

(Mr. INSLEE asked and was given permission to revise and extend his remarks.)

Mr. INSLEE. Madam Chairman, the best way that I can characterize this bill is that it is a Jurassic Park bill in that it has dinosaurs, of dinosaurs, and in a sense by dinosaurs.

It depends on the hope that somehow dead dinosaurs will appear underneath the continent of the United States where they just do not exist. We consume 25 percent of the oil; we have only 3 percent of the world's oil reserves. If you drill in Mt. Ranier National Park, the Arctic and Yosemite, the oil is not there; the dead dinosaurs decided to live in this place.

This is a doomy policy of searching for dead dinosaurs. And it is a dinosaur-like philosophy that we should decide to subsidize technology being developed in the late 1800s in 2005. We should be giving these subsidies to the nascent wind, solar, wave power, energy-efficient cars so we can build energy-efficient cars here rather than in Japan.

You do not give mother's milk to a 65-year-old person; you give it to the nascent infant industries that need it. That is not what happened to this bill, where 94 percent of the subsidy goes to an industry, the most profitable in American history; one company had $8 billion profit in the third quarter last year on your $55 a barrel oil.

That is what is going on in this bill. What we should be doing is hearing lessons from our successful past, where we showed where we increase the efficiency of our energy future. We need the new Apollo energy plan, a visionary high-tech plan, not a dinosaur-like plan.

Mr. POMBO. Madam Chairman, I yield 2% minutes to the gentlewoman from Wyoming, the full committee vice chairwoman.

Mrs. CUBIN. Madam Chairman, I rise today in strong support of H.R. 6, the Energy Policy Act of 2005.

Wyoming is often called the energy basket of America, but people in my State who are taking out emergency loans just to fill up their pickup's tanks would not know it. In my home town of Casper, gas is $2.10 a gallon; in Cheyenne it is almost $2.20. It is $2.30 in Riverton and $2.40 in Jackson.

Madam Chairman, that is just too much. Some of the people around the country who pay close to $3 a gallon might think Wyoming's prices are a bargain. But remember, Wyoming covers almost 100,000 square miles. That is a lot of miles on the highway to do business, and a lot of money at the gas pump.

Wyoming cannot support subways or mass transit when we do not have mass transit in Wyoming. (Mr. CUBIN)
we still have the same people year after year coming down, whether gas is $20 a barrel or $60 a barrel they are still opposed to doing it. We have the same people come down here year after year after year that opposed putting a pipeline to move that gas from Alaska to the lower 48 States.

We have the same people who come to the floor year after year and oppose every single attempt that is made to increase the amount of energy produced in this country. Year after year they oppose it.

Last year we had an amendment to make it easier to site renewable energy on Federal lands. And the same people that are down here today opposing this bill opposed that bill on renewable energy. Yeah, you know, it all sounds great. You can come down here and talk about how we need more renewable energy.

But when you have a chance to vote for it, you vote no; and you do it every single time. You know, we hear this over and over again.

You know, when the bill moved through the committee, we had 20 or 25 amendments. Not a single one of those amendments was a partisan vote, a party vote. Every single one of them we had members of the minority and majority that joined together to either pass or defeat the amendment.

There was so much support for this bill coming out of the Resources Committee, it passed on a voice vote.

Every time that we get this bill up before the House, it passes with both majority and minority votes. There is support for doing this. I ask my colleagues with $55 a barrel oil, do you not think it is time that you did something? If you do not like this bill, where is your alternative? Because as of yet all you do is the same old rhetoric.

The CHAIRMAN. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from California (Mr. STARK) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Madam Chairman, I yield myself such time as I may consume.

Once again the House is debating a “comprehensive energy package.” I do have to say that as far as the Ways and Means Committee is concerned, it is just slightly less comprehensive than it has been in the past. But that is because we understand, having gone through a conference with the Senate, the kind of package that will maximize our chances in producing a fair and balanced tax section.

In discussing what we do in this particular bill, and I enjoy hearing people discuss it as though it is the conference report that is in front of us, it is in fact, and I will say it flatly, and in a negotiating position, before us to sit down and work with the Senate.

It does have renewable provisions in the tax package, but by a small amount. The majority focus is on the infrastructure of this country, the electric power lines, gas collecting lines, and supporting a structure which will be the backbone of our energy needs clearly for the next quarter of a century before any of the innovative approaches begin to carry a significant share of our energy needs.

I might also caution Members not to get too carried away looking at this particular piece of legislation under the heading of an energy bill and assume that we have done nothing since the conference report that was agreed upon between the House and Senate was passed by the House and not the Senate.

I would ask you to go back and refer to legislation passed just a short time ago under the title of the Working Families Tax Relief Act. In that bill we had incentives for wind, open biomass, electric cars, and alternative-fuel vehicles.

In the American Jobs Creation Act, we provided incentives for ethanol, biodiesel, geothermal, solar, open biomass, municipal solid mass, and refined coal.

I know the other side is going to offer that constant lament, what have you done for me lately? The answer is, let us get to conference, put together a package, once again come to the floor of the House with a conference agreement, we will pass that conference agreement, and the Senate will pass that conference agreement. And I will conclude my opening remarks by saying, I was very pleased that on the Ways to the Means Committee, five Democrats understood, one, the strategy that we are undertaking, and, two, supported the content of that strategy by voting for the Ways and Means position.

I know a number of people have a definition of bipartisanship, but based upon the recent history of the Ways and Means Committee, five Democrats supporting a measure offered in that committee is bipartisan support. And I was very pleased for it.

Madam Chairman, I retain the balance of my time.

Mr. STARK. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in opposition to this bill. First of all, it is improperly titled. It is not an energy policy act at all; it is the delay bill. Now, why is it the delay bill?

Well, it is a bill that delays energy self-sufficiency by enacting tax breaks and policies that benefit the oil and gas industry and ignores renewable alternatives.

It delays protecting the Arctic National Wildlife Refuge. It delays holding the makers of MTBE accountable for destroying drinking water. It delays the end of $8 billion in special interest tax breaks. It delays fishery restoration by giving dam owners free rein.

It delays protecting our children who suffer more and more from asthma as this bill delays enactment of stricter smog regulations. It delays protecting our shorelines from oil and gas development. It delays cleaner air and lower gas prices by mandating an agricultural welfare program.

It delays the end of corporate welfare for the likes of Enron and Home Depot. It delays the ability of States to enact tougher energy efficiency laws.

I could keep going, Madam Chairman, but I do not want to delay the proceedings any further.

The bill was written by and for the oil and gas industry with the involvement of a small band of powerful Members of Congress. Its very existence raises questions of ethical behavior. But as we know, our Committee on Standards of Official Conduct is unable to meet to consider such transgressions because of delay by my colleagues on the Republican side of the aisle which delays Committee on Standards of Official Conduct action against one of their own.

The purpose is not to enact a sane energy policy for our country at all. In fact, as I have outlined above, it delays that very possibility. It is an antienvironment, anticonsumer, antienergy self-sufficiency and irresponsible corporate welfare bill.

Rather than considering this legislation, we should be considering why “the way” continues to rule the House of Representatives.

Madam Chairman, I reserve the balance of my time.

Mr. THOMAS. Madam Chairman, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), a member of the committee.

Ms. HART. Madam Chairman, I thank the chairman and my colleagues on the committee for moving forward such an excellent package as part of the energy bill.

I think many of us have spent the last several years hoping that we would get an energy bill passed. There are a number of reasons why; in my district, clearly one of the most important is simply the cost of energy, whether it is home heat, whether it is the cost to manufacturers which is costing us jobs. We need to move forward with this energy bill.

My district is home to a number of manufacturers. I have met with many of them since the beginning of the year when we were hoping that we would get the energy bill moving. What they have asked for us is to help them with their higher overhead, ultimately helping them with their competitiveness, helping jobs to remain in our district. Obviously, these companies’ employees are much more susceptible to layoffs without the energy bill.

I am also hearing from home owners, manufacturing employers in my district with older homes, who need some help, some incentives to improve their homes, some tax assistance so they will have
more energy-efficient homes, to those
who are building new homes, more in-
icentives.

The bill also addresses our aging elec-
tric transmission system. Many of our
transmission system lines were built 30,
40, and even 50 years ago. By 2015 elec-
tricity consumption will increase by 28
percent. We need to repair and rebuild
the 160,000 miles of electrical transmis-
sion lines. This bill will reduce the time for
depreciation recovery and improve the op-
portunity for these companies to update
their lines, helping in efficiency, helping in
opportunity to have cheaper energy.

It is important also that we encour-
age new kinds of fuel. Especially im-
portant are fuel cells and, in fact, pro-
viding new jobs and better technology.

Fuel cell technology in the United
States is growing. The use of it is
growing and, in fact, jobs in that field
are growing. I think it is important
that this bill provide a 15 percent tax
credit for the newsworthiness installa-
tion of fuel
cell power plants and residential fuel
cell investments.

This is a great technology. It is one
that has been utilized in other parts of
the world to a further extent than it has
been in the United States. The help in this
bill will encourage fur-
ther use of fuel cells.

This bill makes changes of the Tax
Code that will speed the development of
newer and cleaner production of en-
ergy that help reduce energy costs. It will
help move our economy forward.

I urge my colleagues to support this
bill, and I especially commend my col-
leagues on the Committee on Ways and
Means for the tax provisions.

Mr. STARK. Madam Chairman, I
yield 3½ minutes to the gentleman from
Washington (Mr. MCDERMOTT) without
further delay.

(Mr. MCDERMOTT asked and was
given permission to revise and extend
his remarks.)

Mr. MCDERMOTT. Madam Chairman.
Friday is Earth Day, but that will not
stop the Republicans from passing leg-
islation that will make the Earth dirti-
er, more polluted and warmer.

The Republican legislation favors corpo-
rate America over Main Street in
America. It will neither ask nor answer
any of the energy issues that threaten
our environment, our economy and fu-
ture generations. Instead, the Repub-
licans will answer the greatest chal-
lenge of our time by telling Americans
to dig deeper into their pockets for big
oil.

At a time when America needs en-
ergy vision, Republicans have provided
us with their corporate donor lists. De-
spite soaring prices, despite dangers to
our economy and security for our de-
pendence on oil, the administration
puts forward the deal of the century for
big oil, gas and coal. It rewards its
friends and encourages America’s ad-
diction to oil.

Nothing in this bill will lower gaso-
line prices a single penny. Nothing in
this bill will alter our dependence on
oil. Nothing in this bill will address the
needs and concerns of the American
people facing economic peril at the
pump every morning when they put $50
worth of gas into their car. Instead,
Americans from Maine to California
will pay at the pump and pay through
the nose. Big oil’s profits today dey
description.

The CEO of ExxonMobil who does not
think global warming is real was paid
$38 million last year. The price of crude
oil jumped $2 a barrel yesterday. That’s
$1 billion of earnings to Mobil’s
earnings. Maybe that explains why oil
and gas companies have reduced their
investment in facilities by 20 percent
even as their profits have increased 400
percent.

The oil and gas industry is sitting atop
a mountain of cash looking down
on Americans who are held hostage by
runaway gas prices that grow the
mountain of oil prices even higher. And
we are giving them $7 billion more
in tax dollars. That’s $7 billion extra
that country gasoline prices are 20 percent
higher than they were a year ago. Nei-
ter wages nor economic opportunities
come close to bridging that kind of de-
cit for the American family.

The energy vision for those families is
to pay more, save less, use consumer
debt. Oh, yeah, remember the bank-
ruptcy bill? And give up something
to make the frayed ends meet, while
ExxonMobil’s CEO pockets $38 million.

With the price of crude oil sky high,
you would think we would be declaring
a 12-alarm economic fire that endan-
ger’s the lives of every American family
and the economic health of our econ-
omy.

Let me quote something that sums
this up. “We are grossly wasting our
energy resources and other precious
raw materials as though their supply
was infinite.” President Jimmy Carter
spoke those words in 1976, almost 30
years ago. We laughed at him when he
put on a sweater and said maybe we
should turn the thermostat down 1 de-
gree.

Yet today Americans propose a pol-
cy that seeks to roll backward from
the ominous warnings of the mid-1970s.
America needs vision and leadership,
but the Republicans will pass a bill
that endorses and rewards the tradi-
tional forms of energy. It proposes cut-
ting billions in promising renewable
energy provisions. It proposes waivers
for the same companies that pollute our
groundwater. It subsidizes oil, gas and
coal. It fails to address meaningful
automobile conservation. And worst of
all, we are going to go up to the Alaska
Wildlife Refuge and we are going to
drill.

We are going to drill our way to ob-
livion if we follow this pattern.

Mr. THOMAS. Madam Chairman, I
yield myself 10 seconds.

I anxiously look forward to the de-
bate on the Democrat substitute and
would willingly yield time to the gen-
tleman from Washington (Mr. MCDERMOTT) to make all the points he
just made on the majority bill on the
minority bill since they include in
their entirety the tax section of the
majority’s bill.

Madam Chairman, I yield 1½ minutes
to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Madam Chairman,
earlier this year I reintroduced the
Residential Solar Energy Tax Credit
Act, which would provide a 15 percent
tax credit for the purchase of solar
water heating systems and photo-
voltaic systems to be installed in resi-
dential settings.

The maximum amount of this credit
is $2,000 and the credit cannot apply to
to solar energy systems used to heat
swimming pools. I am pleased this pro-
vision has been included in the tax
title to H.R. 6, the Energy Policy Act
of 2005.

The solar energy industry in our Na-
tion has been growing at a clip of 25
percent per year for the past several
years. Forty-five U.S. manufacturers export 75
percent of their products because of the
higher up-front costs of solar energy
systems as compared to other energy
sources.

Fostering a solar energy system is
like buying a car and prepaying for all
the gas it would ever need. This makes
consumers understandably hesitant de-
spite the environmental and other
benefits associated with solar energy.

National polls consistently find that over
80 percent of Americans want greater
support for solar power, and solar
power can play a role in our energy
mix from coast to coast.

It is my belief that the residential
solar tax credit will help advance this
important form of renewable energy.

And in stark contrast to the protesta-
tions of my friends on the left, we are
willing to embrace these technologies.

It is proven by this solar energy tax
credit. I thank the chairman for its in-
clusion.

I urge support of the legislation.

Mr. DOGGETT. Madam Chairman,
yield 2½ minutes to the gentleman
from Texas (Mr. DOGGETT).

Mr. DOGGETT. Madam Chairman,
some folks will get a lot of mileage out
of this bill, but it will not be the hard-
working Americans who have to pay
more and more at the gas pump as a di-
rect result of the policies of this Bush
administration.

With the same collection of fossil
fuel dinosaurs and tax loophole lobby-
ists come here and order Congress to
“fill ‘er up,” with special favors, they
seldom go away on “empty.”

National security demands a bal-
anced energy policy that encourages
new energy technology and re-
newable alternatives. But in this bill,
security is sacrificed at the altar of
whichever lobbyist had the biggest lim-
ousine.

Our families’ health depends on clean
air and water, but this collection of tax
breaks, loopholes, handouts and waivers
ensures only continued healthy
profits for some of the worst polluters
in the world. And this bill is not just about more smoke in the air, it is about more smoke and mirrors.

Take, for example, the synthetic fuel provision that I tried unsuccessfully to strike in the Committee on Ways and Means; it is really about tax dodging through synthetic accounting. Unscrupulous companies get what some estimate to be up to $4 trillion a year by spraying starch on coal or pine tar on coal. This does not add to the energy capability of the coal. It does not cause the coal to burn in a less polluting manner. Its sole purpose is to generate significant tax dodging. That is why Enron was about to embark on this gimmick that so many companies have abused, and which this Committee on Ways and Means refuses to end.

This energy bill is not just about over-reliance on fossil fuels. It is about fossilized ideals. It is about a lost opportunity for America to be the world’s leader in energy technology.

With our security at stake, when so much of the world’s oil is located in areas as inflammable above ground as the fuel they hold underground, with our families’ health dependent on not letting the quality of our air and our water deteriorate even further than it has under this Administration, this energy bill is the latest example of spending today, while the future will be billed in dollars, safety and health.

That bill will be due and paid by our children and our grandchildren, like my new little Ella.

Mr. THOMAS. Madam Chairman, I yield myself 15 seconds.

I also look forward to seeking to yield to my friend from Texas (Mr. DOGGETT) during the debate on the minority substitute bill, because the provision he just viciously attacked on the floor as being totally unacceptable is in the Democrats’ bill as well. I look forward to having those words spoken against their own substitute because it contains the same language.

Madam Chairman, I yield 1½ minutes to the gentleman from Illinois (Mr. WELLER).

(Mr. WELLER asked and was given permission to revise and extend his remarks.)

Mr. WELLER. Madam Chairman, I rise in strong support of H.R. 6, balanced legislation designed to reduce our dependence on imported energy, a balanced approach that has earned bipartisan support in the House Committee on Ways and Means, emphasizes conservation, alternative sources of energy, as well as finding more domestic sources of energy.

I take my brief amount of time to focus on what I consider to be the most consumer-oriented provision of this legislation, legislation that rewards conservation, conservation at home.

To two-fifths of all the energy we consume in America, one-fifth of our energy consumed, is consumed at home. In fact, the average American spends about $1,500 a year in heating and cooling their home. Just think if they could save 10, 20, 30 percent. It means not only energy conservation to save energy but it would help their pocketbooks as well.

This legislation today contains provisions out of H.R. 1212, legislation that provides up to a $2,000 tax credit that homeowners can use in their existing home to make it more energy efficient, put in better windows, better doors, better insulation, do a better job of sealing the walls. By reducing their energy consumption by 30 percent, they can reduce their taxes with up to a $2,000 tax credit, 20 percent of the first $10,000 they invest.

Bottom line is we need to encourage energy conservation. What better place to start than right at home. I urge bipartisan support for this legislation.

Mr. STARK. Madam Chairman, I yield 1 minute to the gentleman from California (Mr. STARK) for yielding me time.

Mr. LEWIS of Georgia. Madam Chairman, I thank the gentleman from California (Mr. STARK) for yielding me time.

Madam Chairman, gas prices are going up every single day, and this bill does nothing to bring down the costs at the pump. In fact, it might just make the problem worse.

The energy czars must be the majority leader and company, and they wrote this bill behind closed doors. This bill is immoral. It is a shame and it is a disgrace. This bill was conceived in darkness and born in a den of iniquity.

This bill does not do one thing to bring down the price of gasoline at the pump. We can do better. We can do much better. We should vote against this bill.

Mr. THOMAS. Madam Chairman, how much time is left?

The CHAIRMAN. The gentleman from California (Mr. THOMAS) has 1¾ minutes remaining.

Mr. THOMAS. And the other side?

The CHAIRMAN. The gentleman from California (Mr. STARK) has 1 minute remaining.

Mr. THOMAS. And who has the right to close?

The CHAIRMAN. The gentleman from California (Mr. THOMAS) has the right to close.

Mr. THOMAS. We have one speaker remaining.

Mr. STARK. Madam Chairman, I am happy to yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

Ms. PELOSI. Madam Chairman, I thank the distinguished gentleman from California (Mr. STARK) who I am very proud of for yielding me time and for his leadership.

I want to commend four of our ranking members of the Committee on Energy and Commerce, the gentleman from West Virginia (Mr. RALL) of the Committee on Resources, the gentleman from New York (Mr. RANGE) of the Committee on Ways and Means, and the gentleman from Tennessee (Mr. GORDON) of the Committee on Science for their exceptional leadership in presenting an alternative view to the Republican bill that is on the floor today. Under this bill, we will not have a Democratic substitute, contrary to what the gentleman said.

Madam Chairman, the American people deserve an energy policy that is worthy of the 21st century, not one that is mired in the policies of the past, but a bill that looks forward, not backward. It is imperative that our country have an energy policy for the future, and it is a matter of national security that we reduce our dependence on foreign oil so that we will be able to take care of our own security and not have to send our troops in harm’s way for oil.

It is critical to our environment that we invest in emerging technologies and renewable energy and invest in energy security and conservation vital for our economy that our country’s economic growth is not constrained by the price of oil and that our consumers do not have to pay such a serious price at the pump for gasoline.

The opportunity is here, really, for an energy bill that would put our country on the right path. But this bill that the Republicans have put forth today misses that opportunity. Instead of a positive plan for moving our country forward, the Republican bill is mired over stew of old provisions and outdated policies.

The Republican bill is anti-consumer, anti-taxpayer, anti-environment, and with its MTBE provisions, it is harmful to children and other living things.

The Republican bill was conceived in secrecy. It was written with the influence of the energy lobbyists, and it shows. It should be rejected by this Congress.

First, this bill is anti-consumer. Gas prices are soaring, and this bill makes matters worse. The price of gasoline is approaching $3 in some parts of our State; and nationwide, gas prices are up 42 cents above a year ago. When it costs nearly $50 for an American worker to fill his tank, it is time for relief. Yet it is the fifth year of the Bush administration, and there has been no meaningful action to lower gas prices at the pump.

Madam Chairman, according to the Bush administration’s own Department of Energy, this Republican bill will actually increase gas prices by three cents a gallon and will have almost no effect on production, consumption, or prices.

The consumer is not served well when the public interest is not served, and the public interest is not served by this bill. Indeed, it is a gift to the special interest.

This bill is wrong because by its electrical provisions it fails to protect the public from Enron-style fraud and abuse. By arbitrary caps on private spending to improve the reliability of
our Nation’s electricity grid, the bill goes wrong. It is also wrong by repealing the Public Utility Holding Company Act, which protects consumers and investors from corporate abuses.

Second, the bill is anti-taxpayer, and I know that the gentleman from California (Mr. Stark) and some of the members of the Committee on Ways and Means addressed some of these concerns. The bill is loaded with tax breaks and royalty relief for oil and gas companies. Of $8.1 billion in tax incentives, $7.5 billion, a staggering 93 percent, is for traditional energy sources such as oil, natural gas, nuclear power, and electricity transmission.

Even President Bush has said that when the price of oil is over $50 a barrel that the oil industry does not need relief; and yet the President wants this bill to come to his desk from Congress as soon as possible.

Democrats have better ideas. I particularly commend the gentleman from New York (Mr. Bishop) and the gentleman from Massachusetts (Mr. Markey) for their amendment to the Clean Air Act, which protects consumers, to grow our economy, to protect our environment, and to keep our water and air safe for our children.

I urge my colleagues to stand up for a forward-looking energy bill to ensure our national security, to grow our economy, to protect our environment, and to keep our water and air safe for our children.

This bill is anti-environment, as the gentleman from West Virginia (Mr. Rahall) pointed out. It will open the Arctic National Wildlife Refuge to oil and gas drilling. All for the sake of a 6-month supply of oil that will not even be available for 10 years. If this unspoiled place is not special enough to save for our grandchildren, what is? Once they despoil the ANWR, nothing else is sacred.

Indeed, this bill makes it easier for oil drilling in protected areas off our magnificent coastlines.

The bill contains other anti-environmental provisions, including weakening the Clean Air Act, weakening the Safe Drinking Water Act and the National Environmental Policy Act.

Finally, this bill is harmful to children and all living things. The provisions on the gasoline additive MTBE, a few drops of which can poison entire drinking water systems, the provisions in this bill for MTBE are a breathtaking example of pandering to special interests. Instead of eliminating MTBE now, the bill provides for a few dollars to poison entire drinking water systems, instead of eliminating it now, the bill gives the MTBE industry 9 years for a phase-out, and it would give MTBE producers liability protection in contamination lawsuits.

Okay, you are poisoning the water supply, you do not have to stop for 9 years, you have no liability for contamination, and on top of that, we are going to give you $2 billion in subsidies $2 billion in subsidies to help MTBE manufacturers.

The dirty little secret is that the MTBE industry knew all along that it would leak out of gasoline storage tanks and contaminate groundwater, but they lobbied for it to be added to our gasoline anyway. Now they do not want to pay for the cleanup. They want taxpayers to pick up the tab.

The provision on MTBE included in this bill, the man’s justice, killed the bill in the last Congress, and the gentleman from Texas (Mr. DeLay), the majority leader, is insisting on including it again this year. In fact, this is the majority leader’s bill that we are debating today.

Madam Chairwoman, it is time for us to look forward. It is time for an energy policy worthy of the 21st century.

This Republican energy bill is clearly designed to help energy companies make more money, not to help Americans consumers save money.

I urge my colleagues to stand up for a comprehensive energy policy to ensure our national security, to grow our economy, to protect our environment, and to keep our water and air safe for our children.

I urge my colleagues to vote “yea” on the Democratic amendments for an energy policy for the future, and I urge my colleagues to “just say no” to the gentleman from Texas’ (Mr. DeLay) disastrous and his outdated boondoggle of an energy bill.

Mr. Thomas. Madam Chairman, I would inquire of the Chair, the 1 minute that was on the minority side, does that expire?

The Chair. The Chair has followed the tradition of the House to allow additional time to the minority leader, and her 1 minute expired.

Mr. Thomas. Madam Chairman, I appreciate that, and I yield myself 15 seconds.

If we could get the mileage out of the gallon of gasoline that they get out of 1 minute, we would not need an energy policy in this country.

First of all, I want to thank the five Democratic members of the Committee on Ways and Means who had the courage to vote for this excellent tax provision. Understanding the pressure they are under, based upon the comments that were just made, truly it was a heroic vote.

Madam Chairman, it is now my pleasure to yield the remainder of the time to the gentleman from Pennsylvania (Mr. English).

Mr. English of Pennsylvania. Madam Chairman, at a time of record-high gasoline prices, the growth of the economy is at risk, and it is critical that Congress take the necessary steps to put in place a comprehensive energy policy.

The bill before us, frankly, is more limited in scope than I would prefer. It is not as ambitious as I would like in creating market incentives to overhaul the energy side of our economy; but, nevertheless, support of this bill is a critical first step for Congress to move forward to meet the critical goal of an effective national energy policy.

Its passage will set us on the right path by encouraging the creation of new technologies, by promoting newable energy sources, by modernizing and expanding our energy infrastructure, including our power energy infrastructure, and encouraging conservatism.

I believe we need to move forward on this bill. It is long overdue and has been a priority of Congress since this President came into office. The time has come for us to pass an energy bill.

Unfortunately, we have seen the vacancy of the debate today, the fact that we are not seeing an alternative being offered by the other side. We have heard about new ideas from them, but all we have been offered is warmed-over rhetoric, and there is no technology available to us that could ever make good use of that. Please pass this legislation. It is long overdue. The time has come for us to put in place a national energy policy.

Mr. Blunt. Madam Chairman, when George W. Bush was running for president six years ago, he said that our country had been Leeching energy policy for a decade. We are now going on sixteen years with no energy plan for America, and it is not for lack of trying.

The House of Representatives has passed Energy legislation four times, only to have the bill die in the Senate, by a partisan vote. Keeping the lights on should not be a partisan issue. Filling up a gas tank should not be a partisan issue.

Madam Chairman, gas prices are at an all-time high. I want to thank Chairman Joe Barton for working with me to include a provision in this bill to curb the production of boutique fuel blends and address this issue head-on.

The current gasoline supply includes specially formulated, boutique fuels which are required by law in certain communities.

When supplies are limited, gas prices rise quickly—sometimes overnight.

For example: Missourians can fill their gas tanks up in Springfield and drive 3 hours to St. Louis. When they get there, they’ll be filling their tanks up with a completely different type of gasoline. But if St. Louis ever runs short on their boutique fuel, gas stations there can’t sell what consumers could buy back in Springfield.

The energy bill we will vote on tomorrow caps the number of these special fuel blends and allows communities faced with a shortage due to unforeseen circumstances, such as a refinery fire, a waiver to use conventional gasoline. This plan relies on simple economics: if we create a larger market for a greater amount of gasoline, we’ll help drive prices down.

Including this proposal in the energy bill, the House is moving the country one step closer to lowering the sky-high price of gas for consumers.

Madam Chairman, it’s time to see some common sense at the gas pump. I urge my colleagues to support this rule, support the underlying bill, and work for better gas prices and increased energy independence for America.

Mr. Levin. Madam Chairman, if ever there was a time when this country needed a smart, forward-looking energy strategy, this is it. Energy prices throughout the country are close to record levels. Consumers in my State are struggling with soaring gasoline costs. The price of gasoline in Michigan today is 36 cents a gallon higher than it was just 1 year ago.
Steep increases in the price of natural gas have resulted in skyrocketing increases in consumers’ home heating bills over the past few winters.

So what is the response of the House of Representatives? The Leadership of the House has given us a bill that does little or nothing to reign in energy prices. This is virtually the same bill that the Senate rejected 2 years ago. According to the Bush administration’s own Energy Information Administration, the policies contained in this legislation will have a negligible effect on energy production, costs, imports and energy security. Instead of bringing us a comprehensive energy bill that brings down gas prices and encourages greater renewable energy independence, the bill before the House is little more than a grab bag of special interest giveaways. For example, the tax title of this legislation contains just over $8 billion worth of tax incentives. Only about 6 percent of these go to energy efficiency, renewable energy or conservation.

With oil and gas prices—to say nothing of energy industry profits—near record levels, why are we extending these additional subsidies? Just the other day, President Bush said that “with $55 oil we don’t need incentives at all” and that “consumers should explore these options for themselves.” Yet this bill is chock-full of these unneeded incentives. There’s $3.3 billion in oil and gas production tax incentives, plus a number of “royalty holiday” provisions for energy extraction on public lands. It’s easy to see how this legislation is good for the bottom lines of oil and gas companies, but it’s consumers that need our help today.

I know that the proponents of this legislation have been saying that opening up the Arctic Wildlife Refuge to oil drilling will bring down gas prices. This simply is not the case. We have no idea how much oil lies beneath the Refuge. The New York Times reported in February that the “major oil companies are largely uninterested in drilling in the refuge, skeptical about the potential there.”

“Even the plan’s most optimistic backers agree that any oil from the refuge would meet only a tiny fraction of America’s needs.”

The crusade to drill in the Refuge is a distraction. Even if there is extractable oil there, it would take nearly a decade to bring the energy to market.

This country badly needs a balanced energy policy. We can’t drill our way to energy security. We need a balance between energy production, on the one hand, and greater use of renewable energy and conservation, on the other. The bill before the House today doesn’t even pretend to seek balance, and I urge my colleagues to reject it.

Mr. FILNER. Madam Chairman, I believe it is important for this Nation to get for investigating the oil companies to determine if any wrongdoing has contributed to the sky-high gas prices. We will fight for a commitment to geothermal energy and other clean and renewable energy sources, and we will continue fighting for an energy policy that reduces pollution in the border region and around the country.

Mr. GREEN of Wisconsin. Madam Chairman, I want to express my deep disappointment that the Rules Committee did not accept a bipartisan amendment authored by Mr. STUPAK, myself, and other Great Lakes area members last night. This important amendment would have permanently banned oil and gas drilling in and under the Great Lakes. The current ban is set to expire in 2007. I am proud to say that I have long been a proponent of banning oil and gas drilling on the Great Lakes and have voted to do so at every possible opportunity. The Great Lakes are home to the world’s largest supply of fresh water. In fact, the Great Lakes make up 95 percent of the United States’ fresh surface water.

For those of us in the Great Lakes states, the Great Lakes represent a critical component of our environment, our economy and our identity. The risks drilling poses to the lakes are unacceptable.

Congress has a history in support of banning drilling on the Great Lakes. A ban was first approved in 2002 and has been extended twice since. However, the time has come to end the uncertainty surrounding drilling on the Great Lakes. A permanent ban should be put into place.

While I am disappointed by the Rules Committee’s recommendation, the House from including a ban on drilling on the Great Lakes, I plan to work night and day with my colleagues to get a permanent ban approved—or even in conference or as a stand-alone piece of legislation. This is a fight I will not give up.

DeFazio. Madam Chairman, over the past couple of years I have corresponded with the Department of Energy on an issue of particular concern to me. The Department of Energy continues to spend millions of dollars, over $60 million so far, to defend private contractors who caused injury to citizens downwind of the Hanford nuclear reservation despite provisions of the Price Anderson Act to the contrary. The American taxpayers should no longer have to bear the burden of defending private contractors who have harmed citizens. I would like to submit my most recent correspondence to the Department and ask that it be made part of the RECORD.


DEAR MR. SECRETARY: Thank you for your September 2003 response to my questions about the Hanford Nuclear Reservation case. However, I have ongoing concerns about the Department of Energy’s (DOE) willingness to represent DuPont and General Electric at a cost of millions of taxpayer dollars. I believe the DOE’s financial support is not only ill conceived, but that it violates the intent of Congress in passing the Price Anderson Act (PAA).

Regarding question numbered “2” of the 2003 letter, we have been informed that while the district judge accepted the defendants’ standard of proof for injuries, that decision was soundly reversed by the Ninth Circuit on the merits.

I am concerned that DOE continues to fund, at considerable taxpayer expense, an ongoing series of technical motions by the contractors.

It was the intent of the Congress of the United States when it enacted the Price Anderson Act, to encourage the development of nuclear energy and at the same time to provide “full compensation to the victims of nuclear incidents,” including the people who were exposed to radiation from nuclear facilities such as Hanford. The actions of the Department of Energy in spending large sums of taxpayer dollars to forestall compensation to citizens who were exposed to radiation releases from Hanford, represents action by a federal agency that is directly contrary to the intent of Congress.

I recently learned that federal Judge Nielsen, on March 30, 2004, rejected the motion of DuPont and General Electric that the defendants dismissed from the Hanford case they contracted with the government to run Hanford. In underwriting such a motion with taxpayer funds the Department violated the intent of Congress in passing the Price Anderson Act. The fact that the PAA reimburses the companies when people are injured from a nuclear incident precluded the necessity for a “contract” defense as Judge Nielsen held. I have now learned that you intend to financially support an appeal of that Order. Any further attempts to evade the intent of the DOE we believe to be a serious concern for the Congress.
Your letter notes that the DOE does not “disagree with the proposition that low doses of radiation can cause some forms of cancer.” In addition, there are government studies that explore the exposure to radiation contributed to the onset of the claimants’ illnesses. Yet the DOE continues to defend the contractors. It would appear that contrary to those studies can be conducted for thyroid cancer, non workers who were exposed to more Iodine 131 than many workers would be denied similar treatment. I do not understand how the Department of Energy continues to spend millions of dollars paying lawyers to attempt to defeat claims that the Congress of the United States determined should be compensated.

I further note that the Hanford plaintiffs were not successful in filing a motion declaring that the operations at Hanford were an “ultra hazardous activity.” This holding is contrary to Congress’ findings regarding the operations of nuclear facilities. We note again that the Department of Energy spent thousands upon thousands of dollars defending this untenable Defense Energy Employees Occupational Illness Compensation Act of 2000, 42 U.S.C. (§7384 et seq).

I understand that a trial date has been set, and that General Electric and DuPont are taking the position that Iodine 131, which was released in enormous quantities from Hanford, does not cause thyroid cancer. Is that the position of the Department of Energy? If not, please explain if the Department is taking the position that the Price Anderson Act does not apply to a person exposed to radiation below a certain dose, and if so what that dose is.

I understand that several million dollars more could be spent in the next year or two continuing to defend this action. That would result in taxpayers’ money approaching the $100,000,000 being paid to lawyers to prevent compensation to victims of radiation exposure from Hanford.

All of the defenses you have previously supported have been rejected by a federal court. Has the Department of Energy authorized a settlement that runs contrary to the Hanford waste?

How in good faith can we go back out constituencies with a national energy policy that does not address the future, does not address short term fixes or long term solutions.

Madam Chairman, several provisions in H.R. 6 will weaken California’s rights as a State to govern itself. These include changes in: LNG terminal siting, weakening the Coastal Zone Management Act, and expanding alternative energy projects situated on the Outer Continental Shelf (OCS).

The bill will hand over exclusive jurisdiction for the siting of liquefied natural gas (LNG) facilities to the Federal Energy Regulatory Commission (FERC), preventing the states from having a role in approving the location of LNG terminals and the conditions under which these terminals must operate. This bill even goes as far as mandating the States seek FERC permission before conducting safety inspections! Plus, they will be barred from taking any independent enforcement action against LNG terminal operators for safety violations.

Madam Chairman, H.R. 6 weakens California’s rights under the CZMA, requiring FERC to approve a coastal pipeline or energy facility project when the project is inconsistent with the State’s federally-approved coastal management program.

Currently when there is a disagreement about a project, the Secretary of Commerce, through an administrative appeals process, determines whether and under what conditions the project can go forward. States can present new evidence supporting their arguments to the Secretary.

Under H.R. 6, states will not be allowed to present new evidence to the Secretary, and the Secretary will not be allowed to seek out evidence on his or her own. The Secretary will only be allowed to rely on the record compiled by FERC. Furthermore, the bill imposes an expedited timeline for appeals, which may not allow a full review of the facts.

We have to protect our shores and near waters. H.R. 6 will give the Department of Interior permitting authority for “alternative” energy projects, such as wind projects, situated on the Outer Continental Shelf (OCS). It also grants the Department of Interior authority to permit other types of energy facilities, including facilities to “support the exploration, development, production, transportation, or storage of oil, natural gas, or other minerals”.

I understand that California is the fuel additive MTBE (methyl tertiary butyl ether), I oppose shielding MTBE producers from product liability lawsuits, thereby forcing taxpayers to pick up the tab to clean contaminated groundwater in places such as the Salinas Valley, the salad bowl of the world, which has already tested positive for MTBE.

The bill even includes a $2 billion taxpayer-financed subsidy to MTBE producers to convert facilities to produce other chemicals.

The obvious gouging of California consumers is significant evidence that the electricity market needs to be better regulated. H.R. 6 falls depressingly short of addressing electricity market needs. Based on the pro-industry recommendations that have become all too prevalent, H.R. 6: fails to lower gasoline prices; fails to address the electricity crisis; and fails to prevent future price gouging.

I urge my colleagues to oppose this legislation so we can develop a comprehensive energy policy that looks to the future and doesn’t rely on repackaged outdated technologies from the past.

Mr. KING of Iowa. I rise today in strong support of H.R. 6, the Energy Policy Act. We need a balanced energy policy in this country, and this bill takes great strides towards achieving that balance.

As a founding co-chair of the House Ag Energy Users Caucus, I am concerned that the Corn Belt is being held hostage to high gas, diesel and natural gas prices. Farmers utilize diesel and gasoline to operate their equipment and transport their produce. Farmers have had

Sincerely,

PETER DEFAZIO
Member of Congress

Mr. FARR, Madam Chairman, I rise in strong opposition to this so-called comprehensive energy bill before us today. This energy package have a new wrapping and bow but it is exactly the same white elephant gift for the American people that sadly passed in this House last Congress.

Our Nation’s energy policy must strike a sound balance by pursuing improvements in fuel technology and energy efficiency; maintaining a clean environment; and preserving our wilderness areas and public lands.

Instead, by refusing to commit to improving and investing in sustainable fuel technology, we are putting our technology and manufacturing industries at a competitive disadvantage when the rest of the world is searching for alternatives to fossil fuels.

We are missing an opportunity here; as a future energy policy this legislation is bumbling along because of pursuing the policies in this bill would be like driving into the future by looking through the rearview mirror with its heavily weighted dependence on fossil fuels.

H.R. 6 fails depressingly short of addressing our energy needs in both the short and the long term.

Based on the pro-industry recommendations of the Cheney Energy Task Force report, this bill is anti-taxpayer, anti-environment, anti-consumer and is loaded down with special-interest giveaways.

Madam Chairman, more than ninety percent of the subsidies in H.R. 6 would go to the oil, gas, coal and nuclear industries, leading to another very clear indication that radioactive-waste-producing nuclear power.

By contrast, only about six percent of the tax breaks would go to energy efficiency and renewable energy incentives that could actually save consumers money and reduce our dependence on fossil fuels.

Madam Chairman, gas prices, gas prices, gas prices and more gas prices. It’s the most asked question I hear in my district and rightly so with prices in my home town of more than $3 a gallon and a national average price at a record level of more than 50 percent higher than average gas prices in 2002.

According to the Bush Administration’s own Energy Department estimates, this Republican bill will actually increase gas prices by 3 cents and will have virtually no effect on production, consumption, or barrel prices.

American consumers are being squeezed at the pump while the big oil companies are reaping record profits and the Republican Leadership is passing an energy bill that will further raise gas prices.

How in good faith can we go back out constituencies with a national energy policy that does not address the future, does not address short term fixes or long term solutions.

Madam Chairman, several provisions in H.R. 6 will weaken California’s rights as a State to govern itself. These include changes in: LNG terminal siting, weakening the Coastal Zone Management Act, and expanding alternative energy projects situated on the Outer Continental Shelf (OCS).

The bill will hand over exclusive jurisdiction for the siting of liquefied natural gas (LNG) facilities to the Federal Energy Regulatory Commission (FERC), preventing the states from having a role in approving the location of LNG terminals and the conditions under which these terminals must operate. This bill even goes as far as mandating the States seek FERC permission before conducting safety inspections! Plus, they will be barred from taking any independent enforcement action against LNG terminal operators for safety violations.

H.R. 6 weakens California’s rights under the CZMA, requiring FERC to approve a coastal pipeline or energy facility project when the project is inconsistent with the State’s federally-approved coastal management program.

Currently when there is a disagreement about a project, the Secretary of Commerce, through an administrative appeals process, determines whether and under what conditions the project can go forward. States can present new evidence supporting their arguments to the Secretary.

Under H.R. 6, states will not be allowed to present new evidence to the Secretary, and the Secretary will not be allowed to seek out evidence on his or her own. The Secretary will only be allowed to rely on the record compiled by FERC. Furthermore, the bill imposes an expedited timeline which may not allow a full review of the facts.

We have to protect our shores and near waters. H.R. 6 will give the Department of Interior permitting authority for “alternative” energy projects, such as wind projects, situated on the Outer Continental Shelf (OCS). It also grants the Department of Interior authority to permit other types of energy facilities, including facilities to “support the exploration, development, production, transportation, or storage of oil, natural gas, or other minerals”.

I understand that California is the fuel additive MTBE (methyl tertiary butyl ether), I oppose shielding MTBE producers from product liability lawsuits, thereby forcing taxpayers to pick up the tab to clean contaminated groundwater in places such as the Salinas Valley, the salad bowl of the world, which has already tested positive for MTBE.

The bill even includes a $2 billion taxpayer-financed subsidy to MTBE producers to convert facilities to produce other chemicals.

The obvious gouging of California consumers is significant evidence that the electricity market needs much needed controls.

Does H.R. 6 correct this? NO—Instead of protecting Americans from the market manipulation that has become all too prevalent, H.R. 6 is weighed down by special interest exemptions that will do more harm than good.

The bill does not give federal regulators the tools they need to prevent and punish bad actors like Enron who manipulate power markets. Instead H.R. 6 offers cosmetic reforms. Moreover, the bill in dual to provide refunds to my constituents and West Coast consumers who paid unjust and unreasonable electricity prices during 2000–2001.

Madam Chairman, it’s plain and simple—H.R. 6: fails to lower gasoline prices; fails to improve our nation’s energy efficiency or promote sustainable alternatives; fails to adequately address future infrastructure needs; fails to learn from the lessons of the California electricity crisis; and fails to prevent future “Enrons” from manipulating energy markets at the expense of consumers.

I urge my colleagues to oppose this legislation so we can develop a comprehensive energy policy that looks to the future and doesn’t rely on repackaged outdated technologies from the past.

Mr. KING of Iowa. I rise today in strong support of H.R. 6, the Energy Policy Act. We need a balanced energy policy in this country, and this bill takes great strides towards achieving that balance.

As a founding co-chair of the House Ag Energy Users Caucus, I am concerned that the Corn Belt is being held hostage to high gas, diesel and natural gas prices. Farmers utilize diesel and gasoline to operate their equipment and transport their product. Farmers have had
Chairman, I rise today in strong opposition to the Energy Policy Act. Madam Speaker, we are no longer subjected to the skyrocketing costs of gas. My colleagues, even the Bush Administration recognizes this; the skyrocketing costs of gas. We need to do this so hard-working Americans are no longer subjected to the energy export provisions in this bill and would urge Members to oppose amendments that would weaken any natural gas provisions in the bill.

Finally Madam Chairman, most of my colleagues know that Iowa is not only a consumer of energy, but a producer of energy. The Fifth District of Iowa is an energy export region. It has a lot of experience which means promoting cleaner, less expensive energy that we control. That requires a balanced energy policy that aids domestic production but, more importantly, sends us in a new direction by investing in renewable and energy efficient technologies. Unfortunately, H.R. 6 does not meet this goal, leaving our Senate colleagues to find a better way. Hopefully, they will be able to craft a bill that achieves a better balance than this legislation. I urge a "no" vote on H.R. 6.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered read for amendment under the 5-minute rule. The text of H.R. 6 is as follows:

H.R. 6

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Energy Policy Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for the bill is as follows:

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

Sec. 102. Energy management requirements.
Sec. 103. Energy use measurement and accountability.
Sec. 104. Procurement of energy efficient products.
Sec. 106. Voluntary commitments to reduce industrial energy intensity.
Sec. 107. Advanced Building Efficiency Testbed.

Subtitle B—Energy Assistance and State Programs

Sec. 111. Daylight savings.
Sec. 121. Low Income Home Energy Assistance Program.
Sec. 122. Weatherization assistance.
Sec. 123. State energy programs.
Sec. 124. Energy efficient appliance rebate programs.
Sec. 125. Energy efficient public buildings.

Subtitle C—Energy Efficient Products

Sec. 131. Energy Star Program.
Sec. 132. HVAC maintenance consumer education program.
Sec. 133. Energy conservation standards for additional products.
Sec. 134. Energy labeling.
Sec. 135. Preemption.
Sec. 136. State consumer product energy efficiency standards.
H2214 CONGRESSIONAL RECORD — HOUSE April 20, 2005

U.S.C. 8251 et seq.) is amended by adding at the end the following:

"SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—The Architect of the Capitol—

(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the 'plan') for all facilities administered by Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

(b) PLAN REQUIREMENTS.—The plan shall include—

(1) a description of the life cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback periods for energy and water conservation measures;

(3) a strategy for installation of life cycle cost-effective energy and water conservation measures;

(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

(5) "installation packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

(c) ANNUAL REPORT.—The Architect of the Capitol shall submit to Congress annually a report on congressional energy management and conservation requirements established under this section that describes in detail—

(1) energy expenditures and savings estimates for each facility;

(2) energy management and conservation projects; and

(3) future priorities to ensure compliance with this section.

(d) TABLE OF CONTENTS AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 543 the following:

"Sec. 552. Energy and water savings measures in congressional buildings."

(e) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (2 U.S.C. 1815), is repealed.

(f) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2008, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Architect of the Capitol to carry out subsection (d), $2,000,000 for each of fiscal years 2006 through 2010.

SEC. 102. ENERGY MANAGEMENT REQUIREMENTS EXCEPTED.

(a) ENERGY REDUCTION GOALS.—

(1) AMENDMENT.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking "Federal buildings so that" and all that follows through the end and inserting "the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2006 through 2015 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2003, by the percentage specified in the following table:

[Fiscal Year] [Percentage reduction]

2006 .................................................. 2
2007 .................................................. 4
2008 .................................................. 6
2009 .................................................. 8
2010 .................................................. 10
2011 .................................................. 12
2012 .................................................. 14
2013 .................................................. 16
2014 .................................................. 18
2015 .................................................. 20"

(f) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)(d)) is amended in the second sentence by striking "7 percent" and inserting "10 percent".

SEC. 553. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.

(a) AMENDMENT.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended by striking ". . . the Secretary shall issue guidelines that establish" and all that follows through the end and inserting "An agency may exclude any Federal building or collection of Federal buildings, if the head of the agency finds that—

(i) compliance with those requirements would be impracticable;

(ii) the agency has completed and submitted all federally required energy management reports;

(iii) the agency has achieved compliance with the energy performance requirements of this Act, the Energy Policy Act of 1992, Executive orders, and other Federal law; and

(iv) the agency has implemented all practicable, life cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

(b) NOTIFICATION.—An agency that implements the requirements of this section shall notify the Architect of the Capitol, in writing, of its determination at least 30 days before implementing the requirements of this section, except that the Architect of the Capitol may exclude any Federal building or collection of Federal buildings, if the head of the agency finds that—

(i) compliance with those requirements would be impracticable;

(ii) the agency has completed and submitted all federally required energy management reports;

(iii) the agency has achieved compliance with the energy performance requirements of this Act, the Energy Policy Act of 1992, Executive orders, and other Federal law; and

(iv) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function . . . ."

(2) REPORTING BASELINE.—The energy reduction goals and baseline established in paragraph (1) of section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)), as amended by this subsection, supersede all previous goals and baselines under such paragraph, and related reporting requirements.

(g) REVIEW AND REVISION OF ENERGY PERFORMANCE REQUIREMENT.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is further amended by adding at the end the following:

"(3) Not later than December 31, 2014, the Secretary shall issue revised guidelines to implement the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for fiscal years 2016 through 2025.

(h) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended by striking "an agency may exclude" and all that follows through the end and inserting "An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

(i) compliance with those requirements would be impracticable;

(ii) the agency has completed and submitted all federally required energy management reports;

(iii) the agency has achieved compliance with the energy performance requirements of this Act, the Energy Policy Act of 1992, Executive orders, and other Federal law; and

(iv) the agency has implemented all practicable, life cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

(b) A finding of impracticability under subparagraph (a)(1) shall be based on—

(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings;

(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function."

(2) REPORTING RESPONSIBILITIES.—The Secretary shall—

(i) take into consideration—

(II) the extent to which metering and submetering are expected to result in increased energy efficiency and utility savings, increased potential for energy savings and energy efficiency improvement, and cost and energy conservation policies.

The Energy and Water Quality Directives for Federal Buildings Act of 1978 (2 U.S.C. 8253) is amended by adding at the end the following subsec-
energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy efficient products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the energy policies and goals of the Federal Government and for rating FEMP designated products.

(c) Listing of Energy Efficient Products in Federal Catalogs—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP the use of products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases where the agency is not required to procure an Energy Star product or FEMP designated product. The date on which the requirements specified in paragraph (1) shall take effect; and

(2) Federal agencies are encouraged to take actions to maximize the efficiency of air conditioning and refrigeration equipment, including appropriate cleaning and maintenance, to ensure that their systems treatment or additive that will reduce the electricity consumed by air conditioning and refrigeration equipment. Any such treatment or additive shall be

(a) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on the system performance or the refrigerant, lubricant, or other materials in the system.

(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(1) REQUIREMENT.—To meet the requirements of an agency for an energy consuming product, the head of the agency shall, except as provided in paragraph (2), procure

(a) an Energy Star product; or

(b) a FEMP designated product.

(2) EXCEPTIONS.—The head of an agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if the head of the agency finds in writing that—

(A) an Energy Star product or FEMP designated product is not cost-effective over the life of the product taking energy cost savings into account; or

(B) an Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the agency.

(3) PROCUREMENT PLANNING.—The head of an agency shall incorporate into the specifications for all procurements involving energy efficiency, a contract that provides for the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance, and repair of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public build

(a) LIMITATIONS.—
H2216

CONGRESSIONAL RECORD — HOUSE

April 20, 2005

Conservation Policy Act (42 U.S.C. 8237(c)(4)) is amended to read as follows:

“(4) The term ‘energy or water conserva-

tion measure’ means

“(A) an energy conservation measure, as defined in section 551; or

“(B) a water conservation measure that

improves the efficiency of water use, is

cycle life-span, or involves the disposal of

water, recycling or reuse, more effi-

cient treatment of wastewater or storm-

water, improvements in operation or main-

tenance of the efficiencies, 11 U.S.C. activities,
or other related activities, not at a Federal
hydroelectric facility.”

(g) Review.—Not later than 180 days after

the date of the enactment of this Act, the Secretary of Energy shall complete a review of

the Energy Savings Performance Contract

program to identify statutory, regulatory,
and administrative obstacles that prevent
Federal agencies from fully utilizing the
program. In addition, this review shall identify
all areas for increasing program flexibility
and effectiveness, including audit and meas-
urement verification requirements, account-

ing for energy use in determining savings,

contract requirements, including the

identification of additional qualified con-

tractors, and energy efficiency services cov-

ered. The Secretary shall report these find-

gings to Congress and shall identify admin-

istered and regulatory changes to increase program flexibility and effective-

ness to the extent that such changes are con-

sistent with statutory authority.

(b) EXTENSION OF AUTHORITY.—Any energy

savings performance contract entered into

under section 801 of the National Energy

Conservation and Production Act (42 U.S.C. 8334) on or before October 1, 2006, and before the date of en-
actment of this Act, shall be deemed to have been entered into pursuant to such section
801 as amended by subsection (a) of this sec-

tion.

SEC. 107. VOLUNTARY COMMITMENTS TO RE-

DUCE INDUSTRIAL ENERGY INTEN-

SITY.

(a) VOLUNTARY AGREEMENTS.—The Sec-

retary of Energy is authorized to enter into

voluntary agreements with 1 or more persons
in industrial sectors that consume signifi-

cant amounts of primary energy per unit of

physical output to reduce the energy inten-
sity of such activities by a signific-

ant amount relative to improvements in
each sector in recent years.

(b) RECOGNITION.—The Secretary of En-

ergy, in consultation with the Administrator
of the Environmental Protection Agency
and other appropriate Federal agencies, shall recognize and publicize the achievements of
participating entities under this section.

(c) DEFINITION.—In this section, the term
“energy intensity” means the primary en-

ergy consumed per unit of physical output in

an industrial process.

SEC. 108. ADVANCED BUILDING EFFICIENCY

(a) ESTABLISHMENT.—The Secretary of En-

ergy, in consultation with the Administrator
of General Services, shall establish an Ad-

vanced Building Efficiency Program to fund

for the development, testing, and demonstra-

tion of advanced engineering systems, com-

ponents, and materials to enable innovations in

building technologies. The program shall eval-

uate efficiency concepts for government and

industry buildings, and demonstrate the

ability of next generation buildings to sup-

port public health, organizational lead-

ership and health (including by improving in-

door air quality) as well as flexibility and technologi-

cal change to improve environ-

mental impacts. Such a program shall comple-

ment and not duplicate existing na-

tional programs.

(b) PARTICIPANTS.—The program estab-
lished under subsection (a) shall be led by a

university with the ability to combine the

expertise from numerous academic fields in-

cluding at least architectural, urban designs,

places and advanced building systems and

engineering, electrical and computer engi-

neering, information technology, architec-

ture, environmental, health and safety, and

mechanical engineering. Such university shall

partner with other universities and entities

who have established programs and the capa-

bility of advancing innovative building effi-

ciency technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated to the

Secretary of Energy to carry out this section
$6,000,000 for each of the fiscal years
2006 through 2008, to remain available until
expended. For any fiscal year in which such

funds are expended under this section, the

Secretary shall provide ½ of the total amount
to the lead university described in subsection
(b), and provide the remaining ½ to other

participants referred to in subsection (b) on

an equal basis.

SEC. 109. FEDERAL BUILDING PERFORMANCE

STANDARDS.

Section 305(a) of the Energy Conservation
and Production Act (42 U.S.C. 6833(a)) is amended—

(1) in paragraph (2)(A), by striking “CAS-

B Energy Code,” 1992 and inserting “the

2005 International Energy Conservation

Code”; and

(2) by adding at the end the following:

“(B) REVISED FEDERAL BUILDING ENERGY

EFFICIENCY PERFORMANCE STANDARDS.—

“(A) I N GENERAL.—Not later than 1 year

after the date of enactment of this para-

graph, the Secretary of Energy shall estab-

lish, by rule, revised Federal building energy

efficiency performance standards that re-

quire that—

“(1) if life-cycle cost-effective, for new Fed-

eral buildings;

“(2) such buildings be designed so as to

achieve energy consumption levels at least

30 percent below those of the version current

as of the date of enactment of this paragraph
of the ASHRAE Standard or the Inter-

national Energy Conservation Code, as ap-

propriate; and

“(II) sustainable design principles are

applied to the siting, design, and construction
of all new and replacement buildings; and

“(III) where water is used to achieve energy

efficiency, water technologies shall be applied to the extent they are life-

cycle cost effective.

“(B) ADDITIONAL REvisions.—Not later

than 1 year after approval of each subsequent revision of the ASHRAE Standard
or the International Energy Conserva-

tion Code, as appropriate, the Secretary of

Energy shall determine, based on the cost-effec-

tiveness of the requirements under the amend-

ments, whether the revised standards established under this paragraph should be updated to reflect

(C) STATEMENT ON COMPLIANCE OF NEW

BUILDINGS.—In the budget request of the Fed-

eral agency for each fiscal year and each re-

port required under section 6(a) of the Energy Policy and Conservation Act (42 U.S.C. 8252(a)), the head of each Federal agency shall include—

“(I) a listing of all new Federal buildings

owned, operated, or controlled by the Federal

agency; and

“(II) a statement concerning whether the

Federal agency has met the energy efficiency performance standards established under this para-

graph.”

SEC. 111. DAILY SAVINGS.

(a) RinSE—Section 3(a) of the Uniform


(1) by striking “April” and inserting

“March”; and

(2) by striking “October” and inserting

“November”.

(b) REPORT TO CONGRESS.—Not later than 9

months after the date of enactment of this Act, the Secretary of Energy shall report to Congress on the impact this section on en-

ergy consumption in the United States.

Subtitle B—Energy Assistance and State

Programs

SEC. 121. LOW INCOME HOME ENERGY ASSIST-

ANCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—

Section 2602(b) of the Low Income Home

Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking “and $2,000,000,000 for each of fiscal years 2007 and

inserting “and $5,100,000,000 for each of fiscal years 2005 through 2007”.

(b) RENEWABLE FUELS.—The Low-Income

Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) is amended by adding at the end the following new section:

“RENEWABLE FUELS

SEC. 2612. In providing assistance pursuant to this title, the State, or any other person

with which the State makes arrangements to carry out the purposes of this title, may pur-

chase renewable fuels, including biomass.”

SEC. 112. WEATHERIZATION ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—

Section 422 of the Energy Conservation and

Production Act (42 U.S.C. 8262) is amended by

striking “for fiscal years 1999 through 2003

such sums as may be necessary” and inserting

“$500,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, and

$700,000,000 for fiscal year 2008”.

(b) ELIGIBILITY.—Section 412(7) of the En-

ergy Conservation and Production Act (42 U.S.C. 8262(7)) is amended by striking “125 percent” both places it appears and inserting

“150 percent”.

SEC. 123. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—

Section 362 of the Energy Policy and Con-

servation Act (42 U.S.C. 8232) is amended by

inserting at the end the following new sub-

section:

“(e) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plans of other States within the region,

and identify opportunities and actions car-

ried out in pursuit of common energy con-

servation goals.”.

(b) STATE ENERGY EFFICIENCY GOALS.—

Section 364 of the Energy Policy and Conserva-

tion Act (42 U.S.C. 8232) is amended to read as follows:

“STATE ENERGY EFFICIENCY GOALS

SEC. 364. Each State energy conservation plan submitted in accordance with subsection (a) shall be approved if the Secretary of Energy finds that the plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2005 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1990, and may contain interim goals thereunder.

(c) AUTHORIZATION OF APPROPRIATIONS.—

Section 365(f) of the Energy Policy and Conserva-

tion Act (42 U.S.C. 8235(f)) is amended by Adding $100,000,000 for each of the fiscal years
SEC. 124. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term ‘‘eligible State’’ means a State that meets the requirements of subsection (b).

(2) STATE.—The term ‘‘State’’ means a State of the United States, the District of Columbia, the commonwealths of Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands.

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of energy efficient appliances.

SEC. 125. ENERGY EFFICIENT PUBLIC BUILDING PROGRAM.

(a) GRANTS.—The Secretary of Energy may make grants to the State energy office responsible for developing State energy conservation plans under section 602 of the Energy Policy and Conservation Act (42 U.S.C. 6222). The amount of a grant made to a State under this section shall be adjusted proportionately so that no eligible State is allocated a sum that exceeds—

(1) 15 percent of the number of households in that State divided by the total number of households in all eligible States in that calendar year; or

(2) the amount of any Federal or State tax revenues directed by the Governor of the State, to assist unit of local government in the State in improving the energy efficiency of public buildings and facilities.

SEC. 126. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) GRANTS.—The Secretary of Energy may make grants to local government and private entities on behalf of low income units of local government in the State in improving the energy efficiency of public buildings and facilities.

(b) ADMINISTRATION.—The Secretary of Energy may require, and shall require if the State cooperative does not agree, that any grantee or subgrantee—

(1) maintain records and data that document each grantee’s and subgrantee’s use of grant funds.

(2) provide the Secretary with a report of the amounts and types of energy savings, cost of energy savings, and amount of funds spent.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated to carry out this section—

(A) $35,000,000 for each of fiscal years 2010 through 2012;

(B) $15,000,000 for each of fiscal years 2013 through 2014; and

(C) $5,000,000 for each of fiscal years 2015 through 2018.

SEC. 127. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

(a) AMENDMENT.—The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended by inserting after section 324 the following new section:

‘‘SEC. 324A. ENERGY STAR PROGRAM.

‘‘There is established at the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of or other forms of communication about products and buildings that meet the energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the 2 agencies. The Administrator and the Secretary shall—

(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

(2) work to enhance public awareness of the Energy Star label, including special outreach to small businesses;

(3) preserve the integrity of the Energy Star label;

(4) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or effective dates for any of the foregoing);

(5) upon adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria along with an explanation of such changes and, where appropriate, responses to comments submitted by interested parties; and

(6) provide appropriate lead time (which shall be 9 months, unless the Agency or Department determines that it would result in an excessive cost to for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed).’’

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act is amended by inserting after the item relating to section 324 the following new item:

‘‘Sec. 324A. Energy Star program.’’

SEC. 128. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

‘‘(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum potential efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small commercial and institutional owners and operators about the ways in which HVAC systems operating outside the targeted efficiency levels are likely to result in higher energy costs and lower consumer comfort and energy efficiency. This program shall include the development of materials and programs to promote energy-efficient products and future installation of energy efficient HVAC systems and include outreach to marginal and underserved customer groups, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.’’

SEC. 129. ENERGY EFFICIENT PRODUCTS...

The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended by inserting the following after section 324:...
and ventilating systems. The Secretary shall carry out the program in a cost-shared manner in cooperation with the Administrator of the Environmental Protection Agency and such other entities as the Secretary considers appropriate, including industry trade associations, industries members, and energy efficiency organizations.

(45) By adding at the end the following:

"(d) Assistance.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the existing Energy Star for Small Business Program, to assist small businesses to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator of the Small Business Administration shall make the program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Program and the Department of Agriculture."

SEC. 133. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) Definitions.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in subsection (b), by adding at the end the following:

"(8) The term ‘commercial refrigerator’ means—

(A) a refrigerator that

(i) has an input voltage of 120 volts or less; and

(ii) does not include any lamp specifically designed to be used for special purpose applications and is unlikely to be used in general purpose applications such as those described in subparagraph (D), and also does not include any lamp not described in subparagraph (D) that is excluded by the Secretary by rule because

(I) the transformer is designed for a special application; or

(II) the transformer is unlikely to be used in a special purpose application and are unlikely to be used in general purpose applications; or

(III) the application of standards to the transformer would not result in significant energy savings.

(9) The term ‘low-voltage dry-type distribution transformer’ means a distribution transformer that—

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

(B) is air-cooled; and

(C) does not use oil as a coolant.

(38) The term ‘traffic signal module’ means the

(a) Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding after subsection (a) the following:

(b) Test Procedures.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

"(3) Test procedures for illuminated exit signs shall be based on the test methods used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and Department of Energy for compact fluorescent lamps. Covered products shall meet all test requirements for regulated parameters in section 323(b). Batteries and products may be marketed prior to completion of lamp life and lumen maintenance at 40 percent of rated life testing provided manufacturers document engineering analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp life time.

(2) The Secretary shall, not later than 18 months after the date of enactment of this paragraph, prescribe testing requirements for ceiling fans and ceiling fan light kits.

(c) New Standards.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

"(u) Battery Charger and External Power Supply Electric Energy Consumption.—

"(1) Initial Rulemaking.—(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions and test procedures for the power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing definitions and test procedures used for measuring energy consumption in standby mode and other modes, the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards.
Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy-consuming products.

(“B”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether conservation standards will be issued for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at levels of energy use that—

(1) meets the criteria and procedures of subsections (o), (p), (q), (t), (s), and (t); and

(2) is consistent with other energy conservation standards prescribed by the Secretary pursuant to this Act, whether or not such standards are required to be prescribed by the Secretary under section 135.

(“C”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

SEC. 135. PREEMPTION.

(a) Rulemaking on Labeling for Additional Products.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

“(4) Not later than 15 months after the date of enactment of this subparagraph, the Commission shall promulgate a rulemaking to consider changes to the labeling rules that would improve the effectiveness of consumer labeling for the products referred to in subsections (a) through (aa) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for the products referred to in subsections (a) through (aa) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for such products after a test procedure has been set forth in a final rule, and require such products to comply with such labeling requirements.

(b) Rulemaking on Labeling for Additional Products.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by further amending by adding at the end the following:

“(4) Not later than 15 months after the date of enactment of this subparagraph, the Commission shall promulgate a rulemaking to consider changes to the labeling rules that would improve the effectiveness of consumer labeling for the products referred to in subsections (a) through (aa) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for such products after a test procedure has been set forth in a final rule, and require such products to comply with such labeling requirements.

(c) Effective Date.—Section 327 shall apply—

(1) to products for which standards are to be established under subsections (a) and (b) on the date on which a final rule is issued by the Department of Energy, except that any State or local standards prescribed or enacted for any such product prior to the date on which such final rule is issued shall not be preempted until the standards established under subsection (a) or (b) for that product take effect; and

(2) to products for which standards are established under subsections (w) through (bb) on the date of enactment of those subsections prescribed or enacted for any such product prior to the date on which such final rule is issued shall not be preempted until the standards established under subsections (w) through (bb) take effect.

(2) Effective Date.—Section 327 shall apply—

(a) Residential Electric Water Heaters.—Effective on January 1, 2006, shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this section, for suspended ceiling fans manufactured on or after January 1, 2006, shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this section, for suspended ceiling fans manufactured on or after January 1, 2006, shall meet the performance requirements prescribed by the Secretary pursuant to section 324A (relating to Energy Star Programs) and other voluntary industry agreements for the electricity used by ceiling fans to circulate air to a room.

(b) Ceiling Fans.—Effective on January 1, 2006, shall meet the performance requirements prescribed by the Secretary pursuant to section 324A (relating to Energy Star Programs) and other voluntary industry agreements for the electricity used by ceiling fans to circulate air to a room.

(c) Special Consideration.—If the Secretary sets such standards, the Secretary shall consider—

(1) exempting or setting different standards for certain product classes for which the primary standards are not technically feasible or economically justified; and

SEC. 136. STATE CONSUMER PRODUCT ENERGY EFFICIENCY STANDARDS.

Section 327 of the Energy Policy and Conservation Act (42 U.S.C. 6297) is amended by adding at the end the following:

(“B”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“C”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“D”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“E”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“F”) The Secretary may, by rule, establish requirements for color quality (CRI); power factor; and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy: minimum initial efficacy; lumen maintenance at 1000 hours; lumen maintenance at 40 percent of rated life; rapid cycle stress test; and lamp life.

(“G”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether conservation standards will be issued for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at levels of energy use that—

(1) meets the criteria and procedures of subsections (o), (p), (q), (t), (s), and (t); and

(2) is consistent with other energy conservation standards prescribed by the Secretary pursuant to this Act, whether or not such standards are required to be prescribed by the Secretary under section 135.

(“H”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“I”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“J”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“K”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“L”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“M”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“N”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“O”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“P”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“Q”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“R”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“S”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“T”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“U”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“V”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“W”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“X”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.

(“Y”) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule establishing such standard.

(“Z”) Notwithstanding any provision of this Act, the Secretary may consider, and prescribe, if the requirements of subsection (o) of this section are met, energy efficiency or energy use standards for electrical power supplies used for purposes of circulating air through ductwork.
adding at the end the following new subsection—

“(h) LIMITATION ON PREEMPTION.—Subsections (a) and (b) shall not apply with respect to State regulation of energy consumption or water use of any covered product during any period of time—

“(1) after the date which is 3 years after a Federal standard promulgated by law to be established or revised, but has not been established or revised; and

“(2) before the date on which such Federal standard is established or revised.”

Subtitle D—Public Housing

SEC. 141. CAPACITY BUILDING FOR ENERGY-EFFICIENT, AFFORDABLE HOUSING.

Section 4(b) of the HUD Demonstration Act of 1974 (42 U.S.C. 5302(a)(8)) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: “; including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures”; and

(2) in paragraph (2), by inserting before the semicolon the following: “; including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families.”

SEC. 142. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end of the second sentence the following: “; and (i) any revision thereto, applicable at the time of installation, and increasing energy and water conservation by such other means as the Secretary determines are appropriate; and

(2) in subsection (e)(2)(C)—

(A) by striking “The”; and

(B) by inserting at the end the following:

“(1) in general.—The”; and

(ii) third party contracts.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption and systems repaired or efficiency measures and energy efficient appliances that meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

“(iii) term of contract.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating systems, solar, production, siting and energy systems; advanced energy savings technologies, including renewable energy generation, and other such retrofits.”

SEC. 143. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.

(a) Single Family Housing Mortgage Insurance.—Section 203(b)(2) of the National Housing Act (42 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(IV) (relating to solar energy systems and residential energy conservation measures), by striking “20 percent” and inserting “30 percent”.

(b) Multifamily Housing Mortgage Insurance.—Section 221(d)(3)(B) of the National Housing Act (42 U.S.C. 1715(I)(3)(B)) is amended, in the last undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking “20 percent” and inserting “30 percent”.

(c) Cooperative Housing Mortgage Insurance.—Section 221(c) of the National Housing Act (42 U.S.C. 1715(k)) is amended—

(1) by striking “with respect to rehabilitation projects involving not more than five family units,”; and

(2) by striking “20 percent” and inserting “30 percent”.

(d) Rehabilitation and Neighborhood Conservation Housing Mortgage Insurance.—Section 226(d)(3)(B)(ii)(IV) of the National Housing Act (42 U.S.C. 1712g(d)(3)(B)(ii)(IV)) is amended—

(1) by striking “with respect to rehabilitation projects involving not more than five family units,”; and

(2) by striking “20 percent” and inserting “30 percent”.

(e) Low-Income Multifamily Housing Mortgage Insurance.—Section 221(k) of the National Housing Act (42 U.S.C. 1715(k)) is amended by striking “20 percent” and inserting “30 percent”.

(f) Elderly Housing Mortgage Insurance.—Section 231(c)(2)(C) of the National Housing Act (12 U.S.C. 1715v(c)(2)(C)) is amended by striking “20 percent” and inserting “30 percent”.

(g) Condominium Housing Mortgage Insurance.—Section 234(i) of the National Housing Act (12 U.S.C. 1715y(i)) is amended by striking “20 percent” and inserting “30 percent”.

SEC. 144. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1807) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking “and” and inserting “; and”;

(B) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

“(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19-1998 and A112.18-2000, or any revision thereto, applicable at the time of installation, and increasing energy and water conservation by such other means as the Secretary determines are appropriate; and

(L) integrated utility management and capital planning and energy conservation and efficiency measures.”;

and

(2) in subsection (e)(2)(C)—

(A) by striking “The”; and

(B) by inserting at the end the following:

“(1) in general.—The”; and

(ii) third party contracts.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption and systems repaired or efficiency measures and energy efficient appliances that meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

“(iii) term of contract.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating systems, solar, production, siting and energy systems; advanced energy savings technologies, including renewable energy generation, and other such retrofits.”

SEC. 147. ENERGY-EFFICIENT APPLIANCES.

(a) Residential Energy-Efficient Appliances.—Section 231(c)(2)(C) of the National Housing Act (12 U.S.C. 1715v(c)(2)(C)) is amended by striking “20 percent” and inserting “30 percent”.

(b) Commercial Energy-Efficient Appliances.—Section 234(i) of the National Housing Act (12 U.S.C. 1715y(i)) is amended by striking “20 percent” and inserting “30 percent”.

(c) Condominium Energy-Efficient Appliances.—Section 234(i) of the National Housing Act (12 U.S.C. 1715y(i)) is amended by striking “20 percent” and inserting “30 percent”.

SECTION III—ENERGY STRATEGY FOR HUD

The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing. The energy strategy shall include the development of reduction goals and incentives for public housing agencies. The Secretary shall submit a report to Congress, not later than 1 year after the date of the enactment of this Act, on the energy strategy and the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies and shall submit an update every 2 years thereafter on progress in implementing the strategy.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENT.—Not later than 6 months after the date of enactment of this Act, and each year thereafter, the Secretary of Energy shall review the available assessment of renewable energy resources within the United States, including solar, wind, biomass, ocean (tideal, wave, current, and thermal), geothermal, and hydroelectric energy resources, and undertake any additional assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Secretary shall submit a report to Congress assessing the assessment under subsection (a). The report shall contain...
(a) Incentive Payments.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking “satisfies” and all that follows through “Secretary shall establish.” and inserting “. If there are insufficient appropriations to make such electric power payments, the Secretary may, after transmitting to Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence.

(b) Biowaste Energy Facility.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking “a State or any political” and all that follows through “electro-” and inserting “not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government thereof,”;

(2) by inserting “—landfill gas, livestock manure, municipal solid waste gas (garbage), geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity,” and

(3) by inserting “—solid wood waste materials, including solid wood waste, paper, or coal, and other crop by-products or residues.”

(c) Calculation.—For purposes of determining compliance with the requirement of this section, the amount of renewable energy shall be doubled if—

(1) the renewable energy is produced and used on-site at a Federal facility;

(2) the renewable energy is produced on Federal lands and used at a Federal facility; or

(3) the renewable energy is produced on Indian lands as shown in Public Law XXXVI and used at a Federal facility.

(d) Report.—Not later than April 15, 2007, and every 2 years thereafter, the Secretary of Energy shall provide to Congress on the progress of the Federal Government in meeting the goals established by this section.

SEC. 204. INSULAR AREAS ENERGY SECURITY.

The President, acting through the head of government of each insular area, shall update the plans required under subsection (c) by—

(1) the Secretary of the Interior, in consultation with the Secretary of Energy and

(2) authorizing long-term energy transmission line plans for such insular areas with the objective of reducing, to the extent feasible, their reliance on energy imports by the year 2012, increasing energy conservation and energy efficiency, and maximizing, to the extent feasible, use of indigenous energy sources; and

(3) drafting long-term energy transmission line plans for such insular areas with the objective that the maximum percentage feasible of electric power transmitted and distributed in an insular area be protected from damage caused by hurricanes and typhoons.

(2) Not later than December 31, 2006, the Secretary of the Interior shall submit to the Congress the updated plans for each insular area required by this subsection.”;

(4) by amending subsection (g)(4) to read as follows:

“4) Power Line Grants for Insular Areas.—

(A) In General.—The Secretary of the Interior shall authorize plans in regard to the governments of insular areas of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such insular areas from damage caused by hurricanes and typhoons.

(B) Eligible Projects.—The Secretary may award grants under subparagraph (A) only to governments of insular areas of the United States that submit written project plans to the Secretary for projects that meet the following criteria:

(i) the project is designed to protect electric power transmission and distribution lines located in 1 or more of the insular areas of the United States from damage caused by hurricanes and typhoons.

(ii) the project is likely to substantially reduce the risk of future damage, hardship, loss, or suffering.

(iii) the project addresses 1 or more problems that have been repetitive or that pose a significant risk to public health and safety.

(iv) the project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate.

The cost benefit analysis required by this criteria shall be computed on a net present value basis.

(v) The project design has taken into consideration long-term changes to the areas and persons it is designed to protect and has manageable future maintenance and modification requirements.

(vi) The project plan includes an analysis of a range of options to address the problem it is designed to prevent or mitigate and a justification for the selection of the project in light of that analysis.

The application shall demonstrate to the Secretary that the matching funds required by subparagraph (D) are available.

(C) Priority.—When making grants under this paragraph, the Secretary shall give priority to projects which are likely to—
"(i) have the greatest impact on reducing future disaster losses; and
(ii) best conform with plans that have been approved by the Federal Government or the insular area, where the project is to be carried out for development or hazard mitigation for that insular area.
(D) MATCHING REQUIREMENT.—The Federal share of the cost of a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.
(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Funds provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.
(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $5,000,000 for each fiscal year beginning after the date of enactment of this paragraph.

SECTION 205. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS

(a) IN GENERAL.—The Secretary may establish a photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings.

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) The term "biomass" means trees and woody plants, including limbs, tops, needles, and other woody parts, and by-products of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—
(A) to reduce hazardous fuels; or
(B) to reduce the risk of or to contain disease, insect infestation or fire;
(2) The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(e)).

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—There are authorized to be appropriated to carry out subsection (a) $50,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.
(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There are authorized to be appropriated to carry out subsection (a) $10,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

(b) CONFIRMING AMENDMENT.—The table of sections for the National Energy Conservation Policy Act is amended by adding after the item relating to section 569 the following:
"Sec. 570. Use of photovoltaic energy in public buildings."

SECTION 206. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS PRODUCTS

(a) IN GENERAL.—The Secretary may develop innovative procurement strategies to make this energy system available to the American public and for public buildings.
(b) USE OF FUNDS.—Grants provided under this section shall be used—
(1) to purchase the energy system and its by-products, including biomass, as are required in public buildings.
(2) to evaluate such photovoltaic solar energy systems installed pursuant to paragraph (a). The Secretary shall ensure that such systems reflect the most advanced technology available.
(3) to purchase the energy system and its by-products, including biomass, as is required for public buildings.
(4) to evaluate such photovoltaic solar energy systems installed pursuant to paragraph (a).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $60,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

(c) USE OF FUNDS.—Grants provided under this section shall be used—
(1) for the purchase of equipment and services for the development of biomass products as are required in public buildings.
(2) to evaluate such photovoltaic solar energy systems installed pursuant to paragraph (a).
(3) to purchase the energy system and its by-products, including biomass, as is required for public buildings.
(4) to evaluate such photovoltaic solar energy systems installed pursuant to paragraph (a).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $60,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

(d) USE OF FUNDS.—Grants provided under this section shall be used—
(1) for the purchase of equipment and services for the development of biomass products as are required in public buildings.
(2) to evaluate such photovoltaic solar energy systems installed pursuant to paragraph (a).
(3) to purchase the energy system and its by-products, including biomass, as is required for public buildings.
(4) to evaluate such photovoltaic solar energy systems installed pursuant to paragraph (a).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $60,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.
(d) IMPROVED BIOMASS USE GRANT PROGRAM.—
(1) IN GENERAL.—The Secretary concerned shall give preference to persons that offer or propose to offer opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons that—
(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to any project that offers or proposes to offer opportunities to improve the use of, or add value to, biomass, and the potential for new job creation.

(3) GRANT AMOUNT.—A grant under this subsection may not exceed $500,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.

(1) REPORT.—Not later than October 1, 2012, the Secretary, in consultation with the Secretaries of the Interior and Agriculture, shall submit to the Committees on Agriculture, Natural Resources, and the Committee on Appropriations a report describing the results of the grant programs authorized by this section.

The report shall include the following:

(1) An identification of the size, type, and the uses of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible facilities.

SEC. 207. BIOMASS PROJECTS.
Section 3002(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(c)(1)) is amended by inserting “or such items that comply with the regulations issued under section 203 of Public Law 101-556 (42 U.S.C. 6941b–1)” after “practicable.”

SEC. 208. RENEWABLE ENERGY SECURITY.
(a) WEATHERIZATION ASSISTANCE.—Section 415(c)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6865(c)(6)) is amended—

(i) by striking “renewable energy” and inserting “biomass”;

(ii) in paragraph (1), by striking “in paragraphs (3) and (4)” and inserting “in paragraph (3)”; and

(iii) in paragraph (2), by striking “$2,500 per dwelling unit” and inserting “$1,000 per dwelling unit”.

(b) FISHWAYS.
Section 18 of the Federal Power Act (16 U.S.C. 799) is amended by striking “biomass” and inserting “biomass or renewable energy system.”

(c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.
(1) ESTABLISHMENT.—The Secretary of Energy shall establish a program providing rebates for consumers for expenditures made for the installation of a renewable energy system in connection with a dwelling unit or small business.

(2) REBATE PROGRAM.—Rebates provided under the program established under paragraph (1) shall be in an amount not to exceed the lesser of—

(A) 25 percent of the expenditures described in paragraph (1) made by the consumer; or

(B) $3,000.

(3) DEFINITION.—For purposes of this subsection, the term “renewable energy system” has the meaning given that term in section 1413(v)(6)(A) of the Energy Conservation and Production Act (42 U.S.C. 6863(v)(6)(A)), as added by subsection (a)(3) of this section.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(A) $150,000,000 for fiscal year 2006;

(B) $200,000,000 for fiscal year 2007;

(C) $200,000,000 for fiscal year 2008;

(D) $250,000,000 for fiscal year 2009; and

(E) $250,000,000 for fiscal year 2010.

(f) REPEAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report containing—

(1) an inventory of renewable fuels available for consumers; and

(2) a projection of future inventories of renewable fuels based on the incentives provided in this section.

Subtitle C—Hydroelectric

PART I—ALTERNATIVE CONDITIONS

SEC. 231. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.
(1) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after “adequate protection and utilization of such reservation:” the following:

“the license applicant shall be entitled to a determination on the record, after opportunity for an expedited agency trial-type hearing of any disputed issues of material fact, with respect to such conditions. Such hearing may be conducted in accordance with procedures established by agency regulations in consultation with the Federal Energy Regulatory Commission.”

(2) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 799) is amended by inserting after “biomass” and inserting “biomass or renewable energy system.”

SEC. 232. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.
(1) ESTABLISHMENT.—The Secretary of Energy shall establish a program providing rebates for consumers for expenditures made for the installation of a renewable energy system in connection with a dwelling unit or small business.

(2) REBATE PROGRAM.—Rebates provided under the program established under paragraph (1) shall be in an amount not to exceed the lesser of—

(A) 25 percent of the expenditures described in paragraph (1) made by the consumer; or

(B) $3,000.

(3) DEFINITION.—For purposes of this subsection, the term “renewable energy system” has the meaning given that term in section 413(v)(6)(A) of the Energy Conservation and Production Act (42 U.S.C. 6863(v)(6)(A)), as added by subsection (a)(3) of this section.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(A) $150,000,000 for fiscal year 2006;

(B) $200,000,000 for fiscal year 2007;

(C) $200,000,000 for fiscal year 2008;

(D) $250,000,000 for fiscal year 2009; and

(E) $250,000,000 for fiscal year 2010.

(f) REPEAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report containing—

(1) an inventory of renewable fuels available for consumers; and

(2) a projection of future inventories of renewable fuels based on the incentives provided in this section.
paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the licensee or other interested parties from proposing alternative conditions—

(A) provides for the adequate protection and utilization of the reservation; and

(B) is cost less to implement; or

(ii) result in improved operation of the project works for electricity production, as compared to the fishway initially deemed necessary by the Secretary.

(3) The Secretary shall submit to the public record of the Commission proceeding with any condition under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary’s decision.

(4) Nothing in this section shall prohibit other interested parties from proposing alternative prescriptions.

(5) If the Secretary does not accept an applicant’s alternative prescription under this section, and the Commission finds that the Secretary’s condition would be inconsistent with the purposes of this part, or other applicable law, the applicant may request an advisory and the Secretary and the Commission shall consult with the Secretary. The Dispute Resolution Service advisory unless the Secretary finds that the recommendation will be less protective than that prescribed by the Secretary. The Secretary shall submit the advisory and the Secretary’s final written determination into the record of the Commission’s proceeding.

PART II—ADDITIONAL HYDROPOWER

SEC. 241. HYDROELECTRIC PRODUCTION INCENTIVES.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary of Energy (referred to in this section as the “Secretary”) shall make, subject to subsection (c), incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payments shall be 1.8 cents per kilowatt hour (as adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than $750,000 in 1 calendar year.

(b) LIMITATIONS.—Incentive payments under this section may be made under section 242 only for electric energy generated by a facility at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities.

(c) ELIGIBILITY WINDOW.—Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric facility shall expire on the last full fiscal year beginning after calendar year 2005 in the same manner as provided in the provisions of section 28(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2005 shall be substituted for calendar year 1979.

(d) INCREASE.—There are authorized to be appropriated to the Secretary to carry out the provisions of this section $10,000,000 for each of the fiscal years 2006 through 2015.

SEC. 242. HYDROELECTRIC EFFICIENCY IMPROVEMENT PROJECTS.

(a) INCENTIVE PAYMENTS.—The Secretary of Energy shall make incentive payments to the owner or operator of a qualified hydroelectric facility at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities.

(b) LIMITATIONS.—Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerning which the payment is made with respect to improvements at a single facility. No payment in excess of $750,000 may be made with respect to improvements at a single facility.

(c) ELIGIBILITY.—Payments made under this section to the owner or operator of a qualified hydroelectric facility shall expire on the last full fiscal year beginning after calendar year 2005 in the same manner as provided in the provisions of section 28(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2005 shall be substituted for calendar year 1979.
SEC. 244. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy, in consultation with the Secretary of the Army, shall jointly conduct a study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimates of the existing potential for the facility to generate hydroelectric power.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Federal Reclamation facilities, including recreational releases.

TITLE III—OIL AND GAS—COMMERCE

Subtitle A—Petroleum Reserve and Home Heating Oil

SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting the following:

""AUTHORIZATION OF APPROPRIATIONS

Sec. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended;"

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act)."

(b) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by inserting before section 273 (42 U.S.C. 6283) the following:

"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS;"

(2) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration of summer fill and fuel budgeting programs); and

(3) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of the Act).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

"PART D—NORTHWEST HOME HEATING OIL RESERVE"

"Sec. 181. Establishment.

"Sec. 182. Authority.

"Sec. 183. Conditions for release; plan.

"Sec. 184. Northeast Home Heating Oil Reserve

"Part C of title II to read as follows:

"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS"

"Sec. 273, Summer fill and fuel budgeting programs;"

; and

(3) by striking the items relating to part D of title II.

(d) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6265(b)(1)) is amended by striking all after "increases" through "in February" and inserting "by more than 50 percent over its 5-year rolling average for the months of February and March (considered as a heating season average)".

(e) FILL STRATEGIC PETROLEUM RESERVE TO CAPACITY.—The Secretary of Energy shall—

(1) expediently as practicable, acquire petroleum in amounts sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000 barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), consistent with the provisions of sections 159 and 169 of such Act (42 U.S.C. 6239, 6240)."

SEC. 302. NATIONAL OILSHALE RESEARCH ALLIANCE.

Section 205 of the Energy Act of 2000 (42 U.S.C. 6201 note) is amended by striking "4 and" and inserting "9."
Such record shall be the exclusive record for the agency or officer (or State administrative agency) maintaining a complete consolidated record of proceedings; and the Commission shall—

(i) unless the Commission finds such actions or operations will not be consistent with the public interest; and

(ii) if the Commission has found that the applicant is—

(I) able and willing to carry out the actions and operations proposed; and

(II) willing to be bound by the terms and conditions of the proposed order or action consistent with applicable Federal law, and

(a) any approval required to protect navigation, maritime safety, or maritime security.

(3) Issuance of Commission Order.

(A) In general. The Commission shall issue an order authorizing, in whole or in part, the construction, expansion, or operation covered by the application to any qualified applicant—

(i) if the Commission finds that such actions or operations will not be consistent with the public interest; and

(ii) if the Commission has found that the applicant is—

(I) able and willing to carry out the actions and operations proposed; and

(II) willing to be bound by the terms and conditions of the proposed order or action consistent with applicable Federal law, and

(a) any approval required to protect navigation, maritime safety, or maritime security.

(B) Exclusions. The Commission may by its order grant an application, in whole or in part, with such modification and upon such terms and conditions as the Commission may find necessary or appropriate.

(4) Limitations on Terms and Conditions to Commission Order.

(I) In general. Any Commission order issued pursuant to this subsection before January 1, 2011, shall not be conditioned on—

(i) a requirement that the liquefaction or gasification natural gas terminal, or any affiliate thereof, secure the order; or

(ii) any regulation of the liquefaction or gasification natural gas terminal's rates, charges, terms, or conditions of service.

(II) Inapplicable to Terminal Exit Pipeline. Clause (I) shall not apply to any pipeline subject to the jurisdiction of the Commission under section 7 exiting a liquefaction or gasification natural gas terminal.

(III) Unregulated Terminal. An order issued under this paragraph that relates to an expansion of an existing liquefaction or gasification natural gas terminal, where any portion of the existing liquefaction or gasification terminal is subject to Commission regulation of rates, charges, terms, or conditions of service, may not result in—

(i) subsidization of the expansion by regulated terminal users;

(ii) degradation of service to the regulated terminal users; or

(iii) unduly discriminatory treatment of the regulated terminal users.

(IV) Expiration. This subparagraph shall cease to have effect on January 1, 2022.

(D) Delegation. For the purposes of this subsection, the term ‘Federal authorization' means any authorization required under Federal law in order to construct, expand, or operate a liquefaction or gasification natural gas terminal, including such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal or State agency, or officer acting under delegated Federal authority with respect to the construction, expansion, or operation of a liquefaction or gasification natural gas terminal.

(E) State and Local Safety Considerations.

(I) In general. The Commission shall consult with the State commission of the State or State administrative agency (or officer acting under delegated Federal authority) with respect to the construction, expansion, or operation of a liquefaction or gasification natural gas terminal located in the State.

(II) State safety inspections. The State commission of the State in which a liquefaction or gasification natural gas terminal is located may, after the terminal is operational, conduct safety inspections with respect to the liquefaction or gasification natural gas terminal.

(III) The State commission provides written notice to the Commission of its intention to do so; and

(IV) The inspections will be carried out in conformance with Federal regulations and guidelines.

Enforcement of any safety violation discovered by the State commission pursuant to this clause shall be carried out by Federal officials.

The Commission shall take appropriate action in response to a report of a violation later that 90 days after receiving such report.

(III) State and Local Safety Considerations. For the purposes of this subparagraph, State and local safety considerations include—

(I) the kind and use of the facility; and
SEC. 329. OUTER CONTINENTAL SHELF PROVISIONS.
(a) STORAGE ON THE OUTER CONTINENTAL SHELF.—Section 5(a)(5) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353) is amended by inserting “from any source” after “oil and gas”.

(b) DEEPWATER PROJECTS.—Section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1905) is amended by adding at the end of the following:
“(c) RELIANCE ON ACTIVITIES OF OTHER AGENCIES.—In fulfilling the requirements of section 11 of this Act, the Secretary of the Interior shall use as its exclusive record for all purposes the information derived from those activities in lieu of directly conducting such activities and:”.

“(2) the Secretary may use information obtained from any State or local government or from any person.”

(c) NATURAL GAS DEFINED.—Section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1905(13)) is amended to read as follows:
“(13) natural gas means—
(1) natural gas unmixed; or
(2) any mixture of natural or artificial gas, including compressed or liquefied natural gas, natural gas liquids, liquefied petroleum gas, and condensate recovered from natural gas.”

SEC. 330. APPEALS RELATING TO PIPELINE CONSTRUCTION PROJECTS OFFSHORE MINERAL DEVELOPMENT PROJECTS.
(a) AGENCY OF RECORD, PIPELINE CONSTRUCTION PROJECTS.—Any Federal administrative agency proceeding that is an appeal or review of a decision of the Secretary of the Interior is subject to the appeal procedure provided in section 1304 of the Coastal Zone Management Act of 1972 (15 U.S.C. 1771 et seq.), as amended, by this Act, related to Federal authority for an interstate natural gas pipeline construction project, including construction of natural gas storage and liquefied natural gas facilities, shall use as its exclusive record for all purposes the record compiled by the Federal Energy Regulatory Commission pursuant to the Commission’s proceeding under sections 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f).

(b) AGENCY OF RECORD.—It is the sense of Congress that all Federal and State agencies with jurisdiction over interstate natural gas pipeline construction activities should coordinate their activities within the frameworks established by the Federal Energy Regulatory Commission when the Commission is acting under sections 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f) to determine whether a certificate of public convenience and necessity should be issued for a proposed interstate natural gas pipeline.

(c) AGENCY OF RECORD, OFFSHORE MINERAL DEVELOPMENT PROJECTS.—Any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (15 U.S.C. 1771 et seq.), as amended, by this Act, related to Federal authority for the permitting, approval, or other authorization of energy projects, including projects to explore, develop, or produce mineral resources in or underlying the outer Continental Shelf shall use as its exclusive record for all purposes the record compiled by the relevant Federal permitting agency.

SEC. 333. NATURAL GAS MARKET TRANSPARENCY.
(a) AUTHORIZATION.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint Geographic Information System mapping system for use in monitoring surface resource values to aid in resource management; and

(b) Processing surface use plans of operation and applications for permits to drill.

SEC. 340. ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE.
(a) REQUIREMENT.—The head of each Federal agency shall require that before the Federal agency takes (proposed or final) action that could have a significant adverse effect on the supply of domestic energy resources from Federal public land, the Federal agency taking the action shall consult with the Executive Order No. 13211 (42 U.S.C. 13201 note).

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall issue guidelines for purposes of this section describing what constitutes a significant adverse effect on the supply of domestic energy resources from Federal public land, the Federal agency taking the action shall consult with the Executive Order No. 13211 (42 U.S.C. 13201 note).

(c) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior and the Secretary of Agriculture shall include in the memorandum of understanding under section 344 provisions for implementing subsection (a) of this section.

SEC. 355. ENCOURAGING GREAT LAKES OIL AND GAS DRILLING BAN.
Congress encourages no Federal or State permit or lease to be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

SEC. 358. FEDERAL COALBED METHANE REGULATION.
Any State currently on the list of Affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13621 et seq.) that is not later than 3 years after the date of enactment of this Act, the Secretary of the Interior shall be issued a permit to drill; and the Secretary of the Interior and the Secretary of Agriculture shall establish a joint Geographic Information System mapping system for use in monitoring surface resource values to aid in resource management; and

(b) Processing surface use plans of operation and applications for permits to drill.

SEC. 371. SHORT TITLE.
This subtitle may be cited as the “United States Refinery Revitalization Act of 2005”.

SEC. 373. FINDINGS.
Congress finds the following:
(1) It serves the national interest to increase petroleum refining capacity for gasoline, heating oil, diesel fuel, jet fuel, kerosene, and petrochemical feedstocks whether located within the United States, to bring more supply to the markets for use by the American people. Nearly 50 percent of the petroleum in the United States is used for the production of gasoline. Refined petroleum products have a significant impact on interstate commerce;

(2) United States demand for refined petroleum products currently exceeds the country’s petroleum refining capacity to produce such products. By 2022, the gasoline consumption is projected to rise from 8,900,000 barrels per day to 12,900,000 barrels per day.
per day. Diesel fuel and home heating oil are becoming larger components of an increasing demand for refined petroleum supply. With the increase in air travel, jet fuel consumption is currently running at 780,000 barrels per day higher in 2025 than today.

(3) The petroleum refining industry is operating at 95 percent of capacity. The United States is importing 5 percent of refined petroleum products and because of the stringent United States gasoline and diesel fuel specifications, few foreign refineries can produce fuels required by the United States and the number of foreign suppliers that can produce United States quality gasoline is decreasing.

(4) Significant impact on environmental and other regulations and face several new Clean Air Act requirements over the next decade. New Clean Air Act requirements will benefit the environment but will also require substantial capital investment and additional government permits.

(5) No new refinery has been built in the United States since 1976 and many smaller domestic refineries have become idle since the removal of the Domestic Crude Oil Allocation Program and because of regulatory uncertainty, premiums for generally low refinery capital employed. Today, the United States has 19 refineries, down from 324 in 1981. Restart of recently idled refineries alone would be expected to increase crude oil refining capacity, or approximately 3.3 percent of the total operating capacity.

(6) Refiners have met growing demand by increasing the use of existing equipment and increasing the efficiency and capacity of existing plants. But refining capacity has begun to lag behind peak summer demand.

(7) Heavy industry and manufacturing jobs that can produce United States quality gasoline are decreasing.

(2) that has an unemployment rate that exceeds the national average by at least 10 percent of the national average, as set by the Department of Labor, Bureau of Labor Statistics, at the time of the designation as a Refinery Revitalization Zone.

SEC. 375. MEMORANDUM OF UNDERSTANDING.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding with the Administrator for the purposes of this subtitle. The Secretary and the Administrator shall each designate a senior official responsible for, and designate sufficient other staff and resources to ensure, full implementation of the purposes of this subtitle. Regulations enacted pursuant to this subtitle.

(b) ADDITIONAL SIGNATORIES.—The Governor of any State, and the appropriate representative of any Indian Tribe, with jurisdiction over a Refinery Revitalization Zone, as designated by the Secretary pursuant to section 374, may be signatories to the memorandum of understanding under this section.

SEC. 376. STATE ENVIRONMENTAL PERMITTING ASSISTANCE.

Not later than 30 days after a Revitalization Zone becomes a Refinery Revitalization Zone, the Secretary shall cause an expert relating to the siting and operation of refineries to provide legal and technical assistance to that Revitalization Program Qualifying State. The Secretary shall cooperate with the Environmental Protection Agency with expertise on regulatory issues, relating to the siting and operation of refineries, with respect to each of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(C) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(D) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(E) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(F) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(G) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(H) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 377. COORDINATION AND EXPEDITIOUS REVIEW OF PERMITTING PROCESS.

(a) DEPARTMENT OF ENERGY AS LEAD AGENCY.—Upon written request of a prospective applicant for Federal authorization for a refinery facility in a Refinery Revitalization Zone, the Secretary shall designate the lead Federal agency for the purposes of coordinating all applicable Federal authorizations and environmental reviews of the refinery facility. To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate this Federal authorization and review process with any Indian Tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews of the refinery facility.

(b) SCHEDULE.—(1) In general.—The Secretary, in coordination with the agencies with authority over Federal authorizations and, as appropriate, with Indian Tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews, shall establish a schedule with prompt and binding intermediate and ultimate deadlines for the review of, and Federal authorization decisions relating to, refinery facility siting.

(2) APPEALS.—Prior to establishing the schedule, the Secretary shall provide an expeditious preapplication mechanism for applicants to coordinate with Federal agencies involved and to have each agency communicate to the prospective applicant within 60 days concerning—

(A) the likelihood of approval of a potential refinery facility; and

(B) key issues of concern to the agencies and local community.

(c) CONSOLIDATED ENVIRONMENTAL REVIEW.

(1) LEAD AGENCY.—In carrying out its role as the lead Federal agency for environmental review, the Department shall coordinate all applicable Federal actions for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and shall be responsible for the environmental impact statement required by section 102(2)(C) of that Act (42 U.S.C. 4321(2)(C)) or such other form of environmental review as is required.

(2) CONSOLIDATION OF STATEMENTS.—In carrying out paragraph (1), if the Department determines an environmental impact statement is required, the Department shall prepare a single environmental impact statement, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project covered by the environmental impact statement.

(d) OTHER AGENCIES.—Each Federal agency considering an aspect of the siting or operation of a refinery facility in a Refinery Revitalization Zone shall cooperate with the Department and comply with the deadlines established by the Department in the preparation of any environmental impact statement or other form of review as is required.

(e) EXCLUSIVE RECORD.—The Department shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Department or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to siting or operation of a refinery facility in a Refinery Revitalization Zone. Such record shall be the exclusive record for any Federal administrative agency or officer with respect to siting or operation of a refinery facility in a Refinery Revitalization Zone. Any appeal of such decision made or action taken.

(f) APPEALS.—In the event any agency has designated that the approval required for a refinery facility in a Refinery Revitalization Zone, or has failed to act by a deadline established by the Secretary pursuant to subsection (e) for clarification, the applicant or any State in which the refinery facility would be located may file an appeal with the Secretary. The appeal shall be heard on a day set forth in subsection (e), and in consultation with the affected agency, the Secretary may either issue the necessary Federal authorization or deny the appeal. The Secretary shall issue a decision within 60 days after the filing of the

SEC. 378. DESIGNATION OF REFINERY REVITALIZATION ZONES.

Not later than 90 days after the date of enactment of this Act, the Secretary shall designate as a Refinery Revitalization Zone any area—

(1) that—

(A) has experienced mass layoffs at manufacturing industry facilities as determined by the Secretary of Labor; or

(B) contains an idle refinery; and

(2) that has an unemployment rate that exceeds the national average by at least 10 percent of the national average, as set by the Department of Labor, Bureau of Labor Statistics, at the time of the designation as a Refinery Revitalization Zone.
appeal. In making a decision under this section, the Secretary shall comply with applicable requirements of Federal law, including each of the laws referred to in section 376(2)(A) through (H). Any judicial appeal of the Secretary’s decision shall be to the United States Court of Appeals for the District of Columbia.

(2) CONFORMING REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue any regulations necessary to implement this subtitle.

SEC. 376. CONFORMING ALL ENVIRONMENTAL REGULATIONS REQUIRED.

Nothing in this subtitle shall be construed to waive the applicability of environmental laws and regulations to any refinery facility.

SEC. 379. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) “Administrator” means the Administrator of the Environmental Protection Agency; and

(2) “Department” means the Department of Energy;

(3) “Federal authorization” means any authorization required under Federal law (including the Clean Air Act, the Federal Pollution Control Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and the Toxic Substances Control Act, the National Historic Preservation Act, and the National Environmental Policy Act of 1969) in order to approve, upgrade, operate, or abandon a refinery facility within a Refinery Revitalization Zone, including such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal, State, or local agency;

(4) “Idle refinery” means any real property site that has been identified as an idle refinery facility since December 31, 1979, that has not been in operation after April 1, 2005;

(5) “Refinery facility” means any facility designed and operated to receive, unload, store, process, and refine raw crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, ethanization, polymerization, catalytic reforming, isomerization, hydrotreatment, blending, and any combination thereof;

(6) “Revitalization Program” means the Program for Revitalization of a State that—

(A) has entered into the memorandum of understanding pursuant to section 375(b); and

(B) has established a refining infrastructure coordination office that the Secretary finds will facilitate Federal-State cooperation for the purposes of this subtitle; and

(7) “Secretary” means the Secretary of Energy.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) CLEAN COAL POWER INITIATIVE.—There are authorized to be appropriated to the Secretary of Energy (referred to in this title as the “Secretary”) to carry out the activities authorized by this subtitle $200,000,000 for each of fiscal years 2006 through 2014, to remain available until expended.

(b) REPORT.—The Secretary shall submit to Congress the report required by this subsection not later than March 31, 2007. The report shall include, with respect to subsection (a), a detailed description of—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for the purposes set forth in paragraphs (1) and (2) of this subsection; and

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

SEC. 402. PROJECT CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this subtitle for any project that does not advance efficiency, environmental performance, and cost competitiveness of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.

(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In allocating the funds made available under section 401(a), the Secretary shall ensure that at least 60 percent of the funds are allocated for projects based on gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction, and hybrid gasification technologies.

(B) TECHNICAL MILESTONES.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that gasification projects under this subtitle shall be designed, and reasonably expected, to achieve. The technical milestones shall become more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit not more than .05 lbs of NO, per million Btu;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of—

(1) 60 percent for coal of more than 9,000 Btu;

(2) 59 percent for coal of 7,000 to 9,000 Btu; and

(3) 50 percent for coal of less than 7,000 Btu.

(2) OTHER PROJECTS.—The Secretary shall periodically set technical milestones and ensure that up to 40 percent of the funds appropriated pursuant to section 401(a) are used for projects not described in paragraph (1). The milestones shall specify the emission and thermal efficiency levels that projects funded under this paragraph shall be designed to and reasonably expected to achieve. The technical milestones shall become more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NO, per million Btu;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of—

(i) 45 percent for coal of more than 9,000 Btu;

(ii) 44 percent for coal of 7,000 to 9,000 Btu; and

(iii) 40 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under this paragraph and section 401(d), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and coal regions representatives.

(4) EXISTING UNITS.—In the case of projects at units in existence on the date of enactment of this Act, in lieu of the thermal efficiency goals of paragraphs (1), (2), and (3) the Secretary shall design projects that include, as part of the project, the separation and capture of carbon dioxide. The thermal efficiency goals of paragraphs (1), (2), and (3) shall not apply for projects that separate and capture at least 50 percent of the facility’s potential emissions of carbon dioxide.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this subtitle unless the recipient documents to the Secretary that the market for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology, exists.

(d) FINANCIAL ASSISTANCE.—If the Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electric generating facilities, using various types of coal, that use coal as the primary fuel source as of the date of enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary under this subtitle shall not exceed 50 percent.

(f) ELIGIBILITY.—No technology or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), applicable to purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, notwithstanding any requirement of such emission reduction, by 1 or more facilities receiving assistance under this subtitle.

SEC. 403. REPORT.

Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2014, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1) the technical milestones set forth in section 402 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 402; and
(2) the status of projects funded under this subtitle.

SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 401, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Clean Coal Technologies. The Secretary shall provide grants to universities that show the greatest potential for advancing new clean coal technologies.

Subtitle B—Clean Power Projects

SEC. 410. TECHNOLOGY LOAN.

There are authorized to be appropriated to the Secretary $125,000,000 to provide a loan to the owner of the experimental plant constructed under United States Department of Energy, Cooperative agreement number DE-FC-22-91PC90544 on such terms and conditions as the Secretary determines, including interest rates and repayment terms.

SEC. 412. COAL GASIFICATION.

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology at cost-effective rates in deregulated energy markets and that does not receive any subsidy (direct or indirect) from ratepayers.

SEC. 414. PETROLEUM COKE GASIFICATION.

The Secretary is authorized to provide loan guarantees for at least 5 petroleum coke gasification projects.

SEC. 416. ELECTRON SCRUBBING DEMONSTRATION.

The Secretary shall use $5,000,000 from appropriated funds to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

Subtitle D—Coal and Related Programs

SEC. 441. CLEAN AIR COAL PROGRAM.

(a) AMENDMENT.—The Energy Policy Act of 1992 is amended by adding the following new title at the end thereof:

"TITLE XXXI—CLEAN AIR COAL PROGRAM"

SEC. 3101. FINDINGS; PURPOSES; DEFINITIONS.

(a) FINDINGS.—The Congress finds that—

(1) the clean coal technology regulations present additional challenges for financing and deploying electrical generation in the private marketplace; and

(2) the Department of Energy, in cooperation with industry, has already fully developed and commercialized several new clean coal technologies that will allow the clean use of coal.

(b) PURPOSES.—The purposes of this title are to—

(1) promote national energy policy and energy security, diversity, and economic competitiveness benefits that result from the increased use of coal;

(2) mitigate financial risks, reduce the cost, and enhance market acceptance of the new clean coal technologies; and

(3) advance the deployment of pollution control equipment to meet the current and future requirements for coal-fired generation units regulated under the Clean Air Act (42 U.S.C. 7402 and following).

SEC. 3102. AUTHORIZATION OF PROGRAM.

The Secretary shall carry out a program to facilitate the development and generation of coal-based power and the installation of pollution control equipment.

SEC. 3103. AUTHORIZATION OF APPROPRIATIONS.

(a) POLLUTION CONTROL PROJECTS.—There are authorized to be appropriated to the Secretary $300,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, $40,000,000 for fiscal year 2008, $30,000,000 for fiscal year 2009, and $20,000,000 for fiscal year 2010, to remain available until expended, for carrying out the program for pollution control projects, which may include—

(1) pollution control equipment and processes for the control of mercury emissions;

(2) pollution control equipment and processes for the control of nitrogen dioxide emissions or sulfur dioxide emissions;

(3) pollution control equipment and processes for the mitigation or collection of more than one pollutant;

(4) advanced combustion technology for the control of at least two pollutants, including mercury, particulate matter, nitrogen oxides, and sulfur dioxide, which may also be designed to improve the energy efficiency of the unit; and

(5) advanced pollution control equipment and processes designed to allow use of the byproducts or other byproducts of the equipment or an electrical generation unit designed to allow the use of byproducts.

Funds appropriated under this subsection which are not spent by fiscal year 2012 may be applied to projects under subsection (b), in addition to amounts authorized under subsection (b).

(b) GENERATION PROJECTS.—There are authorized to be appropriated to the Secretary $250,000,000 for fiscal year 2007, $350,000,000 for fiscal year 2008, $400,000,000 for fiscal year 2009, and $400,000,000 for fiscal year 2011, $400,000,000 for fiscal year 2012, and $300,000,000 for fiscal year 2013, to remain available until expended for pollution control projects and air pollution control projects. Such projects may include—

(1) coal-based electrical generation equipment and processes and any equipment beginning in cycle or other coal-based generation equipment and processes;

(2) associated environmental control equipment, that will be cost-effective and that is designed to meet anticipated regulatory requirements;

(3) coal-based electrical generation equipment and processes including gasification fuel cells, gasification coproduction, and hybrid gasification/combustion projects; and

(4) advanced coal-based electrical generation equipment and processes including oxidation combustion technologies, ultra-super-critical boilers, and chemical looping, which the Secretary determines will be cost-effective and will substantially contribute to meeting anticipated environmental or energy needs.

(c) LIMITATION.—Funds placed at risk during any fiscal year for Federal loans or loan guarantees pursuant to this title may not exceed 30 percent of the total funds obligated under this title.

SEC. 3104. AIR POLLUTION CONTROL PROJECT CRITERIA.

The Secretary shall pursuant to authorizations contained in section 3103 provide funding for air pollution control projects designed to facilitate compliance with Federal and State environmental regulations, including any regulation that may be established with respect to mercury.

SEC. 3105. CRITERIA FOR GENERATION PROJECTS.

(a) CRITERIA.—The Secretary shall establish criteria that the Secretary shall use in evaluating the application of individual coal-based projects described in section 3103(b) should be used. The Secretary may modify the criteria as appropriate to reflect improvements in equipment and processes and may not be modified to be less stringent. These selection criteria shall include—

(1) prioritization of projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas; and

(2) prioritization of projects that result in the repowering or replacement of older, less efficient units;

(3) documented broad interest in the projects, equipment, and utilization of the processes used in the projects by electrical generator owners or operators; and

(4) equipment and processes beginning in 2006 through 2011 that are projected to achieve an thermal efficiency of—

(A) 40 percent for coal of more than 9,000 Btu per pound based on higher heating values; and

(B) 38 percent for coal of 7,000 to 9,000 Btu per pound based on higher heating values; and

(C) 36 percent for coal of less than 7,000 Btu per pound based on higher heating values, except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph; and

(5) equipment and processes beginning in 2008 through 2013 that are projected to achieve an thermal efficiency of—

(A) 45 percent for coal of more than 9,000 Btu per pound based on higher heating values; and

(B) 44 percent for coal of 7,000 to 9,000 Btu per pound based on higher heating values; and

(C) 40 percent for coal of less than 7,000 Btu per pound based on higher heating values, except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph.

(b) SELECTION.—(1) In selecting the projects up to 25 percent of the projects selected may be either coproduction or cogeneration projects, but at least 25 percent of the projects shall be for the sole purpose of electrical generation, and priority should be given to equipment and projects less than 600 MW to foster and promote standard designs.

(2) The Secretary shall give priority to projects that have been developed and demonstrated that are not yet cost competitive, and the coal energy generation projects that can advance efficiency and performance, or cost competitiveness significantly beyond the level of pollution control equipment that is in operation on a full scale.

SEC. 3106. FINANCIAL CRITERIA.

(a) IN GENERAL.—The Secretary shall only provide financial assistance to projects that meet the requirements of sections 3103 and 3104 and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy; and

(2) improve the competitiveness of coal in order to maintain a diversity of domestic fuel choices in the United States to meet electricity generation requirements.

(b) CONDITIONS.—The Secretary shall not provide a funding award under this title unless—

(1) the award recipient is financially viable at the time of the receipt of additional Federal funding; and

(2) the recipient provides sufficient information to the Secretary for the Secretary to ensure that the additional funds are spent efficiently and effectively.

(c) EQUAL ACCESS.—The Secretary shall, to the extent practicable, utilize cooperative agreements, loan guarantees, and direct Federal loan mechanisms designed to ensure that all electrical generation owners have
equal access to these technology deployment incentives. The Secretary shall develop and direct a competitive solicitation process for the selection of technologies and projects under this title.

SEC. 3107. FEDERAL SHARE.

"The Federal share of the cost of a coal or related technology project funded by the Secretary under this title shall not exceed 50 percent. For purposes of this title, Federal funding includes only appropriated funds.

SEC. 3108. APPLICABILITY.

"No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of the Clean Air Act (42 U.S.C. 7429), or achievable in practice for purposes of section 171 of the Clean Air Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title."

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end the following:

TITLE XXX—CLEAN AIR COAL PROGRAM

Sec. 3101. Findings; purposes; definitions.
Sec. 3102. Authorization of appropriation.
Sec. 3103. Authorization of appropriations.
Sec. 3104. Air pollution control program criteria.
Sec. 3105. Criteria for generation projects.
Sec. 3106. Financial criteria.
Sec. 3107. Federal share.
Sec. 3108. Applicability.

TITLE V—INDIAN ENERGY

SEC. 501. SHORT TITLE.

This title may be cited as the "Indian Tribal Energy Development and Self-Determination Act of 2006."
“(4) The Secretary of Energy may issue such regulations as necessary to carry out this subsection.

“(5) There are authorized to be appropriated under this subsection-(a) such sums as are necessary for each of fiscal years 2006 through 2016.

“(c) DEPARTMENT OF ENERGY LOAN GUARANTEES—

“(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

“(2) A loan guarantee under this subsection shall be made by—

“(A) a financial institution subject to examination by the Secretary of Energy; or

“(B) an Indian tribe, from funds of the Indian tribe.

“(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

“(4) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

“(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

“(b) grants—

“(1) In purchasing electricity or any other energy product or by-product, a Federal agency or department may make funds available to the Indian tribe, on an annual basis, grants to carry out such activities under such agreement described in subparagraphs (D) and (E) of subsection (e)(2).

“(c) RENEWABLES—A lease or business agreement described in paragraph (a) or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

“(d) VALIDITY—The right-of-way, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid in the Indian tribe under which it was executed as a right-of-way or was authorized by the provisions of a tribal energy resource agreement approved by the Secretary under subsection (e).

“(e) TRIBAL ENERGY RESOURCE AGREEMENTS—

“(1) On issuance of regulations under paragraph (a), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

“(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), or not later than 180 days after the date the Secretary receives a revised tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall approve or disapprove the tribal energy resource agreement.

“(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

“(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe;

“(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

“(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

“(A) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way under this section;

“(B) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

“(C) address amendments and renewals;

“(D) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

“(E) address technical or other relevant requirements;

“(F) establish requirements for environmental review in accordance with subparagraph (C); (G) ensure compliance with all applicable environmental laws; (H) identify final approval authority; (I) provide for public notification of final approvals; (K) establish a process for consultation with any affected States concerning off reservation impacts, if any, identified pursuant to the provisions required under subparagraph (D); (L) describe the remedies for breach of the lease, business agreement, or right-of-way; and

“(M) require that—

“(i) the Secretary determine that, in the event that any of its provisions violates an express term or requirement set forth in the tribal energy resource agreement pursuant to which it was executed—

“(ii) the Secretary take such actions to ensure that such violation is cured.
(aa) such provision shall be null and void; and
(bb) if the Secretary determines such provision to be material, the Secretary shall have the authority to suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe.

(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations adopted pursuant to this subsection; and

(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal remedies that must be exhausted before a petition may be submitted to the Secretary pursuant to paragraph (7)(B).

(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for:

(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

(ii) the identification of proposed mitigation measures;

(iii) a process for ensuring that the public is informed of and has an opportunity to comment on the environmental impacts of the proposed action before tribal approval of the lease, business agreement, or right-of-way; and

(iv) sufficient administrative support and technical capability to carry out the environmental review process.

(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

(i) provisions requiring the Secretary to conduct a periodic review and evaluation to monitor the performance of the Indian tribe’s activities associated with the development of energy resources under the tribal energy resource agreement; and

(ii) when such review and evaluation result in a finding by the Secretary of imminent jeopardy to a physical trust asset arising from the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take appropriate actions determined by the Secretary to protect such asset, which actions may include reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and conditions that gave rise to such jeopardy have been corrected.

(E) The periodic review and evaluation described in subparagraph (D) shall be conducted on an annual basis, except that, after the third such annual review and evaluation, the Secretary and the Indian tribe may mutually agree in the tribal energy resource agreement to authorize the review and evaluation required by subparagraph (D) to be conducted once every 2 years.

(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted for approval under paragraph (1). The Secretary’s determination whether to approve or disapprove, by letter, a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date of disapproval—

(A) notify the Indian tribe in writing of the basis for the disapproval;

(B) identify specific terms or other actions required to address the concerns of the Secretary; and

(C) provide the Indian tribe with an opportunity to submit a revised tribal energy resource agreement.

(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in violation of any applicable provision of the tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary’s regulations adopted pursuant to paragraph (7)(B), provide to the Secretary—

(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document);

(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to protect the Indian tribe’s rights under the lease, business agreement, or right-of-way.

(6)(A) For purposes of the activities to be undertaken by the Secretary pursuant to this section, the Secretary shall—

(i) carry out such activities in a manner consistent with the trust responsibilities of the United States relating to mineral and other trust resources; and

(ii) act in good faith and in the best interests of the Indian tribe.

(B) Subject to the provisions of subsections (a)(2), (b), and (c) waiving the requirement of Secretarial approval of leases, business agreements, and rights-of-way executed pursuant to tribal energy resource agreements approved under this section, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship between the United States and the Indian tribes, and other provisions of Federal law or the United States, Executive Orders, or agreements between the United States and any Indian tribe.

(7)(A) In this paragraph, the term ‘interested party’ means any person or entity the Secretary determines to be an interested party to any such lease, business agreement, or right-of-way.

(B) Prior to seeking to ensure compliance with the provisions of the approved tribal energy resource agreement, as alleged in the petition, the Secretary shall—

(i) temporarily suspending some or all activities under a lease, business agreement, or right-of-way under this section until the Indian tribe to comply with a tribal energy resource agreement of an Indian tribe under subparagraph (C)(i) the Secretary shall—

(i) make a written determination that described manner of the Indian tribe’s action constitutes or is in violation of the tribal energy resource agreement has been violated;

(ii) provide the Indian tribe with a written notice of the violations together with the written determination.

(iii) before taking any action described in subparagraph (C)(iii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to demonstrate compliance with the tribal energy resource agreement.

(C) An Indian tribe described in subparagraph (B)(ii) shall retain any appeal as provided in regulations issued by the Secretary.

(8) Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2005, the Secretary shall issue regulations that implement the provisions of this subsection.

(9)(A) In this paragraph, the term ‘interest-
“(i) voluntarily rescind a tribal energy resource agreement approved by the Secretary under this subsection; and

(ii) return to the Secretary the responsibility for approving any future leasing, business agreements, and rights-of-way described in this subsection;

(C) provisions setting forth the scope of, and procedures for, periodic review and evaluation described in subparagraphs (D) and (E) of paragraph (2), including provisions for review of transactions, reports, site inspections, and any other review activities that the Secretary determines to be appropriate; and

(D) provisions defining final agency actions of administering agencies and appeals from determinations of the Secretary under paragraph (7).

(1) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

(a) any Federal environmental law;

(b) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 2101 et seq.); or


(2) AUTHORIZATION OF APPROPRIATIONS.—

There is authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2006 through 2016 to implement the provisions of this section and to make appropriate technical assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal energy resource agreements in accordance with this section.

SEC. 2605. INDIAN MINERAL DEVELOPMENT REVIEW.

(a) In General.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

(b) Report.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2000, the Secretary shall submit to Congress a report that includes—

(1) the results of the review;

(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

SEC. 2606. FEDERAL POWER MARKETING ADMINISTRATION.

(a) DEFINITIONS.—In this section:

(1) The term ‘Administrator’ means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

(2) The term ‘power marketing administration’ means—

(A) the Bonneville Power Administration;

(B) the Western Area Power Administration; and

(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

(c) AUTHORITY OF THE ADMINISTRATOR.—In carrying out this section, and in accordance with existing law—

(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

(3) the Administrator of the Western Area Power Administration may purchase non-federally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2000, the Secretary of Energy shall submit to Congress a report that—

(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Bonneville Power Administration and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

(2) identifies—

(A) the quantity of power allocated to, or used for the benefit of Indian tribes by the Western Area Power Administration;

(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to deliver Federal power.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.

(g) CONTRACT AMENDMENTS.—(1) In an agreement of indemnification entered into under paragraph (1) of section 2210(d) of title 42, United States Code, the amount of any indemnification shall be agreed upon and approved by the Secretary and the contractor as are approved by the Secretary.

(2) Neither the Secretary nor the contractor shall be liable for any amounts paid under the agreement of indemnification.

(3) The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance as authorized by section 217 of the Department of Energy Organization Act, as added by section 502 of this title, and section 202 of the Energy Policy Act of 1992.

SEC. 2607. INDIAN MINERAL DEVELOPMENT PROJECT.

In carrying out this title and the amendments made by this title, the Secretary of Energy and the Secretary shall, as appropriate, carry out the maximum extent practicable, involve and consult with Indian tribes.
enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to direct, or appear to direct, the design, construction, or operation of a proposed nuclear-weapons-related facility in any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities contrary to the interests of any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 623(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 297(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2778(d)) to have provided repeatedly support for acts of international terrorism). This subsection shall not apply to nuclear incidents occurring as a result of missions, carried out under the direction of the Secretary of Energy, the Secretary of Defense, or the Secretary of State, that are necessary to safely secure, store, transport, or remove nuclear material, or to nuclear safety or non-proliferation purposes.

SEC. 611. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A(i) of the Atomic Energy Act of 1946 (42 U.S.C. 2234a(i)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1946 (42 U.S.C. 2234a(d)) is amended to read as follows:—

(1) Notwithstanding subsection a., in the case of a contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid during any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

(2) For purposes of this section, the term ‘not-for-profit institution’ means—

(a) an educational institution; and

(b) an entity that is critical to the performance of the duties of the Commission.

SEC. 612. FINANCIAL ACCOUNTABILITY.

(a) AMENDMENT.—Section 170 of the Atomic Energy Act of 1946 (42 U.S.C. 2230) is amended by adding at the end the following new subsection:

‘‘y. FINANCIAL ACCOUNTABILITY.—(1) Notwithstanding any provision of law, the Attorney General may bring an action in the appropriate United States district court to recover from a contractor of the Secretary (or subcontractor or supplier of such contractor) amounts paid by the Federal Government under any agreement of indemnification for public liability resulting from the conduct of an annuitant that constitutes intentional misconduct of any corporate officer, manager, or superintendent of such contractor (or subcontractor or supplier of such contractor).

(2) The Attorney General may recover under paragraph (1) an amount not to exceed the amount of the profit derived by the defendant contractor.

(3) No amount recovered from any contractor (or subcontractor or supplier of such contractor) under paragraph (1) may be reimbursed directly or indirectly by the Department of Energy.

(4) Paragraph (1) shall not apply to any non-profit entity conducting activities under contract for the Secretary.

(5) No waiver of a defense required under this section shall prevent a defendant from asserting such defense in an action brought under this subsection.

(6) The Secretary shall, by rule, define the terms ‘profit’ and ‘non-profit entity’ for purposes of this subsection. Such rule shall be completed not later than 180 days after the date of the enactment of this section.’’

SEC. 623. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1946 (42 U.S.C. 220l(w)) is amended—

(1) by striking ‘‘for or is issued’’ and all that follows through ‘‘Certificate for, or issued by the Commission, a license or certificate’’;

(2) by striking ‘‘483a’’ and inserting ‘‘9701’’; and

(3) by striking ‘‘, of applicants for, or holders of, such licenses or certificates’’.

SEC. 624. ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1946 (42 U.S.C. 2201) is amended by adding at the end the following:

‘‘y. Exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.’’

SEC. 625. ANTITRUST REVIEW.

Section 105 c. of the Atomic Energy Act of 1946 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

‘‘(9) APPLICABILITY.—This subsection does not apply to an application for a license to operate a utilization facility or production facility under section 103 or 104 b. that is filed on or after the date of enactment of this paragraph.’’

SEC. 626. DECLASSIFICATION.

Section 161 i. of the Atomic Energy Act of 1946 (42 U.S.C. 220l(i)) is amended—

‘‘(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be amended, on the date of enactment of the Price-Anderson Amendment Act of 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.’’

(c) LIABILITY LIMIT.—Section 170 e.1(B) of the Atomic Energy Act of 1946 (42 U.S.C. 2216(e.1)(B)) is amended—

(1) by striking ‘‘the maximum amount of financial protection required under subsection b. or’’; and

(2) by inserting paragraph (3) of subsection d., whichever amount is more” and inserting ‘‘paragraph (2) of subsection d.’’.

SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1946 (42 U.S.C. 2205(d)(5)) is amended by striking ‘‘$1,300,000,000’’ and inserting ‘‘$500,000,000’’.

(b) LIABILITY LIMIT.—Section 170 e.(4) of the Atomic Energy Act of 1946 (42 U.S.C. 2214(e)(4)) is amended by striking ‘‘$1,300,000,000’’ and inserting ‘‘$500,000,000’’.

SEC. 606. REPORTS.

Section 170 p. of the Atomic Energy Act of 1946 (42 U.S.C. 2210(p)) is amended by striking ‘‘August 1, 1986’’ and inserting ‘‘December 31, 2001’’.

SEC. 607. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1946 (42 U.S.C. 2217(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

‘‘(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not later than during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

(A) that date, in the case of the first adjustment under this paragraph; or

(B) the previous adjustment under this paragraph.’’

SEC. 608. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1946 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

‘‘(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 190,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.

SEC. 609. APPLICABILITY.

The amendments made by sections 603, 604, and 605 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 610. PROHIBITION ON ASSUMPTION BY UNITED STATES GOVERNMENT OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.

Section 170 of the Atomic Energy Act of 1946 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

‘‘u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.—Notwithstanding this section or any other provision of law, the United States or of any department, agency, or instrumentality of the United States Government may...’’
(1) by striking “(3)” and inserting “(5)”;

(2) by inserting before the semicolon at the end the following new sub-paragraph: “(5) Except as provided in paragraph (5), the United States Government shall not make any transfer of or sale of uranium in any form subject to paragraphs (2), (3), and (4), unless the adverse determination or final decision, the Secretary shall notify Congress, in writing, of the actions taken to remediate any adverse impact of such sales or transfers.

SEC. 631. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2006, 2007, and 2008 for—

(1) cooperative, cost-shared agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental remediation technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) reclamation of tailings and waste fields; and

(C) decommissioning and decontamination activities.

(b) DOMESTIC URANIUM PRODUCER.—For purposes of this section, the term “domestic uranium producer” has the meaning given in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 22860(4)), except that the term shall include any person that has not produced uranium from domestic reserves on or after July 30, 1998.

(c) LIMITATION.—No activities funded under this section may be carried out in the State of New Mexico.

SEC. 632. WHISTLEBLOWER PROTECTION.

(a) DEFINITION OF EMPLOYER.—Section 21(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5861 et seq.) is amended by adding the following new paragraph:

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “; and”;

and

(3) by adding at the end the following:

“(E) a contractor or subcontractor of the Commission.”

(b) De NOVO REVIEW.—Subsection (b) of section 211 of the Energy Reorganization Act of 1974 (42 U.S.C. 5861(a)) is amended by adding at the end the following new paragraph:

“If the Secretary has not issued a final decision within 60 days after the filing of a complaint under paragraph (1), and there is no showing that such delay is due to the bad faith of the person seeking relief under this paragraph, such person may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such action without regard to the amount in controversy.”

SEC. 633. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1946 (42 U.S.C. 2160d) is amended—

(1) in subsection a., by striking “a. The Commission” and inserting “a. In GENERAL.—Except as provided in subsection b., any steps taken to remediate any adverse impact of such sales or transfers.”;

(2) by redesignating subsection b. as subsection c.; and

(3) by inserting after subsection a. the following:

“b. MEDICAL ISOTOPE PRODUCTION.—

(1) DEFINITIONS.—In this subsection:

(A) HIGHLY ENRICHED URANIUM.—The term ‘highly enriched uranium’ means uranium enriched to include concentration of U-235 above 20 percent.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

No activities funded under this section may be carried out in the State of New Mexico.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy and the Corporation dated June 17, 2002.
‘(B) MEDICAL ISOTOPE.—The term ‘medical isotope’ includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, health maintenance, or therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

‘(D) RECIPIENT COUNTRY.—The term ‘recipient country’ means Canada, Belgium, France, Germany, and the Netherlands.

‘(2) LICENSES.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection a.), the Commission determines that—

‘(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignee and the ultimate consignee specified in the license are required, in the case of the highly enriched uranium solely to produce medical isotopes; and

‘(ii) the recipient country authorizes the spent fuel from the reactor to be reprocessed in the United States;

‘(B) IMPOSITION OF ADDITIONAL REQUIREMENTS.—If the Commission determines that additional protective requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission may impose such requirements as license conditions or through other appropriate means.

‘(4) FIRST REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(A)(i).

‘(6) CERTIFICATION.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, the Commission shall certify to Congress that such facilities are capable of meeting such requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic use. The Secretary shall submit to Congress a certification to that effect.

‘(7) SUNSET PROVISION.—Not later than 180 days after the date of enactment of this section, the Secretary shall submit to Congress a report that identifies options for ensuring that, wherever possible, generators and users of medical isotopes bear all reasonable costs of waste disposal; and

‘(vi) in coordination with the Environmental Protection Agency and the Commission, an identification of any new regulatory guidance needed for the disposal of GTCC waste.

‘(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to Congress an update of the Secretary’s operational strategy for continued recovery and storage of GTCC waste until a permanent disposal facility is available.

‘(B) FEASIBILITY.—The Secretary shall develop a comprehensive plan for permanent disposal of GTCC waste which includes plans for a disposal facility. This plan shall be transmitted to Congress in a series of reports, including the Secretary’s update report submitted to Congress that made comprehensive recommendations for the disposal of GTCC waste.

‘(C) REPORT ON COST AND SCHEDULE FOR COMPLETION OF ENVIRONMENTAL IMPACT STATEMENT AND RECORD OF DECISION.—Not later than 180 days after the date of submittal of the Secretary’s update report, the Secretary shall submit to Congress a report containing an estimate of the cost and the schedule for completing the environmental impact statement and record of decision for the permanent disposal facility, utilizing either a new or existing facility, for GTCC waste.
by inserting ‘‘a.’’ before ‘‘No nuclear materials and equipment’’; and (2) by adding at the end the following new subsection: ‘‘(b) Notwithstanding any other provision of law, specifically a section of this Act, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including information, shall be exported, reexported, transferred, or retransferred, wherever directly or indirectly, by or on behalf of Federal agencies, issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government shall have been identified by the Secretary of State as engaged in state sponsorship of terrorism or specifically including any country the government of which has been determined by the Secretary of State under section 2230(a) of the Foreign Assistance Act of 1961 (as amended by the Act of March 27, 1971), section 6(a)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or section 48(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided significant support for acts of international terrorism.’’

‘‘(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, where the items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Nuclear Regulatory Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

‘‘(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress, and certifies to the Secretary, that not later than 1 year and subject to any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons

(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsecured nuclear materials;

(B) the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

(C) the waiver of that paragraph is in the vital national security interest of the United States; or

(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.’’

SEC. 638. NATIONAL URANIUM STOCKPILE.

The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended by adding at the end the following new section:

‘‘SEC. 5118. NATIONAL URANIUM STOCKPILE.

(a) Stockpile Creation.—The Secretary of Energy may create a national low-enriched uranium stockpile with the goals to—

(1) enhance national energy security; and

(2) reduce the proliferation threat.

(b) Source of Material.—The Secretary shall obtain material for the stockpile from—

(1) material derived from blend-down of Russian highly enriched uranium derived from weapons materials; and

(2) domestically mined and enriched uranium.

(c) Limitation on Sales or Transfers.—Sales or transfer of material in the stockpile shall be governed by section 5112.

SEC. 639. NUCLEAR REGULATORY COMMISSION MEETINGS.

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after the discussions. The Commission shall promptly make a transcript of the recording available to the public on request, except to the extent that public disclosure is exempted by or prohibited by law. The Commission shall not apply to a meeting, within the meaning of that term under section 552(a)(2) of title 5, United States Code.

SEC. 640. EMPLOYEE BENEFITS.

Section 3102(h) of the USEC Privatization Act (42 U.S.C. 2297h-8(a)) is amended by adding at the end the following new paragraph:

‘‘(8) Continuity of Benefits.—Not later than 90 days after enactment of this paragraph, the Secretary shall implement such actions as are necessary to ensure that any employee who—

(A) is involved in providing infrastructure or environmental remediation services at the Portsmouth, Ohio, or the Paducah, Kentucky, Gaseous Diffusion Plant,

(B) has been an employee of the Department of Energy’s predecessor management and integrating contractor (or its first or second tier subcontractors), or of the Corporation, at the Paducah, Ohio, or the Paducah, Kentucky, facility; and

(C) was eligible as of April 1, 2005, to participate in or transfer into the Multiple Employer Pension Plan or the associated multiple employer retiree health care benefit plans, as defined in those plans,

shall continue to be eligible to participate in or transfer into such pension or health care benefit plans.’’

Subtitle C—Additional Hydrogen Production Provisions

SEC. 651. HYDROGEN PRODUCTION PROGRAMS.

(a) Advanced Reactor Hydrogen Generation Program

(1) Project establishment.—The Secretary is directed to establish an Advanced Reactor Hydrogen Generation Project.

(2) Project definition.—The project shall consist of the research, development, design, construction, and operation of a hydrogen production cogeneration research facility that, relying on commercial reactors, enhances safety features, reduces waste production, enhances thermal efficiencies, increases proliferation resistance, and has the potential for improved economics and physical security in reactor siting. This facility shall be constructed so as to enable research and development on advanced reactors and of alternative approaches for reactor-based production of hydrogen.

(b) Applicability to Exports Approved for Transfer Under Transfer Determinations

(1) Notwithstanding any other provision of law, specifically a section of this Act, and except as provided in paragraph (a) of this section, shall apply with respect to exports that are approved for transfer before the date of the enactment of this Act but have not yet been transferred as of that date.

(c) National Uranium Stockpile

(1) Project Management.—The project shall be managed within the Department by the Office of Nuclear Energy, Science, and Technology.

(2) Lead Laboratory.—The lead laboratory for the project, providing the site for the reactor construction, shall be the Idaho National Laboratory (in this subsection referred to as ‘‘INL’’).

(C) Steering Committee.—The Secretary shall establish a national steering committee with membership from national laboratories, universities, and industry to provide advice to the Secretary and the Director, the Office of Energy, Science, and Technology on technical and program management aspects of the project.

(d) Collaboration.—Project activities shall be conducted at national laboratories, universities, domestic industry, and international partners.

(4) Project Requirements.

(a) Research and Development.

(i) In General.—The project shall include planning, research and development, design, and construction of an advanced, next-generation nuclear energy system capable of enabling further research and development on advanced reactor technologies and alternative approaches for reactor-based generation of hydrogen.

(ii) Reactor Test Capabilities at INL.—The project shall utilize, where appropriate, existing reactor test capabilities resident at INL.

(iii) Alternatives.—The project shall be designed to explore technical, environmental, and economic feasibility of alternative approaches for reactor-based hydrogen production.

(iv) Industrial Lead.—The industrial lead for the project shall be a company incorporated in the United States.

(b) International Collaboration.

(i) In General.—The Secretary shall seek international cooperation, participation, and financial contribution in this project.

(ii) Assistance from International Partners.—The Secretary may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where at least one party will provide access to cost-effective and relevant skills or test capabilities.

(iii) Generation IV International Forum.—International activities shall be coordinated with the Generation IV International Forum.

(iv) Generation IV Nuclear Energy Systems Program.—The Secretary may combine this project with the Generation IV Nuclear Energy Systems Program.

(d) Partnerships.—The Secretary shall establish cost-shared partnerships with domestic industry or international participants for the research, development, design, construction, and operation of the research facility, and preference in determining the final project structure shall be given to an arrangement project which retains United States leadership while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

(e) Project Costs.—The Secretary shall select technologies and develop the project to provide initial testing of either hydrogen systems.

H2238

CONGRESSIONAL RECORD — HOUSE

April 20, 2005
production or electricity generation by 2011, or provide a report to Congress explaining why this date is not feasible.

(F) **WAIVER OF CONSTRUCTION TIMELINES.**—The Secretary determined to construct an Advanced Reactor Hydrogen Cogeneration Project without the constraints of DOE Order 413.3, relating to program and project management, to safeguard the confidentiality of national assets, as necessary to meet the specified operational date.

(G) **COMPETITION.**—The Secretary may fund up to 1 team and up to 1 year to develop detailed proposals for competitive evaluation and selection of a single proposal and concept for further progress. The Secretary shall develop the details of the competitive evaluation of proposals.

(H) **USE OF FACILITIES.**—Research facilities in industry, national laboratories, or universities either within the United States or with cooperating international partners may be used to develop the enabling technologies for the research facility. Utilization of domestic university-based facilities shall be encouraged to provide educational opportunities for student development.

(I) **ROLE OF NUCLEAR REGULATORY COMMISSION.**—

(i) **IN GENERAL.**—The Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this section, except that the grant to NNSA under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(ii) **RISK-BASED CRITERIA.**—The Secretary shall seek active participation of the Nuclear Regulatory Commission throughout the project to develop risk-based criteria for any future commercial development of a similar Advanced Reactor Technology.

(J) **REPORT.**—The Secretary shall develop and transmit to Congress a comprehensive project plan not later than 3 months after the date of enactment of this Act. The project plan shall be updated annually with each annual budget submission.

(b) **ADVANCED NUCLEAR REACTOR TECHNOLOGIES.**—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subtitle related to advanced nuclear reactor technologies and for implementing the recommendations related to advanced nuclear reactor technologies that are included in the report transmitted under subsection (d); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the commercial viability of small powers for producing electricity and hydrogen using an advanced gas-cooled reactor.

(c) **COLLOCATION WITH HYDROGEN PRODUCTION FACILITY.**—Section 103 of the Atomic Energy Act of 1954 (42 U.S.C. 2011) is amended by adding at the end the following new subsection:

‘‘g. The Commission shall give priority to the licensing of a facility that is collocated with a hydrogen production facility. The Commission shall issue a final decision approving or disapproving the issuance of a license to construct and operate a utilization facility not later than the expiration of 3 years after the date of the submission of such application, if the application referred to in subsection (b) has been processed and is suitable for action by the Commission before the expiration of 3 years after the date of the submission of such application.’’

(d) **REPORT.**—The Secretary shall transmit to Congress not later than 120 days after the date of this Act a report containing detailed summaries of the roadmaps prepared under subsection (b)(1), descriptions of the Secretary’s progress in establishing the projects and other programs required under this section, and recommendations for promoting the availability and competitiveness of energy technologies for the production of hydrogen.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of supporting research programs to develop and commercialize advanced nuclear reactor technologies under this section, there are authorized to be appropriated to the Secretary—

(1) $65,000,000 for fiscal year 2006;

(2) $74,750,000 for fiscal year 2007;

(3) $85,962,500 for fiscal year 2008;

(4) $98,856,875 for fiscal year 2009;

(5) $113,685,406 for fiscal year 2010;

(6) $130,738,217 for fiscal year 2011;

(7) $150,348,950 for fiscal year 2012;

(8) $172,901,292 for fiscal year 2013;

(9) $196,836,496 for fiscal year 2014; and

(10) $228,661,959 for fiscal year 2015.

SEC. 652. DEFINITIONS.

For purposes of this subtitle—

(1) ‘‘advanced nuclear reactor technologies’’ means—

(A) technologies related to advanced light water reactors that may be commercially available, including commercialized reactors with passive safety features, for the generation of electric power from nuclear fission and the production of hydrogen; and

(B) technologies related to other nuclear reactors that may require prototype demonstration prior to availability in the midterm or long-term, including high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of electric power from nuclear fission and the production of hydrogen;

(2) the term ‘‘advanced nuclear reactor technologies’’ means advanced nuclear reactor technologies and other appropriate Federal, State, and local agencies and private entities, shall conduct a study to identify the types of threats that pose an appreciable risk to the security of the type of facilities licensed under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Such study shall take into account, but not be limited to—

(1) the events of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attacks on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for an attack from several persons employed at the facility;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weapons;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration;

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

(11) the potential to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and

(12) the potential for theft and diversion of nuclear materials from such facilities.

SEC. 653. FEDERAL ACTION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress and the Commission a report—

(1) summarizing the types of threats identified under subsection (a); and

(2) classifying each type of threat identified under subsection (a) in accordance with existing laws and regulations, as either—

(A) involving attacks and destructive acts, including acts committed against a facility by an enemy of the United States, whether a foreign government or other person, or otherwise falling under the responsibility of the Federal Bureau of Investigation;

(B) involving the type of risks that Commission licensees should be responsible for guarding against.

(c) **FEDERAL ACTION REPORT.**—Not later than 90 days after the date on which a report is transmitted under subsection (b), the President shall transmit to Congress a report on actions taken to address the types of threats identified under subsection (b)(2)(A), including identification of the Federal, State, and local agencies responsible for carrying out such laws and Regulations and authorities of the United States. Such report may include a classified annex, as appropriate.

(d) **REGULATIONS.**—Not later than 180 days after the date on which a report is transmitted under subsection (b), the Commission may, by rule, the design basis threats issued before the date of enactment of this section as the Commission considers appropriate based on the summary and classification report.

(e) **PHYSICAL SECURITY PROGRAM.**—The Commission shall establish an operational safeguards response evaluation program that ensures that the physical protection capability and operational safeguards response for sensitive nuclear facilities, as determined by the Commission consistent with the protection of public health and the common defense and security, shall be tested periodically through Commission approved or designed, observed, and evaluated force-on-force exercises to demonstrate the ability to defeat the design basis threat is being maintained. For purposes of this subsection, the term ‘‘sensitive nuclear facilities’’ includes at a minimum those nuclear power plants and category 1 fuel cycle facilities.

(f) CONTROL OF INFORMATION.—Notwithstanding any other provision of law, the Commission may undertake any rulemaking under this subtitle in a manner that will protect safeguards and classified national security information.

(g) **FEDERAL SECURITY COORDINATORS.**—

(1) **REGIONAL OFFICES.**—Not later than 18 months after the date of the enactment of this Act, the Commission shall assign a Federal security coordinator, under the employment of the Commission, to each region of the Commission.

(2) **RESPONSIBILITIES.**—The Federal security coordinator shall be responsible for—

(A) communicating with the Commission and other Federal, State, and local authorities concerning threats, including threats against such classes of facilities as the Commission determines to be appropriate, regarding such classes of facilities as the Commission determines to be appropriate.

(B) coordinating with such classes of facilities as the Commission determines to be appropriate to maintain security consistent with the security plan in accordance with the appropriate level of threat.

(C) assisting in the coordination of security measures among the private security...
forces at such classes of facilities as the Commission determines to be appropriate and Federal, State, and local authorities, as appropriate.

(b) FIREARMS TRAINING PROGRAM.—The President shall establish a program to provide technical assistance and training to Federal agencies, the National Guard, and State and local fire departments and emergency response agencies in responding to threats against a designated nuclear facility.

SEC. 662. FINGERPRINTING FOR CRIMINAL HISTORY RECORD CHECKS

(a) IN GENERAL.—Subsection a. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(a)) is amended—

(1) by striking “The Nuclear” and all that follows through “section 147,” and inserting the following:—

“a. IN GENERAL.—The Commission shall require each individual or entity—

(i) that is licensed or certified to engage in an activity subject to regulation by the Commission;

(ii) that has filed an application for a license or certificate to engage in an activity subject to regulation by the Commission;

(iii) that has notified the Commission, in writing, of an intent to file an application for licensing, certification, permitting, or approval, or any activity subject to regulation by the Commission, to fingerprint each individual described in subparagraph (B) before the individual is permitted unescorted access or access, whichever is applicable, as described in subparagraph (B).

(B) INDIVIDUALS REQUIRED TO BE FINGERPRINTED.—The Commission shall require to be fingerprinted each individual who—

(i) is permitted unescorted access to—

(1) a utilization facility; or

(2) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks;

(ii) is permitted access to safeguards information under section 147:—

(1) REQUIREMENTS.

(A) General.—The Commission may satisfy any requirement for a person to conduct fingerprinting under this section using any other biometric method for identification approved for use by the Attorney General, after the Commission has approved the alternative method by rule.

(B) TO REGULATE THE USE OF OTHER BIOMETRIC METHODS.

The Commission may require any individual or entity to provide all the results of the search to the Commission (including employees of contractors of licensees and certificate holders) to receive, possess, transport, import, and use 1 or more of those weapons, ammunition, or devices, if the Commission determines that—

(a) such authorization is necessary to the discharge of the security personnel’s official duties;

(b) the security personnel—

(1) are not otherwise prohibited from possessing or receiving a firearm under Federal or State law; or

(2) are discharging their official duties.

(iii) are engaged in the protection of—

(1) facilities owned or operated by a Commission licensee or certificate holder that is designated by the Commission; or

(2) radioactive material or other property subject to regulation by the Commission that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

(iv) are discharging their official duties.

(2) Such receipt, possession, transportation, importation, or use shall be subject to—

(A) chapter 44 of title 18, United States Code, except for section 922(a)(4), (o), (v), and (w); and

(B) chapter 53 of title 26, United States Code, except for section 5844; and

(C) a background check by the Attorney General, based on fingerprints and including such results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).”;

(b) ADMINISTRATION.—Subsection c. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(c)) is amended—

(1) by striking “subject to public notice and comment, regulations—” and inserting “requirement” and “and”;

(2) by striking paragraph (2)(B), “unescorted access to the facility of a licensee or certificate holder that has made an application for a license or certificate to engage in an activity subject to regulation by the Commission with respect to which unescorted access to the facility or radiation is permitted to the individual or entity that is required to conduct a background check by paragraph (1)(A),”; and

(c) BIOMETRIC METHODS.

Subsection d. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(d) is redesignated as subsection e., and the following is inserted after subsection c.:—

“d. USE OF OTHER BIOMETRIC METHODS.

The Commission may satisfy any requirement for a person to conduct fingerprinting under this section using any other biometric method for identification approved for use by the Attorney General, after the Commission has approved the alternative method by rule.”.

SEC. 663. USE OF FIREARMS BY SECURITY PERSONNEL OR LICENSEES AND CERTIFICATE HOLDERS OF THE COMMISSION.

FUEL

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following subsection:

“(1) NOTWITHSTANDING SUBSECTION 322(a), (v), and (w) of title 18, United States Code, or any similar provision of any State law or any similar rule or regulation of a State or any political subdivision of a State prohibiting the transfer or possession of a handgun, a rifle or shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semi-automatic assault weapon, ammunition for the foregoing category ammunitions feeding device, authorize security personnel of licensees and certificate holders of the Commission (including employees of contractors of licensees and certificate holders) to receive, possess, transport, import, and use 1 or more of those weapons, ammunition, or devices, if the Commission determines that—

(A) such authorization is necessary to the discharge of the security personnel’s official duties; and

(B) the security personnel—

(i) are not otherwise prohibited from possessing or receiving a firearm under Federal or State law; or

(ii) are discharging their official duties.

(2) SUCH RECEIPT, POSSESSION, TRANSPORTATION, IMPORTATION, OR USE SHALL BE SUBJECT TO—

(A) chapter 44 of title 18, United States Code, except for section 922(a)(4), (o), (v), and (w); and

(B) chapter 53 of title 26, United States Code, except for section 5844; and

(C) a background check by the Attorney General, based on fingerprints and including a check of the system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) to determine whether the person applying for the authorization has been convicted of a crime prohibiting the possession of a firearm or receiving a firearm under Federal or State law.

(3) This subsection shall become effective upon the issuance of guidelines by the Commission, and, in accordance with regulations prescribed under this Act, the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide for licensing, certification, permitting, or approval, or any activity subject to regulation by the Commission, to fingerprint each individual described in subparagraph (B) before the individual is permitted unescorted access or access, whichever is applicable, as described in subparagraph (B).

(B) INDIVIDUALS REQUIRED TO BE FINGERPRINTED.—The Commission shall require to be fingerprinted each individual who—

(i) is permitted unescorted access to—

(1) nuclear fuel fabrication facility subject to license under this Act;

(2) nuclear fuel conversion facility subject to license under this Act;

(3) nuclear reactor facility subject to license under this Act;

(4) nuclear decommissioning facility subject to license under this Act; or

(5) nuclear materials processing facility subject to license under this Act;

(ii) is permitted access to safeguards information under section 147:—

(1) REQUIREMENTS.

(A) General.—The Commission may satisfy any requirement for a person to conduct fingerprinting under this section using any other biometric method for identification approved for use by the Attorney General, after the Commission has approved the alternative method by rule.

(B) TO REGULATE THE USE OF OTHER BIOMETRIC METHODS.

The Commission may require any individual or entity to provide all the results of the search to the Commission (including employees of contractors of licensees and certificate holders) to receive, possess, transport, import, and use 1 or more of those weapons, ammunition, or devices, if the Commission determines that—

(A) such authorization is necessary to the discharge of the security personnel’s official duties; and

(B) the security personnel—

(i) are not otherwise prohibited from possessing or receiving a firearm under Federal or State law; or

(ii) are discharging their official duties.

(3) This subsection shall become effective upon the issuance of guidelines by the Commission, and, in accordance with regulations prescribed under this Act, the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide for licensing, certification, permitting, or approval, or any activity subject to regulation by the Commission, to fingerprint each individual described in subparagraph (B) before the individual is permitted unescorted access or access, whichever is applicable, as described in subparagraph (B).

(4) The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant.”

SEC. 664. UNAUTHORIZED INTRODUCTION OF DANGLING FUEL.

Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended in the first sentence by inserting “or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act” before the period at the end.

SEC. 665. SABOTAGE OF NUCLEAR FACILITIES OR VEHICLES.

(a) IN GENERAL.—Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended—

(1) in paragraph (2), by striking “storage facility” and inserting “storage, treatment, or disposal facility”;

(2) in paragraph (3)—

(A) by striking “such a utilization facility” and inserting “a utilization facility licensed under this Act”;

(B) by striking “or” at the end;

(3) in paragraph (4)—

(A) by striking “facility licensed” and inserting “licensed under this Act” and “uranium conversion, or nuclear fuel fabrication facility licensed or certified”;

(B) by striking the comma at the end and inserting a semicolon; and

(4) by inserting after paragraph (4) the following:

“(7) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, or nuclear fuel fabrication facility subject to license or certification during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility.

“(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

“(7) any radioactive material or other property subject to regulation by the Nuclear Regulatory Commission that, before the date of the offense, the Nuclear Regulatory Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security.”.

(b) PENALTIES.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2278a) is amended by striking “$10,000 or imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life” both places it appears and inserting “a term of years or for life, for up to life without parole”.

SEC. 666. SECURE TRANSFER OF NUCLEAR MATERIALS.

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201–2212b) is amended by adding at the end the following new section:
SEC. 170C. SECURE TRANSFER OF NUCLEAR MATERIALS.

(a) The Nuclear Regulatory Commission shall establish a system to ensure that material shall be transferred or received in the United States by any party pursuant to an import or export license issued by the Commission, accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying such material shall be subject to a security background check conducted by appropriate Federal entities.

(b) Except as otherwise provided by the Commission by regulation, the materials referred to in subsection (a) are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, low-level radioactive waste, and high-level radioactive waste (as defined in section 2(16) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(16))).

REGULATIONS. — Not later than 1 year after the date of the enactment of this Act, and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials or classes of individuals that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170C of the Atomic Energy Act of 1954, as added by subsection (a) of this section.

(c) The amendment made by subsection (a) shall take effect upon the issuance of regulations under subsection (b), except that the background check requirement shall become effective on a date established by the Commission.

(d) EFFECT ON OTHER LAW. — Nothing in this section or the amendments made by this section shall pre-empt, modify, or affect the applicability of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code.

(e) TABLE OF SECTIONS AMENDMENT. — The table of sections for chapter 14 of the Atomic Energy Act of 1954 is amended by adding at the end the following new item:

"SEC. 170C. Secure transfer of nuclear materials."

SEC. 667. DEPARTMENT OF HOMELAND SECURITY SECURITY CONSULTATION.

Before issuing a license for a utilization facility, the Nuclear Regulatory Commission shall consult with the Department of Homeland Security concerning the potential vulnerabilities of the location of the proposed facility to terrorist attack.

SEC. 668. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL. There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

(b) TOPICS. — The Nuclear Regulatory Commission Users Fees and Annual Charges.—Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a), by striking "Except as provided in paragraph (3), the" and inserting "The" in paragraph (1); and

(2) in paragraph (3) and in subsection (c) —

(A) by striking "and" at the end of paragraph (2)(A)(i); and

(B) by striking the period at the end of paragraph (2)(A)(ii) and inserting a semicolon.

(c) by adding at the end of paragraph (2)(A) the following:

"(III) amounts appropriated to the Commission for the fiscal year for implementa-
(B) administrative and recordkeeping expenses; 
(C) fuel and fuel infrastructure costs; 
(D) associated training and employee expenses; 
(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits associated with programs under those titles for fleets, covered persons, and the national economy; 
(3) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and 
(c) REPORT.—Upon completion of the study under this section, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992. SEC. 707. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLES USING REQUIREMENTS. Section 310(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13211(b)(1)) is amended by striking “1 year after the date of enactment of this subsection” and inserting “February 15, 2006”. Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses PART 1—HYBRID VEHICLES SEC. 711. HYBRID VEHICLES. The Secretary of Energy shall accelerate efforts directed toward the improvement of batteries and other rechargeable energy storage systems, hybrid systems integration, and other technologies for use in hybrid vehicles. SEC. 712. HYBRID RETROFIT AND ELECTRIC CONVERSION PROGRAM. (a) Establishment.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of hybrid retrofit and electric conversion technologies for combustion engine vehicles. 
(b) Eligible Recipients.—A grant shall be awarded under this section only— 
(1) to a local or State governmental entity; 
(2) to a for-profit or nonprofit corporation or other person; or 
(3) to 1 or more contracting entities that serve combustion engine vehicles for an entity described in paragraphs (1) or (2). 
(c) Awards.— 
(1) In general.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section. 
(2) Preferences.—In making awards of grants under this section, the Administrator shall prioritize proposals that— 
(A) will achieve the greatest reductions in emissions per proposal or per vehicle; or 
(B) involve the use of emissions control retrofit or conversion technology. 
(d) Conditions of Grant.—A grant shall be provided under this section on the conditions that— 
(1) combustion engine vehicles on which hybrid retrofit or conversion technology are to be demonstrated— 
(A) the retrofit or conversion technology applied will achieve low-emission standards consistent with the Optional National Low Emission Vehicle Program for Light-Duty Vehicles and Light-Duty Trucks (40 CFR Part 86) without model year restrictions; and 
(B) will be used for a minimum of 3 years; 
(2) grant funds will be used for the purchase of hybrid retrofit or conversion technology, including State taxes and contract fees; and 
(3) grant recipients will provide at least 15 percent of the total cost of the retrofit or conversion, including the purchase of hybrid retrofit or conversion, and all necessary labor for installation of the retrofit or conversion. 
(e) Verification.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify— 
(1) the hybrid retrofit or conversion technology to be installed; and 
(2) that grants are administered in accordance with this section. 
(f) Authorization of Appropriations.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended— 
(1) $300,000,000 for fiscal year 2005; 
(2) $35,000,000 for fiscal year 2006; 
(3) $45,000,000 for fiscal year 2007; and 
(4) such sums as are necessary for each of fiscal years 2008 through 2010. PART 2—ADVANCED VEHICLES SEC. 721. DEFINITIONS. In this part— 
(1) alternative fueled vehicle. 
(A) In general.—‘‘alternative fueled vehicle’’ means a vehicle propelled solely on an alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)). 
(B) Exclusion.—The term ‘‘alternative fueled vehicle’’ does not include a vehicle that the Secretary determines, by regulation, does not provide substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels. 
(2) fuel cell vehicle.—The term ‘‘fuel cell vehicle’’ means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electric energy (at least 70 percent of the electric energy) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such fuel cell system may or may not incorporate auxiliary energy storage systems to enhance vehicle performance. 
(3) hybrid vehicle.—The term ‘‘hybrid vehicle’’ means a heavy duty vehicle propelled by an internal combustion engine or heat engine using any combustible fuel and an onboard rechargeable energy storage device. 
(4) neighborhood electric vehicle.—The term ‘‘neighborhood electric vehicle’’ means a motor vehicle that— 
(A) meets the definition of a low-speed vehicle (as defined in part 571 of title 49, Code of Federal Regulations); 
(B) meets the definition of a zero-emission vehicle (as defined in section 239h-9 of title 49, Code of Federal Regulations); 
(C) meets the requirements of Federal Motor Vehicle Safety Standard No. 500; and 
(D) has a maximum speed of not greater than 25 miles per hour. 
(5) pilot program.—The term ‘‘pilot program’’ means the competitive grant program established under section 722. 
SEC. 722. PILOT PROGRAM. (a) Establishment.—The Secretary, in consultation with the Administrator of Transportation, shall establish a competitive grant pilot program, to be administered through the Clean Cities Program of the Department of Energy, to provide not more than 15 geo-graphically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b). 
(b) Grant purposes.—A grant under this section may be used for the following purposes: 
(1) The acquisition of alternative fueled vehicles or fuel cell vehicles, including— 
(A) public service vehicles, including neighborhood electric vehicles; and 
(B) motorized 2-wheel bicycles, scooters, or other vehicles for use by law enforcement agencies or other State or local government or metropolitan transportation authority employees. 
(2) The acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including— 
(A) buses used for public transportation or transportation to and from schools; 
(B) delivery vehicles for goods or services; and 
(C) ground support vehicles at public airports (including vehicles to carry baggage or push or pull airplanes toward or away from terminal gates). 
(3) The acquisition of ultra-low sulfur diesel vehicle; 
(4) Installation or acquisition of infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment; 
(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant. 
(c) Applications.— 
(1) Requirements.— 
(A) In general.—The Secretary shall issue requirements for applying for grants under the pilot program. 
(B) Minimum requirements.—At a minimum, the Secretary shall require that an application for a grant— 
(i) be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department of Energy; and 
(ii) include— 
(I) a description of the project proposed in the application, including how the project meets the requirements of this part; 
(II) an estimate of the ridership or degree of use of the project; 
(III) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, and a plan to collect and disseminate environmental data, related to the project to be funded under the grant, over the life of the project; 
(IV) a description of how the project will be eligible for Federal assistance after the completion of the term of the grant;
(V) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project; and
(VI) a description of which costs of the project will be supported by Federal assistance under this part; and
(VII) documentation to the satisfaction of the Secretary of Energy that ultra-low sulfur diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, and a commitment by the applicant to use such fuel in operating the project.
(2) PARTNERS.—An applicant under paragraph (1) may carry out a project under the pilot program in partnership with public and private entities, if the association has notified the Secretary of Energy to carry out this section, the Secretary of Energy shall award a grant made under this part to any applicant. In selecting projects under this section, the Secretary shall
(A) most likely to maximize protection of the environment;
(B) demonstrate the greatest commitment on the part of the applicant to ensure funding for the project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this part is completed; and
(C) meet the requirements of subsections (c)(1)(B)(i) and (c)(1)(B)(ii).
(3) PILOT PROJECT REQUIREMENTS.—
(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $200,000,000 in Federal assistance under the pilot program to any applicant.
(2) COST SHARING.—The Secretary shall not fund more than 50 percent of the cost incurred during the period of the grant, of any project under the pilot program.
(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.
(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.
(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.
(6) SCHEDULE.—
(a) PUBLICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere an appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due not later than 180 days after the date of publication of the notice.
(b) SELECTION.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer reviewed proposal, all applications for projects to be awarded a grant under the pilot program.
(c) LIMIT ON FUNDING.—The Secretary shall provide no less than 20 nor more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.
SEC. 723. REPORTS TO CONGRESS.
(a) TOTAL REPORTS.—Not later than 60 days after the date on which grants are awarded under this part, the Secretary shall submit to Congress a report containing—
(1) a complete list of the grant recipients and a description of the projects to be fund-
under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) SCHOOL BUS FLEET.—All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) USE OF FUNDS.—Funds provided under this section shall only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses, including State taxes and contract fees associated with the acquisition of such buses; and

(B) to provide—

(i) up to 20 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 25 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) GRANT RECIPIENT FUNDS.—The grant recipient shall be required to provide at least—

(A) 70 percent for the acquisition of alternative fuel school buses or supporting infrastructure; and

(B) 30 percent for the acquisition of ultra-low sulfur diesel fuel school buses.

(4) ULTRA-LOW SULFUR DIESEL FUEL.—In the case of a grant recipient receiving a grant for ultra-low sulfur diesel fuel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Administrator that diesel fuel containing not more than 15 parts per million of sulfur; and operate on diesel fuel containing not more than 15 parts per million of sulfur; and

(5) TIMING.—All alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and alternative fuel infrastructure acquired under a grant awarded under this section shall be purchased and placed in service as soon as practicable.

(g) BUSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), funding under a grant made under this section for the acquisition of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses shall only be used to acquire school buses—

(A) with a gross vehicle weight of greater than 14,000 pounds;

(B) that are powered by a heavy duty engine;

(C) in the case of alternative fuel school buses manufactured in model years 2004 through 2006, that emit not more than 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(D) in the case of ultra-low sulfur diesel fuel school buses manufactured in model years 2004 through 2006, that emit not more than 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(2) LIMITATIONS.—A bus shall not be acquired under this section that emits non-methane hydrocarbons or oxides of nitrogen at a rate greater than the best performing technology of the same class of ultra-low sulfur diesel fuel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall—

(1) seek, to the maximum extent practicable, to achieve nationwide deployment of alternative fuel school buses and ultra-low sulfur diesel fuel school buses through the program under this section;

(2) ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), of the amount of grant funding made available to carry out this section for any fiscal year, the Administrator shall use—

(A) 70 percent for the acquisition of alternative fuel school buses or supporting infrastructure; and

(B) 30 percent for the acquisition of ultra-low sulfur diesel fuel school buses.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—After the first fiscal year in which this program is in effect, if the Administrator determines that it is insufficiently funded to meet the requirements of subparagraph (A) or (B) of paragraph (1) for a fiscal year, effective beginning on August 1 of the fiscal year, the Administrator shall make the remaining funds available to other qualified grant applicants.

(j) REIMBURSEMENT OF BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy, consistent with the health, safety, and welfare of students and the proper operation and maintenance of school buses, to reduce the incidence of unnecessary school bus idling at schools when picking up and unloading students.

(k) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Administrator shall transmit to Congress a report evaluating implementation of the programs under this section and section 745.

(2) COMPONENTS.—The reports shall include a description of—

(A) the total number of grant applications received;

(B) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofit schools requested in grant applications;

(C) grants awarded and the criteria used to select the grant recipients;

(D) certified engine emission levels of all buses purchased or retrofitted under the programs under this section and section 745;

(E) an evaluation of the in-use emission levels of buses purchased or retrofitted under the programs under this section and section 743; and

(F) any other information the Administrator considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $45,000,000 for fiscal year 2005;

(2) $65,000,000 for fiscal year 2006;

(3) $90,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 743. DIESEL RETROFIT PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of retrofit technologies for diesel school buses.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to or more public school systems;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is jointly submitted by one or more school systems that the buses will serve, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, or particulate matter per proposal or per bus; or

(B) involve the use of emissions control retrofit technology on diesel school buses that operate solely on ultra-low sulfur diesel fuel.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) buses on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1991 or later; and

(C) will be used for the transportation of school children to and from school for a minimum of 5 years;

(2) grant funds will be used for the purchase of emission control retrofit technologies, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the retrofit emissions-control technology to be demonstrated on each bus;

(2) that buses powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will not emit more than 15 parts per million of sulfur; and

(3) that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $25,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006; and

(3) $45,000,000 for fiscal year 2007; and
(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 744. FUEL CELL SCHOOL BUSES.

(a) ESTABLISHMENT.—The Secretary shall establish a program for entering into cooperative agreements—

(1) with private sector fuel cell bus developers for the development of fuel cell-powered school buses;

(2) between Federal and State agencies to demonstrate the use of fuel cell-powered school buses.

(b) Cost Sharing.—The non-Federal contribution to each project funded under this section shall be not less than—

(1) 20 percent for infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) REPORTS TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000 for the period of fiscal years 2005 through 2007.

Subtitle D—Miscellaneous

SEC. 751. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary of Energy shall, in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, establish any research partnerships involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section—

(1) $25,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007; and

(3) $50,000,000 for fiscal year 2008.

SEC. 752. MOBILE SOURCE EMISSION REDUCTIONS TRADING AND CREDITING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the experience of the Administrator with the trading of mobile source emission reduction credits by owners or operators of stationary source emission sources to meet emission offset requirements within a nonattainment area.

(b) CONTENTS.—The report shall describe—

(1) projects approved by the Administrator that include the trading of mobile source emission reduction credits for use by stationary sources in complying with offset requirements, including a description of—

(A) project and stationary sources location;

(B) volumes of emissions offset and traded;

(C) the sources of mobile emission reduction credits; and

(D) if applicable, the cost of the credits;

(2) the significant issues identified by the Administrator in consideration and approval of trading in the projects;

(3) any findings for monitoring and assessing the air quality benefits of any approved project;

(4) the statutory authority on which the Administrator has based approval of the projects;

(5) an evaluation of how the resolution of issues in approved projects could be used in other projects; and

(6) any other issues that the Administrator considers relevant to the trading and generation of mobile source emission reduction credits for use by stationary sources or for other purposes.

SEC. 753. AVIATION FUEL CONSERVATION AND CREDITING.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas; and

(2) ways to promote fuel conservation measures for aviation to—

(A) enhance fuel efficiency; and

(B) reduce emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of the emissions on human health.

SEC. 754. DIESEL FUELED VEHICLES.

(a) DEFINITION OF TIER 2 EMISSION STANDARDS.—In this section, the term ‘‘Tier 2 emission standards’’ means the mobile source emission standards that apply to passenger cars, light trucks, and larger passenger vehicles manufactured after the 2003 model year, by the Administrator of the Environmental Protection Agency under sections 302 and 211 of the Clean Air Act (42 U.S.C. 7072, 7541).

(b) DIESSEL COMBUSTION AND AFTER-TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate efforts to improve diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(c) GOALS.—The Secretary shall carry out subsection (b) with a view toward achieving the following goals:

(1) Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier 2 emission standards.

(B) The heavy-duty emissions standards of 2007 that are applicable to heavy-duty vehicles under regulations issued by the Administrator of the Environmental Protection Agency as of the date of enactment of this Act.

(2) Developing the next generation of low-emission diesel engine technologies, including homogeneous charge compression ignition technology.

SEC. 755. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section—

(1) ADMINISTRATOR.—The term ‘‘Administrator’’ means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term ‘‘advanced truck stop electrification system’’ means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term ‘‘auxiliary power unit’’ means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term ‘‘heavy-duty vehicle’’ means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(b) AUTHORIZATION OF APPROPRIATIONS.—The term ‘‘idle reduction technology’’ means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(1) is used to reduce long-duration idling of a heavy-duty vehicle; and

(2) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(c) LONG-DURATION IDLING.—

(1) IN GENERAL.—The term ‘‘long-duration idling’’ means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(2) EXCLUSIONS.—The term ‘‘long-duration idling’’ does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during routine stoppages associated with traffic movement or congestion.

(d) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles with engines and (ii) update those models as the Administrator determines to be appropriate; and

(B) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of...
paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) Idle reduction deployment program.

(A) Establishment.—

(i) In general.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology.

(ii) Priority.—The Administrator shall give priority to the deployment of idle reduction technology based on beneficial effects of the technology, including effects on ability to lessen the emission of criteria air pollutants.

(B) Funding.—

(i) Authorization of appropriations.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) $19,500,000 for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008.

(ii) Cost sharing.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iii) Necessary and appropriate reductions.—The Administrator may reduce the non-Federal share required under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to promote the objectives of this section.

(5) Idling location study.—

(A) In general.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) Deadline for completion.—Not later than 180 days after the date of enactment of this Act the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) Vehicle weight exemption.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) Heavy duty vehicles.—

(A) In general.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

(B) Maximum weight increase.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

(C) Proof.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demobilization, inspection, and testing) that—

(i) the idle reduction technology is fully functional at all times; and

(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A)."

SEC. 757. BIODIESEL ENGINE TESTING PROGRAM.

(a) In general.—Not later that 180 days after the date of enactment of this Act, the Secretary shall initiate a partnership with diesel engine manufacturers, and diesel and biodiesel fuel providers, to include biodiesel testing in advanced diesel engine and fuel systems.

(b) Scope.—The program shall provide for testing to determine the impact of biodiesel from different sources on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and anti-tampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the outcomes of optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15-percentage points per-milllion sulfur content.

(c) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress on the findings of the program, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and advanced engine technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2006 through 2010 to carry out this program.

(e) Definition.—For purposes of this section, the term "biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials (D6751-02a) Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuel.

SEC. 758. HIGH OCCUPANCY VEHICLE EXCEPTION.

Notwithstanding section 102(a) of title 23, United States Code, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle—

(1) is a dedicated vehicle (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)); or

(2) is a hybrid vehicle (as defined by the State for the purpose of this section).

SEC. 759. ULTRA-EFFICIENT ENGINE TECHNOLOGY PROGRAM.

(a) Ultra-efficient engine technology partnership.—The Secretary of Energy shall enter into a cooperative agreement with the National Aeronautics and Space Administration for the development of ultra-efficient engine technology for aircraft.

(b) Performance objective.—The Secretary of Energy shall establish the following performance objectives for the program set forth in subsection (a):

(1) A fuel efficiency increase of 10 percent.

(2) A reduction in the impact of landing and takeoff greenhouse oxide emissions on local air quality of 70 percent.

(c) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 2006, 2007, 2008, 2009, and 2010.
(4) examination of the effects of the reduction referred to in subsection (a) on—
(A) gasoline supplies;
(B) the automobile industry, including sales of automobiles manufactured in the United States;
(C) motor vehicle safety; and
(D) air quality.
(5) Secretary.—The Administrator shall submit to Congress a report on the findings, conclusion, and recommendations of the study, no later than 1 year after the date of the enactment of this Act.

TITLE VIII—HYDROGEN

SEC. 801. DEFINITIONS.
In this title—
(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the Hydrogen Technical and Fuel Cell Advisory Committee established under section 803(b), and how the programs will address the marketability of hydrogen-related products at existing facilities or installations, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or units of the National Park System;
(2) depend on reliable power from hydrogen to carry out essential activities;
(3) lead to the replication of hydrogen technologies and draw such technologies into the marketplace;
(4) include vehicle, portable, and stationary demonstrations of fuel cell and hydrogen-based energy technologies;
(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen-based energy technologies;
(6) raise awareness of hydrogen technology among the public;
(7) facilitate identification of an optimum technology among competing alternatives;
(8) address distribution generated using renewable sources; and
(9) address applications specific to rural or remote locations, including isolated villages and islands, the National Park System, and tribal entities.

The Secretary shall give preference to programs which address multiple elements contained in paragraphs (1) through (9).

(d) DEPLOYMENT.—In carrying out the programs under this section, the Secretary shall, in partnership with the private sector, conduct activities to facilitate the deployment of hydrogen energy and energy infrastructure, fuel cells, and advanced vehicle technologies when compared to other vehicles.

(e) FUNDING.—
(1) IN GENERAL.—The Secretary shall carry out the programs under this section using a combination, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) RESEARCH CENTERS.—Activities under this section may be carried out by funding nationally recognized university-based or Federal laboratory research centers.

(3) COST SHARING.—
(1) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for research and development programs carried out under this title the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this title to be provided by Federal sources. The Secretary may reduce the non-Federal requirement under this paragraph if

(A) safe, economical, and environmentally sound hydrogen fuel cells;
(B) fuel cells for light duty and other vehicles;
(C) other technologies consistent with the Department’s plan.

(d) DEMONSTRATION.—In carrying out the programs under this section, the Secretary shall conduct demonstrations of hydrogen infrastructure projects, consistent with a determination of the maturity, cost-effectiveness, and environmental impacts of technologies supporting each project. In selecting projects under this subsection, the Secretary shall, to the extent practicable and in the public interest, select projects that—

(A) involve using hydrogen and related products at existing facilities or installations, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or units of the National Park System;

(B) raise awareness of hydrogen technology among the public;

(C) facilitate identification of an optimum technology among competing alternatives;

(D) address distribution generated using renewable sources; and

(E) address applications specific to rural or remote locations, including isolated villages and islands, the National Park System, and tribal entities.

The Secretary shall give preference to programs which address multiple elements contained in paragraphs (1) through (9).

(d) DEPLOYMENT.—In carrying out the programs under this section, the Secretary shall, in partnership with the private sector, conduct activities to facilitate the deployment of hydrogen energy and energy infrastructure, fuel cells, and advanced vehicle technologies when compared to other vehicles.

(e) FUNDING.—
(1) IN GENERAL.—The Secretary shall carry out the programs under this section using a combination, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) RESEARCH CENTERS.—Activities under this section may be carried out by funding nationally recognized university-based or Federal laboratory research centers.

(3) COST SHARING.—
the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(3) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary may take into account any grants, cooperative agreements, or contracts under this title.

(4) SIZE OF NON-FEDERAL SHARE.—The Secretary may consider the size of the non-Federal share in selecting projects.

(g) DISCLOSURE.—Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13292) relating to the protection of information shall apply to projects funded through grants, cooperative agreements, or contracts under this title.

SEC. 804. INTERAGENCY TASK FORCE.

(a) Establishment.—Not later than 120 days after the date of enactment of this Act, the President shall establish an interagency task force chaired by the Secretary with representatives from each of the following:

(1) The Office of Science and Technology Policy within the Executive Office of the President.

(2) The Department of Transportation.

(3) The Department of Defense.

(4) The Department of Commerce (including the National Institute of Standards and Technology).

(5) The Department of State.

(6) The Environmental Protection Agency.

(7) The National Aeronautics and Space Administration.

(8) Other Federal agencies as the Secretary determines appropriate.

(b) Duties.—

(1) Review.—The interagency task force shall work toward—

(A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydrogen-carrier fuels, including an infrastructure that supports buses and other fleet transportation;

(B) fuel cells in government and other applications, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels using hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety standards.

(2) Activities.—The interagency task force may organize workshops and conferences, issue publications, and may create databases to support its duties. The interagency task force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other advanced technologies, including the commercialization of such technology for the economic and environmentally safe production, distribution, delivery, storage, and use of hydrogen;

(C) update technical and other information made available as a result of the programs and activities under this title;

(D) promote the marketplace introduction of infrastructure for hydrogen fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential users.

(c) AGENCY COOPERATION.—The heads of all agencies, including those whose agencies are not represented on the interagency task force, shall cooperate with and furnish information to the interagency task force, the Advisory Committee, and the Department.

SEC. 805. ADVISORY COMMITTEE.

(a) Establishment.—The Hydrogen Technical and Fuel Cell Advisory Committee is established to advise the Secretary on the programs as specified under this title.

(b) Membership.—

(1) Members.—The Advisory Committee shall be comprised of not fewer than 12 nor more than 24 members. The members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, government agencies, Federal laboratories, Federal advisory boards, and international, environmental, and other appropriate organizations based on the Depart- ment's assessment of the technical and other qualifications of committee members and the needs of the Advisory Committee.

(2) Terms.—The term of a member of the Advisory Committee shall not be more than 3 years. The Secretary may appoint members of the Advisory Committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the Advisory Committee. A member of the Advisory Committee whose term is expiring may be reappointed.

(c) Review.—The Advisory Committee shall review and make recommendations to the Secretary on—

(1) the implementation of programs and activities under this title;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydrogen, fuel cells, and the plan under section 802.

(d) Response.—

(1) Consideration of Recommendations.—The Secretary shall consider, but need not adopt, any recommendations of the Advisory Committee under subsection (c).

(2) Biennial Report.—The Secretary shall transmit a biennial report to Congress describing any recommendations made by the Advisory Committee since the previous report. The report shall include a description of any progress accomplished or plans to implement the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be accompanied by a report on the President's budget proposal.

(e) Support.—The Secretary shall provide resources necessary in the judgment of the Secretary to carry out its responsibilities under this title.

SEC. 806. EXTERNAL REVIEW.

(a) Plan.—The Secretary shall enter into an arrangement with the National Academy of Sciences to review the plan prepared under section 802, which shall be completed not later than 6 months after the Academy enters into the arrangement. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the Secretary's recommendations or an explanation for the reasons that a recommendation will not be implemented.

(b) Additional Review.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy will review the programs under section 803 during the fourth year following enactment of this Act. The Academy's review shall include the research priorities and technical milestones, and evaluate the progress toward achieving them. The review shall be transmitted not later than 18 months after the date of enactment of this Act. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation for the reasons that a recommendation will not be implemented.

SEC. 807. MISCELLANEOUS PROVISIONS.

(a) Representation.—The Secretary may represent the United States interests with respect to activities and programs under this title, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, and with foreign governments and nongovernmental organizations including—

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

(2) industry and its representatives, including members of the energy and transportation industries; and

(3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

(b) Regulatory Authority.—Nothing in this title shall be construed to alter the regulatory authority of the Department.

SEC. 808. SAVINGS CLAUSE.

Nothing in this title shall be construed to affect the authority of the Secretary of Transportation that may exist prior to the date of enactment of this Act with respect to—

(1) research into, and control of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49, United States Code;

(2) regulation of hazardous materials transportation under chapter 51 of title 49, United States Code;

(3) regulation of pipeline safety under chapter 601 of title 49, United States Code;

(4) encouragement and promotion of research, development, and deployment activities related to advanced vehicle technologies under section 5506 of title 49, United States Code;

(5) regulation of motor vehicle safety under chapter 301 of title 49, United States Code;

(6) automobile fuel economy under chapter 329 of title 49, United States Code; or

(7) representation of the interests of the United States with respect to the activities and programs under the authority of title 49, United States Code.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this title, in addition to any amounts made available for these purposes under any other Act—

(1) $56,000,000 for fiscal year 2006;

(2) $750,000,000 for fiscal year 2007;

(3) $850,000,000 for fiscal year 2008;

(4) $900,000,000 for fiscal year 2009; and

(5) $1,000,000,000 for fiscal year 2010.

SEC. 810. SOLAR AND WIND TECHNOLOGIES.

(a) Solar Energy Technologies.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subtitle related to solar energy technologies and for implementing the recommendations related to solar energy technologies that are included in the report transmitted under subsection (c); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at solar energy facilities, including one demonstration project at a national laboratory or institution of higher education;

(3) establish a research and development program to—

(A) to develop optimized concentrating solar power devices that may be used for the...
production of both electricity and hydrogen; and
(B) to evaluate the use of thermochemical cycles for hydrogen production at the tempera-
tures associated with concentrating solar power devices;
(coordinate with activities sponsored by the Department of Energy’s Office of Nuclear Energy Technology on high-
temperature materials, thermochanical cycles, and economic issues related to solar en-
ergy;
 PROVIDE FOR THE CONSTRUCTION AND OPER-
ATION OF NEW CONCENTRATING SOLAR POWER DE-
VICES OR SOLAR POWER COGENERATION FACILITIES THAT Produce hydrogen either concurrently with, or independently of, the production of electricity;
(SUPPORT EXISTING FACILITIES AND RESEARCH PROGRAMS DEDICATED TO THE DEVELOPMENT AND ADVANCEMENT OF CONCENTRATING SOLAR POWER DEVICES; AND
(ESTABLISH A PROGRAM—
(A) TO RESEARCH AND DEVELOP METHODS THAT USE ELECTRICITY FROM PHOTOVOLTAIC DEVICES FOR THE ONSITE PRODUCTION OF HYDROGEN, SUCH THAT NO INTERMEDIATE TRANSMISSION OR DISTRIBUTION INFRASTRUCTURE IS REQUIRED OR USED AND FUTURE DEMAND GROWTH MAY BE ACCOMMODATED;
(B) TO EVALUATE THE ECONOMICS OF SMALL-
SCALE ELECTROLYSIS FOR HYDROGEN PRODUCTION; AND
(C) TO RESEARCH THE POTENTIAL OF MODULAR PHOTOVOLTAIC DEVICES FOR THE DEVELOPMENT OF A HYDROGEN INFRASTRUCTURE, THE SECURITY IMPLICATIONS OF A HYDROGEN INFRASTRUCTURE, AND THE BENEFITS POTENTIALLY DERIVED FROM A HYDROGEN INFRASTRUCTURE.
(b) WIND ENERGY TECHNOLOGIES.—The Secretary shall:
(1) PREPARE A DETAILED ROADMAP FOR CARRYING OUT THE PROVISIONS IN THIS SUBTITLE RELATED TO WIND ENERGY TECHNOLOGIES AND FOR IMPLEMENTING THE RECOMMENDATIONS RELATED TO WIND ENERGY TECHNOLOGIES THAT ARE INCLUDED IN THE REPORT TRANSMITTED UNDER SUBSECTION (C); AND
(2) PROVIDE FOR THE ESTABLISHMENT OF 5 PROJECTS IN GEOGRAPHIC AREAS THAT ARE REGIONALLY AND CLIMATICALLY DIVERSE TO DEMONSTRATE THE PRODUCTION OF HYDROGEN AT EXISTING WIND ENERGY FACILITIES, INCLUDING ONE DEMONSTRATION PROJECT AT A NATIONAL LABORATORY OR INSTITUTION OF HIGHER EDUCATION.
(c) PROGRAM SUPPORT.—The Secretary shall:
(1) PROVIDE FOR THE ESTABLISHMENT OF 5 PROJECTS IN GEOGRAPHIC AREAS THAT ARE REGIONALLY AND CLIMATICALLY DIVERSE TO DEMONSTRATE THE PRODUCTION OF HYDROGEN AT EXISTING WIND ENERGY FACILITIES, INCLUDING ONE DEMONSTRATION PROJECT AT A NATIONAL LABORATORY OR INSTITUTION OF HIGHER EDUCATION.
(d) INSTITUTIONS OF HIGHER EDUCATION AND NATIONAL LABORATORY INTERACTIONS.—In conjunction with the programs supported under this section, the Secretary shall develop sabbatical, fellowship, and visiting scientist programs to encourage national labora-
(ty and institutions of higher edu-
(cation to share and exchange personnel.
(e) DEFINITIONS.—For purposes of this section—
(1) the term ‘‘concentrating solar power de-
vice’’ means devices that concentrate the power of sunlight or heat; or extract energy from the sun, either to produce light or electricity;
(2) the term ‘‘institution of higher edu-
cation’’ has the meaning given to that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a));
(3) the term ‘‘minority institution’’ has the meaning given to that term in section 365(c) of the Higher Education Act of 1965 (20 U.S.C. 1067k); (4) the term ‘‘part B institution’’ has the meaning given to that term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061); and
(5) the term ‘‘photovoltaic devices’’ means devices that convert light directly into elec-
tricity through a solid-state, semiconductor process.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 900. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the ‘‘Energy Research, Development, Demonstration, and Commercial Application Act of 2005.’’

(b) DEFINITIONS.—For purposes of this title:
(1) APPLIED PROGRAMS.—The term ‘‘applied programs’’ means the research, development, demonstration, and commercial application or full-scale implementation of Department of Energy programs concerning energy efficiency, renewable energy, nuclear energy, fossil energy, and electricity transmission and distribution.
(2) BIOMASS.—The term ‘‘biomass’’ means:
(A) any organic material grown for the purpose of being converted to energy;
(B) any product of agriculture (including wastes from food production and processing) that can be converted into energy; or
(C) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from—
(i) any of the following forest-related re-
sources: mill residues, precommercial thinnings, slash, brush, or otherwise non-
merchantable material; or
(ii) wood waste materials, including waste pallets, furniture manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimming; or
(iii) municipal solid waste, gas derived from the biodegrada-
tion of municipal solid waste, or paper that is commonly recycled.
(3) CONSTRUCTION.—The term ‘‘Department’’ means the Department of Energy.
(4) DEPARTMENTAL MISSION.—The term ‘‘de-
partmental mission’’ means any of the func-
tions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.
(5) INSTITUTION OF HIGHER EDUCATION.—The term ‘‘institution of higher education’’ has the meaning given to that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).
(6) NATIONAL LABORATORY.—The term ‘‘Na-
tional Laboratory’’ means any of the fol-
lowing laboratories owned by the Depart-
ment:
(A) Ames Laboratory.
(B) Argonne National Laboratory.
(C) Brookhaven National Laboratory.
(D) Fermi National Accelerator Labora-
tory.
(E) Idaho National Laboratory.
(F) Lawrence Berkeley National Labora-
tory.
(G) Lawrence Livermore National Labora-
tory.
(H) Los Alamos National Laboratory.
(I) National Energy Technology Labora-
tory.
(J) National Renewable Energy Labora-
tory.
(K) Oak Ridge National Laboratory.
(L) Pacific Northwest National Labora-
tory.
(M) Princeton Plasma Physics Laboratory.
(N) Pacific Northwest National Laboratory.
(O) Savannah River National Laboratory.
(P) Stanford Linear Accelerator Center.
(Q) Thomas Jefferson National Accelerator Facility.
(R) UNIVERSITY.—The term ‘‘university’’ has the meaning given the term ‘‘institution of higher education’’ in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).
(S) UNIVERSITY FACILITY.—The term ‘‘university facil-
ity’’ means a research and development facil-
ity supported, in whole or in part, by De-
partmental funds that is open, at a minimum, to all qualified United States re-
searchers.

Subtitle A—Science Programs

SEC. 901. OFFICE OF SCIENCE PROGRAMS.

(a) IN GENERAL.—The Secretary shall con-
duct through the Office of Science, pro-
grams of research, development, demonstra-
tion, and commercial application in high en-
ergy physics, nuclear physics, biological and envi-
ronmental research, basic energy sciences, advanced scientific computing re-
search, and fusion energy sciences, including activities described in this subtitle. The programs shall include support for facilities and infra-
structure, education, outreach, informa-
tion, analysis, and coordination activities.

(b) THE ISORE ACCELERATOR FACILITY.

(1) ESTABLISHMENT.—The Secretary shall construct and operate a Rare Isotope Acceler-
ator. The Secretary shall commence con-
struction no later than September 30, 2008.

(2) AUTHORIZATION OF APPROPRIATIONS.—
There are authorized to be appropriated to the Secretary such sums as may be nec-
esary to carry out this subtitle. The Sec-
retary shall not spend more than $1,100,000,000 in Federal funds for all activi-
ties associated with the Rare Isotope Acceler-
ator prior to operation.

SEC. 902. SYSTEMS BIOLOGY PROGRAM

(a) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a research, development, dem-
stration program in genetics, protein science, and computational biology to sup-
port the energy, national security, and envi-
ronmental missions of the Department.

(2) GRANTS.—The program shall support in-
dividual researchers and multidisciplinary teams of researchers through competitive, merit-reviewed grants.

(3) CONSULTATION.—In carrying out the pro-
gram, the Secretary shall consult with other Federal agencies that conduct genetic and pro-
spective research.

(b) GOALS.—The program shall have the goal of developing technologies and methods based on the biological functions of genomes, metagenomes, and plants that—
(1) can facilitate the production of fuels, including hydrogen;
SEC. 903. CATALYSIS RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall conduct a program of research and development in catalysis science, including efforts to—

(1) enable molecular-level catalyst design by coupling experimental and computational approaches;

(2) enable nanoscale, high-throughput synthesis, discovery, and characterization; and

(3) synthesize catalysts with specific site activities.

(b) PROGRAM ACTIVITIES.—In carrying out the program under this section, the Secretary shall—

(1) conduct research in catalysis science and engineering; and

(2) develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities, to research and develop catalytic design.

(c) PLAN.—

(1) DEVELOPMENT OF PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a research plan describing the high-performance computational, networking, and workforce resources that are required for the research program.

(2) REVIEW OF PLAN.—The Secretary shall submit to Congress a review of the research plan developed under this subsection. The Secretary shall submit the review to Congress not later than 18 months after commencement of the research program.

(3) AMENDMENTS.—The Secretary shall issue amendments to the research plan as appropriate to carry out the research activities authorized pursuant to this Act.

(d) USE OF FACILITIES AND SECURED EQUIPMENT.—Within the funds authorized to be appropriated pursuant to this subsection, the Secretary shall—

(1) ensure that the share of ITER of United States participation in ITER is unlikely or infeasible, the United States participation in ITER shall, at a minimum, accelerate the United States contribution to ITER; and

(2) describe the process for discontinuing or decommissioning ITER and any United States role in that process.

(e) PROHIBITION ON BIOLOGICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.—

(1) NO BIOMEDICAL RESEARCH.—In carrying out the program under this section, the Secretary shall not conduct biomedical research.

(2) LIMITATIONS.—Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—

(A) on human cells or human subjects; or

(B) designed to have direct application with respect to human cells or human subjects.

SEC. 904. HYDROGEN.

(1) PROGRAM ACTIVITIES.—In carrying out the program under this section, the Secretary shall—

(1) conduct research and development in hydrogen research and development; and

(2) develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities, to support of programs authorized in titleVIII.

SEC. 905. ADVANCED SCIENTIFIC COMPUTING RESEARCH.

The Secretary shall conduct an advanced scientific computing research and development program, including in applied mathematics and the activities authorized by the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.). The Secretary shall carry out this program with the goals of supporting data intensive missions and providing the high-performance computational, networking, and workforce resources that are required for the United States to have full access to all data generated by ITER.

SEC. 906. FUSION ENERGY SCIENCES PROGRAM.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial application to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other nations in providing leadership by its own priority and the needs and the needs of other nations, including by demonstrating electric power or hydrogen production for the United States energy grid utilizing fusion energy at the earliest date possible.

(b) PLANNING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to Congress a plan, with proposed cost estimates, budgets, and lists of potential international partners, for the management of the policy described in subsection (a). The plan shall ensure that—

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation, cost effectiveness, and adherence to the goal of practical fusion energy at the earliest date possible, and those that are selected are funded at a cost-effective rate;

(D) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(E) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(F) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(2) COSTS AND SCHEDULES.—Such plan shall also address the status and, to the degree possible, costs and schedules for—

(A) the design and implementation of international facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

(c) UNITED STATES PARTICIPATION IN ITER.

(1) IN GENERAL.—The United States may participate in ITER only in accordance with this subsection.

(2) AGREEMENT.—

(A) IN GENERAL.—The Secretary is authorized to negotiate an agreement for United States participation in ITER.

(B) CONTENTS.—Any agreement for United States participation in ITER shall, at a minimum—

(i) clearly define the United States financial contribution to construction and operating costs, as well as any other costs associated with the project;

(ii) ensure that the share of ITER’s high-technology components manufactured in the United States is at least proportionate to the United States financial contribution to ITER;

(iii) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(iv) guarantee the United States full access to all data generated by ITER;

(v) enable United States researchers to propose and carry out an equitable share of research at ITER; and

(vi) describe the process for discontinuing or decommissioning ITER and any United States role in that process.

(3) PLAN.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in ITER that shall include the United States research agenda for ITER, methods to evaluate whether ITER is promoting progress toward making fusion a reliable and affordable source of power, and a description of how work at ITER will relate to other elements of the United States fusion program. The Secretary shall request a review of the plan by the National Academy of Sciences.

(d) FUNDING.—No Federal funds shall be expended for the construction of ITER until the Secretary has transmitted to Congress—

(A) the agreement negotiated pursuant to paragraph (2) and 120 days have elapsed since that transmission; and

(B) a report describing the management structure of ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of ITER, and 120 days have elapsed since that transmission.

(e) REPORT.—A report describing how United States participation in ITER will be funded without reducing funding for other programs in the Office of Science, including other fusion programs, and 60 days have elapsed since that transmission; and

(f) DEFINITIONS.—In this subsection:

(1) CONSTRUCTION.—The term ‘construction’ means the physical construction of the ITER facility, and the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility, but does not mean the acquisition of the facility, equipment, or components.

(2) ITER.—The term ‘ITER’ means the international burning plasma fusion research facility for which the President announced United States participation on January 30, 2003, or any similar international project.
(2) COMPETITIVE PROCESS.—Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit. In making such selection, the Secretary shall take into account the critical need and the goal of promoting the participation of individuals identified in section 33 of the Science and Engineering Equal Opportunity Act of 1990 (42 U.S.C. 1885a or 1885b).

(3) SERVICE AGREEMENTS.—To carry out the Program the Secretary shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Department, for the period described in subsection (f)(1), in positions needed by the Department and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) SCHOLARSHIP ELIGIBILITY.—In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time graduate student at an institution of higher education in an academic program or field of study described in the list made available under subsection (d);

(2) be a United States citizen; and

(3) have applied for and been awarded a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Secretary a high school transcript or other evidence that the individual would be in the top 5% of his or her graduating class or, if not a graduating senior, that the individual would be in the top 5% of his or her graduating class if the Secretary determines that such a deferral is appropriate. The Secretary shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(c) PENALTIES FOR BREACH OF SCHOLARSHIP AGREEMENT.—

(1) FAILURE TO COMPLETE ACADEMIC TRAINING.—Scholarship recipients who do not maintain a high level of academic standing, as defined by the Secretary by regulation, who are dismissed from their educational institution for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment not later than 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in regulations issued by the Secretary. A deferral period may be extended by the Secretary when determined to be necessary, as established by regulation.

(2) FAILURE TO BEGIN OR COMPLETE THE SERVICE OBLIGATION OR MEET THE TERMS AND CONDITIONS OF DEFERMENT.—A scholarship recipient who, for any reason, fails to begin or complete a service obligation under this section after completion of academic training, or fails to comply with the terms and conditions of deferment established by the Secretary pursuant to subsection (i)(2)(B), shall be in breach of the contractual agreement. When a recipient breaches an agreement for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time of the breach the recipient were receiving them, bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States, multiplied by 3.

(h) WAIVER OR SUSPENSION OF OBLIGATIONS.

(1) DEATH OF INDIVIDUAL.—Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) IMPOSSIBILITY OR EXTREME HARDSHIP.—The Secretary shall by regulation provide for the partial or complete suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) DEFINITIONS.—In this section the following definitions apply:

(1) COST OF ATTENDANCE.—The term ‘cost of attendance’ means the annualized amount that a student is charged for attending the Higher Education Act of 1965 (20 U.S.C. 1087a).

(2) PROGRAM.—The term ‘Program’ means the Science and Technology Scholarship Program established under this section.

SEC. 908. OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.

The Secretary shall maintain within the Department the Office of Scientific and Technical Information.

SEC. 909. SCIENCE AND ENGINEERING PILOT PROGRAM.

(a) ESTABLISHMENT OF CONSORTIUM.—Notwithstanding section 913, the Secretary shall award a grant to Oak Ridge Associated Universities to establish a university consortium to carry out a regional pilot program for enhancing scientific, technological, engineering, and mathematical literacy, creativity, and decisionmaking. The consortium shall include leading research universities, one or more universities that train substantial numbers of elementary and secondary school teachers, and, where appropriate, National Laboratories.

(b) PROGRAM ELEMENTS.—The program shall include—

(1) expanding strategic, formal partnerships among universities with strong research, universities that train substantial numbers of elementary and secondary school teachers, and the private sector;

(2) combining Department expertise with one or more National Aeronautics and Space Administration Educator Resource Centers;

(3) developing programs to permit current and future teachers to participate in ongoing research projects at National Laboratories and research universities and to adapt lessons learned to the classroom;

(4) designing and implementing course work;

(5) designing and implementing a strategy for measuring and assessing progress under the program; and

(6) developing models for transferring knowledge gained under the pilot program to other institutions and areas of the country.

(c) REPORT.—Not later than 2 years after appropriations are first available for the program, the Secretary shall transmit to Congress a report outlining lessons learned and containing a plan for expanding the program nationwide. The Secretary may begin implementing such plans for expansion of the program on October 1, 2008. The expansion of the program shall be subject to section 913.

SEC. 910. AUTHORIZATION OF APPROPRIATIONS.

(1) IN GENERAL.—The Secretary is authorized to be appropriated to be used under the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501 et seq.) and the Department of Energy’s Office of Science appropriation to the Department of Energy’s Office of Basic Energy Sciences.

(2) SYSTEMS BIOLOGY.—For fiscal years 2007, 2008, and 2009, there are authorized $385,000,000 to be appropriated to carry out the authority of this section.

(3) SYSTEMS BIOLOGY.—For fiscal years 2007, 2008, and 2009, there is authorized $1,050,000,000 to be appropriated to carry out the authority of this section.

(4) FUSION ENERGY SCIENCES.—For fiscal years 2007, 2008, and 2009, there are authorized $335,000,000 to be appropriated to carry out the authority of this section.

(5) IN EXCESS OF—For the requirements of this section, there shall be added the amounts necessary to carry out the authority of this section.
SEC. 910. COST SHARING.
(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, the Secretary shall require that at least 50 percent of the cost related to any demonstration or commercial application activities under this title be provided from sources other than Federal funds. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.
(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this title, the Secretary shall require that at least 50 percent of the cost related to any demonstration or commercial application activities under this title be provided from sources other than Federal funds. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.
(c) CALCULATION.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may consider the amount of the non-Federal share in selecting projects under this title.

SEC. 912. REPROGRAMMING.
(a) DISTRIBUTION REPORT.—Not later than 60 days after the date of enactment of an Act appropriating amounts authorized under this title, the Secretary shall transmit to Congress a report explaining how such amounts will be distributed among the activities authorized by this title.
(b) REPROGRAMMING LETTER.—No amount authorized by this title shall be obligated or expended from funds under this title if the Secretary has not transmitted to Congress a letter describing how the appropriations Act appropriating such amount, the report accompanying such appropriations Act, or a distribution report transmitted under subsection (a) if such obligation or expenditure would change an individual amount, as represented in such an Act, report, or distribution report, by more than 2 percent or $2,000,000, whichever is smaller, unless the Secretary has transmitted to Congress a letter of explanation and a period of 30 days has elapsed after Congress receives such a letter.
(c) COMPUTATION.—The computation of the 30-day period described in subsection (b) shall exclude any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

SEC. 913. MERIT-BASED COMPETITION.
(a) COMPETITIVE MERIT REVIEW.—Awardees of funds authorized under this title shall be selected through open competitions. Funds shall be competively awarded only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department on the basis of criteria outlined by the Secretary in the solicitation of proposals. The Secretary may establish one or more advisory committees to review and advise the Department’s applied research programs in the following areas:
(A) Energy efficiency.
(B) Renewable energy.
(C) Nuclear energy.
(D) Fossil energy.
(e) EXISTING ADVISORY COMMITTEES.—The Secretary may designate an existing advisory committee within the Department to fulfill the responsibilities of an advisory committee under subsection (c).
(f) OFFICE OF SCIENCE ADVISORY COMMITTEE.—The use of existing committees.
(i) ADVISORY COMMITTEE.—Except as otherwise provided under the Federal Advisory Committee Act, the Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.
(j) REPORT.—Before the Department issues any new guidance regarding the membership for Office of Science scientific program advisory committees, the Secretary shall transmit a report to the Congress outlining the reasons for the proposed changes, and 60 days must have elapsed after transmittal of the report before the Department may implement those changes.

SEC. 914. EXTERNAL TECHNICAL REVIEW OF DEPARTMENT PROGRAMS.
(a) NATIONAL APPLIED ENERGY RESEARCH AND DEVELOPMENT ADVISORY COMMISSION.—In general.
(b) ADVISORY COMMITTEE.—The Secretary may designate an existing.
(c) REPORT.—Before the Department issues any new guidance regarding the membership for Office of Science scientific program advisory committees, the Secretary shall transmit a report to the Congress outlining the reasons for the proposed changes, and 60 days must have elapsed after transmittal of the report before the Department may implement those changes.

SEC. 915. RESEARCH AND DEVELOPMENT ADVISORY COMMITTEE.
(a) ESTABLISHMENT.—There shall be a Science Advisory Committee for the Office of Science that includes the chairs of each of the advisory committees described in paragraph (1).
(b) RESPONSIBILITIES.—The Science Advisory Committee shall—
(i) advise the Director of the Office of Science on science issues;
(ii) advise the Director of the Office of Science with respect to the well-being and management of the National Laboratories and Department research facilities;
(iii) advise the Director of the Office of Science with respect to education and workforce training activities required for effective short-term and long-term basic and applied research activities of the Office of Science; and
(iv) advise the Director of the Office of Science with respect to the well-being of the university research programs supported by the Office of Science.
(c) MEMBERSHIP.—Each member of an advisory committee appointed under this section shall have significant scientific, technical, or other appropriate expertise. The membership of each committee shall represent a wide range of expertise, including, to the extent practicable, members with expertise from outside the disciplines covered by the program, and a diverse set of interests.
(d) MEETINGS AND PURPOSES.—Each advisory committee under this section shall meet at least semiannually to review and advise the progress made by the respective

H2252 CONGRESSIONAL RECORD — HOUSE April 20, 2005

(6) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(7) 2009 ALLOCATIONS.—For amounts authorized under subsection (a)(4), the following sums are authorized for fiscal year 2008:

(a) SYSTEMS BIOLOGY.—For activities under section 909, such sums as may be necessary.
(b) SCIENTIFIC COMPUTING.—For activities under section 909, such sums as may be necessary.
(c) FUSION ENERGY SCIENCES.—For activities under section 909, excluding activities under subsection (c) of that section, $375,000,000.

(8) SCHOLARSHIP.—For the scholarship program described in section 909, $6,000,000.

(9) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 909, $8,000,000.

(10) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(11) 2009 ALLOCATIONS.—For amounts authorized under subsection (a)(5), the following sums are authorized for fiscal year 2009:

(a) SYSTEMS BIOLOGY.—For activities under section 909, such sums as may be necessary.
(b) SCIENTIFIC COMPUTING.—For activities under section 909, such sums as may be necessary.
(c) FUSION ENERGY SCIENCES.—For activities under section 909, excluding activities under subsection (c) of that section, $375,000,000.

(12) SCHOLARSHIP.—For the scholarship program described in section 909, $6,000,000.

(13) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 909, $8,000,000.

(14) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(15) 2010 ALLOCATIONS.—For amounts authorized under subsection (a)(6), the following sums are authorized for fiscal year 2010:

(a) SYSTEMS BIOLOGY.—For activities under section 909, such sums as may be necessary.
(b) SCIENTIFIC COMPUTING.—For activities under section 909, such sums as may be necessary.
(c) FUSION ENERGY SCIENCES.—For activities under section 909, excluding activities under subsection (c) of that section, $375,000,000.

(16) SCHOLARSHIP.—For the scholarship program described in section 909, $6,000,000.

(17) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 909, $8,000,000.

(18) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(g) ITER CONSTRUCTION.—For amounts authorized under subsection (a) and in addition to amounts authorized under subsections (b)(3), (c)(3), (d)(3), (e)(3), and (f)(3), there are authorized to be appropriated to the Secretary for construction of the ITER project, such sums as may be necessary for ITER construction, consistent with the limitations of section 909(e).

Subtitle B—Research Administration and Operations

SEC. 911. COST SHARING.
(a) RESEARCH AND DEVELOPMENT.— Except as otherwise provided in this title, the Secretary may waive the requirement under subsection (a) requiring competition if the Secretary considers it necessary to move more quickly to advance research, demonstration, or commercial application activities. The Secretary shall notify Congress within 30 days after waiving the requirement under this subsection if the Secretary determines that the development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.— Except as otherwise provided in this title, the Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(c) CALCULATION.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may consider the amount of the non-Federal share in selecting projects under this title.

SEC. 912. REPROGRAMMING.
(a) DISTRIBUTION REPORT.—Not later than 60 days after the date of enactment of an Act appropriating amounts authorized under this title, the Secretary shall transmit to Congress a report explaining how such amounts will be distributed among the activities authorized by this title.

(b) REPROGRAMMING LETTER.—No amount authorized by this title shall be obligated or expended from funds under this title if the Secretary has not transmitted to Congress a letter describing how the appropriations Act appropriating such amount, the report accompanying such appropriations Act, or a distribution report transmitted under subsection (a) if such obligation or expenditure would change an individual amount, as represented in such an Act, report, or distribution report, by more than 2 percent or $2,000,000, whichever is smaller, unless the Secretary has transmitted to Congress a letter of explanation and a period of 30 days has elapsed after Congress receives such a letter.

(c) COMPUTATION.—The computation of the 30-day period described in subsection (b) shall exclude any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

SEC. 913. MERIT-BASED COMPETITION.
(a) COMPETITIVE MERIT REVIEW.—Awardees of funds authorized under this title shall be selected through open competitions. Funds shall be competively awarded only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department on the basis of criteria outlined by the Secretary in the solicitation of proposals.

(b) COMPETITION.—Competitive awards under this title shall involve competitions open to all qualified entities within one or more of the following categories:
(1) Institutions of higher education.
(2) National Laboratories.
(3) Nonprofit and for-profit private entities.
(4) State and local governments.
(5) Consortia of entities described in paragraphs (1) through (4) of this subsection.

(c) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify Congress within 30 days after awarding more than $500,000 through a competition described in subsection (b) that is limited to 1 of the categories described in paragraphs (1) through (4) of subsection (b).
research, development, demonstration, and commercial application program or programs. The advisory committee shall also review the measurable cost and performance-based goals for the applied programs, and the progress on meeting such goals.

(e) Review and Assessment.—Not later than the date of enactment of this Act, the Secretary shall enter into arrangements with the National Academy of Sciences to conduct reviews and assessments of the programs authorized by this title, the measurable cost and performance-based goals for the applied programs, and the progress in meeting such goals. Such reviews and assessments shall be completed and reported to the Congress and transmitted to the Congress not later than 2 years after the date of enactment of this Act.

SEC. 915. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.

None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a National Laboratory (excluding those named in subparagraphs (G), (H), and (N) of section 900(b)(6)), unless such contract is competitively awarded, or the Secretary designates a laboratory that is not referred to in section 900(b)(6) as a National Laboratory.

SEC. 917. REPORT ON EQUAL EMPLOYMENT OPPORTUNITY PRACTICES.

Not later than 12 months after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at National Laboratories. Such report shall include:

(1) a thorough review of each laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;

(2) a statistical report on complaints and their disposition in the laboratories;

(3) a description of how equal employment opportunity programs at the laboratories are treated in the contract and in calculating award fees for each contractor;

(4) a summary of disciplinary actions and their disposition by either the Department or the relevant contractors for each laboratory;

(5) a summary of outreach efforts to attract women and minorities to the laboratories;

(6) a summary of efforts to retain women and minorities in the laboratories; and

(7) a labor-plug-in hybrid with the Office of Federal Contract Compliance Programs to improve equal employment opportunity practices at the laboratories.

SEC. 918. USER PRACTICES PLAN.

The Secretary shall not allow any Department facility to begin functioning as a user facility after the date of enactment of this Act unless the Secretary has for that facility—

(1) develops a plan to ensure that the facility will—

(A) have a skilled staff to support a wide range of users; and

(B) have a fair method for allocating time to users that provides for input from facility management, user representatives, and outside experts;

(C) be operated in a safe and fiscally prudent manner; and

(2) transmits such plan to Congress and 60 days have elapsed.

SEC. 919. SUPPORT FOR SCIENCE AND ENERGY INFRASTRUCTURE AND FACILITIES.

(a) Strategic Plan.—The Secretary shall develop and implement a strategy for infrastructure and facilities supported primarily from the Office of Science and the applied programs at the National Laboratory and Department research facility. Such strategy shall provide cost-effective means for—

(1) maintaining existing facilities and infrastructure, as defined in section 920(b);

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) REPORT.—

(1) REQUIREMENT.—The Secretary shall prepare and transmit to the Congress not later than June 1, 2007, a report summarizing the strategies developed under subsection (a).

(2) CONTENTS.—For each National Laboratory and Department research facility, for the facilities primarily used for science and energy research, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 920. COORDINATION PLAN.

(a) In General.—The Secretary shall develop a coordination plan to improve coordination and collaboration in research, development, demonstration, and commercial application activities across Department organizational boundaries.

(b) Plan Contents.—The plan shall describe—

(1) how the Secretary will ensure that the applied programs are coordinating their activities, including a description of specific research questions that cross organizational boundaries and of how the applied programs are coordinating their efforts to answer those questions, and how such crosscutting research questions will be identified in the future;

(2) how the Secretary will ensure that research that has been supported by the Office of Science is being used by the applied programs, including a description of specific Office of Science-supported research that is relevant to the applied programs and of how the applied programs have used or will use that research; and

(3) a description of how the Secretary will ensure that the research agenda of the Office of Science includes research questions of concern to the applied programs, including a description of specific research questions that the Office of Science will address to assist the applied programs.

(c) Plan Transmittal.—The Secretary shall transmit the coordination plan to Congress not later than 9 months after the date of enactment of this Act, and every 2 years thereafter shall transmit a revised coordination plan.

(d) COVERAGE.—Not less than 6 months after the date of enactment of this Act, the Secretary shall convene a conference of program managers from the Office of Science and the applied programs to review ideas and explore possibilities for effective cross-program collaboration. The Secretary shall also invite participation relevant Federal agencies and the Federal Government conducting relevant research, and other stakeholders as appropriate.

SEC. 921. AVAILABILITY OF FUNDS.

Funds appropriated to the Secretary for activities authorized under this title shall remain available for 3 years. Funds that are obligated at any time during such 3 years shall be returned to the Treasury.

Subtitle C—Energy Efficiency

CHAPTER 1—VEHICLES, BUILDINGS, AND INDUSTRIES

SEC. 922. PROGRAMS.

(a) In General.—The Secretary shall conduct research, development, demonstration, and commercial application, including activities described in this chapter. Such programs shall be focused on the following objectives:

(1) Increasing the energy efficiency of vehicles, buildings, and industrial processes.

(2) Reducing the Nation's demand for energy, especially energy from foreign sources.

(3) Reducing the cost of energy and making the economy more efficient and competitive.

(4) Improving the Nation's energy security.

(5) Reducing the environmental impact of energy-related activities.

(b) Goals.—

(1) Initial Goals.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify energy efficiency and performance goals, with quantifiable 5-year cost and energy savings target levels, for vehicles, buildings, and industries, and any other such goals the Secretary considers appropriate.

(2) Subsequent Transmittals.—The Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) Public Input.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

SEC. 923. VEHICLES.

(a) Advanced, Cost-Effective Technologies.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced, cost-effective technologies to improve the energy efficiency and environmental performance of light-duty and heavy-duty vehicles, including—

(1) hybrid and electric propulsion systems, including plug-in hybrids;

(2) advanced engines, including combustion engines;

(3) advanced materials, including high strength steel and lightweight materials such as nanostructured materials, composites, multimeterial parts, carbon fibers, and materials with high thermal conductivity;

(4) technologies for reduced drag and rolling resistance;

(5) whole-vehicle design optimization to reduce the weight of component parts and thus improve the fuel economy of the vehicle, including fiber optics to replace traditional wiring;

(6) thermoelectric devices that capture waste heat and convert thermal energy into electricity; and

(7) advanced drivetrains.
(b) LOW-COST HYDROGEN PROPULSION AND INFRASTRUCTURE.—The Secretary of Energy shall—

(1) establish a research, development, and demonstration program to determine the feasibility of using hydrogen propulsion in light-weight vehicles and the integration of the associated hydrogen production infrastructure using off-the-shelf components; and

(2) identify universities and institutions that—

(A) have expertise in researching and testing vehicles fueled by hydrogen, methane, and other fuels; and

(B) have expertise in integrating off-the-shelf components to minimize cost; and

(C) within two years can test a vehicle based on an existing commercially available platform with a curb weight of not less than 2,000 pounds before modifications that—

(i) operates solely on hydrogen gas;

(ii) can travel a minimum of 300 miles under normal road conditions; and

(iii) uses hydrogen produced from water using only solar energy.

SEC. 924. BUILDINGS.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration and commercial application of cost-effective technologies, for new construction and retrofit, to improve the energy efficiency and functionality of commercial, industrial, institutional, and residential buildings. The program shall use a whole-buildings approach, integrating work elements including—

(1) advanced controls, including occupancy sensors, daylighting controls, wireless technologies, automated responses to changes in the internal and external environment, and real time delivery of information on building system and component performance;

(2) building envelope, including windows, roofing systems and materials, and building-integrated photovoltaics;

(3) building systems components, including—

(A) lighting;

(B) appliances, including advanced technologies, such as stand-by load technologies, for office equipment, food service equipment, and laboratory equipment; and

(C) heating, ventilation, and cooling systems, including ground-source heat pumps and radiant heating; and

(4) energy recovery for energy generation.

(b) ENERGY EFFICIENT BUILDING PILOT GRANT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a pilot program to award grants to businesses and organizations for new construction of energy efficient buildings, or major renovations of buildings that will result in energy efficient buildings, to demonstrate innovative energy efficiency technologies, especially those sponsored by the Department.

(2) AWARDS.—The Secretary shall award grants under this subsection competitively to those applicants whose proposals—

(A) best demonstrate—

(i) likelihood to meet or exceed the design standards referred to in paragraph (7);

(ii) likelihood to maximize cost-effective energy efficiency opportunities; and

(iii) advanced energy efficiency technologies; and

(B) are least likely to be realized without Federal assistance.

(3) AMOUNT OF GRANTS.—Grants under this subsection shall be for up to 50 percent of design and energy modeling costs, not to exceed $30,000 for any single project. No project grants may be eligible for more than 3 grants per year under this program.

(4) GRANT PAYMENTS.—

(A) INITIAL PAYMENT.—The Secretary shall pay 50 percent of the grant amount to the grant recipients upon selection.

(B) REMAINDER PAYMENT.—The Secretary shall pay the remaining 50 percent of the grant only after independent certification of operational buildings for compliance with energy-efficient buildings described in paragraph (7).

(C) FAILURE TO COMPLY.—The Secretary shall not provide the remainder of the payment required under this paragraph until within 6 months after operation of the completed building to meet the requirements described in subparagraph (B), or in the case of major renovations, within 6 months of the completion of the renovations.

(5) REPORT TO CONGRESS.—Not later than 3 years after awarding the first grant under this subsection, the Secretary shall transmit to Congress a report containing—

(A) the total number and dollar amount of grants awarded under this subsection; and

(B) an estimate of aggregate cost and energy savings enabled by the pilot program under this subsection.

(6) ADMINISTRATIVE EXPENSES.—Administrative expenses for the program under this subsection shall not exceed 10 percent of appropriated funds.

(7) DEFINITION OF ENERGY EFFICIENT BUILDING.—For purposes of this subsection, the term ‘energy efficient building’ means a building that is independently certified—

(A) to meet or exceed the applicable United States Green Building Council’s Leadership in Energy and Environmental Design standards for a silver, gold, or platinum rating; and

(B) to achieve a reduction in energy consumption of—

(i) at least 25 percent for new construction, compared to the energy standards set by the Federal Energy Efficiency Code (part 434), and

(ii) at least 20 percent for major renovations, compared to energy consumption before renovations are begun.

(c) STANDARDIZATION REPORT AND PROGRAM.—

(1) REPORT.—The Secretary shall enter into an agreement with the National Institute of Building Sciences to—

(A) conduct a comprehensive assessment of how well current voluntary consensus standards related to energy are supporting state-of-the-art knowledge on the design, construction, operation, repair, and renovation of high-performance buildings; and

(B) recommend steps for the Secretary to take to accelerate development and promulgation of voluntary consensus standards for high-performance buildings that would address all major high-performance building attributes, including energy efficiency, sustainability, safety and security, life-cycle cost, and productivity.

(2) PROGRAM.—After receiving the report under paragraph (1), the Secretary shall establish a program of technical assistance and grants to support standards development organizations in—

(A) the revision of existing standards, to reflect current knowledge of high-performance buildings; and

(B) the development and promulgation of new standards in areas important to high-performance buildings where there is no existing standard or where an existing standard cannot easily be modified.

SEC. 925. INDUSTRIES.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced control devices to improve the energy efficiency, environmental performance, and process efficiency of energy-intensive and waste-intensive industries. Such program shall be focused on industries whose total annual energy consumption amounts to more than 1.0 percent of the total nationwide energy consumption as of the most recent data available to the Department. Research and development efforts under this section shall have higher priority to broad-benefit efficiency technologies that have practical application across industry sectors.

(b) ELECTRIC MOTOR CONTROL TECHNOLOGY.—The program conducted under subsection (a) shall include research on, and development, demonstration, and commercial application of, advanced control devices to improve the energy efficiency of electric motors, including those used in industrial processes, heating, ventilation, and cooling.

SEC. 926. DEMONSTRATION AND COMMERCIAL APPLICATION.

(a) APPLIANCES AND TESTING.—The Secretary shall conduct a geographically dispersed and analytically determined whether, given Department-sponsored and other advances in energy efficiency technologies, demonstration and commercial application of innovative, cost-effective energy savings and pollution reducing technologies could be used to improve appliance and test procedures used to measure appliance efficiency.

(b) BUILDING ENERGY CODES.—The Secretary shall, in coordination with government agencies, industry partners, and other organizations with an interest in efficient energy use, establish a benchmarking pilot program that shall identify and adopt newly developed energy production and use standards.

(c) ADVANCED ENERGY TECHNOLOGY TRANSFER CENTERS.—

(1) GRANTS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall make grants to nonprofit institutions, State and local governments, or universities (or consortia thereof), to establish Advanced Energy Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers.

(2) ACTIVITIES.—

(A) IN GENERAL.—Each Center shall operate a program to encourage and promote the research and development and commercial application of advanced energy methods and technologies for a wide range of applications, and to other individuals and organizations with an interest in efficient energy use.

(B) ADVISORY PANEL.—Each Center shall establish an advisory panel to advise the Center on how best to accomplish the activities under subparagraph (A).

(3) APPLICATION.—A person seeking a grant under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this subsection to an entity already in existence if the entity is otherwise eligible under this subsection.

SEC. 927. REQUIREMENTS.

The Secretary shall award grants under this subsection on the basis of the following criteria, at a minimum:

(A) The ability of the applicant to carry out the activities in paragraph (2).

(B) The extent to which the applicant will coordinate the activities of the Center with Federal entities, State and local governments, utilities, and educational and research institutions.

(C) MATCHING FUNDS.—The Secretary shall require the recipient of any grant under this section to contribute an amount of at least 50 percent of the costs of establishing and operating each Center.
(a) DEFINITIONS.—For purposes of this section:

(1) ASSOCIATED EQUIPMENT.—The term ‘‘associated equipment’’ means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) OBJECTIVES.—The objectives of this section shall be to:

(1) support the research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies that are the subject of this section; and

(2) ensure that the proposer disposes of the batteries in accordance with applicable law.

SEC. 928. NEXT GENERATION LIGHTING INITIATIVE.

(a) IN GENERAL.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(b) RESEARCH.—The Secretary shall carry out the research activities of the Next Generation Lighting Initiative through competitively awarded grants to researchers, including those associated with the Industry Alliance described in subsection (c).

(c) INDUSTRY ALLIANCE.—The Secretary shall establish an Industry Alliance to represent participants that are private, for-profit firms which, as a group, are broadly representative of United States solid-state lighting research, development, infrastructure, and manufacturing expertise.

(d) RESEARCH.—The Secretary shall carry out the research activities of the Next Generation Lighting Initiative through competitively awarded grants to researchers, including those associated with the Industry Alliance described in subsection (c).
SEC. 910. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) For fiscal year 2006, $620,000,000, including—

(A) $200,000,000 for carrying out the vehicles program under section 923;

(B) $100,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $100,000,000 for carrying out the industries program under section 925(a);

(D) $10,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $4,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $20,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(2) For fiscal year 2007, $700,000,000, including—

(A) $240,000,000 for carrying out the vehicles program under section 923;

(B) $100,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $155,000,000 for carrying out the industries program under section 925(a);

(D) $2,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $30,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(3) For fiscal year 2008, $800,000,000, including—

(A) $270,000,000 for carrying out the vehicles program under section 923;

(B) $160,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $140,000,000 for carrying out the industries program under section 925(a);

(D) $2,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $30,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(4) For fiscal year 2009, $925,000,000, including—

(A) $310,000,000 for carrying out the vehicles program under section 923;

(B) $200,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $170,000,000 for carrying out the industries program under section 925(a);

(D) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(E) $20,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(F) $50,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(5) For fiscal year 2010, $1,000,000,000, including—

(A) $340,000,000 for carrying out the vehicles program under section 923;

(B) $240,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $190,000,000 for carrying out the industries program under section 925(a);

(D) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(E) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(F) $50,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

SEC. 931. LIMITATION ON USE OF FUNDS.

None of the funds authorized to be appropriated shall be used for—

(1) the issuance and implementation of energy efficiency regulations;

(2) the Weatherization Assistance Program under part D of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.);


CHAPTER 2—DISTRIBUTED ENERGY AND ELECTRICITY SYSTEMS

SEC. 932. DISTRIBUTED ENERGY.

(a) IN GENERAL.—The Secretary shall conduct programs of distributed energy resources and systems reliability and efficiency research, development, demonstration, and commercial application to improve the reliability and efficiency of distributed energy resources and systems, including activities described in this chapter. The programs shall include the integration of—

(1) renewable energy resources;

(2) fuel cells;

(3) combined heat and power systems;

(4) microturbines;

(5) advanced small gas turbines;

(6) advanced internal combustion engine generators;

(7) energy storage devices;

(8) interconnection standards, protocols, and equipment;

(9) ancillary equipment for dispatch and control; and

(10) any other energy technologies, as appropriate.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology. The consortia shall explore—

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

(2) the use of excess power to operate other appliances within the residence and supply excess generated power to the power grid.

(c) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall submit to the Congress, along with the President’s annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify performance goals, with quantifiable 5-year cost and energy savings target levels, for distributed energy resources and systems, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with future budget requests, a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(b) PROGRAM.—The Secretary shall conduct a research, development, demonstration, and commercial application program on advanced control devices to improve the energy efficiency and reliability of the electric transmission and distribution systems and to protect the national energy supply disruptions. This program shall address, at a minimum—

(1) advanced energy delivery and storage technologies, including new transmission technologies, such as flexible alternating current transmission systems, composite conductor materials, and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small-scale, distributed, and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) GOALS.—

(1) BASELINE GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall submit to the Congress, along with the President’s annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify performance goals, with quantifiable 5-year cost and energy savings target levels, for electricity transmission and distribution and energy efficiency and reliability of the electric supply disruptions. This program shall address, at a minimum—

(1) advanced energy delivery and storage technologies, including new transmission technologies, such as flexible alternating current transmission systems, composite conductor materials, and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small-scale, distributed, and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.
SEC. 933A. ADVANCED PORTABLE POWER DEVICES.

(a) Program.—The Secretary shall—

(1) establish a research, development, and demonstration program to develop working models of small scale portable power devices; and

(2) to the fullest extent practicable, identify and utilize the resources of universities that have shown expertise with respect to advanced portable power devices for either civilian or military use.

(b) Organization.—The universities identified as in subsection (a)(2) are authorized to establish an organization to promote small scale portable power devices.

(c) Definition.—For purposes of this section, "small scale portable device" means a field deployable portable mechanical or electromechanical device that can be used for applications such as communications, computing, mobility enhancement, weapons systems, optical devices, cooling, sensors, medical devices and active biological agent detection systems.

SEC. 934. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) For fiscal year 2006, $20,000,000,000.
(2) For fiscal year 2007, $20,000,000,000.
(3) For fiscal year 2008, $25,000,000,000.
(4) For fiscal year 2009, $25,000,000,000.
(5) For fiscal year 2010, $25,000,000,000.

(b) Micro-Cogeneration Energy Technology.—From the amounts authorized under subsection (a), $200,000,000, for each of fiscal years 2006 and 2007 are authorized for activities under section 932(b).

(c) Electric Transmission and Distribution Assurance.—From the amounts authorized under subsection (a), the following sums are authorized for activities under section 933:

(1) For fiscal year 2006, $130,000,000, of which $2,000,000 shall be for the program under section 933(c).
(2) For fiscal year 2007, $140,000,000.
(3) For fiscal year 2008, $150,000,000.
(4) For fiscal year 2009, $160,000,000.
(5) For fiscal year 2010, $165,000,000.

Subtitle D—Renewable Energy

SEC. 935. FINDINGS.

Congress makes the following findings:

(1) Renewable energy is a growth industry around the world. However, the United States has not been investing as heavily as other countries.

(2) Since 1996, the United States has lost significant market share in the solar industry, dropping from 44 percent of the world market in 1996 to 3 percent in 2003.

(3) In 2003, Japan spent more than $200,000,000 on solar research, development, demonstration, and commercial application and other incentives.

(4) Germany and Japan each had domestic photovoltaic industries that employed more than 10,000 people in 2003, while in the same year the United States photovoltaics industry employed only 2,000 people.

(5) The United States is becoming increasingly dependent on imported energy.

(6) The high cost of fossil fuels is hurting the United States economy.

(7) Small reductions in peak demand can result in very large reductions in price, according to energy market experts.

(8) Although the United States has only 2 percent of the world's oil reserves and 3 percent of the world's natural gas reserves, our nation's renewable energy resources are vast and largely untapped.

(9) Renewable energy can reduce the demand for imported energy, reducing costs and decreasing the variability of energy prices.

(10) By using domestic renewable energy resources, the United States can reduce the amount of money sent into unstable regions of the world and keep it in the United States.

(11) By supporting renewable energy research and development, and funding demonstration and commercial application programs for renewable energy, the United States can create an export industry and improve the balance of trade.

(12) Renewable energy can significantly reduce the environmental impacts of energy production.

SEC. 936. DEFINITIONS.

For purposes of this subtitle:

(a) Biobased Product.—The term "biobased product" means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—

(A) composed, in whole or in significant part, of—

(i) biological products;

(ii) domestic renewable agricultural materials (including plant, animal, and marine materials);

(iii) forestry materials; and

(iv) produced in connection with the conversion of biomass to energy or fuel.

(b) Biorefinery.—The term "biorefinery" means a facility that uses lignocellulosic or hemicellulose, including barley grain, grapes, forest thinnings, rice bran, rice hulls, rice straw, soybean meal, sugarcane, and sorghum, as raw materials grown specifically for the purpose of producing cellulosic feedstocks.

(c) Biomass.—The term "biomass" means—

(i) renewable energy resources (including, but not limited to, energy from coal, wood, biomass, biowaste, landfill gas, and animal manure, derivatives, and biorefinery products) that can be used in the production of energy, including biofuels and biobased products; 

(ii) the energy content of materials derived from living organisms, including, but not limited to, plant materials, waste materials, and nonenergy crops; and

(iii) the production, manufacture, and use of products from the energy content of materials derived from living organisms, including, but not limited to, plant materials, waste materials, and nonenergy crops.

(d) Biobased Product.—The term "biobased product" means a product that contains at least 25 percent by weight of biobased content.

(e) Biobased Products and Biofuels.—The term "biobased products and biofuels" means—

(i) products that contain at least 25 percent by weight of biobased content,

(ii) products that contain at least 51 percent by weight of biobased content,

(iii) products that contain at least 76 percent by weight of biobased content,

(iv) products that contain at least 99 percent by weight of biobased content, and

(v) any other biobased products and biofuels identified by the Secretary.

(f) Biorefinery.—The term "biorefinery" means—

(i) a facility that uses lignocellulosic or hemicellulose, including barley grain, grapes, forest thinnings, rice bran, rice hulls, rice straw, soybean meal, sugarcane, and sorghum, as raw materials grown specifically for the purpose of producing cellulosic feedstocks.

(g) Bioenergy.—The term "bioenergy" means—

(i) energy from biomass, including energy from cellulosic biomass, and any other such goals the Secretary considers appropriate.

(h) Biorefinery Demonstration Program.—The Secretary shall conduct the Biorefinery Demonstration Program under section 937 in consultation with the Tennessee Valley Authority, state-of-the-art optimization techniques for power flow through existing high voltage transmission lines.

(i) Biomass.—The term "biomass" includes—

(i) energy from biomass, including energy from cellulosic biomass, and any other such goals the Secretary considers appropriate.

SEC. 937. PROGRAMS.

(a) In General.—The Secretary shall conduct programs of renewable energy research, demonstration, and commercial application, including activities described in this subtitle. Such programs shall be focused on the following objectives:

(1) Increasing the conversion efficiency of all forms of renewable energy through improved technologies, including activities described in this subtitle. Such programs shall be focused on the following objectives:

(i) Increasing the conversion efficiency of all forms of renewable energy through improved technologies, including activities described in this subtitle.

(ii) Promoting the diversity of the energy supply.

(iii) Decreasing the Nation's dependence on foreign energy supplies.

(iv) Improving United States energy security.

(v) Converting and improving renewable energy generation and delivery.

(vi) Promoting the diversity of the energy supply.

(b) Biorefinery Demonstration Program.—The Secretary shall carry out the Biorefinery Demonstration Program under section 937 in consultation with the Tennessee Valley Authority, state-of-the-art optimization techniques for power flow through existing high voltage transmission lines.

SEC. 938. SOLAR.

(a) Program.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for solar energy, including—

(i) photovoltaics; 

(ii) solar hot water and solar space heating; and

(iii) concentrating solar power.

(b) Building Integration.—For photovoltaics, solar hot water and space heating, the Secretary shall conduct research, development, demonstration, and commercial application to support the development of products that can be integrated into new and existing buildings.

(c) Manufacture.—The Secretary shall conduct research, development, demonstration, and commercial application of manufacturing techniques that can produce low-cost, high-quality solar systems.

SEC. 939. BIOENERGY PROGRAMS.

(a) Program.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for cellulosic biomass, including—

(i) biomass conversion to heat and electricity; 

(ii) biomass conversion to liquid fuels; 

(iii) biobased products; 

(iv) integrated biorefineries that may produce heat, electricity, liquid fuels, and biobased products; and

(v) cross-cutting activities on feedstocks and enzymes; and

(b) Life-Cycle Economic Analysis.

(c) Biofuels, and Biobased Products.—The objectives of the biofuels and biobased products programs under paragraphs (2), (3), and (4) of subsection (a), and of the bioenergy demonstration program, under section (c), shall be to develop, in partnership with industry—

(1) advanced biochemical and thermochemical conversion technologies capable of making high-value biobased chemical feedstocks and products, to substitute for petroleum-based feedstocks and products, (2) bioenergy demonstration and other research, development, demonstration, and other incentives.

(3) The objectives of the biofuels and biobased products programs under paragraphs (2), (3), and (4) of subsection (a), and of the bioenergy demonstration and other research, development, demonstration, and other incentives.

(4) Promoting the diversity of the energy supply.

(5) Decreasing the Nation's dependence on foreign energy supplies.

(6) Improving United States energy security.

(7) Decreasing the environmental impact of energy-related activities.

(8) Increasing the export of renewable energy generation equipment from the United States.

(b) Goals.—

(1) Initial Goals.—In accordance with the performance plan and report requirements in section 255 of the Government Performance and Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), and any amendments to such goals.

(2) Subsequent Transmittals.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), and any amendments to such goals.

(3) Public Input.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other interested parties through seeking comments in the Federal Register and other interested parties through seeking comments in the Federal Register and other interested parties through seeking comments in the Federal Register and other interested parties through seeking comments in the Federal Register and other interested parties through seeking comments in the Federal Register and other interested parties through seeking comments in the Federal Register and other interested parties through seeking comments in the Federal Register.
(c) Biomass Integrated Refinery Demonstration.—

(1) IN GENERAL.—The Secretary shall conduct a program to demonstrate the commercial application of at least 5 integrated bio-refineries. The Secretary shall ensure geographical distribution of bio-refinery demonstrations under this subsection. The Secretary shall select only proposals that demonstrate technologies for—

(A) the demonstration of a wide variety of cellulosic biomass feedstocks;

(B) the commercial application of biomass technologies for a variety of uses, including—

(i) liquid transportation fuels;

(ii) high-value biobased chemicals;

(iii) substitutes for petroleum-based feedstocks and products; and

(iv) energy in the form of electricity or useful heat; and

(C) the demonstration of the collection and treatment of a variety of biomass feedstocks.

(2) Proposals.—Not later than 6 months after the date of enactment of this Act, the Secretary shall solicit proposals for demonstration of advanced bio-refineries. The Secretary shall select only proposals that—

(A) demonstrate that the project will be able to operate profitably without direct Federal subsidy after initial construction costs are paid; and

(B) enable the bio-refinery to be easily replicated.

(d) University Biodiesel Program.—The Secretary shall establish a demonstration program to determine the feasibility of the operation of small-scale electric power generators, using biodiesel fuels, with ratings as high as 100 at a university electric generation facility. The program shall examine—

(1) the use of diesel fuels with large quantities of cellulosic content;

(2) the reliability of operation of various fuel blends;

(3) performance in cold or freezing weather;

(4) stability of fuel after extended storage; and

(5) other criteria, as determined by the Secretary.

(e) Grants.—Of the funds authorized to be appropriated by this section that are authorized under this section, not less than $5,000,000 for each fiscal year shall be made available for grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions. 

SEC. 941. GEOTHERMAL.

(a) IN GENERAL.—The Secretary shall conduct a program of grants to States to demonstrate advanced photovoltaic technology.

(b) Requirements.—(1) To receive funding under the competitive allocation under this section, a State must submit a proposal that demonstrates, to the satisfaction of the Secretary, that the State will meet the requirements of subsection (b)(3) in carrying out the program during that preceding year, and that it will do so in the future.

(2) Except as provided in subsection (c), each State submitting a qualifying proposal shall receive funding under the program based on the proportion of United States population in the State according to the 2000 census. In each fiscal year, the portion of funds attributable under this paragraph to States that have not submitted qualifying proposals in the time and manner specified by the Secretary shall be distributed pro rata to the States that have submitted qualifying proposals in the specified time and manner.

(c) Competition.—If more than $80,000,000 is available for the program under this section for any fiscal year, the Secretary shall allocate 75 percent of the funds available according to subsection (b), and shall award the remaining 25 percent on a competitive basis to the States that submit proposals that the Secretary considers most likely to encourage the widespread adoption of photovoltaic technologies.

(d) Proposals.—Not later than 6 months after the date of enactment of this Act, and in each subsequent fiscal year for the life of the program, the Secretary shall solicit proposals from the States to participate in the program under this section.

(e) Competitive Criteria.—In awarding funds in a competitive allocation under this subsection, the Secretary shall consider—

(1) the likelihood of a proposal to encourage the demonstration of, or lower the costs of, advanced photovoltaic technologies; and

(2) the extent to which a proposal is likely to—

(A) maximize the amount of photovoltaics demonstrated;

(B) maximize the proportion of non-Federal cost share; and

(C) limit State administrative costs.

(f) Use of Funds.—A program operated by a State with funding under this section shall provide competitive awards for the demonstration of advanced photovoltaic technologies for—

(1) the demonstration of advanced photovoltaic technologies for use of the facility, including capital costs required at normal business amortization rates.

(g) additional programs.

(1) Shoot Program.—The Secretary may conduct research, development, and commercial application programs of—

(A) the feasibility of various methods of renewable generation of energy from the ocean, including energy from waves, tides, currents, and thermal gradients; and

(B) the combined use of renewable energy technologies with one another and with other energy technologies.

(2) Marine Renewable Energy Study.—

(1) Study.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study on—

(A) the feasibility of various methods of renewable generation of energy from the ocean, including energy from waves, tides, currents, and thermal gradients; and

(B) the combined use of renewable energy technologies with one another and with other energy technologies.

(2) Transmittal.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit the study to Congress along with the Secretary's recommendations for implementing the results of the study.

(h) renewable energy in public buildings.

(1) Demonstration and Technology Transfer Program.—The Secretary shall establish a program for the demonstration and dissemination of information resulting from such demonstration to interested parties.
(2) LIMIT ON FEDERAL FUNDING.—The Secretary shall provide under this subsection no more than 40 percent of the incremental costs of the solar or other renewable energy sources described under paragraphs (1) and (2).

(3) REQUIREMENT.—As part of the application for awards under this subsection, the Secretary shall require all applicants—

(A) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(B) to state how they expect any award to further their transition to the significant use of renewable energy.

SEC. 946. DEFINITION.

In this title, the term ‘‘nuclear science and engineering’’ includes—

(a) nuclear science,

(b) nuclear engineering,

(c) nuclear instrumentation and measurement,

(d) nuclear medicine,

(e) nuclear chemistry,

(f) health physics,

(2) NUCLEAR ENERGY PROGRAMS

(a) IN GENERAL.—The Secretary shall conduct a program to invest in human resources, commercial application, including activities associated with the commercial application of technologies related to the nuclear sciences, and any other such goals as the Secretary considers appropriate.

(b) INTERNATIONAL COOPERATION.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

CHAPTER 1—NUCLEAR ENERGY RESEARCH PROGRAMS

SEC. 948. ADVANCED FUEL RECYCLING PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct an advanced fuel recycling technology research, development, demonstration, and commercial application program to develop fuel recycling or transmutation technologies which are proliferation-resistant and minimize environmental and public health and safety impacts, as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act, in support of evaluation of alternative national strategies for spent nuclear fuel and advanced reactor concepts. The program shall be subject to annual review by the Secretary’s Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) INTERNATIONAL COOPERATION.—The Secretary shall seek opportunities to engage international partners with expertise in advanced fuel recycling technologies where such partnerships may help achieve program goals.

SEC. 949. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) IN GENERAL.—The Secretary shall conduct a program to invest in human resources in the nuclear sciences and related fields, including health physics, nuclear engineering, and radiochemistry, consistent with Departmental missions related to civilian nuclear research, development, demonstration, and commercial application.

(b) REQUIREMENTS.—In carrying out the program under this section, the Secretary shall—

(1) conduct a graduate and undergraduate fellowship program to attract new and talented students, which may include fellowships for students to spend time at National Laboratories in the areas of nuclear science, engineering, and health physics with a member of the National Laboratory staff acting as a mentor;

(2) conduct a junior faculty research initiation program to assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering by awarding grants to junior faculty for research on issues related to nuclear energy engineering and science;

(3) support fundamental nuclear sciences, engineering, and health physics research through a nuclear engineering education and research program;

(4) encourage collaborative nuclear research among industry, National Laboratories, and universities; and

(5) conduct outreach related to nuclear science, engineering, and health physics.
SEC. 954. NUCLEAR ENERGY RESEARCH AND DEVELOPMENT INFRASTRUCTURE PLAN.

In carrying out section 919, the Secretary shall—

(1) develop an inventory of nuclear science and engineering facilities, equipment, expertise, and other assets at all of the National Laboratories;

(2) develop a prioritized list of nuclear science and engineering plant and equipment improvements needed at each of the National Laboratories;

(3) consider the available facilities and expertise at all National Laboratories and emphasize investment in equipment rather than duplicate capabilities; and

(4) develop a timeline and a proposed budget for the completion of deferred maintenance on plants and equipment with the goal of ensuring that Department programs under this subtitle will be generally recognized to be among the best in the world.

SEC. 955. IDAHO NATIONAL LABORATORY FACILITIES PLAN.

(a) PLAN.—The Secretary shall develop a comprehensive plan for the Idaho National Laboratory, especially taking into account the resources available at other National Laboratories. In developing the plan, the Secretary shall—

(1) evaluate future planning processes utilized by other physical science and engineering research and development institutions, both in the United States and abroad, that are generally recognized as being among the best in the world, and consider how those processes might be adapted toward developing such facilities plan;

(2) avoid duplicating, moving, or transferring nuclear science and engineering facilities, equipment, expertise, and other assets that currently exist at other National Laboratories;

(3) consider the establishment of a national transuranic analytic chemistry laboratory as a user facility at the Idaho National Laboratory;

(4) include a plan to develop, if feasible, the Advanced Test Reactor and Test Reactor Area into a user facility that is more readily accessible to academic and industrial researchers;

(5) consider the establishment of a fast neutron source as a user facility;

(6) consider the construction of new “hot cells” and the configuration of “hot cells” most likely to advance research, development, demonstration, and commercial application; and

(7) include a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment.

(b) TRANSMITTAL TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Secretary shall transmit such plan to Congress.

SEC. 956. AUTHORIZATION OF APPROPRIATIONS.

(a) PROGRAM AUTHORIZATION.—The following sums are authorized to be appropriated, for the purposes of carrying out this Act:

(1) $407,000,000 for fiscal year 2006.

(2) $427,000,000 for fiscal year 2007.

(3) $499,000,000 for fiscal year 2008.

(b) UNIVERSITY SUPPORT.—Of the funds authorized to be appropriated under subsection (a), the following sums are authorized to be appropriated for the support of the universities to spend sabbaticals at National Laboratories, both in the United States and abroad, that are generally recognized as being among the best in the world, and consider how those processes might be adapted toward developing such facilities plan:

(1) $35,200,000 for fiscal year 2006.

(2) $44,350,000 for fiscal year 2007.

(c) FUNDING.—Funding for a project provided under this section may be used for a portion of the operating and maintenance costs of a research reactor at a university used in the project.

SEC. 957. DEFINITIONS.

For purposes of this chapter:

(1) CONSTRUCTION.—The term “construction” means the physical construction of the demonstration plant, and the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the demonstration plant, but does not mean the design of the facility, equipment, or components.

(2) DEMONSTRATION PLANT.—The term “demonstration plant” means an advanced fission reactor power plant constructed and operated in accordance with this chapter.

(3) OPERATION.—The term “operation” means the operation of the demonstration plant, including general maintenance and provision of power, heating, and cooling, and other building services that are specifically for the demonstration plant, but does not mean operations that support other activities colocated with the demonstration plant.

SEC. 958. NEXT GENERATION NUCLEAR POWER PLANT.

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced nuclear fission reactor technology. The objective of this program shall be to demonstrate the technical and economic feasibility of an advanced fission reactor power plant design for the commercial production of electricity.

(b) RESEARCH AND DEVELOPMENT.—The program shall include research, development, design, planning, and all other necessary activities to support the construction and operation of the demonstration plant.

(c) SUBSYSTEM DEMONSTRATIONS.—The Secretary shall support demonstration of enabling technologies and subsystems and other research, development, demonstration, and commercial application activities necessary to support the activities in this chapter.

(d) CONSTRUCTION AND OPERATION.—The program shall culminate in the construction and operation of a demonstration plant based on a design selected by the Secretary in accordance with procedures described in the plan required by section 960(c). The demonstration plant shall be constructed within the United States and shall be operational, and capable of demonstrating the commercial production of electricity, by December 31, 2015.

(e) LIMITATION.—No funds shall be expended for the construction or operation of the demonstration plant until 90 days have elapsed after the transmission of the plan described in section 919 to Congress.

SEC. 959. ADVISORY COMMITTEE.

The Secretary shall appoint a Next Generation Nuclear Power Plant Subcommittee of the Nuclear Energy Research Advisory Council to provide advice to the Secretary on technical matters and program management for the duration of the program and construction project under this chapter.

SEC. 960. PROGRAM REQUIREMENTS.

(a) PARTNERSHIPS.—In carrying out the program under this chapter, the Secretary shall make use of partnerships with industry for the research, development, design, construction, and operation of the demonstration plant. In establishing such partnerships, the Secretary shall give preference to companies for which the principal base of operations is located in the United States.
(b) INTERNATIONAL COLLABORATION.—(1) The Secretary shall seek international cooperation, participation, and financial contribution in this program, including assistance from other nations; and facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(2) International activities shall be carried out in consultation with the Generation IV International Forum.

(3) The Secretary may include demonstration of selected program objectives in a partner nation.

(c) PROGRAM PLAN.—Not later than one year after enactment of this Act, the Secretary shall transmit to Congress a comprehensive program plan. The program plan shall—

(1) describe the plan for development, selection, management, ownership, operation, and decommissioning of the demonstration plant;

(2) identify program milestones and a timeline for achieving these milestones;

(3) provide for development of risk-based criteria for any future commercial development and operation of a reactor system based on that of the demonstration plant;

(4) include a projected budget required to meet these milestones; and

(5) include an explanation of any major program decisions that deviate from program advice given to the Secretary by the advisory committee established under section 959.

SEC. 961. AUTHORIZATION OF APPROPRIATIONS.

(a) RESEARCH, DEVELOPMENT, AND DESIGN PROGRAMS.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter except for the demonstration plant activities described in subsection (b): (1) For fiscal year 2006, $150,000,000.

(2) For fiscal year 2007, $150,000,000.

(3) For fiscal year 2008, $150,000,000.

(4) For fiscal year 2009, $150,000,000.

(5) For fiscal year 2010, $150,000,000.

(b) REACTOR CONSTRUCTION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for operation and construction of the demonstration plant under this chapter. The Secretary shall not spend more than $500,000,000 for demonstration plant construction activities under this chapter.

Subtitle F—Fossil Energy

CHAPTER 1—RESEARCH PROGRAMS

SEC. 962. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—The Secretary shall, in conjunction with industry, conduct fossil energy research, development, demonstration, and commercial applications programs, including activities under this chapter, with the goal of improving the efficiency, effectiveness, and environmental performance of fossil energy production, upgrading, conversion, and consumption. Such programs shall be focused on—

(1) increasing the conversion efficiency of all forms of fossil energy through improved technologies;

(2) decreasing the cost of all fossil energy production, generation, and delivery;

(3) promoting diversity of energy supply;

(4) decreasing the Nation’s dependence on foreign energy supplies;

(5) improving United States energy security;

(6) decreasing the environmental impact of energy-related activities; and

(7) increasing the deployment of fossil energy-related equipment, technology, and services from the United States.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President’s annual budget request for fiscal year 2007, a report containing outcome measures with performance baselines. The measures shall specify development and deployment performance goals, with quantifiable 5-year cost and energy savings targets, for fossil energy, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President’s annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including qualitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) COVERED ACTIVITIES.—The Secretary shall ensure that the goals stated in subsection (a) and the outcome measures are necessary to promote acceptance of the programs’ efforts in the marketplace, but at a minimum shall encompass the following areas:

(1) Coal gasifiers.

(2) Turbine generators, including both natural gas and syngas fueled.

(3) Oxygen separation devices, hydrogen separation devices, and carbon dioxide separation technologies.

(4) Coal gas and post-combustion emission cleaning and disposal equipment, including carbon dioxide capture and disposal equipment.

(5) Average per-foot drilling costs for oil and gas, segregated by appropriate drilling regimes, including onshore versus offshore and depth categories.

(6) Production of liquid fuels from non-traditional feedstocks, including syngas, biomass, methane, and combinations thereof.

(7) Environmental discharge per barrel of oil or oil-equivalent production, including rejected water.

(8) Surface disturbance on both a per-well and per-barrel of oil or oil-equivalent production basis.

(d) PUBLIC INPUT.—The Secretary shall consult with the public, industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

SEC. 963. FOSSIL RESEARCH AND DEVELOPMENT.

(a) OBJECTIVES.—The Secretary shall conduct a program of fossil research, development, demonstration, and commercial application, whose objective shall be to reduce emissions from fossil fuel use by developing and demonstrating new and improved technologies, by 2015 with the capability of —

(1) dramatically increasing electricity generating efficiencies of coal and natural gas;

(2) improving combined heat and power thermal efficiencies;

(3) improving fuels utilization efficiency of production of liquid transportation fuels from coal;

(4) achieving near-zero emissions of mercury and of emissions that form fine particles, smog, and acid rain;

(5) reducing carbon dioxide emissions by at least 40 percent through efficiency improvements and by 100 percent with sequestration; and

(6) improved reliability, efficiency, reductions of air pollutant emissions, and reductions in solid waste disposal requirements.

(b) COAL-BASED PROJECTS.—The coal-based projects authorized under this section shall be consistent with the objective stated in subsection (a). The program shall emphasize carbon capture and sequestration technologies and gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction, hybrid gasification and other technologies with the potential to address the capabilities described in paragraphs (4) and (5) of subsection (a).

SEC. 964. OIL AND GAS RESEARCH AND DEVELOPMENT.

The Secretary shall conduct a program of oil and gas research, development, demonstration, and commercial application, whose objective shall be to advance the science and technology available to domestic petroleum producers, particularly independent operators, to minimize the economic dislocation caused by the decline of domestic supplies of oil and natural gas resources by focusing research on—

(1) assisting small domestic producers of oil and gas to develop new and improved technologies to discover and extract additional supplies;

(2) developing technologies to extract methane hydrates in an environmentally sound manner;

(3) improving the ability of the domestic industry to extract hydrogen from known reservoirs and classes of reservoirs; and

(4) reducing the cost, and improving the efficiency and environmental performance, of oil and gas exploration and extraction activities, focusing especially on unconventional sources such as tar sands, heavy oil, and shale oil.

SEC. 965. TRANSPORTATION FUELS.

The Secretary shall conduct a program of transportation fuels research, development, demonstration, and commercial application, whose objective shall be to reduce the price elasticity of oil supply and demand by focusing research on—

(1) reducing the cost of producing transportation fuels from coal and natural gas; and

(2) indirect liquefaction of coal and biomass.

SEC. 966. FUEL CELLS.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(b) DEMONSTRATION.—The program under this section shall include demonstration of fuel cells for proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, utilizing improved manufacturing processes.

SEC. 967. CARBON DIOXIDE CAPTURE RESEARCH AND DEVELOPMENT.

(a) PROGRAM.—The Secretary shall conduct a project of research, development, demonstration, and commercial application of carbon dioxide capture technologies for pulverized coal combustion units. The program shall focus on—

(1) developing add-on carbon dioxide capture technologies, such as adsorption and absorption technologies and chemical processes, to remove carbon dioxide from flue gas, producing concentrated streams of carbon dioxide potentially amenable to sequestration; and

(2) combustion technologies that would directly produce concentrated streams of carbon dioxide potentially amenable to sequestration.

(b) TESTING.—The Secretary shall test the carbon dioxide capture and combustion technologies described in subsection (a) in full-scale demonstration projects.
CHAP TER 2—ULTRA-DEEPWATER AND UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES

SEC. 966. PROGRAM AUTHORITY.

(a) In General.—The Secretary shall carry out a program under this chapter of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resource exploitation and production, including addressing the technology challenges for small producers, safe operations, and environmental mitigation (including reduction of greenhouse gas emissions and sequestration of carbon).

(b) Program Elements.—The program under this chapter shall address the following areas, including improving safety and minimizing environmental impacts of activities within each area:

(1) Ultra-deepwater architecture and technology, including drilling to formations in the Outer Continental Shelf to depths greater than 15,000 feet;

(2) Unconventional natural gas and other petroleum resource exploration and production technology;

(3) Technology challenges of small producers.

(c) Complementary Research.—Complementary research performed by the National Energy Technology Laboratory for the purposes of reducing the cost and increasing the supply of such resources, increasing the efficiency of exploration for and production of such resources, and minimizing environmental impacts.

(d) Limitation on Location of Field Activities.—Field activities under the program under this chapter shall be carried out only in:

(1) in—

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

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

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

(2) with the approval of the appropriate Federal or State land management agency or private land owner.

(e) Activities at the National Energy Technology Laboratory.—The Secretary, through the National Energy Technology Laboratory, shall carry out a program of research and other activities complementary to and supportive of the research programs under this section.

(f) Annual Plan.—The Secretary shall consult regularly with the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce regarding the research, development, demonstration, and commercial application programs and their effects on the energy policy of the United States.

SEC. 967. OTHER PETROLEUM RESOURCES.

(a) In General.—The Secretary shall carry out the activities under section 966, to maximize the value of natural gas and other petroleum resources of the United States, by increasing the supply of such resources, through reduction in and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) Role of Secretary.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this section.

(c) Role of the Program Consortium.—

(1) In General.—The Secretary shall contract with a consortium to—

(A) manage awards pursuant to subsection (f)(3); and

(B) issue project solicitations upon approval of the Secretary;

(C) carry out the activities assigned to the Secretary under subsection (f);

(D) disburse funds awarded under subsection (f) as directed by the Secretary in accordance with the annual plan under paragraph (e); and

(E) carry out other activities assigned to the program consortium by this section.

(2) Members.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(3) Conflict of Interest.—

(A) Procedures.—The Secretary shall establish procedures—

(i) to ensure that each board member, officer, employee, or contractor of the program consortium who is in a decisionmaking capacity under subsection (f) shall disclose to the Secretary any financial interests in, or financial relationships with, applicants for or recipients of awards under this section, including those of his or her spouse or minor child, unless such relationships or interests would be considered to be remote or inconsequential; and

(ii) to require any board member, officer, employee, or contractor of the program consortium who is in a decisionmaking capacity under subsection (f) to recuse himself or herself from any oversight under subsection (f)(4) with respect to such applicant or recipient.

(B) Failure to Comply.—The Secretary may disqualify an application or revoke an award under this section if a board member, officer, employee, or contractor has failed to comply with procedures required under subparagraph (A)(ii).

(4) Selection of the Program Consortium.—

(A) In General.—The Secretary shall select the program consortium through an open, competitive process.

(B) Membership.—The program consortium may include corporations, trade associations, institutions of higher education, National Laboratories, or other research institutions. After submitting a proposal under paragraph (4), the program consortium may not add members without the consent of the Secretary.

(5) Tax Status.—The program consortium shall be an entity that is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986 on the date of enactment of this Act.

(F) Schedule.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals from eligible consortiums. After selecting the consortium under this subchapter, the Secretary shall notify the Senate Committee on Energy and Natural Resources of the decision and the name of the consortium selected.

(G) Consultation With Secretary of the Interior.—In carrying out this part, the Secretary shall consult regularly with the Senate Committee on Energy and Natural Resources and the House Committee on Energy and Commerce regarding the research, development, demonstration, and commercial application programs and their effects on the energy policy of the United States.
VerDate jul 14 2003 04:51 Apr 21, 2005 Jkt 039060 PO 00000 Frm 00111 Fmt 7634 Sfmt 0634 E:\CR\FM\A20AP7.059 H20PT1
awards.

of the program consortium may receive such tion. The program consortium shall not be
awards to carry out research, development,
retary the program consortium shall make
duction from amounts to be provided under
ation of the consortium, which shall be de-
remedy any deficiencies cited in the report.

the report to Congress, along with a plan to
nually to the Secretary, who shall transmit
with the purposes and requirements of this
under awards made under subsection (f),
mine the extent to which funds provided to
independent, commercial auditor to deter-

an annual report to Congress with the Presi-
dent’s budget on the estimated cumulative incre-

shall be submitted in the first President’s bud-
the initial report under this paragraph shall
be submitted in the first President’s bud-
was resulting from the implementation of this
part. The initial report under this paragraph shall
be submitted in the first President’s bud-
shall be designated for technology
and outreach activities under this chapter
reduce or eliminate the non-Federal require-
ment if the Secretary determines that the

(1) IN GENERAL.—Upon approval of the Sec-

shall make awards to carry out research, develop-
demonstration, and commercial application activi-
application programs under the program
section. The program consortium shall not be
eligible to receive such awards, but members of
the program consortium may receive such

(2) PROPOSALS.—Upon approval of the Sec-

shall solicit proposals for awards under this subsection in
such manner and at such time as the Sec-
retary may prescribe, in consultation with
the program consortium.

(3) OVERSIGHT.—

(A) In general.—The program consortium shall oversee the implemen-
tation of awards under this subsection, consistent with the annual
plan under subsection (e), including disbursing funds and monitoring ac-
tivities carried out under such awards for compli-
ance with the terms and conditions of the awards.

(B) Effect.—Nothing in subparagraph (A) shall limit the authority or responsibility of
the Secretary to oversee awards, or limit the authority of the Secretary to review or re-
voke awards.

(g) ADMINISTRATIVE COSTS.—

(1) In general.—To compensate the pro-
gram consortium for carrying out its activi-
ties under this section, the Secretary shall
provide to the program consortium funds
sufficient to administer the program. This
compensation may include a management fee compensating an Energy
contracting practices and procedures.

(2) ADVANCE.—The Secretary shall advance funds to the program consortium upon selec-
tion of the consortium, which shall be de-
ducted from amounts to be provided under
paragraph (1).

(b) AUDIT.—The Secretary shall retain an independent commercial auditor to deter-
mine the extent to which funds provided to
the program consortium, and funds provided under
subsection (c), have been expended in a manner consistent
with the purposes and requirements of this
part. The auditor shall transmit a report an-
nually to the Secretary, who shall transmit
the report to Congress, along with a plan to
remedy any deficiencies cited in the report.

(i) ACTIVITIES BY THE UNITED STATES GEO-
LOGICAL SURVEY.—The Secretary of the Inte-
rior, through the United States Geological
Survey, shall, where appropriate, carry out
geological surveys to complement the programs under this section.

SEC. 971. ADDITIONAL REQUIREMENTS FOR
AWARDS.

(a) DEMONSTRATION PROJECTS.—An applica-
tion for an award under this chapter for a
demonstration project shall describe with
specificity the intended commercial use of
the technology to be demonstrated.

(b) FLEXIBILITY IN LOCATING DEMONSTRA-
TION PROJECTS.—Subject to the limitation in
section 969(c), a demonstration project under
this chapter related to ultra-deepwater
technology or an ultra-deepwater architec-
ture may be conducted in deepwater depths.

(c) INTELLECTUAL PROPERTY AGREEMENTS.—If an award under this chapter is
made to a consortium (other than the pro-
gram consortium), the consortium shall pro-
ter to the Secretary a signed contract
agreed to by all members of the consortium
describing the rights of each member to in-
tellectual property used or developed under

(1) IN GENERAL.—Upon approval of the Sec-

consortium shall make awards to carry out research, develop-
demonstration, and commercial application activi-
application programs under the program
section. The program consortium shall not be
eligible to receive such awards, but members of
the program consortium may receive such

(2) PROPOSALS.—Upon approval of the Sec-

shall solicit proposals for awards under this subsection in
such manner and at such time as the Sec-
retary may prescribe, in consultation with
the program consortium.

(3) OVERSIGHT.—

(A) In general.—The program consortium shall oversee the implemen-
tation of awards under this subsection, consistent with the annual
plan under subsection (e), including disbursing funds and monitoring ac-
tivities carried out under such awards for compli-
ance with the terms and conditions of the awards.

(B) Effect.—Nothing in subparagraph (A) shall limit the authority or responsibility of
the Secretary to oversee awards, or limit the authority of the Secretary to review or re-
voke awards.

(g) ADMINISTRATIVE COSTS.—

(1) In general.—To compensate the pro-
gram consortium for carrying out its activi-
ties under this section, the Secretary shall
provide to the program consortium funds
sufficient to administer the program. This
compensation may include a management fee compensating an Energy
contracting practices and procedures.

(2) ADVANCE.—The Secretary shall advance funds to the program consortium upon selec-
tion of the consortium, which shall be de-
ducted from amounts to be provided under
paragraph (1).

(b) AUDIT.—The Secretary shall retain an independent commercial auditor to deter-
mine the extent to which funds provided to
the program consortium, and funds provided under
subsection (c), have been expended in a manner consistent
with the purposes and requirements of this
part. The auditor shall transmit a report an-
nually to the Secretary, who shall transmit
the report to Congress, along with a plan to
remedy any deficiencies cited in the report.

(i) ACTIVITIES BY THE UNITED STATES GEO-
LOGICAL SURVEY.—The Secretary of the Inte-
rior, through the United States Geological
Survey, shall, where appropriate, carry out
geological surveys to complement the programs under this section.

SEC. 972. ADVISORY COMMITTEES.

(a) ULTRA-DEEPWATER ADVISORY COM-
MITTEE.—

(1) ESTABLISHMENT.—Not later than 270
days after the date of enactment of this Act, the Secretary shall establish an advisory
committee to be known as the Ultra-Deep-
water Advisory Committee.

(2) MEMBERSHIP.—The advisory committee shall consist of:

(A) a majority of members who are em-

employees or representatives of independent
producers of natural gas and other petro-
leum, including small producers;

(B) individuals with extensive research ex-
perience or operational knowledge of uncon-
nventional natural gas and other petroleum
resource exploration and production;

(C) individuals broadly representative of
the affected interests in unconventional nat-
ural gas and other petroleum resource explo-
ration and production, including interests in
environmental protection and safe oper-
ations;

(D) no individuals who are Federal employ-
ees; and

(E) no individuals who are board members,
oficers, or employees of the program consor-
tium.

(b) DUTIES.—The advisory committee shall:

(i) advise the Secretary on the develop-
ment, implementation of activities under
this chapter related to unconventional nat-
ural gas and other petroleum resources;

(ii) carry out section 970(e)(2)(B).

(c) COMPENSATION.—The members of the advis-
ory committee under this subsection shall
serve without compensation but shall receive
travel expenses in accordance with applica-
ble provisions under subchapter I of chapter
57 of title 5, United States Code.

(d) PROHIBITION.—No advisory committee
established under this section shall make
recommendations on funding awards to par-
ticular consortia or other entities, or for spe-
cific projects.

SEC. 973. LIMITS ON PARTICIPATION.

An entity shall be eligible to receive an award under this chapter only if the Sec-
retary finds—

(1) that the entity’s participation in the
program under this chapter would be in the
economic interest of the United States; and

(2) that either—

(A) the entity is a United States-owned ent-
ity organized under the laws of the United
States; or

(B) the entity is organized under the laws of the
United States and has a parent entity
organized under the laws of a country that
affords—

(i) to United States-owned entities oppor-
tunities, comparable to those afforded to
any other entity, to participate in any coopera-
tive research venture similar to those au-
thorized under this part;

(ii) to United States-owned entities local
investment opportunities comparable to
those afforded to any other entity; and

(iii) adequate and effective protection for
the intellectual property rights of United
States-owned entities.

SEC. 974. SUNSET.

The authority provided by this chapter shall terminate on September 30, 2014.

SEC. 975. DEFINITIONS.

In this part:

(1) DEEPWATER.—The term ‘‘deepwater’’ means a water depth that is greater than 200
but less than 1,500 meters.

(2) INDEPENDENT PRODUCER OF OIL OR GAS.—

(A) IN GENERAL.—The term ‘‘independent
producer of oil or gas’’ means any person
who produces oil or gas other than a person
affords

(i) to United States-owned entities oppor-
tunities, comparable to those afforded to
any other entity, to participate in any coopera-
tive research venture similar to those au-
thorized under this part;

(ii) to United States-owned entities local
investment opportunities comparable to
those afforded to any other entity; and

(iii) adequate and effective protection for
the intellectual property rights of United
States-owned entities.

SEC. 974. SUNSET.

The authority provided by this chapter shall terminate on September 30, 2014.

SEC. 975. DEFINITIONS.

In this part:

(1) DEEPWATER.—The term ‘‘deepwater’’ means a water depth that is greater than 200
but less than 1,500 meters.

(2) INDEPENDENT PRODUCER OF OIL OR GAS.—

(A) IN GENERAL.—The term ‘‘independent
producer of oil or gas’’ means any person
who produces oil or gas other than a person
affords

(i) to United States-owned entities oppor-
tunities, comparable to those afforded to
any other entity, to participate in any coopera-
tive research venture similar to those au-
thorized under this part;

(ii) to United States-owned entities local
investment opportunities comparable to
those afforded to any other entity; and

(iii) adequate and effective protection for
the intellectual property rights of United
States-owned entities.
(B) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of subparagraph (A), paragraphs (2) and (4) of section 613A(d) of the Internal Revenue Code of 1986 shall apply by application of a biennial “taxable year” for “taxable year” each place it appears in such paragraphs.

(3) PROGRAM CONSORTIUM. —The term “program consortium” means the consortium selected under section 970(d).

(4) REMOTE OR INCONSEQUENTIAL. —The term “remote or inconsequential” has the meaning given that term in regulations issued by the Office of Government Ethics under section 613A(d) of the Internal Revenue Code of 1986.

(5) SMALL PRODUCER. —The term “small producer” means an entity organized under subpart C of part 4 of title 31, United States Code, that produces natural gas or oil from a single lease with an annual production of less than 1,000 barrels per day of oil equivalent.

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

(7) ULTRA-DEEPWATER ARCHITECTURE. —The term “ultra-deepwater architecture” means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(8) ULTRA-DEEPWATER TECHNOLOGY. —The term “ultra-deepwater technology” means a discrete technology that is specially suited to address challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(9) UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCE.—The term “unconventional natural gas and other petroleum resource” means natural gas and other petroleum resources located onshore or offshore, in economically inaccessible geological formations, including resources of small producers.

SEC. 976. FUNDING.

(a) IN GENERAL. —

(1) OIL AND GAS LEASE INCOME.—For each of fiscal years 2005 through 2014, from any excess Federal royalties derived from Federal onshore and offshore oil and gas leases issued under the Outer Continental Shelf Lands Act and the Mineral Leasing Act which are deposited in the Treasury, and after prior distributions as described in subsection (c), there shall be available to carry out projects in accordance with the requirements of the Secretary of the Interior.

(b) OBLIGATIONAL AUTHORITY.—(1) The Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, shall be subject to the provisions of section 4 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) or section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2132). The Assistant Secretary may, subject to the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note), including that, to the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a) of that section and that the period of authority to carry out any project under this section (a) terminates as provided in subsection (g) of that section.

(2) The Assistant Secretary may, subject to the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note), including that, to the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a) of that section and that the period of authority to carry out any project under this section (a) terminates as provided in subsection (g) of that section.

(3) The Secretary may exercise authority under this subsection (a) only if authorized by the Director of the Office of Management and Budget to use the authority for such project.

(4) The annual report of the head of an executive agency that is required under subsection (b) of section 2371 of title 10, United States Code, as applied to the head of the executive agency, shall be submitted to Congress.

(5) Not later than 90 days after the date of enactment of this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall prescribe guidelines for using other transactions authorized by paragraph (1). Such guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 5315 of title 5, United States Code, is amended by—

(A) striking “Director, Office of Science, Department of Energy” and inserting “Secretary of Energy”;

(B) striking “Assistant Secretaries of Energy” and inserting “Assistant Secretaries of Energy”;

(c) Table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(1) by striking “Section 209” and inserting “Sec. 209”;

(2) by striking “213.” and inserting “Sec. 213.”;

(C) by striking “214.” and inserting “Sec. 214.”;

(D) by striking “215.” and inserting “Sec. 215.”;

(E) by striking “216.” and inserting “Sec. 216.”

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

SEC. 1002. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

“(g)(1) In addition to other authorities granted to the Secretary under the law, the Secretary may, subject to the same restrictions and conditions with respect to such research and projects as the Secretary of Defense may exercise under section 209 of title 42, United States Code, except for subsections (b) and (f) of such section 2371. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) or section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2132).”

(D) The Secretary may, subject to the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note), including that, to the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a) of that section and that the period of authority to carry out such a project under this section (a) terminates as provided in subsection (g) of that section.

(E) In applying the requirements and conditions of section 845 of the National Defense Authorization Act for Fiscal Year 1994 under this subsection—

(i) subsection (c) of that section shall apply with respect to prototype projects carried out under this paragraph; and

(ii) the Director of the Office of Management and Budget shall perform the functions of the Secretary of Defense under subsection (d) of that section.

(F) The Secretary may exercise authority under this subsection (a) only if authorized by the Director of the Office of Management and Budget to use the authority for such project.

(G) The annual report of the head of an executive agency that is required under subsection (b) of section 2371 of title 10, United States Code, as applied to the head of the executive agency, shall be submitted to Congress.

(H) Not later than 90 days after the date of enactment of this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall prescribe guidelines for using other transactions authorized by paragraph (1). Such guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.
"(4) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President. Any such delegate, and any person who may be delegated to by any other person.

"(5)(A) Not later than September 31, 2006, the Comptroller General of the United States shall report to Congress on the Department’s use of the authorities granted under this section, including the ability to attract non-traditional government contractors and whether alternative safeguard practices are needed with respect to the use of such authorities.

"(B) In this section, the term ‘non-traditional Government contractor’ has the same meaning as in section 22 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).

SEC. 1003. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to the Congress a report that examines the feasibility of promoting collaborations between major universities and other colleges and universities in grants, contracts, and cooperative agreements made by the Department of Energy for purposes of this section. Major universities are schools listed by the Carnegie Foundation for the Advancement of Teaching as Doctoral Research Extensive Universities. The Secretary shall also consider providing incentives to increase the inclusion of small institutions of higher education, including minority-serving institutions, in energy grants, contracts, and cooperative agreements.

SEC. 1004. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) Energy should develop and implement more stringent procurement and inventory controls, including controls on the purchase card program, to prevent waste, fraud, and abuse of taxpayer funds by employees and contractors of the Department of Energy; and

(2) the Department’s Inspector General should continue to closely review purchase card purchases and other procurement and inventory practices at the Department.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the “Electrical Reliability Act of 2005.”

Subtitle A—Reliability Standards

SEC. 1201A. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY.

"(a) Definitions.—For purposes of this section:

"(1) the term ‘bulk-power system’ means—

"(A) the control system and other appurtenances necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

"(2) the term ‘Electric Reliability Organization’ and ‘ERO’ mean the organization certified by the Commission under subsection (c) of this section, which is established by the Secretary for the operation of the bulk-power system, subject to Commission review.

"(3) The term ‘reliability standard’ means a requirement, adopted by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities, the provision of necessary resources for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct or transmit electricity transmission capacity or generation capacity.

"(4) The term ‘reliable operation’ means operating the elements of the bulk-power system so that the system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not cause unacceptable consequences, including a cybersecurity incident, or unanticipated failure of system elements.

"(5) The term ‘Interconnection’ means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(6) The term ‘transmission organization’ means the Commission, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(7) The term ‘regional entity’ means an entity having enforcement authority pursuant to subsection (c).

"(8) The term ‘cybersecurity incident’ means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk-power system.

(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c) any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with these standards and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this Act.

"(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that—

"(1) has the ability to develop and enforce subject to subsection (c)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system and
gives reasonable assurance of its ability to comply with any such function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall comply with any such function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission until—

"(2) the Commission issues a final rule under subsection (b) of this Act.

"(d) The Commission may impose penalties on the bulk-power system.

"(e) The Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to make effective a reliability standard or modification to a reliability standard that it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(f) The Commission shall make available to the public, including but not limited to the entities described in section 201(f), notice of such a conflict, including development of the ERO standard or modification to a reliability standard and to the technical expertise of the Electric Reliability Organization with respect to the conflict. Any proposed standard or modification to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

"(g) The Electric Reliability Organization shall rebuttably presume that a proposed function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(h) The Commission shall require the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission determines make unnecessary in whole or in part.

"(i) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to amend the ERO standard or a modification to a reliability standard that addresses a specific matter if the Commission determines such a new or modified reliability standard appropriate to carry out this section.

"(j) The final rule adopted under subsection (b) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and the functions or operations of the Commission.

"(k) The Commission issues a change to a reliability standard pursuant to section 206 of this part and

"(l) The ordered change becomes effective under this part.
to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

(e) ENFORCEMENT.—(1) The ERO may impose, under paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

(A) finds that the user or owner or operator is not in compliance with the reliability standard approved by the Commission under subsection (d); and

(B) files notice and the record of the proceeding with the Commission.

(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of a finding that the user or owner or operator is not in compliance with a reliability standard.

(3) The Commission may give deference to the advice of the regional entity organized on an Interconnection-wide basis.

(k) ALASKA AND HAWAI'I.—The provisions of subsection (a) do not apply to Alaska or Hawai'i.

(l) Status of ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(2) LIMITATION ON ANNUAL APPROPRIATIONS.—There is authorized to be appropriated not more than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Infrastructure Modernization

SEC. 1211. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) AMENDMENT OF FEDERAL POWER ACT.—Part II of the Federal Power Act is amended by adding at the end the following:

"SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

"(a) Designation of National Interest Electric Transmission Corridors.—(1) Transmission Corridor Study.—Within 1 year after the enactment of this section, and every 3 years thereafter, the Secretary of Energy, in consultation with affected States, shall conduct a study of electric transmission congestion. After considering alternatives and recommendations from interested parties, including an opportunity for comment from affected States, the Secretary shall conduct the study and submit the report in consultation with any appropriate regional entity referenced in section 215 of this Act.

"(2) Considerations.—In determining whether to designate as a national interest electric transmission corridor referred to in paragraph (1) under this section, the Secretary may consider whether—

(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electric service; or

(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

(ii) a diversification of supply is warranted;

(C) the energy independence of the United States would be served by the designation; and

(D) the designation would be in the interest of national energy policy; and

(E) the designation would enhance national defense and homeland security;

(b) Construction Permit.—Except as provided in subsection (i), the Commission may, after notice and an opportunity for comment, issue a construction permit for the construction or modification of electric transmission facilities in a national interest.
electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

(1) (A) a State in which the transmission facility that is constructed or modified is without authority to—

(i) approve the siting of the facilities; or

(ii) consider the interstate benefits expected by the proposed construction or modification of transmission facilities in the State;

(B) the application for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

(C) a State commission or other entity that has authority to approve the siting of the facilities;

(1) withheld approval for more than 1 year after the filing of an application pursuant to applicable law seeking approval or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

(ii) conditioned its approval in such a manner that the denied construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

(2) be an entity that will use or have the authority to approve the siting of the transmission facility that will be used for the transmission of electric energy in interstate commerce.

(3) the proposed construction or modification in interstate commerce;

(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and projects for the construction of electric transmission facilities and related facilities, property acquired under subsection (e) may not be used for any purpose (including use for any heritage area, recreational trail, or park) without the consent of the owner of the parcel from whom the property was acquired (or the owner’s heirs or assigns).

(b) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION AND DISTRIBUTION FACILITIES.

(1) LEAD AGENCY.—If an applicant, or prospective applicant, for a Federal authorization related to the transmission or distribution of electric energy in interstate commerce, or is not economically feasible; and

(ii) consider the interstate benefits expected by the proposed construction or modification of electric transmission facilities within a reasonable period of time after the acquisition. Other than construction, modification, operation, or maintenance of electric transmission facilities and related facilities, property acquired under subsection (e) may not be used for any purpose (including use for any heritage area, recreational trail, or park) without the consent of the owner of the parcel from whom the property was acquired (or the owner’s heirs or assigns).

(2) AUTHORITY TO SET DEADLINES.—(A) Authority to set deadlines for action. The Secretary shall set deadlines for the filing of applications for Federal authorizations and, as appropriate, with the affected agency, the Secretary shall coordinate this Federal authorization. As lead agency, the Department of Energy, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multi-State entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization process, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed project. The Secretary of Energy shall ensure that once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 1 year or, if a requirement of another provision of Federal law makes this impossible, as soon thereafter as is practicable. The Secretary of Energy shall provide notice of the completion of the review to all agencies responsible for the project and all affected parties. The notice shall be published in the Federal Register and included in any environmental impact statement or report required under the National Environmental Policy Act of 1969, and the Federal Land Policy and Management Act.

(3) CONFORMING REGULATIONS AND MEMORANDA OF UNDERSTANDING.—Not later than 180 days after the date of enactment of this section, the Secretaries of Energy and the Interior (including the Department of the Interior) shall issue rules that are consistent with this Act and any other applicable Federal laws, regulations, and Memoranda of Understanding. In addition, the Department of Energy shall issue rules that are consistent with this Act and any other applicable Federal laws, regulations, and Memoranda of Understanding and any other Federal agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

(4) APPEALS.—In the case of a permit or siting approval for the proposed project in a State in which the application was submitted, and in consultation with the affected agency, the Secretary may then either issue the necessary authorization with any appropriate conditions, or deny the application. The Secretary shall provide notice of the completion of the review to all agencies responsible for the project and all affected parties. The notice shall be published in the Federal Register and included in any environmental impact statement or report required under the National Environmental Policy Act of 1969, and the Federal Land Policy and Management Act.

(5) CONFORMING REGULATIONS AND MEMORANDA OF UNDERSTANDING.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy shall issue any regulations necessary to implement this Act and any other applicable Federal laws, regulations, and Memoranda of Understanding. These regulations shall provide for the timely and coordinated review and permitting of energy transmission and distribution facilities. The Secretary of Energy shall consult with agencies that have authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to, the full implementation of the DOE regulations and any Memoranda. Interested Indian tribes, multi-State entities, and State agencies may enter such Memoranda of Understanding to ensure the timely and coordinated review and permitting of electricity transmission and distribution facilities. The Secretary of Energy shall consult with agencies that have authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to, the full implementation of the DOE regulations and any Memoranda. Interested Indian tribes, multi-State entities, and State agencies may enter such Memoranda of Understanding to ensure the timely and coordinated review and permitting of electricity transmission and distribution facilities.

(6) DURATION AND RENEWAL.—Each Federal land use authorization for an electricity transmission or distribution facility shall be issued in the form of a permit or construction permit.

(7) DURATION AND RENEWAL.—Each Federal land use authorization for an electricity transmission or distribution facility shall be issued in the form of a permit or construction permit.

(8) DURATION AND RENEWAL.—Each Federal land use authorization for an electricity transmission or distribution facility shall be issued in the form of a permit or construction permit.

(9) DURATION AND RENEWAL.—Each Federal land use authorization for an electricity transmission or distribution facility shall be issued in the form of a permit or construction permit.

(10) DURATION AND RENEWAL.—Each Federal land use authorization for an electricity transmission or distribution facility shall be issued in the form of a permit or construction permit.
fully into account reliance on such electric infrastructure, recognizing its importance for public health, safety and economic welfare and as a legitimate use of Federal lands.

“(7) MAINTAINING AND ENHANCING THE TRANSMISSION INFRASTRUCTURE.—In exercising the responsibilities under this section, the Secretary shall consult particularly with the Federal Energy Regulatory Commission (FERC), FERC-approved electric reliability organizations (including regional transmission organizations and FERC-approved regional transmission organizations and Independent System Operators).

(1) INTERSTATE COMPACTS.—The compact of Congress establishing a project or requiring contiguous States to enter into an interstate compact, subject to approval by Congress, shall be scheduled for transmission, transmission site planning, transmission site agencies to facilitate siting of future electric energy transmission facilities within such States and to carry out the electric energy transmission siting responsibilities of such States. The Secretary of Energy may provide technical assistance to regional transmission siting agencies established under this section and regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national wildlife refuge systems, and transmission corridors (other than facilities on property owned by the United States). The Commission shall have no authority to issue a permit for or more than one transmission corridor within a State that is a party to a compact, unless the members of the compact are in agreement with the recommendation of the Commission and the Congress declares, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

(2) PROJECTS.—Nothing in this section shall be construed to affect any requirement of the environmental laws of the United States, including, but not limited to, the National Environmental Policy Act of 1969. Subsection (b)(4) of this section shall not apply to any Congressionally-designated components of the National Wilderness Preservation System, the National Wild and Scenic Rivers System, or the National Park system (including National Monuments therein).

(b) PROVISION TO CONGRESS ON CORRIDORS AND RIGHTS OF WAY ON FEDERAL LANDS.—The Secretary of the Interior, the Secretary of Energy, the Secretary of Agriculture, and the Chair of the Council on Environmental Quality shall, within 90 days of the date of enactment of this subsection, submit a joint report to Congress identifying each of the following:

(1) All existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridors on Federal land, including, but not limited to, the Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761 et seq.), the schedule for completing such work, any impediments to completing such work, and steps that Congress could take to expedite the process.

(2) The number of pending applications to locate transmission and distribution facilities on Federal lands, the number applications pending, and the progress in reviewing the applications for each facility, and progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or their equivalents.

(3) The number of existing transmission and distribution rights-of-way on Federal lands that will come up for renewal within the following 5, 10, and 15 year periods, and a description of how the Secretaries plan to manage such renewals.

SEC. 1223. TRANSMISSION SYSTEM MONITORING.

(a) AUTHORITY.—The Federal Energy Regulatory Commission, in the exercise of its authorities under the Federal Power Act and the Public Utility Regulatory Policies Act of 1978, shall encourage the deployment of advanced transmission technologies.

(b) DEFINITION.—For the purposes of this section, the term ‘advanced transmission technologies’ means technologies that increase the capacity, efficiency, or reliability of existing or new transmission facilities, including, but not limited to:

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;
dered obsolete or otherwise impracticable to
finding that such technology has been ren-
cence encouraging the deployment of any
This program shall include
improved reliability and efficiency of elec-
tical transmission and distribution systems.

"'" TRIBUTION PROGRAMS.
— The Secretary of Energy
— The term ‘qualifying advanced power system technology facility’ means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

2 QUALIFYING SECURITY AND ASSURED POWER FACILITY.
— The term ‘qualifying security and assured power facility’ means a qualifying advanced power system technology facility determined by the Secretary of Energy, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

SEC. 1227. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.
(a) CREATION OF AN OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) (as amended by section 502(a) of this Act) is amended by inserting the following after section 217, as added by this Act:

"SEC. 217. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

‘(a) ESTABLISHMENT.—There is established within the Department an Office of Electric Transmission and Distribution, which shall be headed by a Director, subject to the authority of the Secretary. The Director shall be appointed by the Secretary. The Director shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

‘(b) DIRECTOR.—The Director shall—

1. coordinate and develop a comprehensive, multi-year strategy to improve the Nation’s electricity transmission and distribution;

2. implement or, where appropriate, coordinate the implementation of, the recommendations made in the Secretary’s May 2002 National Transmission Grid Study;

3. oversee research, development, and demonstration to support Federal energy policy related to electric transmission and distribution;

4. grant authorizations for electricity import and export pursuant to section 202(c), section 216, or section 223 of the Federal Power Act (16 U.S.C. 721c-4a).

5. perform other functions, assigned by the Secretary, related to electricity transmission and distribution; and

6. develop programs for workforce train-

SEC. 1226. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.
(a) PROGRAM.—The Secretary of Energy is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds appropriated under this section may be used by the Secretary to make incentive payments to eligible owners or operators of advanced power systems to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made to persons otherwise eligible for an incentive payment application establishing an applicant as either—

1. a qualifying advanced power system technology facility; or

2. a qualifying security and assured power facility;
amended by inserting after the item relating to section 217 the following new item:

"Sec. 218. Office of Electric Transmission and Distribution.".

(2) Section 3315 of title 5, United States Code, is amended by inserting after the item relating to "Inspector General, Department of Energy." the following:

"Director, Office of Electric Transmission and Distribution, Department of Energy.".

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 724 et seq.) is amended by inserting after section 205 the following:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) TRANSMISSION SERVICES.—Subject to section 211(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

"(b) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(c) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

"(d) EXCEPTING TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established by a regional transmission organization, finds on the record a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of the interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

"(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—Rate change procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(f) REMAND.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

"(g) OTHER REQUESTS.—The provision of transmission service, and the rate change procedures under subsections (c) and (d) of section 205 are not appropriate to request for transmission services under section 211.

"(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 14 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

"(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmission facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

"(j) DEFINITION.—For purposes of this section, the term ‘‘transmitting utility’’ means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).

SEC. 1232. SENSE OF CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission services, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of Regional Transmission Organizations as defined in section 3 of the Federal Power Act.

SEC. 1233. REGIONAL TRANSMISSION ORGANIZATIONS—APPLICATIONS PROGRESS REPORT.

Not later than 120 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall submit to Congress a report containing each of the following:

"(1) A list of all regional transmission organization applications filed at the Commission pursuant to subpart F of part 35 of title 18, Code of Federal Regulations (in this section referred to as ‘‘Order No. 2000’’), including an identification of each public utility and other entity included within the proposed membership of the regional transmission organization.

"(2) A brief description of the status of each pending regional transmission organization application, including a precise explanation of how each fails to comply with the minimal requirements of Order No. 2000 and what steps need to be taken to bring each application into such compliance.

"(3) For any application that has not been finally approved, a detailed description of every aspect of the application that the Commission has determined does not conform to the requirements of Order No. 2000.

"(4) For any application that has not been finally approved by the Commission, an explanation by the Commission of why the items described pursuant to paragraph (3) constitute material noncompliance with the requirements of the Commission’s Order No. 2000 sufficient to justify denial of approval by the Commission.

"(5) For all regional transmission organization applications filed pursuant to the Commission’s Order No. 2000, whether finally approved or not—

(A) a discussion of that regional transmission organization’s efforts to minimize rate seams between itself and—

(i) other regional transmission organizations; and

(ii) entities not participating in a regional transmission organization;

(B) a discussion of the impact of such seams on consumers and wholesale competition; and

(C) a discussion of minimizing cost-shifting on consumers.

SEC. 1234. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—For purposes of this section—

"(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term ‘‘appropriate Federal regulatory authority’’ means—

"(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

"(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

"(2) FEDERAL UTILITY.—The term ‘‘Federal utility’’ means any Federal utility to transmit electric power.

"(b) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement for purposes of transferring control or use of all or part of the Federal utility’s transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

"(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility’s costs and expenses related to the transmission facilities that are the subject of the contract, agreement or arrangement; and consistency with existing contracts and third-party financing arrangements; and

"(2) provisions for monitoring and oversight by the Federal utility of the RTO’s or ISO’s fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any law governing arbitration; and

"(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

"(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

"(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing Federal utility to transfer electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

"(2) OTHER OBLIGATIONS.—This subsection shall not be construed to supersede, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement
or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) REPEAL.—Section 311 of title III of Appendix A of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824m–1) is repealed.

SEC. 1253. STANDARD MARKET DESIGN

(a) REMAND.—The Commission's proposed rulemaking entitled 'Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design' (Docket No. RM01–12–000) ("SMD NOPR") is remanded to the Commission for reconsideration. No final rule mandating a standard electricity market design pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before October 31, 2006, or take effect before December 31, 2006. Any final rule issued by the Commission pursuant to the proposed rulemaking shall be preceded by a second notice of proposed rulemaking for public comment.

(b) SAVINGS CLAUSE.—This section shall not be construed to modify or diminish any authority or obligation the Commission has under this Act, the Federal Power Act, or any other applicable law, including, but not limited to:

(1) issue any rule or order (of general or particular applicability) pursuant to any such authority or obligation; or

(2) issue any order or filing by 1 or more managing bodies or entities for electric energy services that has not been allocated financial transmission rights (or equivalent tradable or financial transmission rights) in economic dispatch; and

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

(1) the term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through 1 or more additional State utilities, State agencies, or instrumentalities, provides electric service to end-users;

(2) the term 'load-serving entity' includes any entity that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through 1 or more additional State utilities, State agencies, or instrumentalities, provides electric service to end-users;

(3) the term 'service obligation' means a requirement applicable to, or the exercise of authority under, Federal, State, or local law or under long-term contracts to provide electric service to end-users or to a distribution utility;

(4) the term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any 1 or more of the foregoing, or a corporation, trust, or business enterprise wholly or in part owned, directly or indirectly, by any 1 or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing, or distributing power;

SEC. 1257. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH

(a) STUDY.—The Secretary of Energy, in coordination with and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch; and

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each State if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) DEFINITION.—The term "economic dispatch" when used in this section means the operation of generation facilities to produce electric energy at the least cost to reliably serve consumers, recognizing any operational limitations of generation and transmission facilities.

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.

"(a) STUDY.—The Secretary of Energy, in coordination with and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch; and

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each State if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) DEFINITION.—The term "economic dispatch" when used in this section means the operation of generation facilities to produce electric energy at the least cost to reliably serve consumers, recognizing any operational limitations of generation and transmission facilities.

Subtitle D—Transmission Rate Reform

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.
SEC. 1216. TRANSMISSION INFRASTRUCTURE INF.

(a) RULING REQUIREMENT.—Within 1 year after enactment of this section, the Commission shall establish, by rule, incentive-based (including, but not limited to performance-based) rate treatments for the transmission of electric energy in the commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. Such rule shall—

(1) promote reliable and economically efficient transmission and generation of electric energy in the commerce, including the enlargement, improvement, maintenance and operation of facilities for the transmission of electric energy in interstate commerce;

(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of such facilities; and

(4) allow recovery of all prudently incurred costs necessary to comply with mandatory standards issued pursuant to section 215 of this Act.

The Commission may, from time to time, revise such rule.

(b) ADDITIONAL INCENTIVES FOR RTO PARTICIPATION.—In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Regional Transmission Organization or Independent System Operator. Incentives provided by the Commission pursuant to such rule shall include—

(1) recovery of all prudently incurred costs to develop and participate in any proposed or approved RTO, ISO, or Independent transmission company;

(2) recovery of all costs previously approved by a State commission which exercised jurisdiction over the transmission facilities prior to the utility’s participation in the RTO or ISO, including costs necessary to honor preexisting transmission service contracts with non-RTO utilities with respect to which the revenues the utility receives for transmission services for a reasonable transition period is less than the revenues the RTO or ISO jointly receives for transmission services for a reasonable transition period for comparable standard; and

(3) a tax base for prudently incurred costs to conduct transmission planning and reliability activities, including transmission planning in RTO, ISO and other regional planning activities and design, study and other preretrofitting costs involved in seeking permits and approval for proposed transmission facilities;

(4) a current return in rates for construction work in progress for transmission facilities and full recovery of prudently incurred costs for constructing transmission facilities for rate treatment purposes.

The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission service rendered by such utility or through the transmission rates charged by the RTO or ISO that provides transmission service.

(c) JUST AND REASONABLE RATES.—All rates approved under the rules adopted pursuant to this section, including any revisions to such rules, are subject to the requirements of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by the consumer is used onsite and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility for the consumer during the applicable billing period.

"(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on coal for the purposes of the electric energy that it supplies to its customers. Each electric utility regulated under this section shall, through the purchase of renewable energy, reduce the amount of coal it uses for the purposes of the electric energy it supplies to its customers.

"(b) REQUIREMENTS.—(1) The Commission shall establish, by rule, performance-based rate treatments for the electric utility serving each electric consumer that the electric utility serves. For purposes of this paragraph, performance-based rate treatments may be offered under the schedule to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (15).

"(c) IMPLEMENTATION.—The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (b) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility’s cost of generating and purchasing electricity at the wholesale level.

"(ii) critical peak pricing whereby electricity prices are in effect except for certain times of the day when prices reflect the costs of generating and purchasing electricity at the wholesale level and when consumers incur the greatest cost to the grid for reducing peak period energy consumption.

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advance or forward basis, reflecting the utility’s cost of generating and purchasing electricity at the wholesale level, and may change as often as hourly; and

"(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility’s planned capacity obligations.

Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility to offer and receive such rate.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) A State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based meter capable of enabling the utility to offer and receive such rate as a retail electric consumer of the electric utility.

"(F) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, between the utility’s costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and reduce costs through advanced metering and communications technology.

"(H) Each electric utility affected by this section shall file a report with the Commission within 60 days of the date of enactment of this paragraph that includes, among others—

"(i) the utility’s planned capacity obligations.

"(ii) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility’s planned capacity obligations.

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advance or forward basis, reflecting the utility’s cost of generating and purchasing electricity at the wholesale level, and may change as often as hourly; and

"(iv) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility’s cost of generating and purchasing electricity at the wholesale level.

"(ii) critical peak pricing whereby electricity prices are in effect except for certain times of the day when prices reflect the costs of generating and purchasing electricity at the wholesale level and when consumers incur the greatest cost to the grid for reducing peak period energy consumption.

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advance or forward basis, reflecting the utility’s cost of generating and purchasing electricity at the wholesale level, and may change as often as hourly; and

"(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility’s planned capacity obligations.

Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility to offer and receive such rate.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) A State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based meter capable of enabling the utility to offer and receive such rate as a retail electric consumer of the electric utility.
“(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an order in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards out in subparagraphs (A) and (C) of subsection 111(d)(14) and (d) of subsection 111(d)(14)”.

(2) Inserting in subsection (b) after the phrase “the standard for time-of-day rates established by section 112(d)(14)” the following: “and the standard for time-based metering and communications established by section 111(d)(14)”.

(3) By adding the at the end the following: “

(i) Time-based metering and communications technologies, techniques and rate programs...

(C) the annual resource contribution of demand response programs...

(D) the potential for demand response as a quantifiable, reliable resource for regional planning...

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improved customer participation in demand response, peak reduction and critical period pricing programs.

(i) Federal encouragement of demand response devices...

(ii) Time limitations...

(c) Demand response...

(1) Educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

(2) Working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

(3) Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response...”.

(b) Schedule for implementation...

(1) Transmission and distribution network, including through the use of demand response...

(D) Developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) Identifying specific measures consumers can take to participate in these demand response programs.

(3) Report...

(1) Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate regions, to assess demand response resources...

(A) Saturation and penetration rate of advanced metering and communications technologies, devices and systems;

(B) Existing demand response programs and time-based rate programs;

(C) The annual resource contribution of demand resources;

(D) The potential for demand response as a quantifiable, reliable resource for regional planning of the future policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(4) Time limitations...

(1) After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

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

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

(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and

(ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; and

(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

(2) Revised purchase and sale obligations for new facilities...

(A) After the date of enactment of this subsection, no electric energy that is from a qualifying cogeneration facility or a qualifying small power production facility will be recognized.

(B) The Secretary shall, not later than 6 months after the date of enactment of this subsection, make a final determination of whether to enter into a new contract or obligation to purchase from or sell electric energy...
to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

"(B) For purposes of this paragraph, the term ‘existing qualifying cogeneration facility’ means a facility that—

"(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

"(ii) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 292.227 prior to the date on which the Commission issues the final rule required by subsection (n).

"(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and a period of opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

"(4) RESTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility or a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility’s obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and a period of opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility’s obligation to purchase electric energy under this section. If the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

"(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

"(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

"(B) the electric utility is not required by State law to sell electric energy in its service territory.

"(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects any existing rights of any electric utility under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility, with respect to the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

"(7) RECOVERY OF COSTS.—(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that has made a qualifying cogeneration facility or qualifying small power production facility an offer to sell electric energy under this section, and that the offer is accepted, shall be entitled to recover costs associated with the offer, subject to provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

"(B) A regulation under subparagraph (A) shall be based in accordance with the rules and regulations of this Act to—

"(i) define the term ‘offer’ as used in this Act to include any offer to sell electric energy; and

"(ii) require an electric utility that has made and accepted an offer to sell electric energy to an electric utility that has made and accepted an offer to sell electric energy to a qualifying cogeneration facility or qualifying small power production facility under this Act to the electric utility that has made and accepted the offer to sell electric energy to a qualifying cogeneration facility or qualifying small power production facility under this Act, to make such offer to sell electric energy to the electric utility that has made and accepted the offer to sell electric energy to a qualifying cogeneration facility or qualifying small power production facility under this Act.

"(8) INJUNCTION.—The Commission may order an electric utility to pay treble damages if the electric utility violates any of the provisions of this subsection.

"(9) EFFECTIVE DATE.—This subsection shall apply to any offer to sell electric energy under this Act made after the date of enactment of this Act.

"(10) FURTHER RULEMAKING.—The Commission may, by rule, prescribe further rules and regulations to carry out the purposes of this subsection.

SEC. 1254. INTERCONNECTION.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

"(16) INTERCONNECTION.—Each electric utility shall make available, upon request, interconnection services to any electric consumer or entity that the electric utility serves. For purposes of this paragraph, the term ‘interconnection services’ means—

"(I) the electric energy required by a consumer under which an on-site generating facility on the consumer’s premises shall be connected to the local distribution facilities.

"(II) the distribution services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time.

"In addition, agreements and procedures shall be established whereby the practices of the electric utility will be subject to the current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model contracts adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and non-discriminatory or preferential.

(b) COMPLIANCE.—

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

"(5) (A) Not later than one year after the date of enactment of this Act, each State regulatory authority shall promulgate and enforce rules in accordance with the rules and regulations of this Act.

"(B) The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act to—

"(i) the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

"(ii) the chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended as a substitute for electric or other utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws applicable to cogeneration facilities; and

"(iii) continuing progress in the development of efficient electric energy generating technology.

"(2) FAILURE TO COMPLY.—Section 112 (d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) is amended by adding at the end the following:

"(A) Not later than one year after the date of enactment of this Act, each State regulatory authority shall promulgate and enforce rules in accordance with the rules and regulations of this Act.

"(B) The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act to—

"(i) a qualifying cogeneration facility on the date of enactment of subsection (m), or

"(ii) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).

"(c) ELIMINATION OF OWNERSHIP LIMITATIONS.—

"(1) QUALIFYING SMALL POWER PRODUCTION FACILITY.—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

"(C) ‘qualifying small power production facility’ means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.

"(2) QUALIFYING COGENERATION FACILITY.—Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

"(B) ‘qualifying cogeneration facility’ means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.

SEC. 1254. INTERCONNECTION.
of electric energy for sale. the generation, transmission, or distribution companies.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility company" includes any corporation, partnership, association, joint stock company, trust, or other group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(14) PUBLIC-UTILITY COMPANY.—The term "public-utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State, having jurisdiction under the laws of such State, to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which is owned, controlled, or held, with power to vote, directly or indirectly, by such company.

(B) any person, the management or policies of which was, is, or is about to be, subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with 1 or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of the company.

SEC. 1263. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79b-3a, 79b-5b), as those sections existed on the day before the effective date of this subtitle.

SEC. 1264. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each subsidiary company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines to be necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with the Commission or by the Commission determined to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines to be relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, employee, or former officer or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, and other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1265. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company and any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission; and

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person who is a holding company solely by reason of ownership of 1 or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records to any State commission or other body that may limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1266. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall issue a final rule to exempt from the requirements of section 1264 (relating to Federal access to books and records) any person that is a holding company, solely with respect to 1 or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person from the requirements of section 1264 (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of
any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or
(2) the Commission finds that any class of transactions or acts that are relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 1267. AFFILIATE TRANSACTIONS.

(a) DEPARTMENT OF JUSTICE AUTHORITY UNAFFECTION.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that, through agreements, directions, or orders, the Commission may prohibit a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act. If that person continues to comply with the terms (other than section 1265, relating to certain transactions), this subtitle shall take effect 12 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking that permits or establishes rules for the operation of the Federal Power Act (16 U.S.C. 824m) is amended by striking "rodent species", after the date of enactment of this section, the term "rodent species" means a species of rodent.

(c) RULES.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate such rules as the Commission finds appropriate for the prevention of potential collusion or other anti-competitive behaviors that can be facilitated by unilaterally public disclosure of transaction-specific information.

SEC. 1273. SERVICE ALLOCATION.

(a) FERC REVIEW.—In the case of non-power goods or administrative or management services provided by an associate company to a holding company system located in the affected State as a result of the acquisition of non-power goods or administrative and management services by such public utility from an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system or a subsidiary of such public utility in the same holding company system, the Commission shall have authority to obtain such information and to make such determinations as are necessary or appropriate to implement this subtitle.

(b) COST ALLOCATION.—Nothing in this section shall preclude the Commission or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of costs for such goods or services to the extent relevant to that associate company in order to assure that each allocation is appropriate for the protection of utility customers and consumers of such public utility.

SEC. 1275. SERVICE ALLOCATION.

(a) FERC REVIEW.—In the case of non-power goods or administrative or management services provided by an associate company to a holding company system located in the affected State as a result of the acquisition of non-power goods or administrative and management services by such public utility from an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system or a subsidiary of such public utility in the same holding company system, the Commission shall have authority to obtain such information and to make such determinations as are necessary or appropriate to implement this subtitle.

(b) COST ALLOCATION.—Nothing in this section shall preclude the Commission or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of costs for such goods or services to the extent relevant to that associate company in order to assure that each allocation is appropriate for the protection of utility customers and consumers of such public utility.

SEC. 1277. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 822q) is repealed.

(b) DEFINITIONS.—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824g(5)) is amended by striking "1935" and inserting "1905".

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking "1935" and inserting "1905".

H2276 CONGRESSIONAL RECORD — HOUSE April 20, 2005

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

SEC. 1282. MARKET TRANSPARENCY RULES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate such rules as the Commission finds appropriate for the prevention of potential collusion or other anti-competitive behaviors that can be facilitated by unilaterally public disclosure of transaction-specific information.

(b) EXEMPTIONS.—Nothing in this section shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize the protection of investors and consumers of wholesale electric energy, users of transmission services, and the public on a timely basis.

(c) COMMODITY FUTURES TRADING COMMISSION.—This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions to the extent that consumers and competitive markets are protected from the adverse effects of potential collusion or other anti-competitive behaviors that can be facilitated by unilaterally public disclosure of transaction-specific information.

(d) SAVINGS PROVISION.—In exercising its authority under this section, the Commission shall not

(1) compete with, or displace from the market place, any price publisher; or

(2) regulate price publishers or impose any requirements on the publication of information.

SEC. 1282. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate such rules as the Commission finds appropriate for the prevention of potential collusion or other anti-competitive behaviors that can be facilitated by unilaterally public disclosure of transaction-specific information.

(b) EXEMPTIONS.—Nothing in this section shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize the protection of investors and consumers of wholesale electric energy, users of transmission services, and the public on a timely basis.

(c) COMMODITY FUTURES TRADING COMMISSION.—This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions to the extent that consumers and competitive markets are protected from the adverse effects of potential collusion or other anti-competitive behaviors that can be facilitated by unilaterally public disclosure of transaction-specific information.

(d) SAVINGS PROVISION.—In exercising its authority under this section, the Commission shall not

(1) compete with, or displace from the market place, any price publisher; or

(2) regulate price publishers or impose any requirements on the publication of information.

SEC. 1292. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate such rules as the Commission finds appropriate for the prevention of potential collusion or other anti-competitive behaviors that can be facilitated by unilaterally public disclosure of transaction-specific information.

(b) EXEMPTIONS.—Nothing in this section shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize the protection of investors and consumers of wholesale electric energy, users of transmission services, and the public on a timely basis. The Commission shall have authority to obtain such information and to make such determinations as are necessary or appropriate to implement this subtitle.
“(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale; and

“(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the sale of electric energy under conditions of sale, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

“(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.”

SEC. 1285. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) by inserting “electric utility,” after “Any person,”

(2) by inserting “, transmitting utility,” after “licensee” each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825m(a)) is amended by inserting “electric utility,” after “person,” in the first 2 places it appears and by striking “any person unless such person” and inserting “any entity unless such entity”

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825a(a)) is amended as follows:

(1) by inserting “; or, transmitting utility,” each place it appears.

(2) by striking the period at the end of the subsection and inserting ““.

(d) CRIMINAL PENALTIES.—Section 306 of the Federal Power Act (16 U.S.C. 825o) is amended by adding the following new subsection:

“(3) enters into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the sale of electric energy under conditions of sale, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

“(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.”

SEC. 1286. SANCTITY OF CONTRACT.

(a) IN GENERAL.—The Federal Energy Regulatory Commission (in this section, “the Commission”) shall have no authority to abrogate or modify any provision of an executed contract or executed contract amendment described in subsection (b) that has been entered into or taken effect, except upon a finding by the Commission that such action would be contrary to the public interest.

(b) LIMITATION.—Except as provided in subsection (a), the Commission shall have no authority to abrogate or modify any provision of an executed contract or executed contract amendment described in subsection (b) that has been entered into or taken effect, except upon a finding by the Commission that such action would be contrary to the public interest.

(c) EXCLUSION.—This section shall apply only to an executed contract or executed contract amendment that expressly provides for a standard of review other than the public interest standard.

(d) SAVINGS PROVISION.—With respect to contracts to which this section does not apply, nothing in this section alters existing law regarding the applicable standard of review for contracts to the jurisdiction of the Commission.

SEC. 1287. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES AMENDMENT.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CRAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods or services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

SEC. 1292. ELECTRIC UTILITY MERGERS.

(a) MERGER REVIEW.—Within 180 days after the date of enactment of this Act, the Federal Trade Commission shall, in consultation with the Federal Energy Regulatory Commission and the Attorney General of the United States, prepare, and transmit to Congress each of the following:

(1) A study of the extent to which the authorities vested in the Federal Energy Regulatory Commission under section 206 of the Federal Power Act are duplicative of the authorities vested in—

(A) other agencies of Federal and State Government; and

(B) the Federal Energy Regulatory Commission, including under sections 205 and 206 of the Federal Power Act.

(2) Recommendations on reforms to the Federal Power Act that would eliminate any unnecessary duplication in the exercise of regulatory authority or unnecessary delays in the approval (or disapproval) of applications for the sale, lease, or other disposition of public utility facilities.

(b) MERGER REVIEW ACCOUNTABILITY.—Not later than 1 year after the date of enactment of this Act and annually thereafter, with respect to all orders issued within the preceding year that impose a condition under section 206(c) of the Federal Power Act or other provisions of law, the Federal Trade Commission shall transmit a report to Congress each of the following:

(1) The condition imposed.

(2) Whether the Commission could have imposed such condition by exercising its authority under any provision of the Federal Power Act other than under section 206(c).

(3) If the Commission could not have imposed such condition other than under section 206(c), why the Commission determined that such condition was consistent with the public interest.

SEC. 1292A. ELECTRIC UTILITY MERGERS.

(a) MERGER REVIEW.—Within 180 days after the date of enactment of this Act, the Federal Energy Regulatory Commission, in consultation with the Federal Energy Regulatory Commission, shall prepare, and transmit to Congress each of the following:

(1) A study of the extent to which the authorities vested in the Federal Energy Regulatory Commission under section 206 of the Federal Power Act are duplicative of the authorities vested in—

(A) other agencies of Federal and State Government; and

(B) the Federal Energy Regulatory Commission, including under sections 205 and 206 of the Federal Power Act.

(2) Recommendations on reforms to the Federal Power Act that would eliminate any unnecessary duplication in the exercise of regulatory authority or unnecessary delays in the approval (or disapproval) of applications for the sale, lease, or other disposition of public utility facilities.

(b) MERGER REVIEW ACCOUNTABILITY.—Not later than 1 year after the date of enactment of this Act and annually thereafter, with respect to all orders issued within the preceding year that impose a condition under section 206(c) of the Federal Power Act, the Federal Energy Regulatory Commission shall transmit a report to Congress each of the following:

(1) The condition imposed.

(2) Whether the Commission could have imposed such condition by exercising its authority under any provision of the Federal Power Act other than under section 206(c).

(3) If the Commission could not have imposed such condition other than under section 206(c), why the Commission determined that such condition was consistent with the public interest.
“(a) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

(1) sell, lease, or otherwise dispose of the whole or any part thereof to the jurisdiction of the Commission, or any part thereof in a value in excess of $10,000,000; 

(2) merge or consolidate, directly or indirectly, with any other utility, or merge or consolidate with, a public utility or a holding company in a holding company system that includes a public utility shall sell, acquire, or take any security with a value in excess of $10,000,000 of any other public utility.

“(2) No holding company in a holding company system that includes a public utility shall sell, acquire, or take any security with a value in excess of $10,000,000 of, or by any means whatsoever, directly or indirectly, a public utility or a holding company in a holding company system that includes a public utility with a value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

“(3) Upon receipt of an application for such approval, the Commission shall consider whether the proposed transaction will be consistent with the public interest.

“(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest.

“(5) After notice and opportunity for hearing, the Commission shall deny approval of the proposed transaction if it finds that the proposed transaction will be inconsistent with the public interest.

“(6) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, acquisitions, or under this section. Such rules shall identify the classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall grant or deny any other application for approval of a transaction not later than 180 days after the application is filed. If the Commission does not act within 180 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues an order authorizing or rejecting the application.

“(7) For purposes of this subsection, the terms ‘associate company’, ‘holding company’, and ‘holding company system’ have the meanings ascribed to these terms in the Public Utility Holding Company Act of 2005.

“(c) Effective Date.—The amendments made by this section shall take effect 12 months after the date of enactment of this section.

Subtitle I—Definitions

SEC. 1295. DEFINITIONS.

(a) Definitions.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

“(22) ELECTRIC UTILITY.—The term ‘electric utility’ means any person or Federal or State agency (including any entity described in section 201(f) that sells electric energy; that term includes the Tennessee Valley Authority and each Federal power marketing administration.”

(b) TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

“(23) TRANSMITTING UTILITY.—The term ‘transmitting utility’ means an entity, including any electrical utility that operates or controls facilities used for the transmission of electric energy.

“(A) In interstate commerce or;

“(B) for the sale of electric energy at wholesale.

“(c) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by adding at the end the following:

“(26) ELECTRIC COOPERATIVE.—The term ‘electric cooperative’ means a cooperatively owned electric utility.

“(27) RTO.—The term ‘Regional Transmission Organization’ or ‘RTO’ means an entity, including any electric cooperative, that is approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure nondiscriminatory access to such facilities.

“(28) ISO.—The term ‘Independent System Operator’ or ‘ISO’ means an entity approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure nondiscriminatory access to such facilities.

“(d) Commission.—For the purposes of this title, the term ‘Commission’ means the Federal Energy Regulatory Commission.

“(e) APPLICABILITY.—The Federal Power Act (16 U.S.C. 824(i)) is amended by adding after “political subdivision of a state,” the following: ‘‘an electric cooperative that has financing under the Federal Electric Transmission Act of 1996 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year.’’

“Subtitle J—Technical and Conforming Amendments

SEC. 1297. CONFORMING AMENDMENTS.

The Federal Power Act is amended as follows:

(1) Section 201(b)(2) of such Act (16 U.S.C. 824(b)(2)) is amended as follows:

(a) In the first sentence by striking ‘‘210, 211, and 212’’ and inserting ‘‘203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222’’;

(b) by striking the second sentence by striking ‘‘210, 211 and 212’’ and inserting ‘‘203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222’’;

(c) by striking section 201(b)(2) of such Act by striking ‘‘The’’ in the first place it appears and inserting ‘‘The’’ in the second sentence after ‘‘any order’’ by inserting ‘‘or rule’’;

(d) Section 201(e) of such Act is amended by striking ‘‘(e)’’ and inserting ‘‘(d)’’;

(e) Section 206 of such Act (16 U.S.C. 824e) is amended as follows:

(A) in subsection (b), by striking ‘‘210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, and 221’’;

(B) in subsection (c) by striking ‘‘any order’’ and inserting ‘‘any order’’;

(C) striking ‘‘(B)’’ and inserting ‘‘(A)’’ and inserting ‘‘(B)’’;

(D) striking ‘‘(C)’’ and inserting ‘‘(B)’’ and inserting ‘‘(C)’’;

(E) striking ‘‘(D)’’ and inserting ‘‘(C)’’ and inserting ‘‘(D)’’.

(2) Section 211(d)(1) of such Act (16 U.S.C. 824j(d)(1)) is amended by striking ‘‘electric utility’’ the second time it appears and inserting ‘‘transmitting utility’’.

(3) Section 318(b)(c) of such Act (16 U.S.C. 825n(c)) is amended by striking ‘‘subsection’’ and inserting ‘‘section’’.

Subtitle K—Economic Dispatch

SEC. 1299. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

“SEC. 223. JOINT BOARD ON ECONOMIC DISPATCH.

“(a) IN GENERAL.—The Commission shall convene a joint board pursuant to section 209 to study the issue of security constrained economic dispatch for a market region.

“(b) MEMBERSHIP.—The Commission shall request each State to nominate a representative for such joint board.

“(c) POWERS.—The board’s sole authority shall be to consider issues relevant to what constitutes security constrained economic dispatch and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers.

“(d) REPORT TO THE CONGRESS.—The board shall transmit a report on such matters within one year of enactment of this section, including any consensus recommendations for statutory or regulatory reform.

“Subtitle L—ENERGY TAX INCENTIVES

SEC. 1300. SHORT TITLE, ETC.

(a) SHORT TITLE.—This title may be cited as the “Enhanced Energy Infrastructure and Technology Tax Act of 2006”.

(b) AMENDMENTS OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an Act amend or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

“Subtitle A—Energy Infrastructure Tax Incentives

SEC. 1301. NATURAL GAS GATHERING LINES TREATED AS A TREATY.

(a) IN GENERAL.—Subparagraph (C) of section 188(e)(3) (relating to classification of certain property) is amended by striking ‘‘(a)’’ at the end of clause (i) and redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

“(iv) any natural gas gathering line, and

“(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 188 is amended by inserting after paragraph (16) the following new paragraph:

“(17) NATURAL GAS GATHERING LINE.—The term ‘natural gas gathering line’ means that term as defined in section 134(b)(3), and any appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and includes the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

“(i) a gas processing plant;

“(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission;

“(iii) an interconnection with an interstate transmission pipeline, or

“(iv) a direct interconnection with a local distribution company, gas storage facility, or an industrial consumer.’’

H2278

CONGRESSIONAL RECORD—HOUSE

April 20, 2005
(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(iii) the following:

"(C)(iv) ............................. 14".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

SEC. 1302. NATURAL GAS DISTRIBUTION LINES AND COUNCIAL SOURCE PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking "and" at the end of clause (vii) and inserting "; and" after the period at the end of clause (vii) and inserting "; and", and by adding at the end the following new clause:

"(viii) any natural gas distribution line."

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(vii) the following:

"(E)(viii) ............................. 35".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

SEC. 1303. ELECTRIC TRANSMISSION PROPERTY 7 YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property), as amended by section 1302 of this title, is amended by striking "and" at the end of clause (vii), by striking the period at the end of clause (vii) and inserting ", and", and by adding at the end the following new clause:

"(viii) any electric transmission property."

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(vii) the following:

"(E)(viii) ............................. 30".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

SEC. 1304. EXPANSION OF AMORTIZATION FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES IN CONNECTION WITH PLANTS FIRST PLACED IN SERVICE AFTER 1975.

(a) ELIGIBILITY OF POST-1975 POLLUTION CONTROL FACILITIES.—Subsection (d) of section 169 (relating to defining "treatment facilities") is amended by adding at the end the following:

"(5) SPECIAL RULE RELATING TO CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—In the case of any atmospheric pollution control facility which is primarily coal fired, paragraph (1) shall be applied without regard to the phrase "in operation before January 1, 1976.""

(b) TREATMENT AS NEW IDENTIFIABLE TREATMENT FACILITY.—Subparagraph (B) of section 169(d)(4) is amended to read as follows:

"(B) CERTAIN FACILITIES PLACED IN OPERATION AFTER APRIL 1, 2005.—In the case of any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting "April 1, 2005" for "December 31, 1968" each place it appears therein."

(c) TECHNICAL AMENDMENT.—Subsection 169(d)(3), as treated as not treated by inserting "Health, Education, and Welfare" and inserting "Health and Human Services".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

SEC. 1305. MODIFICATION OF CREDIT FOR NONCONVENTIONAL SOURCE.

(a) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45J and by moving section 45J (as redesignated) from part IV of subchapter A of chapter 1 to the end of part D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting "plus", and by adding at the end the following:

"(20) the nonconventional source production credit determined under section 45J(a)."

(b) ENSURING THAT CERTAIN RATES APPLY TO THE CREDIT.—(1) Section 38(d)(3)(A) is amended by striking "sections 27 and 29" and inserting "section 27."

(2) Sections 43(b)(2), 45I(b)(2)(C)(i), and 62A(c)(6)(C) are each amended by striking "section 29(d)(2)" and inserting "section 45J(d)(2)".

(c) ENSURING THAT CERTAIN RATES APPLY TO THE CREDIT.—(1) Section 45J(e)(9) is amended—

(i) by striking "section 29" and inserting "section 45J."

(ii) by inserting "(or under section 29, as in effect on the day before the date of enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, for any prior taxable year)" before the period at the end thereof.

(2) Section 45J is amended—

(i) in subsection (c)(2)(A) by striking "section 29(d)(5)" and inserting "section 45J(d)(5)", and

(ii) in subsection (d)(3) by striking "section 29" both places it appears and inserting "section 45J."

(d) TREATMENT OF CERTAIN AMOUNTS AS DEDUCTION FOR AMOUNTS TRANSFERRED.—

(1) IN GENERAL.—Section 45J is amended by redesignating subsections (f) and (g) as subsections (e) and (f), respectively, and by inserting after subsection (e) the following new subsection:

"(f) TRANSFERS INTO QUALIFIED FUNDS.—

(1) IN GENERAL.—

(A) section 29, any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) of section 29 as in effect immediately before the date of enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005.

(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

(B) BAN ON DEDUCTION OF PREVIOUSLY DEDUCED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). For purposes of the preceding sentence, a ratable portion of each item of income referred to in subsections (a) and (d) shall be included in gross income of the taxpayer (or a predecessor) for the taxable year beginning after the taxable year to which the deduction would otherwise apply.

(C) TRANSFERS OF QUALIFIED FUNDS.—If—

(1) transfers into qualified funds are permitted by this subsection—

(A) transfers are permitted by the Fund to which this section applies, and

(B) such Fund is transferred after December 31, 2005, then such transfers shall be treated as being from pre-
transferor for the taxable year which includes such date.

“(D) SPECIAL RULES.—

“(i) GAIN OR LOSS NOT RECOGNIZED ON TRANSFERS OF APPRaised PROPERTY.—No gain or loss shall be recognized on any transfer described in paragraph (1).”

“(ii) Transfers of Appreciated Property to Fund.—If property is transferred in a transferred described in paragraph (1), the amount of the deduction shall not exceed the adjusted basis of such property.

“(iii) New Ruling Amount Required.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with any issue under subsection (a) before the transferor for the taxable year which includes such date.

“(D) No Basis in Qualified Funds.—Notwithstanding any other provision of law, the taxpayer’s basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.”

“(2) New Ruling Amount to Take Into Account Total Costs.—Subparagraph (A) of section 488A(d)(2) (defining ruling amount) is amended to read as follows:

“(A) Fund the total nuclear decommissioning liability with respect to such power plant over the estimated useful life of such power plant, and”.

“(e) Technical Amendments.—Section 488A(q)(2) (relating to taxation of Fund) is amended—

“(1) by striking “rate set forth in subparagraph (B)” in subparagraph (A) and inserting “rate of 20 percent”;

“(2) by striking subparagraph (B), and

“(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

“(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.”

SEC. 1307. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) In General.—Subsection (b) of section 148 (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

“(4) Safe Harbor for Prepaid Natural Gas.—(A) In general.—The term ‘investment-type property’ does not include a prepayment under a qualified natural gas supply contract.

“(B) Qualified Natural Gas Supply Contract.—For purposes of this paragraph, the term ‘qualified natural gas supply contract’ means any contract to acquire natural gas for resale by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

“(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

“(ii) the amount of natural gas to be used to transport such natural gas to the utility during such year.

“(C) Natural Gas Used to Generate Electricity.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

“(1) only if the electricity generated by a utility owned by a governmental unit, and

“(2) to the extent that the electricity generated by such property is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

“(D) Descriptions for Changes in Customer Base.—

“(1) New Business Customers.—If—

“(i) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas to such customers (other than for resale) for a business use at a property within the service area of such utility, and

“(ii) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,


the contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

“(3) Lost Customers.—The average under subparagraph (B)(i) shall not exceed the annual average amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

“(E) Ruling Requests.—The Secretary may increase the average under subparagraph (A) if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on the experience of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

“(F) Adjustment for Natural Gas Otherwise on Hand.—

“(1) In general.—The amount otherwise permitted to be acquired under the contract for any period by—

“(i) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

“(ii) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

“(2) Applicable Share.—For purposes of the clause (i), the term ‘applicable share’ means, with respect to any period, the natural gas or population, such average would otherwise be insufficient for such period.

“(D) Intentional Acts.—Subparagraph (A) shall not apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the amount of the testing period,

“(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

“(ii) the amount of natural gas used to transport such natural gas to the utility.

“(E) Testing Period.—For purposes of this paragraph, the testing period means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

“(F) Service Area.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

“(1) any area throughout which such utility is entitled to provide service at all times during the testing period,

“(2) the case of a natural gas utility, the case of a natural gas transmission or distribution service, and

“(ii) any county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

“(iii) any area recognized as the service area of any utility under State or Federal law.”

“(b) Private Loan Financing Test Not to Apply to Prepayments for Natural Gas.—(1) In general.—The section 148(b)(2) (providing exceptions to the private loan financing test) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (A) and inserting ‘‘, or’’, and by adding at the end the following new subparagraph:

“(2) Exception for Qualified Electric and Natural Gas Supply Contracts.—Section 148(b)(2) is amended by adding at the end the following new paragraph:

“(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).

“(c) Exception for Qualified Electric and Natural Gas Supply Contracts.—The term ‘nongovernmental output property’ shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).

“(d) Effective Date.—The amendments made by this section shall apply to tax years ending after the date of the enactment of this Act.”

SEC. 1308. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) In General.—Paragraph (i) of section 642(a)(20) (relating to limitations on application of subsection (c) is amended to read as follows:

“(c) is not applied to any person who—

“(1) is not a refiner of crude oil,

“(2) is a small refiner, and

“(3) is not engaged in the refining of crude oil in any year in which the average daily refinery runs on the crude oil refined by such person during such taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.”

(b) Effective Date.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Miscellaneous Energy Tax Incentives

SEC. 1311. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) In General.—Subpart A of part IV of chapter 1 (relating to non-refundable personal credits) is amended by inserting after section 25B the following new section:

“SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

“(a) Allowance of Credit.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the sum of—

“(1) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such taxable year.

“(2) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such taxable year.

“(b) Limitations.

“(1) Maximum Credit.—

“(A) In General.—The credit allowed under subsection (a) shall not exceed—

“(i) $2,000 for solar water heating property described in subsection (c)(1), and

“(ii) $2,000 for photovoltaic property described in subsection (c)(2), and
(iii) $500 for each 0.5 kilowatt of capacity of property described in subsection (c)(3).

(B) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—In determining the amount of the credit allowed to a taxpayer with respect to any dwelling unit under this section, the dollar amounts under clauses (i) and (ii) of subparagraph (A) with respect to such type of property described in such clauses shall be reduced by the credit allowed to the taxpayer under this section with respect to such type of property for all preceding taxable years with respect to such dwelling unit.

(2) PROPERTY STANDARDS.—No credit shall be allowed under this section for an item of property unless—

(A) the original use of such property commences within the calendar year in which such expenditure is incurred,

(B) such property can be reasonably expected to remain in use for at least 5 years,

(C) such property is installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer,

(D) in the case of solar water heating property, such property is certified for performance by the non-profit Solar Rating and Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

(E) in the case of fuel cell property, such property meets the performance and quality standards (if any) which have been pre-approved by the Secretary by regulations after consultation with the Secretary of Energy.

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

(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property which uses solar energy to heat water for use in a dwelling unit.

(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term ‘qualified photovoltaic property expenditure’ means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit and which is not described in paragraph (1).

(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term ‘qualified fuel cell property expenditure’ means an expenditure for any qualified fuel cell property (as defined in section 48(b)(1)).

(d) SPECIAL RULES.—For purposes of this section—

(1) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) of subsection (c), solely because it constitutes a structural component of the structure on which it is installed.

(2) SWIMMING POOLS, ETC., USED AS STORAGE MACHINES WHICH ARE PROPERLY ALLOCABLE TO A SWIMMING POOL, HOT TUB, OR ANY OTHER ENERGY STORAGE MEDIUM WHICH HAS A FUNCTION OTHER THAN THE FUNCTION OF SUCH STORAGE MACHINES WHICH ARE NOT TAKEN INTO ACCOUNT FOR PURPOSES OF THIS SECTION.

(3) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals, the following rules shall apply:

(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

(C) Subparagraphs (A) and (B) shall be applied separately to expenditures described in paragraphs (1), (2), and (3) of subsection (c).

(A) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made the individual’s tenant-stockholder’s proportionate share (as defined in section 212(b)(5)) of any expenditures of such corporation.

(5) CONDOMINIUMS.—

(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual’s proportionate share of any expenditure relating to such condominium.

(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an association which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

(6) ALLOCATION IN CERTAIN CASES.—If less than 40 percent of the use of an item is for nonbusiness purposes only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

(7) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the newly constructed structure by the taxpayer begins.

(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

(D) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit that is in an account of such individual, expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)) shall be treated as if such expenditures were financed by such individual.

(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2007.

CONFORMING AMENDMENT.—Section 48(a)(1) is amended by inserting “except as provided in subsection (b)(2),” before “the energy” the first place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.
SEC. 308. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following subpart:

"SEC. 308. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

(a) Allowance of Credit.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to an advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year.

(b) Credit Amount.—For purposes of subsection (a)—

"(1) Fuel Efficiency.—The credit amount with respect to any vehicle shall be—

(A) $2,500, if the city fuel economy of such vehicle is at least 125 percent but less than 150 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

(B) $1,000, if the city fuel economy of such vehicle is at least 150 percent but less than 175 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

(C) $500, if the city fuel economy of such vehicle is at least 175 percent but less than 225 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class.

"(2) Lifetime Fuel Savings.—The credit allowed under paragraph (1) with respect to a vehicle shall be increased by—

(A) $250, if the lifetime fuel savings of such vehicle is at least 1,500 gallons of motor fuel but less than 2,500 gallons of motor fuel,

(B) $500, if the lifetime fuel savings of such vehicle is at least 2,500 gallons of motor fuel.

"(3) Limitation Based on Amount of Tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(i) the sum of the regular tax liability (as defined in section 26(b)(1)) plus the tax imposed by section 55, over

"(ii) the sum of the credits allowable under subpart A and sections 27 and 30A for the taxable year.

"(4) Definitions.—For purposes of this section—

"(i) ‘‘120,000 divided by the 2000 model year city fuel economy for the vehicle in the same inertia weight class, and

"(E) that has received a certificate that such vehicle meets or exceeds the Bin 8 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(1) of the Clean Air Act.

"(2) Lifetime Fuel Savings.—The term ‘‘lifetime fuel savings’’ means, with respect to a qualified advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

"(A) $2,000 divided by the 2000 model year city fuel economy for the vehicle inertia weight class, over

"(B) 120,000 divided by the city fuel economy for such vehicle.

"(C) 2000 Model Year City Fuel Economy.—The 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(D) 1998 or 1999 Model Year City Fuel Economy.—In the case of a passenger automobile:

"(1) If vehicle inertia weight The 2000 model year city
class is: fuel economy is:

<table>
<thead>
<tr>
<th>1,500 or 1,750 lbs</th>
<th>2,000 lbs</th>
<th>2,250 lbs</th>
<th>2,500 lbs</th>
<th>2,750 lbs</th>
<th>3,000 lbs</th>
<th>3,500 lbs</th>
<th>4,000 lbs</th>
</tr>
</thead>
<tbody>
<tr>
<td>19.7 mpg</td>
<td>43.7 mpg</td>
<td>38.3 mpg</td>
<td>34.1 mpg</td>
<td>30.7 mpg</td>
<td>27.9 mpg</td>
<td>25.6 mpg</td>
<td>22.0 mpg</td>
</tr>
<tr>
<td>20.5 mpg</td>
<td>43.7 mpg</td>
<td>38.3 mpg</td>
<td>34.1 mpg</td>
<td>30.7 mpg</td>
<td>27.9 mpg</td>
<td>25.6 mpg</td>
<td>22.0 mpg</td>
</tr>
<tr>
<td>21.9 mpg</td>
<td>43.7 mpg</td>
<td>38.3 mpg</td>
<td>34.1 mpg</td>
<td>30.7 mpg</td>
<td>27.9 mpg</td>
<td>25.6 mpg</td>
<td>22.0 mpg</td>
</tr>
<tr>
<td>23.2 mpg</td>
<td>43.7 mpg</td>
<td>38.3 mpg</td>
<td>34.1 mpg</td>
<td>30.7 mpg</td>
<td>27.9 mpg</td>
<td>25.6 mpg</td>
<td>22.0 mpg</td>
</tr>
<tr>
<td>25.0 mpg</td>
<td>43.7 mpg</td>
<td>38.3 mpg</td>
<td>34.1 mpg</td>
<td>30.7 mpg</td>
<td>27.9 mpg</td>
<td>25.6 mpg</td>
<td>22.0 mpg</td>
</tr>
<tr>
<td>31.3 mpg</td>
<td>43.7 mpg</td>
<td>38.3 mpg</td>
<td>34.1 mpg</td>
<td>30.7 mpg</td>
<td>27.9 mpg</td>
<td>25.6 mpg</td>
<td>22.0 mpg</td>
</tr>
</tbody>
</table>

H2282
CONGRESSIONAL RECORD — HOUSE
April 20, 2005
16.9 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 4 of the Clean Water Act (as in effect on March 31, 2000), subparagraph (A)(iii) shall be applied by substituting ‘‘19.7 cents’’ for ‘‘24.3 cents’’:

(b) Depreciation for Diesel-Water Fuel Emulsions.—

"(1) Refunds for Tax-Paid Purchases.—Section 4027 is amended by redesignating subsections (m) through (q) as subsections (n) through (p), respectively, and by inserting after subsection (l) the following new subsection:

"(m) Diesel Fuel Used to Produce Emulsion.—

"(1) In General.—Except as provided in subsection (p), if any diesel fuel on which tax was imposed by section 4021 at the regular tax rate is used by anyone in producing an emulsion described in section 4021(a)(2)(D) which is sold or used in such person’s trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) Definitions.—For purposes of paragraph (1)—

"(A) Regular Tax Rate.—The term ‘‘regular tax rate’’ means the aggregate rate of tax imposed by section 4021 determined without regard to section 4021(a)(2)(D).

"(B) Incentive Tax Rate.—The term ‘‘incentive tax rate’’ means the aggregate rate of tax imposed by section 4021 determined with regard to section 4021(a)(2)(D).

"(C) Diesel Fuel.—The term ‘‘diesel fuel’’ means—

"(i) any fuel comprised of a mixture of diesel fuel and water, including an emulsion described in section 4021(a)(2)(D), as defined in section 26(b), and

"(ii) any fuel comprised of a mixture of diesel fuel and water, including an emulsion described in section 4021(a)(2)(D), as defined in section 26(b), that is not required to be labeled as a diesel fuel or diesel-water fuel emulsion.

"(2) Special Rules.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.

(2) Separate Payment.—Section 4027 is amended by redesignating subsection (a)(2)(D) as subsection (a)(2)(E).

(3) Effective Date.—The amendments made by this section shall take effect on January 1, 2006.
The 2000 model year city class is: fuel economy is:

<table>
<thead>
<tr>
<th>Vehicle Weight (lbs)</th>
<th>Economy (mpg)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5,500 lbs</td>
<td>14.1</td>
</tr>
<tr>
<td>6,000 lbs</td>
<td>12.9</td>
</tr>
<tr>
<td>6,500 lbs</td>
<td>11.9</td>
</tr>
<tr>
<td>7,000 lbs or 8,500 lbs</td>
<td>11.1</td>
</tr>
</tbody>
</table>

(1) In the case of a light truck:

The 2000 model year city class is: fuel economy is:

<table>
<thead>
<tr>
<th>Vehicle Weight (lbs)</th>
<th>Economy (mpg)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 or 1,750 lbs</td>
<td>37.6</td>
</tr>
<tr>
<td>2,000 lbs</td>
<td>33.7</td>
</tr>
<tr>
<td>2,250 lbs</td>
<td>30.6</td>
</tr>
<tr>
<td>2,500 lbs</td>
<td>28.0</td>
</tr>
<tr>
<td>2,750 lbs</td>
<td>25.5</td>
</tr>
<tr>
<td>3,000 lbs</td>
<td>24.1</td>
</tr>
<tr>
<td>3,500 lbs</td>
<td>21.3</td>
</tr>
<tr>
<td>4,000 lbs</td>
<td>19.0</td>
</tr>
<tr>
<td>4,500 lbs</td>
<td>17.3</td>
</tr>
<tr>
<td>5,000 lbs</td>
<td>15.8</td>
</tr>
<tr>
<td>5,500 lbs or 6,000 lbs</td>
<td>14.6</td>
</tr>
<tr>
<td>6,000 lbs</td>
<td>13.6</td>
</tr>
<tr>
<td>6,500 lbs</td>
<td>12.8</td>
</tr>
<tr>
<td>7,000 lbs or 8,500 lbs</td>
<td>12.0</td>
</tr>
</tbody>
</table>

(1) MOTOR VEHICLE. The term ‘motor vehicle’ has the meaning given such term by section 10013 of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

(5) CITY FUEL ECONOMY. City fuel economy with respect to any vehicle shall be measured in accordance with testing and calculation procedures established by the Administrator of the Environmental Protection Agency by regulations in effect on April 11, 2003.

(6) OTHER TERMS. The terms ‘passenger automobile’, ‘light truck’, and ‘manufacturer’ shall have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

(2) CARRYFORWARD ALLOWED.

(1) In general. If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (c) for such taxable year (referred to as the ‘unused credit year’ in this paragraph), such excess shall be allowed as a credit carryforward for each of the 2 taxable years following the unused credit year.

(2) Rules. Rules similar to the rules of section 1311 shall apply with respect to the credit carryforward under paragraph (1).

(4) SPECIAL RULES. For purposes of this section—

(1) REDUCTION IN BASIS. The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

(2) NO DOUBLE BENEFIT. The amount of any deduction or credit allowable under this chapter (other than the credit allowable under subsection (a), with respect to any vehicle that placed such vehicle into service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)).

(3) PROPERTY USED BY TAX-EXEMPT ENTITY. In the case of a vehicle whose use is described in paragraph (3) or (4) of section 51(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle into service.

(4) PROPERTY USED OUTSIDE UNITED STATES. No credit shall be allowable under subsection (a) with respect to any property that is used outside the United States.

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

(6) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS. —Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has not prescribed in such a manner as to prevent the avoidance of the purposes of this section through disposal of any motor vehicle or lease of a vehicle for a lease period of less than the economic life of such vehicle).

(B) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has not prescribed in such a manner as to prevent the avoidance of the purposes of this section through disposal of any motor vehicle or lease of a vehicle for a lease period of less than the economic life of such vehicle).

(C) a provision of State law (other than the credit allowable under section 30A) which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including such amendments as may be in effect at the time of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005 (or, in the case of a metal roof with approved pigmented coatings which meet the Energy Star program requirements), if—

(1) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121), and

(2) the original use of such component commences with the taxpayer, and

(3) such component reasonably can be expected to remain in use for at least 5 years.

(D) a prescriptive component with respect to any dwelling unit exceeding $1,000, such components shall be treated as qualified energy efficiency improvements only if such components are also certified in accordance with subsection (d) as meeting such prescriptive criteria.

(E) CERTIFICATION. The certification described in subsection (c) shall be—

(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency (based upon energy use or building envelope component performance) for the energy efficient building envelope component.

(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection or primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Independent Energy Services, Network (RESNET), and

(3) made in writing in a manner which specifies readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

(5) DETERMINATION OF MOTOR VEHICLE ELI-

SIBILITY. The Secretary shall pro-

purgate such regulations as necessary to carry out this section, including regulations to prevent the avoidance of the purposes of this section through disposal of any motor vehicle or lease of a vehicle for a lease period of less than the economic life of such vehicle.

(1) IN GENERAL. The Secretary shall pro-

purgate such regulations as necessary to carry out this section, including regulations to prevent the avoidance of the purposes of this section through disposal of any motor vehicle or lease of a vehicle for a lease period of less than the economic life of such vehicle.

(2) TERMINATION OF MOTOR VEHICLE ELI-

SIBILITY. The Secretary, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such reg-

ulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

(3) (a) This section shall not apply to any property placed in service after December 31, 2007.

(b) CONFORMING AMENDMENTS.

(1) Section 1311 is amended by striking “and” at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ‘‘, and’’, and by adding at the end the following:

(3) To the extent provided in section 30B(f)(1).

(2) Section 6501(m) is amended by inserting ‘‘30B(f)(6),’’ after ‘‘30B(d)(4).’’.

(3) The table of sections for part IV of chapter A of chapter 1 is amended by inserting after the item relating to section 30A the following:

‘‘Sec. 30B. Advanced lean burn technology motor vehicle credit.’’.

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

SEC. 217. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES. (a) ALLOWANCE OF CREDIT. In the case of any individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy improvements installed during such taxable year.

(b) LIMITATIONS. —

(1) M AXIMUM CREDIT. —The credit allowed by this section with respect to a dwelling unit shall not exceed $2,000.

(2) ALTERNATIVE CREDIT FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT. —If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling unit in a prior taxable year, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling unit shall be reduced by the sum of the credits allowed to the taxpayer with respect to the dwelling unit for all prior taxable years.

(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS. —For purposes of this section, the term ‘qualified energy efficiency improvements’ means any energy efficient improvement (as defined in section 51(c)(3)) which meets the prescriptive criteria for such component established by the Energy Star program requirements, if—

(1) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121), and

(2) the original use of such component commences with the taxpayer, and

(3) such component reasonably can be expected to remain in use for at least 5 years.

(d) CERTIFICATION. The certification described in subsection (c) shall be—

(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency (based upon energy use or building envelope component performance) for the energy efficient building envelope component.

(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection or primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Independent Energy Services, Network (RESNET), and

(3) made in writing in a manner which specifies readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

(e) DEFINITIONS AND SPECIAL RULES. —For purposes of this section—

(1) BUILDING ENVELOPE COMPONENT. —The term ‘building envelope component’ means—

(A) any insulation system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit.

(B) exterior windows (including skylights),

SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.
“(C) exterior doors, and

“(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

“(2) MANUFACTURED HOMES INCLUDED.—The term ‘dwelling unit’ includes a manufactured home subject to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

“(3) APPLICATION OF RULES.—Rules similar to the rules under paragraphs (3), (4), and (5) of section 25C(d) shall apply.

“(f) BASIS ADJUSTMENT.—For purposes of this section, the basis of the dwelling unit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

“(g) APPLICATION OF SECTION.—This section shall apply to qualified energy efficiency improvements installed after the date of the enactment of the Enhanced Energy Infrastructure and Technology Act of 2005, and before January 1, 2008.

“(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by section 1316 of this title, is amended by striking ‘‘and’’ and inserting ‘‘and’’ after ‘‘for new and substantially rehabilitated homes which conforms to Federal Manufacturing Standards in effect before January 1, 2008’’.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 25D, section 25B(b), and section 25A, shall apply to qualified energy efficiency improvements installed after such date.

“(b) EFFECTIVE DATES.

(1) Section 25C(b), as added by section 25D, is amended by inserting ‘‘and’’ and inserting ‘‘and’’ after ‘‘for new and substantially rehabilitated homes which conforms to Federal Manufacturing Standards in effect before January 1, 2008’’.

(2) Section 25A(a)(3) is amended by striking ‘‘115’’ and inserting ‘‘115’’.

(3) Section 25B(b) is amended by striking ‘‘115’’ and inserting ‘‘115’’.

(4) Section 25B(c)(1) is amended by inserting ‘‘section 25D’’ after ‘‘25B’’.

“(c) AMENDMENTS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) In General.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by redesignating clause (ii) as clause (iv) and by striking clause (i) and inserting the following:

(i) the credits determined under sections 40, 45H, and 45I,

(ii) so much of the credit determined under section 46 as is attributable to section 48(a)(3)(A)(ii),

(iii) for taxable years beginning after December 31, 2005, and before January 1, 2008, and

(iv) the credit determined under section 43, and

(b) EFFECTIVE DATES.—(1) In General.—Except as provided by paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2005.

(2) FUEL CELLS.—(A) Section 38(c)(4)(B) of the Internal Revenue Code of 1986, as amended by subsection (a) of this section, shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after April 1, 2005.

(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under this subsection (other than this section) and section 27 for the taxable year.

“(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) is amended by inserting ‘‘and sections 25C and 25D’’ after ‘‘this section’’.

(2) Section 24(b)(3)(C) is amended by striking ‘‘and 25B’’ and inserting ‘‘, 25B, 25C, and 25D’’.

(3) Section 25C(e)(1)(C) is amended by inserting ‘‘, 25C, and 25D’’ after ‘‘25B’’.

(4) Section 25A(a)(2) is amended by striking ‘‘section 23’’ and inserting ‘‘sections 23, 25C, and 25D’’.

(5) Section 26(a)(1) is added by striking ‘‘and 25B’’ and inserting ‘‘and 25B, 25C, and 25D’’.

(6) Section 904(i) is added by striking ‘‘and 25B’’ and inserting ‘‘25B, 25C, and 25D’’.

(7) Section 1400(c) is added by striking ‘‘and 25B’’ and inserting ‘‘and 25B, 25C, and 25D’’.

“(c) E FFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

“SEC. 1252. CERTAIN BUSINESS ENERGY CREDITS ALLOWED AGAINST REGULAR.
after the date of enactment of this subsection, the reclassification shall be withdrawn and the attainment date extended in accordance with paragraph (5) upon such approval. The Administrator shall withdraw a reclassification determination under subsection (b)(2)(A) made after the date of enactment of this subsection and extend the attainment date in accordance with paragraph (5) if the Administrator approves the plan revision referred to in paragraph (3) within 12 months of the date the reclassification or an extension under subsection (b)(2)(A) is issued. In such instances the ‘current classification’ used for evaluating the revision of the applicable implementation plan under this subsection shall be the classification of the downwind area under this section immediately prior to such reclassification.

**5. EXTENDED DATE.**—The attainment date extended under this subsection shall provide for attainment of such national ambient air quality standard for ozone in the downwind area as expeditiously as practicable but no later than the date on which the last reductions in pollution transport necessary for attainment in the downwind area are required to be implemented under any anti-impairment action.

**SEC. 1445. ENERGY PRODUCTION INCENTIVES.**

(a) IN GENERAL.—A State may provide to any entity—

(1) a credit against any tax or fee owed to the State under a State law, or

(2) any other tax incentive, determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or tax incentive.

(b) ELIGIBLE ENTITIES.—Subsection (a) shall apply with respect to the production in the State of—

(1) electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology;

(2) electricity from a renewable source such as wind, solar, or biomass; or

(3) ethanol.

(c) EFFECT ON INTERSTATE COMMERCE.—Any action taken by a State in accordance with this section with respect to a tax or fee payable, refundable, or otherwise applicable, for any period beginning after the date of the enactment of this Act shall—

(1) be considered to be a reasonable regulation of commerce; and

(2) not be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate, against interstate commerce.

**SEC. 1446. REGULATION OF CERTAIN OIL USED IN TRANSFORMERS.**

Notwithstanding any other provision of law, and in accordance with the Environmental Protection Agency, vegetable oil made from soybeans and used in electric transformers as thermal insulation shall not be regulated as an oil as defined under section 2(a)(1)(A) of the Edible Oil Regulatory Reform Act (33 U.S.C. 2720(a)(1)(A)).

**SEC. 1447. RISK ASSESSMENTS.**

Subtitle B of title XXX of the Energy Policy Act of 1992, as amended by adding at the end the following new section:

**SEC. 3022. RISK ASSESSMENT.**

Federal agencies conducting assessments of risks to human health and the environment from energy technology, production, transport, transmission, distribution, storage, use, or conservation activities shall use sound scientific practices and one of the following methods in assessing such risks, shall consider the best available science (including peer reviewed studies), and shall include a description of the weight of the scientific evidence concerning such risks.”.

**SEC. 1448. OXYGEN-FUEL.**

(a) PROGRAM.—The Secretary of Energy shall establish a program on oxygen-fuel systems. If feasible, the program shall include renovation of at least one existing large unit and one existing small unit, and construction of one new large unit. Cost sharing shall not be required.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section—

(1) $100,000,000 for fiscal year 2006;

(2) $100,000,000 for fiscal year 2007; and

(3) $100,000,000 for fiscal year 2008.

**SEC. 1449. PHYSICAL AND CHEMICAL AND OIL REFINERY FACILITY HEALTH ASSESSMENT.**

(a) ESTABLISHMENT.—The Secretary of Energy shall conduct a study of direct and significant health impacts to persons resulting from living in proximity to petrochemical and oil refinery facilities. The Secretary shall consult with the Director of the National Cancer Institute and other Federal Government bodies with expertise in the field it deems appropriate in the design of such study. The study shall be conducted according to sound and objective scientific practices and present the weight of the scientific evidence. The Secretary shall obtain scientific peer review of the draft study.

(b) REPORT TO CONGRESS.—The Secretary shall transmit the results of the study to Congress within 6 months of the enactment of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section $100,000,000 for each of fiscal years 2006 through 2008.

**SEC. 1450. UNITED STATES-ISRAEL COOPERATION.**

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

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

(2) An operating temperature range not to exceed 900 degrees Celsius.

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

(c) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary for carrying out this section $500,000 for fiscal year 2008.

**TITLE XV—ETHANOL AND MOTOR FUELS**

Subtitle A—General Provisions

**SEC. 1501. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7565) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

"(o) RENEWABLE FUEL PROGRAM.—

(1) DEFINITIONS.—In this section:

(A) ETHANOL.—(I) The term ‘cellulosic biofuel’ means motor vehicle fuel that is derived from any lignocellulosic or hemi-cellulosic matter that is available on a renewable or recurring basis, including—

(i) dedicated energy crops and trees;

(ii) wood and wood residues;

(iii) plants;

(iv) grasses;

(v) agricultural residues; and

(vi) fibers.

(B) ETHANOL DERIVED FROM FOOD CROPS.—The term ‘biofuel derived from food crops’ means—

(i) natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

(ii) includes—The term ‘renewable fuel’ includes cellulosic biomass ethanol, waste..."
of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency, in the case of the volume of gasoline that will be sold or introduced into commerce in the United States during the following calendar year.

(2) Determination of applicable percentages.—

(i) In General.—Not later than November 30 of each of the calendar years 2005 through 2011, the Administrator shall determine and publish in the Federal Register the applicable percentage that will be sold or introduced into commerce during the following calendar year. The renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

(ii) Required Elements.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

(A) be applicable to refiners, blenders, and importers, as appropriate;

(B) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

(C) any pattern of seasonal variations.

(iii) Determinations.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

(I) to prevent the imposition of redundant obligations to persons specified in subparagraph (A);

(II) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (11);

(iii) to account for the use of renewable fuel during the calendar year for which credit was generated or next two consecutive calendar years; and

(C) Determinations.—The determinations referred to in subparagraph (B) are the—

(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during one of the periods specified in subparagraph (D) of each subsequent calendar year;

(ii) a pattern of excessive seasonal variations described in clause (i) will continue in subsequent calendar year;

(iii) promulgating regulations or other requirements to impose a 35 percent or more seasonal use of renewable fuels will not prevent the administration of national ambient air quality standards or significantly increase the price of motor fuels to the consumer;

(2) Periods.—The two periods referred to in this paragraph are—

(I) April through September; and

(ii) January through March and October through December.

(3) Exclusions.—Renewable fuels blended or consumed in 2005 in a State which has received a waiver under section 209(a)(3) shall not be included in the study in subparagraph (A).

(4) Waivers.—

(A) In General.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this subsection.

(B) Based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

(iii) waiver of the requirement of paragraphs (2) within 90 days after the date on which the petition is received by the Administrator.
(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

(9) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days after the enactment of this section, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will have a significant adverse consumer impacts in 2005, on a national, regional, or State basis. Such study shall evaluate the availability of renewable fuels and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the enactment of this subsection, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This paragraph shall not be interpreted as limiting the Administrator’s discretion to waive the requirements of paragraph (2) in whole, or in part, under paragraph (8) or paragraph (10), pertaining to waivers.

(10) ASSESSMENT AND WAIVER.—The Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall evaluate the requirement of paragraph (2) and determine, prior to January 1, 2007, and prior to January 1 of any subsequent year in which the applicable volume of renewable fuel required under paragraph (2) is to be determined, whether the requirement of paragraph (2), including the applicable volume of renewable fuel contained in paragraph (2)(B), should remain in effect, in whole or in part, during 2007 or any other year or years subsequent to 2007. In evaluating the requirement of paragraph (2) and in making any determination under this section, the Administrator shall consider the best available information and data collected by accepted methods or best available means regarding:

(A) the potential of renewable fuel producers to supply an adequate amount of renewable fuel at competitive prices to the refineries and commodities used in the production of ethanol, or heating oil for consumers in any significant area or region of the country above which the Administrator would otherwise agree to supply such commodities in the absence of such requirement;

(C) the potential of the requirement of paragraph (2) to significantly raise the price of gasoline, food (excluding the net price impact of the requirement of paragraph (2)(B)), and (D) the potential of the requirement of paragraph (2) to cause intentional or unintentional exceedances of Federal, State, or local air quality standards.

If the Administrator determines, by clear and convincing evidence, after public notice and the opportunity for comment, that the requirement of paragraph (2) would have significant and meaningful adverse impact on the environment and related public health, or on the economy, public health, or environment of any significant area or region of the country, the Administrator may waive, in whole or in part, the requirement of paragraph (2) in any one year for which the determination is made for that area or region. If the Administrator determines that any such waiver shall not have the effect of reducing the applicable volume of renewable fuel specified in paragraph (2)(B) with respect to any year, the Administrator shall, prior to January 1 of any such year, reduce the national quantity of renewable fuel under paragraph (2)(B)(i) of the Internal Revenue Code of 1986 as a result of the use of ethanol.

(11) SMALL REFINERS.—(A) In general.—The requirement of paragraph (2) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in paragraph (2)(B)(i). Not later than December 31, 2007, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

(B) Economic Hardship.—(1) Extension of exemption.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator shall consider the findings of the study in addition to other economic factors.

(2) Deadline for action on petitions.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

(C) Credit Program.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the refinery beginning in the year following such notification.

(D) Opt-in for small refiners.—A small refinery may at any time petition the Administrator after consultation with the Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, regarding the application of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

(E) Ethanol market concentration analysis.—(1) Analysis.—(A) In general.—Not later than 180 days after the date of enactment of this subsection, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Hirschman-Herfindahl Index to determine whether there is sufficient competition among industry participants to avoid price setting and other anticompetitive behavior.

(B) Report.—Not later than December 1, 2006, and annually thereafter, the Federal Trade Commission shall submit a report on the results of the market concentration analysis performed under subparagraph (A)(1). .

(b) Penalties and enforcement.—Section 211(o)(1) of such Act (42 U.S.C. 7545(o)(1)) is amended as follows:

(1) In paragraph (1)—

(A) in the first sentence, by striking “or (n)” each place it appears and inserting “(n), or (o);” and

(B) in the second sentence, by striking “or (m)” and inserting “(m), (n), or (o).”

(2) In the first sentence of paragraph (2), by striking “(m)” each place it appears and inserting “(n), and (o).”

(c) Survey of renewable fuel market.—(1) In general.—Not later than December 1, 2006, and annually thereafter, the Administrator of the Environmental Protection Agency (in consultation with the Secretary of Energy as appropriate) shall determine the market share of—

(A) conventional gasoline containing ethanol;

(B) reformulated gasoline containing ethanol;

(C) conventional gasoline containing renewable fuel; and

(D) reformulated gasoline containing renewable fuel.

(2) Submit to Congress.—Not later than 180 days after the survey conducted under paragraph (1) is accurate, the Administrator, to avoid duplication and facilitate the extent practicable the collection and reporting of data resulting in the survey conducted under paragraph (1) and the market share of the Administrator shall submit a report including gasoline distribution patterns that include multistate use areas.

(3) Applicable law.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.


(a) In general.—Notwithstanding any other provision of Federal or State law, no renewable fuel, as defined by section 211(o)(1) of such Act, sold or offered for sale in commerce, as a motor vehicle fuel, or as a motor vehicle fuel containing such renewable fuel, or MTBE, shall be deemed a defective product, by virtue of the fact that it is, or contains, such a renewable fuel or MTBE, if it does not violate a control or prohibition imposed by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy.

(b) Effective date.—This section shall apply with respect to all claims filed on or after that date.
SEC. 1503. FINDINGS AND MTBE TRANSITION ASSISTANCE.

(a) FINDINGS.—Congress finds that—
(1) since 1979, methyl tertiary butyl ether (hereinafter referred to as ‘‘MTBE’’) has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;
(2) MTBE (commonly known as the ‘‘Clean Air Act Amendments of 1990’’) (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;
(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that significant use of MTBE would result from the adoption of that standard, and that the use of MTBE would likely be important to the cost-effective implementation of that program;
(4) Congress was aware that gasoline and its component additives can and do leak from storage tanks;
(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101-549 by making substantial investments;
(A) MTBE production capacity; and
(B) systems to deliver MTBE-containing gasoline to the marketplace;
(6) having previously required oxygenates like MTBE for air quality purposes, Congress has—
(A) reconsidered the relative value of MTBE in gasoline; and
(B) decided to establish a date certain for action by the Environmental Protection Agency to prohibit the use of MTBE.

(b) PURPOSES.—The purpose of this section is to provide assistance to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate standard contained in this subsection to make grants to merchant producers of MTBE in the United States to assist the producers in the conversion of eligible production facilities designated to produce MTBE to the production of such other fuel additives (unless the Administrator determines that such fuel additives may reasonably be anticipated to be underutilized) that, consistent with this subsection—
(1) have been registered and have been tested or are being tested in accordance with the requirements of this section; and
(2) will contribute to replacing gasoline volumes lost as a result of amendments made to subsection (k) of this section by section 1504(a) and 1506 of the Energy Policy Act of 2005.

(c) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—
(1) is located in the United States; and
(2) produced MTBE for consumption before April 1, 2003 and ceased production at any time after the date of enactment of this paragraph.

(d) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2003 through 2012, to remain available until expended.

SEC. 1504. USE OF MTBE.

(a) IN GENERAL.—Subject to subsections (e) and (f), not later than December 31, 2014, the use of methyl tertiary butyl ether (hereinafter referred to as ‘‘MTBE’’) in motor vehicle fuel in any State other than a State described in subsection (c) is prohibited.

(b) REGULATIONS.—The Administrator, in consultation with the National Academy of Sciences, shall by regulation prohibit the use of MTBE in motor vehicle fuel.

(c) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—
(1) is located in the United States; and
(2) produced MTBE for consumption before April 1, 2003 and ceased production at any time after the date of enactment of this paragraph.

(d) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2003 through 2012, to remain available until expended.

SEC. 1505. NATIONAL ACADEMY OF SCIENCES REVIEW AND RECOMMENDATIONS.

(a) IN GENERAL.—The Secretary, in consultation with the National Academy of Sciences, shall review the use of methyl tertiary butyl ether (hereinafter referred to as ‘‘MTBE’’) in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane, iso-octene, alkylates, or renewable fuels.

(b) PROHIBITION.—The Administrator, in consultation with the National Academy of Sciences, may determine that transition assistance for the production of iso-octane, iso-octene, alkylates, or renewable fuels is appropriate and that consistent with the provisions of subparagraph (b) and, on that basis, may deny applications for grants authorized by this paragraph.

(c) FUTURE GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of MTBE in the United States to assist the producers in the conversion of eligible production facilities designated to produce MTBE to the production of such other fuel additives (unless the Administrator determines that such fuel additives may reasonably be anticipated to be underutilized) that, consistent with this subsection—
(1) have been registered and have been tested or are being tested in accordance with the requirements of this section; and
(2) will contribute to replacing gasoline volumes lost as a result of amendments made to subsection (k) of this section by section 1504(a) and 1506 of the Energy Policy Act of 2005.

(d) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—
(1) is located in the United States; and
(2) produced MTBE for consumption before April 1, 2003 and ceased production at any time after the date of enactment of this paragraph.

(e) REGULATIONS.—The Administrator, in consultation with the National Academy of Sciences, shall by regulation prohibit the use of MTBE in motor vehicle fuel.

(f) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 2003 through 2012, to remain available until expended.

SEC. 1506. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—(1) IN GENERAL.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended as follows:

(II) by redesignating clause (i) as clause (ii) and inserting the following:

(i) DEFINITIONS.—In this subparagraph the Administrator shall define the term ‘‘reformulated gasoline’’ to mean—
(II) any gasoline that has received a waiver under section 1504; and
(III) any gasoline that is not reformulated gasoline as defined under section 211(k)(1)(I) of the Clean Air Act (42 U.S.C. 7545(k)(1)) after April 30, 2005.

(b) R EGRULATIONS.—The Administrator, under section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) shall by regulation—
(1) make grants to merchant producers of MTBE to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane, iso-octene, alkylates, or renewable fuels.

(c) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—
(1) is located in the United States; and
(2) produced MTBE for consumption before April 1, 2003 and ceased production at any time after the date of enactment of this paragraph.

(d) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this section $500,000,000 for each of fiscal years 2003 through 2012, to remain available until expended.

SEC. 1507. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—(1) IN GENERAL.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended as follows:

(II) by redesignating clause (i) as clause (ii) and inserting the following:

(i) DEFINITIONS.—In this subparagraph the term ‘‘reformulated gasoline’’ mean—
(II) any gasoline that has received a waiver under section 1504; and
(III) any gasoline that is not reformulated gasoline as defined under section 211(k)(1)(I) of the Clean Air Act (42 U.S.C. 7545(k)(1)) after April 30, 2005.

(b) R EGRULATIONS.—The Administrator, under section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) shall by regulation—
(1) make grants to merchant producers of MTBE to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane, iso-octene, alkylates, or renewable fuels.

(c) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—
(1) is located in the United States; and
(2) produced MTBE for consumption before April 1, 2003 and ceased production at any time after the date of enactment of this paragraph.

(d) AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated to carry out this section $500,000,000 for each of fiscal years 2003 through 2012, to remain available until expended.
gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 211(k)(1)(B) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding at the end the following:

"(m) RENEWABLE FUELS SURVEY.—(1) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct surveys of the results of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including each of the following:

(a) The quantity of renewable fuels produced.

(b) The quantity of renewable fuels blended.

(c) The quantity of renewable fuels imported.

(d) The quantity of renewable fuels demand.

(e) Market price data.

(f) Such other analyses or evaluations as the Administrator finds is necessary to adverse impact on fuel production.

(2) The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) (through (F) of paragraph (1) for the 5 years prior to implementation of this subsection.

This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a) ."

SEC. 1509. REDUCING THE PROLIFERATION OF STATE FUEL CONTROLS.

(a) EPA Approval of State Plans With Fuel Controls.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding at the end the following:

"(1) The Administrator shall not approve a control or prohibition respecting the use of a secondary fuel additive under this subparagraph unless the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register a finding that, in the Administrator’s judgment, such control or prohibition will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas."

(b) STUDY.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the “Administrator”), in cooperation with the Secretary of Energy, shall undertake a study of the projected effects on air quality, the proliferation of fuel blends, fuel availability, and fuel costs of providing a preference for each of the following:

(A) Reformulated gasoline referred to in subsection (k) of section 211 of the Clean Air Act.

(B) A low RVP gasoline blend that has been certified by the Administrator as having a Reid Vapor Pressure of 7.0 pounds per square inch (psi).

(C) A low RVP gasoline blend that has been certified by the Administrator as having a Reid Vapor Pressure of 7.8 pounds per square inch (psi).

In carrying out such study, the Administrator shall obtain comments from affected parties. The Administrator shall submit the results of such study to the Congress not later than 18 months after the date of enactment of this Act, together with any recommendation legislative changes.

SEC. 1510. FUEL SYSTEM REQUIREMENTS HAR- MONIZATION STUDY.

(a) STUDY.—(1) In GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the “Administrator”) and the Secretary of Energy shall consult with the Congress, Federal, State, and local requirements concerning motor vehicle fuels, including—
(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) Required elements.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to consumers in various States and localities;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the requirement described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while improving air quality at the national, regional and local levels, the attainment of national ambient air quality standards, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply;

(F) the feasibility of providing incentives to promote cleaner burning motor vehicle fuel; and

(G) the extent to which improvements in air quality and any increases or decreases in the price of motor fuel can be projected to result from the Environmental Protection Agency’s Tier II requirements for conventional and oxygenated motor vehicle fuels, the reformulated gasoline program, the renewable content requirements established by this subtitle, State programs regarding gasoline volatility, and any other requirements imposed by States or localities affecting the composition of motor fuel.

(b) Report.—

(1) In general.—Not later than December 31, 2007, the Administrator and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) Recommendations.—

(A) In general.—The report under this subsection shall include recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) Required considerations.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure the availability of adequate supply of motor vehicle fuel in all States.

(C) Consultation.—In developing the report under this subsection, the Administrator and the Secretary of Energy shall consult—

(A) the Governors of the States;
compliant reformulated gasoline under this subsection a maximum of two blending periods between May 1 and September 15 of each calendar year.

(2) PROHIBITION ON BLENDING PERIOD.—Each blending period authorized under subparagraph (A) shall extend for a period of no more than 10 consecutive calendar days.

(3) ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

(4) PROHIBITED USES.—Funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide assistance to an owner or operator to pay any requirement relating to underground storage tanks under subparts B, C, D, H, and G of part 280 of title 40, Code of Federal Regulations (in effect on the date of enactment of this subsection).

(5) ALLOCATION.—

(A) PROCEDURE.—Subject to subparagraphs (B) and (C), in the case of a State with which the Administrator has entered into a cooperative agreement under section 903(c)(7)(A), the Administrator may distribute funds from the Trust Fund to the State using an allocation process developed by the Administrator.

(B) DIVISION OF STATE FUNDS.—The Administrator shall not distribute funds under subparagraph (A) of this subsection to any State that has diverted funds from a State fund or program for purposes other than those related to the regulation of underground storage tanks covered by this subtitle, with the exception of those transfers permitted earlier than the date of enactment of this subsection.

(6) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) after—

(i) consulting with State agencies responsible for overseeing corrective action for releases from underground storage tanks; and

(ii) taking into consideration, at a minimum, each of the following:

(I) The number of confirmed releases from federally regulated underground storage tanks in the States.

(II) The number of federally regulated underground storage tanks in the States.

(III) The performance of the States in implementing and enforcing the program.

(IV) The financial needs of the States.

(7) ABILITY OF STATES TO USE FUNDS.—The Administrator may, in the Administrator’s discretion, authorize the States to use funds under this section to—

(A) enter into a cooperative agreement referred to in paragraph (6)(A);

(B) enforce a State program approved under this subsection.

(8) DISTRIBUTIONS TO STATE AGENCIES.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

(A) enters into a cooperative agreement referred to in paragraph (6)(A); or

(B) is enforcing a State program approved under this subsection.

(b) Distributions from the Solid Waste Disposal Act Trust Fund for underground storage tanks shall be made under section 903(c) of the Solid Waste Disposal Act (42 U.S.C. 6991c(c)) amended by inserting the following new subsection at the end thereof:

(1) UNINSPECTED TANKS.—In the case of underground storage tanks regulated under this subtitle that have not undergone an inspection since December 22, 1998, not later than 2 years after the date of enactment of this subsection, the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of all such tanks to determine compliance with this subtitle and the regulations under this subtitle (40 C.F.R. 280) or a requirement or standard of a State program developed under section 9004.

(2) PERIODIC INSPECTIONS.—After completion of all inspections required under paragraph (1), the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of each underground storage tank regulated under this subtitle at least once every 3 years to determine compliance with this subtitle and the regulations under this subtitle (40 C.F.R. 280) or a requirement or standard of a State program developed under section 9004.

(c) ABILITY TO PAY.—Section 9003(b)(6) of the Solid Waste Disposal Act (42 U.S.C. 6991a(b)(6)) is amended by adding the following new subparagraph at the end thereof:

(8) ABILITY OR LIMITED ABILITY TO PAY.–

(1) IN GENERAL.—In determining the level of recovery of recovery, or amount that should be recovered, the Administrator (or the State pursuant to paragraph (7)) shall consider the owner or operator’s ability to pay. An inability or limited ability to pay corrective action costs must be demonstrated to the Administrator (or the State pursuant to paragraph (7)) by the owner or operator.

(ii) CONSIDERATIONS.—In determining whether or not a demonstration is made under clause (i), the Administrator (or the State pursuant to paragraph (7)) shall take into consideration the ability of the owner or operator to pay corrective action costs and still maintain its basic business operations, including consideration of the overall financial condition of the owner or operator and other reasonable and demonstrable constraints on the ability of the owner or operator to raise revenues.

(III) INFORMATION.—An owner or operator requesting consideration under this subparagraph shall provide the Administrator (or the State pursuant to paragraph (7)) with all relevant information needed to determine the ability of the owner or operator to pay corrective action costs.

(iv) ALTERNATIVE PAYMENT METHODS.—The Administrator (or the State pursuant to paragraph (7)) shall consider alternative payment methods as may be necessary or appropriate if the Administrator (or the State pursuant to paragraph (7)) determines that an owner or operator cannot pay all or a portion of the recovery costs in a form identified in paragraph (i).
shall, within 4 years after the date of enactment of this Act, submit a report to the Congress containing the results of such study.

SEC. 1524. OPERATOR TRAINING.

(a) General.—Subject to section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) it is amended to read as follows:

"(a) General.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2005, in consultation and cooperation with States and the public and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for:

"(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

"(B) persons having daily on-site responsibility for the operation and maintenance of underground storage tanks systems; and

"(C) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

(2) REQUIREMENTS.—State requirements described in paragraph (1) shall take into account:

"(A) State training programs in existence as of the date of publication of the guidelines;

"(B) training programs that are being employed by tank owners and tank operators as of the date of enactment of the Underground Storage Tank Compliance Act of 2005;

"(C) the high turnover rate of tank operators and personnel;

"(D) the frequency of improvement in underground storage tank equipment technology;

"(E) the nature of the businesses in which the tank operators are engaged;

"(F) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(G) such other factors as the Administrator determines to be necessary to carry out this section.

(b) STATE PROGRAMS.—

"(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), a State receiving funding under this subtitle shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1).

"(2) REQUIREMENTS.—State requirements described in paragraph (1) shall—

"(A) be consistent with subsection (a);

"(B) be developed in cooperation with tank owners and tank operators;

"(C) take into consideration training programs implemented by tank owners and tank operators as of the date of enactment of this section; and

"(D) be appropriately communicated to tank owners and operators.

(c) TRAINING.—All persons that are subject to the training requirements of subsection (a) shall—

"(1) meet the training requirements developed under subsection (b); and

"(2) take into consideration the applicable requirements developed under subsection (b), if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with—

"(A) a requirement or standard promulgated by the Administrator under section 9003; or

"(B) a requirement or standard of a State program approved under section 9004.

(d) STATE PROGRAM REQUIREMENT.—Section 9004(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(a)) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "and" thereof, and by adding the following new paragraph at the end thereof:

"(9) State-specific training requirements as required by section 9010.

(e) ENFORCEMENT.—

"(1) By striking section 9006(d)(2) of such Act (42 U.S.C. 6991e) as amended as follows:

"(1) By striking or at the end of subparagraph (B);

"(2) By adding the following new subparagraph after subparagraph (C):-

"(D) the training requirements established by States pursuant to section 9010 relating to operator training; or";

"(2) TABLE OF CONTENTS.—The item relating to section 9010 in the table of contents for the Solid Waste Disposal Act is amended to read as follows:

"Sec. 9010. Operator training;"

SEC. 1525. REMEDIATION FROM OXYGENATED FUEL CONTAMINATION.

(a) IN GENERAL.—The Administrator and the States may use funds made available under section 9014(b) to carry out corrective actions with respect to a release of an oxygenated fuel additive that presents a threat to human health or welfare or the environment.

"(B) applicable authority.

The Administrator, in consultation with the States, shall carry out the following:

"(1) in general.—The Administrator shall, to the maximum extent practicable, make available to the public through an appropriate medium:

"(A) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(C) public record.

"(2) CONSIDERATIONS.—The Administrator shall take into consideration:

"(A) a requirement or standard promulgated by the Administrator under section 9003; and

"(B) any other factors that the Administrator considers appropriate.

(2) TABLE OF CONTENTS.—The table of contents for such subtitle is amended by adding at the end thereof:

"Sec. 9011. Use of funds for release prevention and compliance;"

SEC. 1526. DELIVERY PROHIBITION.

(a) IN GENERAL.—Subject I of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end thereof:

"(e) INCENTIVE FOR PERFORMANCE.

The Administrator shall award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the report.

"(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.

"(c) PUBLIC RECORD.

"(1) IN GENERAL.—The Administrator shall, to the maximum extent practicable, make available to the public through an appropriate medium:

"(A) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(D) public record.

"(2) CONSIDERATIONS.—The Administrator shall take into consideration:

"(A) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(C) public record.

"(2) TABLE OF CONTENTS.—The table of contents for such subtitle is amended by adding at the end thereof:

"Sec. 9011. Use of funds for release prevention and compliance;"

SEC. 1527. DELIVERY PROHIBITION.

(a) IN GENERAL.—Subject I of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end thereof:

"(e) INCENTIVE FOR PERFORMANCE.

The Administrator shall award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the report.

"(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.

"(c) PUBLIC RECORD.

"(1) IN GENERAL.—The Administrator shall, to the maximum extent practicable, make available to the public through an appropriate medium:

"(A) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(D) public record.

"(2) CONSIDERATIONS.—The Administrator shall take into consideration:

"(A) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

"(C) public record.

"(2) TABLE OF CONTENTS.—The table of contents for such subtitle is amended by adding at the end thereof:

"Sec. 9011. Use of funds for release prevention and compliance;"
"(1) Prohibition of delivery or deposit.—Beginning 2 years after the date of enactment of this section, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into any underground storage tank facility at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for fuel delivery or deposit as determined by the Administrator or a State, as appropriate, under subparagraph (B)(iii) of this subparagraph.

(b) Enforcement.—Section 9006(d)(2) of such Act (42 U.S.C. 6991(d)(2)) is amended as follows:

(1) By adding the following new subparagraph after the end thereof:

'(E) the delivery prohibition requirement established by section 9012.'

(2) By adding the following sentence at the end thereof:

'(F) a delineation of, or a process for determining, the specified geographic areas for which they are the primary implementing agencies, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. Such processes and procedures include, at a minimum—

(A) the criteria for determining which underground storage tank facilities are ineligible for delivery or deposit;

(B) the mechanisms for identifying which facilities are ineligible for delivery or deposit to the underground storage tank owning and operating industries;

(C) the process for reclassifying ineligible facilities as eligible for delivery or deposit; and

(D) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4).

(3) Delivery Prohibition Notice.—(A) Requirement.—The Administrator and each State implementing agency that receives funding under this subtitle shall establish within 24 months after the date of enactment of this section a Delivery Prohibition Roster listing underground storage tanks under the Administrator’s or the State’s jurisdiction that are determined to be ineligible for delivery or deposit pursuant to paragraph (2).

(B) Notification.—The Administrator and each State, as appropriate, shall make readily known, to underground storage tank owners and operators and to product delivery industries, the underground storage tanks listed on a Delivery Prohibition Roster by—

(i) posting such Rosters, including the physical location and street address of each listed underground storage tank, on official web sites and, if the Administrator or the State’s jurisdiction elects to do so, by other means the Administrator and the State determine appropriate; and

(ii) updating these Rosters periodically; and

(iii) installing a tamper-proof tag, seal, or other device blocking the fill pipes of such underground storage tanks to prevent the delivery of product into such underground storage tanks.

(C) Roster Updates.—The Administrator and the State shall update the Delivery Prohibition Rosters as appropriate, but not less than once a month on the first day of the month.

(D) Tampering with device.—(1) Prohibition.—It shall be unlawful for any person without an authorization from an authorized representative of the Administrator or a State, as appropriate, to remove, tamper with, destroy, or damage a device installed by the Administrator or a State, as appropriate, under subparagraph (B)(iii) of this subsection.

(2) Civil penalties.—Any person violating clause (1) of this subparagraph shall be subject to a civil penalty not to exceed $10,000 for each violation.

(4) Limitation.—(A) Prohibition on remote areas.—Subject to subparagraph (B), the Administrator or a State shall not include an underground storage tank on a Delivery Prohibition Roster under this subsection if the operator or agent for such tank has been designated by the agency as a facility that has been identified by the Administrator or a State, as appropriate, to be ineligible for delivery of a regulated substance to an underground storage tank facility.

(B) Exemption.—The Administrator may—

(i) post and update the Delivery Prohibition Roster on official web sites; and

(ii) exercise the authority of paragraph (3) with respect to any such substantive or procedural requirement, including, but not limited to, any fine or imprisonment for infractions of paragraph (4)(D)(ii), to any injunctive relief, administrative orders and fines, regardless of whether such penalties or sanctions are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby designates by this subsection any rule or order or civil administrative penalty or fine referred to in the preceding sentence, or reasonable service charge. The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the payment of reasonable service charges for permits, renewals of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nonmonetary penalties that are assessed in connection with a Federal, State, interstate, or local underground storage tank regulatory program. Neither the President, the United States, nor any Federal employee, officer, or employee thereof, shall be immune or exempt from any process or sanction of any kind for violation of any law under any Federal, State, or local law concerning underground storage tanks with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment for infractions of paragraph (4)(D)(ii), to any injunctive relief, administrative orders and fines, regardless of whether such penalties or sanctions are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The President may exempt any underground storage tank of any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government from any such injunctive relief, administrative order, or civil penalty for each day of such violation.

(5) Table of contents.—The table of contents for this subchapter is amended by adding the following new item at the end thereof:

'Sec. 9012. Delivery prohibition.'
amended by adding the following at the end thereof:

SEC. 1529. TANKS ON TRIBAL LANDS.

(a) Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following at the end thereof:

‘‘(A) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy

‘‘(1) giving priority to releases that present the greatest threat to human health or the environment; and

‘‘(2) to implement and enforce requirements under this subtitle of underground storage tanks located wholly within the boundaries of—

‘‘(A) an Indian reservation; or

‘‘(B) any other area under the jurisdiction of an Indian tribe; and

‘‘(b) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a re-require one of the following:

‘‘(A) an Indian reservation; or

‘‘(B) any other area under the jurisdiction of an Indian tribe.

‘‘(c) EFFECTIVE DATE. — This section shall take effect 18 months after the date of enactment of this section.

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following at the end thereof:

‘‘(A) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy

‘‘(1) giving priority to releases that present the greatest threat to human health or the environment; and

‘‘(2) to implement and enforce requirements under this subtitle of underground storage tanks located wholly within the boundaries of—

‘‘(A) an Indian reservation; or

‘‘(B) any other area under the jurisdiction of an Indian tribe.

‘‘(b) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a re-require one of the following:

‘‘(A) an Indian reservation; or

‘‘(B) any other area under the jurisdiction of an Indian tribe.

‘‘(c) EFFECTIVE DATE. — This section shall take effect 18 months after the date of enactment of this section.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following new subsection at the end thereof:

Sec. 9013. Tanks on Tribal lands.
a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if:

(I) the waiver applies to the smallest geographic area; or

(II) the waiver applies to the largest geographic area.

(b) Limit on number of boutique fuels. (1) Limit or otherwise affect the applicability of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

(2) subject any State or person to an enforcement action, penalties, or liability solely arising from personalizing a motor vehicle through the issuance of a waiver under this subparagraph.

SEC. 1542. REDUCING THE PROLIFERATION OF BOUTIQUE FUELS.

(a) Temporary waivers due to supply emergencies. —Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by inserting “(I) the Administrator shall use sound and objective science; and shall consider and include a determination that—

(I) extreme and unusual fuel or fuel additive supply circumstances exist in a State or region of the Nation which prevent the distribution of the least expensive fuel or fuel additive to consumers;

(II) such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster, an Act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of the fuel or fuel additive to such State or region; and

(III) it is in the public interest to grant the waiver, whether a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation which cannot otherwise be compensated for.

(b) Limit on number of boutique fuels. —(1) Limit or otherwise affect the applicability of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

(2) subject any State or person to an enforcement action, penalties, or liability solely arising from personalizing a motor vehicle through the issuance of a waiver under this subparagraph.

(c) Study and report to Congress on boutique fuels. —(1) Joint study. —The Administrator of the Environmental Protection Agency and the Secretary of Energy shall undertake a study of the effects on air quality, on the number of fuel blends, on fuel availability, on fuel fungibility, and on fuel costs of the State implementation plans for the fuels on such list as of September 1, 2004, the time of the Administrator

(2) Sources of study. —The primary focus of the study shall be to determine how to develop a Federal fuels system that maximizes fuel fungibility and supply, preserves air quality standards, and reduces motor fuel price volatility that results from the proliferation of boutique fuels, and to recommend to Congress such legislative changes as may be necessary to implement such a system.

(d) Responsibility of Administrator. —In carrying out the study required by this section, the Administrator shall coordinate obtaining comments from parties interested in the air quality impact assessment portion of the study. The Administrator shall use sound and objective science, and shall consider and include a description of the weight of the scientific evidence.

(e) Responsibility of Secretary. —In carrying out the study required by this section, the Secretary shall coordinate obtaining comments from affected parties interested in the air quality impact assessment portion of the study.
(5) REPORT TO CONGRESS.—The Administrator and the Secretary jointly shall submit the results of the study required by this section in a report to the Congress not later than 1 year after the date of enactment of this Act, together with any recommended regulatory and legislative changes. Such report shall be submitted to the Committee on Energy and Natural Resources of the Senate and the House of Representatives.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated jointly to the Administrator and the Secretary $500,000 for the completion of the study required under this section.

(7) DEFINITIONS.—In this section:

(1) The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) The term “Secretary” means the Secretary of Energy.

(3) The term “fuel” means gasoline, diesel fuel, and any other liquid petroleum product commercially known as gasoline and diesel fuel for use in highway and nonroad motor vehicles.

(4) The term “a control or prohibition respecting a new fuel” means a control or prohibition on the formulation, composition, or emission characteristics of a fuel that would require the increase or decrease of a constituent in gasoline or diesel fuel.

TITLE XVI—STUDIES

SEC. 1601. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) DEFINITION.—For purposes of this section “petroleum” means crude oil, motor gasoline, jet fuel, distillates, and propane.

(b) STRATEGIC INVENTORY OF PETROLEUM.—The Secretary of Energy shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) CONTENTS.—The study shall address—

(1) historical normal ranges for petroleum and natural gas inventory levels;

(2) historical and projected storage capacity trends;

(3) estimated operation inventory levels below which outages, delivery slowdown, rationing in service, or other indicators of shortage begin to appear;

(4) explanations for inventory levels dropping below normal ranges; and

(5) recommendations to the industry to meet United States demand for petroleum and natural gas without shortages or price spikes, when inventory levels are below normal ranges.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit a report to Congress on the results of the study, including findings and any recommendations for preventing future supply shortages.

SEC. 1605. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within 1 year after the date of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to Congress.

SEC. 1606. TELECOMMUTING STUDY.

(a) STUDY REQUIRED.—The Secretary, in consultation with the Commission, the Director of the Office of Personnel Management, the Director of General Services, and the Administrator of NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(b) REQUIRED SUBJECTS OF STUDY.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to the implementation of telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT TO CONGRESS.—The Secretary shall submit to the President and Congress a report on the study required by this section not later than 6 months after the date of enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (a).

(d) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(2) COMMISSION.—The term “Commission” means the Federal Communications Commission.

(3) NTIA.—The term “NTIA” means the National Telecommunications and Information Administration of the Department of Commerce.

(4) TELECOMMUTING.—The term “telecommuting” means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional work sites.

(5) FEDERAL EMPLOYEE.—The term “Federal employee” has the meaning provided the term “employee” by section 2105 of title 5, United States Code.

SEC. 1607. LIHEAP REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on how the Low-Income Home Energy Assistance Program could be used more effectively to prevent loss of life from extreme cold weather, such as reported to the Secretary, and the measures the Secretary will take to ensure that energy assistance continues during extreme cold weather.

SEC. 1608. BYPASS FILTER TECHNIQUE.

The Secretary of Energy and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in reducing demand for oil and protecting the environment;

(2) examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets;

(3) include in such study, prior to any determination of the feasibility of using oil bypass filtration technology, the evaluation of products and various manufacturers.

SEC. 1609. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary of Energy shall—

(1) conduct a study of the benefits of total integrated thermal systems in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Department of Defense and other Federal motor vehicle fleets.

SEC. 1610. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report that examines the feasibility of promoting collaborations between large institutions of higher education and smaller institutions of higher education through grants, contracts, and cooperative agreements made by the Secretary for energy projects. The Secretary shall also consider providing incentives for the inclusion of student researchers, including minority-serving institutions, in energy research grants, contracts, and cooperative agreements.

SEC. 1611. RELIABILITY AND CONSUMER PROTECTION ASSESSMENT.

Not later than 5 years after the date of enactment of this Act, the Secretaries of Energy and Commerce shall conduct a joint study of the effects of the exemption from regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity and the effect of those projects on United States energy markets.

SEC. 1612. REPORT ON ENERGY INTEGRATION WITH LATER AMERICA.

The Secretary of Energy shall submit an annual report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning the status of energy export development in Latin America and efforts by the Secretary and other departments and agencies of the United States to promote energy integration with Latin America. The report shall contain a detailed analysis of the status of energy export development in Mexico and a description of all significant efforts by the Secretary and other departments and agencies to promote a constructive relationship with Mexico regarding the development of that nation’s energy capacity. In particular, this report shall outline efforts the Secretary and other departments and agencies have made to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

SEC. 1612. LOW-VOLUME GAS RESERVOIR STUDY.

(a) STUDY.—The Secretary of Energy shall make a grant to an organization of oil and gas producing States, specifically those containing significant numbers of marginal oil and gas wells, to conduct an annual study of low-volume natural gas reservoirs. Such organization shall work with the State geologist of each State being studied.

(b) CONTENTS.—The studies under this section shall—

(1) determine the status and location of marginal wells and gas reservoirs;

(2) gather the production information of these marginal wells and reservoirs;

(3) estimate the remaining producible reserves based on variable pipeline pressures;

(4) locate low-pressure gathering facilities and pipelines; and

(5) recommend incentives which will enable the continued production of these resources;
April 20, 2005

CONGRESSIONAL RECORD—HOUSE

H2297

(6) produce maps and literature to disseminate to States to promote conservation of natural gas reserves; and

(7) evaluate the amount of natural gas that is being wasted through the practice of venting or flaring of natural gas produced in association with crude oil well production.

d) DATA ANALYSIS.—Data development and analysis under this section shall be performed by an institution of higher education with GIS capabilities. If the organization receiving the grant under subsection (a) does not have the capabilities, such organization shall contract with one or more entities with—

(1) technological capabilities and resources to perform advanced image processing, GIS programming, and data analysis; and

(2) the ability to—

(A) process remotely sensed imagery with high spatial resolution;

(B) deploy global positioning systems;

(C) process and synthesize existing, variable, format gas well, pipeline, gathering facility, and reservoir data;

(D) create and query GIS databases with infrastructure location and attribute information;

(E) write computer programs to customize relevant GIS software;

(F) generate maps, charts, and graphs that summarize findings from data research for presentation to different audiences; and

(G) deliver data in a variety of formats, including through a Server for query and display, desktop computer display, and access through handheld personal digital assistants.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section—

(1) $150,000,000 for fiscal year 2006; and

(2) $650,000 for each of the fiscal years 2007 through 2010.

e) DEFINITIONS.—For purposes of this section, the term “GIS” means geographic information systems technology that facilitates the organization and management of data with a geographic component.

TITLE XVII—RENEWABLE ENERGY

SEC. 1701. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, PETROLEUM-BASED PRODUCT SUBSTITUTES, AND OTHER COMMERCIAL PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest fuel loads continues to increase as a result of severe, uncharacteristic insect infestations, and drought, further raising the risk of fire each year.

(2) In addition, more than 70,000,000 acres across the United States are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease increase the risk of catastrophic wildfire, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and the associated loss of timber resources.

(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and managing early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest land, woodland, and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest health by creating a mosaic of spatial fuel distribution. Such prevention treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, pests, and disease.

(4) The byproducts of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest land, woodland, and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. Byproducts of preventive treatment for the extraordinarily large-scale preventive treatment activities.

(b) THE PROJECT.—(A) promote economic and entrepreneurial opportunities in using byproducts removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for byproducts of preventive treatment activities.

(c) DATA ANALYSIS.—In this section:

(1) "BIOMASS" means trees and woody plants, including limbs, tops, needles, and other woody parts, and byproducts of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels; or

(B) to reduce the risk of or to contain disease or insect infestation.

(2) "INDIAN TRIBE."—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) "PERSON."—The term “person” includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(4) "PREFERRED COMMUNITY."—The term "preferred community" means—

(A) any town, city, county, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(B) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(d) IMPROVED BIOMASS USE GRANT PROGRAM.—(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to, biomass. In making such grants, the Secretary concerned shall give preference to, biomass. In making such grants, the Secretary concerned shall give preference to, biomass. In making such grants, the Secretary concerned shall give preference to, biomass. In making such grants, the Secretary concerned shall give preference to, biomass. In making such grants, the Secretary concerned shall give preference to, biomass. In making such grants, the Secretary concerned shall give preference to, biomass. In making such grants, the Secretary concerned shall give preference to, biomass.

(2) INDIAN TRIBE.—(A) promote economic and entrepreneurial opportunities in using byproducts removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for byproducts of preventive treatment activities.

(3) GRANT AMOUNT.—A grant under this subsection may not exceed $500,000.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 for each of the fiscal years 2006 through 2010 to carry out this section.

(f) REPORT.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives a report describing the results of the grant programs authorized by this section. The report shall include the following:

(1) An identification of the size, type, and the use of biomass by persons that receive grants under this section.

(2) The distance between the land from which the biomass was removed and the facility that used the biomass.

(3) The economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations.

SEC. 1702. ENVIRONMENTAL REVIEW FOR RENEWABLE ENERGY PROJECTS.

(a) COMPLIANCE WITH NEPA FOR RENEWABLE ENERGY PROJECTS.—Notwithstanding any other law, in preparing an environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4321) with respect to any action authorizing a renewable energy project under the jurisdiction of a Federal agency—

(1) no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative; and

(2) no Federal agency is required to analyze the environmental impacts of the alternative locations or actions other than those submitted by the project proponent.

(b) CONSIDERATION OF ALTERNATIVES.—In any environmental impact statement referred to in subsection (a), the Federal agency shall only
identity and analyze the environmental effects and potential mitigation measures of—
(1) the proposed action; and—
(2) the no action alternative.
(c) Public Consultation.—In preparing an environmental assessment or environmental impact statement referred to in subsection (a), the Federal agency shall only consider public comments that specifically address the preferred action and that are filed within 20 days after publication of a draft environmental assessment or draft environmental impact statement. Notwithstanding any other law, compliance with this subsection is deemed to satisfy section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), applicable regulations and administrative guidelines with respect to proposed renewable energy projects.
(d) RENEWABLE ENERGY PROJECT DEFINITIONS.—For purposes of this section, the term “renewable energy project”—
(1) means any proposal to utilize an energy source other than nuclear power, coal, oil, or natural gas; and
(2) includes the use of wind, solar, geothermal, biomass, or tidal forces to generate energy.
SECTION 1703. CONSENSUS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY PROJECTS ON PUBLIC LANDS.
It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of this Act, seek to obtain nominations of lands available for renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.
TITLE XVIII—GEOTHERMAL ENERGY
SECTION 1801. SHORT TITLE.
This title may be cited as the “John Rishel Geothermal Steam Act Amendments of 2005.”
SECTION 1802. COMPETITIVE LEASE SALE REQUIREMENTS.
Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:
“SEC. 4. LEASING PROCEDURES.
“(a) NOMINATIONS.—The Secretary shall accept nominations of lands available for leasing from any company or individual under this Act.
“(b) COMPETITIVE LEASE SALE REQUIRED.—The Secretary shall publish a notice of a competitive lease sale at least once every 2 years for lands in a State which has nominations pending under subsection (a) if such lands are otherwise available for leasing. Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency are not available for competitive leasing.
“(c) NONCOMPETITIVE LEASING.—
“(1) REQUIREMENT.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.
“(2) STATES WITHOUT NOMINATIONS.—In any State for which there are no nominations received under subsection (a) and having a total acreage under lease or the subject of an application for lease of less than 10,000 acres, the Secretary may designate lands available for 2 years for noncompetitive leasing.
“(d) LEASES SOLD AS A BLOCK.—If information in a petition to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for which a resource may be offered for bidding as a block in the competitive lease sale.
“(e) AREA SUBJECT TO LEASE FOR GEOTHERMAL RESOURCES.—A geothermal lease for the use of geothermal resources shall embrace not more than the amount of acreage determined by the Secretary to be appropriate.

SECTION 1803. DIRECT USE.
“(a) FEES FOR DIRECT USE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended to read as follows:
“(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B); and
“(2) by redesigning paragraphs (a) through (d) in order as paragraphs (1) through (4); and
“(3) by inserting ‘‘(a) IN GENERAL.—Notwithstanding subsection (a)(1), with respect to the direct use of geothermal resources for purposes other than the commercial generation of electricity, the Secretary of the Interior shall establish a schedule of fees and collect fees pursuant to such a schedule in lieu of royalties. Notwithstanding section 102(a)(9) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(a)(9)), the schedule of fees shall be based on comparable non-Federal fees charged for direct use of geothermal resources within the State concerned. For direct use by a State or local government for public purposes, the fee charged shall be nominal. Leases in existence on the date of enactment of this subsection shall be modified in order to reflect the provisions of this subsection.
“(2) FINAL REGULATION.—In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall—
“(A) to provide lessees with a simplified administrative system;
“(B) to encourage development of this underutilized energy resource on the Federal estate; and
“(C) to contribute to sustainable economic development opportunities for host communities.
“(d) ROYALTY.
“(1) an amount equal to the royalty value owed to the State or county government under the lease; and
“(e) A REA SUBJECT TO LEASE FOR GEO- THERMAL RESOURCES.—A geothermal lease for the direct use of geothermal resources shall embrace not more than the amount of acreage determined by the Secretary to be reasonable for the purpose of such lease.
“(f) APPLICATION TO CONVERT.—Any lessee under a lease under the Geothermal Steam Act of 1970 that was issued before the date of enactment of this Act, and the Secretary of the Interior, by not later than 18 months after the date of enactment of this Act, to convert such lease to a lease for direct use of geothermal resources in accordance with the amendments made by this section.

SECTION 1804. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.
“(a) ROYALTY.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—
“(1) in subsection (a) by striking paragraph (1) and inserting the following:
“(1) a royalty on electricity produced using geothermal resources, other than direct use of geothermal resources, that shall be—
“(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such resources during the first 10 years of production under the lease; and
“(B) not less than 2 and not more than 5 percent of the gross proceeds from the sale of electricity produced from such resources during each year after such 10-year period; and
“(2) by adding at the end the following:
“(B) FEES FOR DIRECT USE.
“(C) DIRECT USE.
“(1) ROYALTY.
“(2) LEASING FOR DIRECT USE.
“(3) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection; and
“(4) to encourage new development; and
“(5) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection; and
“(6) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection; and
“(7) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection; and
“(8) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection; and
“(9) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection; and

SECTION 19. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.
“(a) IN GENERAL.—Except with respect to lands in the State of Alaska, all monies received by the Secretary from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this section, subject to the provisions of section...
35 of the Mineral Leasing Act (30 U.S.C. 191(b) and section 5(a)(2) of this Act—

“(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

“(2) 25 percent shall be paid to the County within the boundaries of which the leased lands or geothermal resources are or were located.

“(b) USE OF PAYMENTS.—Amounts paid to a State or county under subsection (a) shall be used exclusively for the term of section 35 of the Mineral Leasing Act (30 U.S.C. 191).”.

“(c) NEAR-TERM PRODUCTION INCENTIVE FOR EXISTING LEASES.

(1) IN GENERAL.—Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the royalty otherwise required, on any lease issued before the date of enactment of this Act that does not convert to new royalty terms under subsection (e)(1).

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 4-YEAR APPLICATION.—Paragraph (1) applies to any expansion of geothermal production of energy from a facility in the first 4 years of such production.

“DEFINITION OF QUALIFIED EXPANSION GEOTHERMAL ENERGY.—In this section, the term ‘qualified expansion geothermal energy’ means geothermal energy produced from a generation facility for which—

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted to reflect any trend, in changes in production during that period).

“ROYALTY ON EXISTING LEASES.—

(1) IN GENERAL.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 before the date of enactment of this Act may modify the terms of the lease relating to payment of royalties to comply with the amendment made by subsection (a), by applying to the Secretary of the Interior by not later than 18 months after the date of enactment of this Act.

(2) APPLICATION OF MODIFICATION.—Such modification shall apply to any use of geothermal resources to which the amendment applies that occurs after the date of that application.

(3) CONSULTATION.—The Secretary—

(A) shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection; and

(B) may establish royalty based on a gross proceeds percentage within the range specified in the amendment made by subsection (a)(1) and with the concurrence of the lessee and the State.

“SEC. 1805. EXPEDITING ADMINISTRATIVE ACTION FOR GEOTHERMAL LEASING.

(a) TREATMENT OF GEOTHERMAL LEASING WITH RESPECT TO FEDERAL LAND MANAGEMENT PLAN REQUIREMENTS.—Section 15 of the Geothermal Steam Act of 1970 (30 U.S.C. 1014) is amended by adding at the end the following:

“(d) TREATMENT OF GEOTHERMAL LEASING UNDER FEDERAL LAND MANAGEMENT PLANS.—Geothermal leasing of lands in accordance with this Act is deemed to be consistent with the management of National Forest System lands under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) and public lands under section 10 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Land and resource management plans and land use plans in effect under such sections on the date of enactment of this Act are deemed to be adequate to proceed with the issuance of leases under this Act.”.

(b) LEASE APPLICATIONS PENDING ON JANUARY 1, 2005. (1) PRIORITY.—It shall be a priority for the Secretary of the Interior, and for the Secretary of Agriculture with respect to National Forest System lands, to issue leases and conduct the analysis, documentation, or a related study required to process applications for geothermal leasing pending on January 1, 2005.

(2) APPLICABLE LAW.—An application referred to in paragraph (1), and any lease issued pursuant to such an application—

(A) except as provided in subparagraph (B), shall be subject to this section as in effect on January 1, 2005; or

(B) at the election of the applicant, shall be subject to this section as in effect on the date of enactment of this Act.

“SEC. 1806. COORDINATION OF GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act), and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) LEASE APPLICATIONS PENDING ON JANUARY 1, 2005. (1) PRIORITY.—It shall be a priority for the Secretary and the person reimbursed prior to the date of enactment of this Act, including, as necessary—

(A) issuing leases, rejecting lease applications, and developments in technology warrant.

(2) APPLICABLE LAW.—An application referred to in paragraph (1), and any lease issued pursuant to such an application—

(A) except as provided in subparagraph (B), shall apply to the lease as in effect on the date of enactment of this Act; and

(B) at the election of the applicant, shall be subject to this section as in effect on the date of enactment of this Act.

“SEC. 1807. REVIEW AND REPORT TO CONGRESS.

The Secretary of the Interior shall promptly review and report to Congress not later than 3 years after the date of enactment of this Act regarding the status of all withdrawals from leases under the Geothermal Steam Act of 1970 (30 U.S.C. 101 et seq.) of Federal lands, specifying for each such area whether the basis for such withdrawal still applies.

“SEC. 1808. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Geothermal Steam Act of 1970 (30 U.S.C. 101 et seq.) is amended by adding at the end the following:

“(c) Reimbursement for Costs of NEPA Analyses, Documentation, and Studies.

(1) IN GENERAL.—The Secretary of the Interior shall issue regulations under which the Secretary shall reimburse a person that is a lessee, operator, or estate, or applicant for any lease under this Act for reasonable amounts paid by the person for preparation for the Secretary by a contractor or other person selected by the Secretary of any project-level analysis, documentation, or related study required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

(2) CONDITIONS.—The Secretary may provide reimbursement under subsection (a) only if—

(A) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

(B) the person paid the costs voluntarily;

(C) the person maintains records of its costs in accordance with regulations issued by the Secretary;

(D) the reimbursement is in the form of a reduction in the Federal share of the royalty required to be paid for the lease for which the analysis, documentation, or related study is conducted, and is agreed to by the Secretary and the person reimbursed prior to conducting the analysis, documentation, or related study; and

(E) the agreement required under paragraph (d) contains provisions—

(i) reducing royalties owed on lease production based on market prices;

(ii) stipulating an automatic termination of the royalty reduction upon recovery of documented costs;

(iii) providing a process by which the lessee may seek reimbursement for circumstances in which the lease has been determined from the specified lease is not possible.

(b) APPLICATION.—The amendment made by this section shall apply with respect to an analysis, documentation, or related study conducted on or after the date of enactment of this Act for any lease entered into before, on, or after the date of enactment of this Act.

“SEC. 1809. ASSESSMENT OF GEOHERMAL ENERGY POTENTIAL.

The Secretary of the Interior, acting through the Director of the United States Geological Survey, shall update the 1978 Assessment of Geothermal Resources, and submit that updated assessment to Congress—

(1) not later than 3 years after the date of enactment of this Act; and

(2) thereafter as the availability of data and developments in technology warrant.

“SEC. 1810. COOPERATION.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

“(a) Adoption of Units by Lessees—

(1) Federal and State Lands.

(2) insure that the units are compatible with water rights and that the units are in accordance with the provisions of this Act.
“(1) IN GENERAL.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not part of the same tract of land) and subject to any Unit Agreement (cooperative plan of development or operation), lessees thereof and their representatives may unite with any joint or common interest and certify to the Secretary of the Interior that they desire to acquire such interests in order to cooperate with others, in collectively adopting and operating under a Unit Agreement for such field, or like area, or any part thereof, including discovery, or determined by the Secretary to be necessary or advisable in the public interest. A majority interest of lessees under any single lease shall have the authority to commit that lease to a Unit Agreement. The Secretary of the Interior may also initiate the formation of a Unit Agreement, if such action is in the public interest.

“(2) MODIFICATION OF LEASE REQUIREMENTS BY SECRETARY.—The Secretary may, in the discretion of the Secretary, and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of such leases, if it is determined by the Secretary, in connection with the creation and operation of any such Unit Agreement as the Secretary determines is necessary or proper to secure the proper protection of the public interest. Leases with unlike lease terms or royalty rates do not need to be modified to be in a Unit Agreement.

“(b) REQUIREMENT OF PLANS UNDER NEW LEASES.—The Secretary—

“(1) may provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under such a reasonable Unit Agreement; and

“(2) may provide that such an Agreement under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

“(c) MODIFICATION OF RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION.—The Secretary may require that any Agreement authorized by this section that applies to lands owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be named in the Agreement to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such an Agreement.

“(d) EXCLUSION FROM DETERMINATION OF HOLDING OR CONTROL.—Any lands that are subject to any Agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under any provision of this Act.

“(e) POOLING OF CERTAIN LANDS.—If separate tracts of lands cannot be independently developed to use geothermal resources pursuant to any section of this Act—

“(1) such lands, or a portion thereof, may be pooled with other lands, whether or not owned by the lessee, for purposes of development and operation under a Communitization Agreement providing for an apportionment of production or royalties among lessees of interspersed tracts of land comprising the production unit, if such pooling is determined by the Secretary to be in the public interest; and

“(2) all leases for production pursuant to such an Agreement shall be treated as operation or production with respect to each tract of land that is subject to the agreement.

“(f) UNIT AGREEMENT REVIEW.—No more than 5 years after approval of any coopera-

“tive or Unit Agreement and at least every 5 years thereafter, the Secretary shall review each such Agreement and, after notice and opportunity for comment, eliminate from inclusion in such Agreement any lands that the Secretary determines are not reasonably necessary for Unit operations under the Agreement. Such elimination shall be based on scientific evidence, and shall occur only if it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any land so eliminated shall be eligible for an extension under subsection (g) of section 6 if it meets the requirements for such an extension.

“(g) DRILLING OR DEVELOPMENT CONTRACTS.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by 1 or more lessees of geothermal leases, with 1 or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served thereby.

“SEC. 1811. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

“(2) a royalty on any byproduct that is a mineral named in the first section of the Act (subsection (a)(1) of section 181). Any such royalty is derived from production under the lease, at the rate of the royalty that applies under that Act to production of such mineral under a lease under that Act;”

“SEC. 1812. REPEAL OF AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.

Section 8(e) of the Geothermal Steam Act of 1970 (30 U.S.C. 1007) is amended by repealing subsection (b), and by redesignating subsection (c) as subsection (b).

“SEC. 1813. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

“(1) in subsection (a)(2) by inserting “and” after the semicolon at the end;

“(2) in subsection (a)(3) by striking “and” and inserting a period;

“(3) by striking paragraph (4) of subsection (a); and

“(4) by adding at the end the following:

“(e) CREDITING OF RENTAL TOWARD ROYALTY.—Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is required, plus the amount of royalty that is required to be paid under the lease for that year.”;

“SEC. 1814. LEASE TERMINATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended—

“(1) by designating subsections (c), (e), (h), (i), (j), and (k) as subsections (c), (e), (h), (i), and (j);

“(2) by redesignating subsections (c), (d), and (e) in order as subsections (g), (h), and (i); and

“(3) by inserting before subsection (g), as so redesignated, the following:

“SEC. 6. LEASE TERMINATION AND WORK COMMITMENT REQUIREMENTS.

“(a) IN GENERAL.—

“(1) PRIMARY TERM.—A geothermal lease shall be for a primary term of 10 years.

“(2) INITIAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease for 5 years if, each year after the fifth year of the lease—

“(A) the Secretary determined under subsection (c) that the lessee satisfied the work requirement prescribed by the lease for that year; or

“(B) the lessee paid in accordance with subsection (d) the value of any work that was not completed in accordance with those requirements.

“(3) ADDITIONAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease (after an initial extension under paragraph (2)) for an additional 5 years if, for each year of the initial extension under paragraph (2), the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year.

“(b) IN GENERAL.—The Lessee for a geothermal lease shall, for each year after the fifth year of the lease, satisfy work commitment requirements prescribed by the Secretary that apply to the lease for that year.

“(c) MODIFICATION OF LEASE REQUIREMENTS.

The Secretary shall issue regulations prescribing minimum equivalent dollar value work commitment requirements for leases under this section.

“(A) A requirement that, in each year after the fifth year of the primary term of a geothermal lease, diligently work to achieve commercial utilization of geothermal resources under the lease;

“(B) describe work that qualifies to meet these requirements and factors, such as force majeure events, that suspend or modify the work commitment obligation;

“(C) carry forward and apply to work commitment requirements for a year, work completed in any year in the preceding 3-year period that was in excess of the work required to be performed in that preceding year;

“(D) establish transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment can extend for up to 2 years—

“(i) to allow achievement of production under the lease;

“(ii) to allow the lease to be included in a producing unit; and

“(E) establish an annual payment that, at the option of the lessee, may be exercised in lieu of meeting any work commitment for a limited number of years that the Secretary determines will not impair achieving diligent development of the geothermal resource.

“(3) GEOTHERMAL LEASE OVERLYING MINING CLAIM.

“(A) EXEMPTION.—The lessee for a geothermal lease of an area subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency is exempt from annual work requirements established under this Act, if development of the geothermal resource subject to the lease would interfere with the mining operations subject to that plan.

“(B) TERMINATION OF EXEMPTION.—An exemption under this paragraph expires upon the termination of the mining operations.

“(4) ELIMINATION OF ROYALTY AND WORK COMMITMENT REQUIREMENTS.—Work commitment requirements prescribed under this subsection shall not apply to a geothermal lease after the fifth year of the lease if the surface is utilized under the lease in commercial quantities.


H2300
CONGRESSIONAL RECORD—HOUSE
April 20, 2005
SEC. 1815. ADVANCED ROYALTIES REQUIRED FOR SUSPENSION OF PRODUCTION.

(a) ANNUAL RENTAL RATE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by striking "$1 per acre or fraction thereof for each year of the lease" and inserting "$1 per acre or fraction thereof for each year of the lease through the tenth year in the case of a lease awarded in a noncompetitive lease sale; or $2 per acre or fraction thereof for the first year, $3 per acre or fraction thereof for each of the second through tenth years, in the case of a lease awarded in a competitive lease sale; and $5 per acre or fraction thereof for each year after the 10th year thereof for all leases."

(b) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:—

"(e) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—(1) IN GENERAL.—The Secretary shall terminate any geothermal lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, upon the expiration of the 45-day period beginning on the date of the failure to pay such rental.

(2) NOTIFICATION.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

(3) REMISSTATEMENT.—A geothermal lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of such amount.

SEC. 1817. DEPOSIT AND USE OF GEOThermal LEASE REVENUES FOR 5 FISCAL YEARS.

(a) DEPOSIT OF GEOThermal RESOURCES LEASES.—Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after the date of enactment of this Act as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970, excluding funds required to be deposited to State and county governments, shall be deposited into a separate account in the Treasury.

(b) USE OF DEPOSITS.—Subject to appropriations, the Secretary may use amounts deposited under subsection (a) to implement the Geothermal Steam Act of 1970 and this Act.

SEC. 1818. REPEAL OF ACREAGE LIMITATIONS.

Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is repealed.

SEC. 1819. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

(1) By striking "geothermal steam and associated geothermal resources" each place it appears and inserting "geothermal resources".

(2) Section 2(e) (30 U.S.C. 1001(e)) is amended to read as follows:—

"(e) 'direct use' means utilization of geothermal resources for commercial, residential, agricultural, public facilities, off-grid generation of electricity, or other energy needs other than the commercial production of electricity; and".

(3) Section 21 (30 U.S.C. 1020) is amended by striking "(a) Within one hundred and all that follows through "(b) Geothermal" and inserting "Geothermal".

(4) The first section (30 U.S.C. 1001 note) is amended by striking "That this" and inserting the following:—

"SEC. 1. SHORT TITLE.

"This Act.

(5) Section 2 (30 U.S.C. 1001) is amended by striking "2. As" and inserting the following:—

"SEC. 2. DEFINITIONS.

"As".

(6) Section 3 (30 U.S.C. 1002) is amended by striking "3. Subject" and inserting the following:—

"SEC. 3. LANDS SUBJECT TO GEOThermal LEASING.

"Subject.

(7) Section 5 (30 U.S.C. 1004) is further amended by striking "5. As". and by inserting immediately before and above subsection (a) the following:—

"SEC. 5. RENTS AND ROYALTIES.

"As".

(8) Section 8 (30 U.S.C. 1007) is amended by striking "8. (a) The" and inserting the following:—

"SEC. 8. ADJUSTMENT OF LEASE TERMS AND CONDITIONS.

"(a) The".

(9) Section 9 (30 U.S.C. 1008) is amended by striking "9. If" and inserting the following:—

"SEC. 9. BYPRODUCTS.

"If".

(10) Section 10 (30 U.S.C. 1009) is amended by striking "10. The" and inserting the following:—

"SEC. 10. RELINQUISHMENT OF GEOThermal RIGHTS.

"The".

(11) Section 11 (30 U.S.C. 1010) is amended by striking "11. The" and inserting the following:—

"SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

"The".

(12) Section 12 (30 U.S.C. 1011) is amended by striking "12. Leases" and inserting the following:—

"SEC. 12. TERMINATION OF LEASES.

"Leases".

(13) Section 13 (30 U.S.C. 1012) is amended by striking "13. The" and inserting the following:—

"SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

"The".

(14) Section 14 (30 U.S.C. 1013) is amended by striking "14. Subject" and inserting the following:—

"SEC. 14. SUSPENSION OF PRODUCTION.

"Subject."

SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

(a) The Secretary may, in his discretion, waive, suspend, or reduce the rental or royalty payments required under any lease under the General Mining Laws, if the Secretary finds that the failure to pay such rental or royalty would create a public inconvenience or emergency, or would be in the public interest."
SEC. 14. SURFACE LAND USE.

"Subject".

(15) Section 15 (30 U.S.C. 1014) is amended by striking "Sec. 15. (a) Geothermal" and inserting the following:

SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

(a) Geothermal.

(16) Section 16 (30 U.S.C. 1015) is amended by striking "Sec. 16. Leases" and inserting the following:

SEC. 16. REQUIREMENT FOR LESSORS.

"Leases".

(17) Section 17 (30 U.S.C. 1016) is amended by striking "Sec. 17. Administration" and inserting the following:

SEC. 17. ADMINISTRATION.

"Administration".

(18) Section 19 (30 U.S.C. 1018) is amended by striking "Sec. 19. Upon" and inserting the following:

SEC. 19. DATA FROM FEDERAL AGENCIES.

"Upon".

(19) Section 21 (30 U.S.C. 1020) is further amended by striking "Sec. 21.", and by inserting immediately before and above the remainder of that section the following:

SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.

(20) Section 22 (30 U.S.C. 1021) is amended by striking "Sec. 22. Nothing" and inserting the following:

SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

"Nothing".

(21) Section 23 (30 U.S.C. 1022) is amended by striking "Sec. 23. (a) All" and inserting the following:

SEC. 23. PREVENTION OF WASTE, EXCLUSIVITY.

"(a) All".

(22) Section 24 (30 U.S.C. 1023) is amended by striking "Sec. 24. The" and inserting the following:

SEC. 24. RULES AND REGULATIONS.

"The".

(23) Section 25 (30 U.S.C. 1024) is amended by striking "Sec. 25. As" and inserting the following:

SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

"As".

(24) Section 26 is amended by striking "Sec. 26. The" and inserting the following:

SEC. 26. AMENDMENT.

"The".

(25) Section 27 (30 U.S.C. 1025) is amended by striking "Sec. 27. The" and inserting the following:

SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

"The".

(26) Section 28 (30 U.S.C. 1026) is amended by striking "Sec. 28. (a)(1) The" and inserting the following:

SEC. 28. SIGNIFICANT THERMAL FEATURES.

"(a)(1) The".

(27) Section 29 (30 U.S.C. 1027) is amended by striking "Sec. 29. The" and inserting the following:

SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

"The".

SEC. 180. INTERMOUNTAIN WEST GEOTHERMAL CONSORTIUM.

(a) PARTICIPATION AUTHORIZED.—The Secretary of Energy, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to advance science and science policy issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources in public lands.

(b) MEMBERS.—The consortium referred to in subsection (a) shall—

(1) be known as the "Intermountain West Geothermal Consortium";

(2) be a regional consortium of institutions and government agencies that focuses on building relationships among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;

(3) include the University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute, and the University of Nevada, Reno, Energy and Geoscience Institute at the University of Utah;

(4) be hosted and managed by Boise State University; and

(5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.

(c) FINANCIAL ASSISTANCE.—The Secretary of Energy, acting through the Idaho National Laboratory and subject to the availability of appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

TITLE XIX—HYDROPOWER

SEC. 1901. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) In General.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) Consent of Affected Irrigation Customers Required.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation that would be affected by such adjustment.

(c) Existing Obligations Not Affected.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities, including recreational releases.

SEC. 1902. REPORT IDENTIFYING AND DESCRIBING THE STATUS OF POTENTIAL HYDROPOWER FACILITIES.

(a) Report Requirement.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Bureau of Reclamation, shall submit to the Committee on Resources of the Senate a report identifying and describing the status of potential hydropower facilities included in water surface storage studies undertaken by the Secretary for projects that have not been completed or authorized for construction.

(b) Report Contents.—The report shall include the following:

(1) Identification of all surface storage studies authorized by Congress since the enactment of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.);

(2) The purposes of each project included within each study identified under paragraph (1), including for each study—

(A) whether the study is completed or, if not completed, still authorized;

(B) the level of analyses conducted at the feasibility and reconnaissance levels of review;

(C) identifiable environmental impacts of each project included in the study, including to fish and wildlife, water quality, and recreation;

(D) projected water yield from each such project;

(E) beneficiaries of such project;

(F) the amount authorized and expended;

(G) projected funding needs and timelines for completing the study (if applicable); and

(H) the anticipated costs of each such project; and

(1) other factors that might interfere with construction of any such project.

(2) Any additional recommendations to increase hydroelectric power production from existing facilities and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 1903. SHIFT OF PROJECT LOADS TO OFF-PeAK PERIODS.

(a) In General.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) Consent of Affected Irrigation Customers Required.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation that would be affected by such adjustment.

(c) Existing Obligations Not Affected.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities, including recreational releases.

SEC. 1904. REPORT IDENTIFYING AND DESCRIBING THE STATUS OF POTENTIAL HYDROPOWER FACILITIES.

(a) Report Requirement.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Bureau of Reclamation, shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report identifying and describing the status of potential hydropower facilities included in water surface storage studies undertaken by the Secretary for projects that have not been completed or authorized for construction.

(b) Report Contents.—The report shall include the following:

(1) Identification of all surface storage studies authorized by Congress since the enactment of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.);

(2) The purposes of each project included within each study identified under paragraph (1), including for each study—

(A) whether the study is completed or, if not completed, still authorized;

(B) the level of analyses conducted at the feasibility and reconnaissance levels of review;

(C) identifiable environmental impacts of each project included in the study, including to fish and wildlife, water quality, and recreation;

(D) projected water yield from each such project;

(E) beneficiaries of each such project;

(F) the amount authorized and expended;

(G) projected funding needs and timelines for completing the study (if applicable); and

(H) the anticipated costs of each such project; and

(1) other factors that might interfere with construction of any such project.

(2) Any additional recommendations to increase hydroelectric power production from existing facilities and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.
If the Secretary makes such a demand, the gas development.

27 of the Outer Continental Shelf Lands Act (30 U.S.C. 192), section

standing any other provision of law, this sec-

be placed in marketable condition by the les-

pursuant to an agreement with the United

salaries and other administrative costs di-

price; and

The royalty production shall

in marketable condition—(not including gathering)

from a lease or group of leases, including the

cost of transportation (not including gath-

Secretary allows the lessee to deduct trans-

proach in managing Federal oil and gas rev-

support the royalty-in-kind capability to be

in-kind program provides revenues to the

that sufficient supplies of crude oil are not

that do not have their own source of supply for

the Secretary grants or reserved to the

the United States or as provided in the lease, processes

the royalty in-kind program to the State except

as otherwise prohibited by Federal law; and

shall consult annually with any State from which Federal oil or gas royalty is

to the Secretary to the point of delivery

maximum extent practicable, that the royalty in-kind program provides revenues to the

Greater than or equal to those likely to have been received had royalties been taken

(h) SMALL REFINERIES.—If the Secretary finds

be available in the open market to refineries that

prices.

cessions under subsection (e) that prescribe a

the American Association of Petroleum Pro-

Secretary shall consult with a State before con-

(1) oil production from marginal properties

the maximum equivalent of less than 15 barrels of oil

employment of any portion of the Federal

royalty in-kind to amounts likely to have

royalty obligation

sales contract typical of

in-kind.

recommendations under subsection (e) that prescribe a

shall be deposited to miscellaneous re-

private sale at not less than the market

the area in which the oil is produced.

assessing the effectiveness of granting pref-

for the purpose of providing additional

reporting and

Secretary allows the lessee to deduct trans-

Royalty production shall

the expected revenue effect of taking royalties

and

in-kind, including, but not limited to, adminis-

in-kind program to the State except

the Secretary shall transmit a report to Congress, assessing the effectiveness of granting pref-

to the Secretary to the point of delivery

and processing reimbursements paid to the lessee shall be subject to review and audit.

or as provided in the license, processes


or as prescribed in subsection (c) when the spot

as prescribed in subsection (c) when

the lessee shall be subject to review and audit.

before of, the lessee of the

Maryland (30 U.S.C. 192), section

27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other Federal law
governing leasing of Federal land for oil and gas development.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States shall, on the demand of the Secretary, be paid in oil or gas. If the Secretary makes such a demand, the following provisions apply to such payment:

(1) SATISFACTION OF ROYALTY OBLIGATION.—Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee’s royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to the lessee shall be subject to review and audit.

(2) MARKETABLE CONDITION.—(A) In general.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(B) Definition of marketable condition.—In this paragraph, the term “marketable condition” means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field in which the royalty production was produced.

(C) Disposition by the Secretary.—The Secretary may dispose of the royalty production:

(1) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3))) for not less than the market price; and

(2) transport or process (or both) any royalty production taken in-kind.

(4) RETENTION BY THE SECRETARY.—The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of any proceeds available from the sale of oil and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, and any payments to recipients of revenues described in paragraphs (1), (2), and (4) of subsection (b) of section 35 of the Mineral Leasing Act (30 U.S.C. 195).

(5) LIMITATION.—(A) In general.—Except as provided in subparagraphs (A) and (B), the Secretary may use proceeds from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) Exception.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from the sale of oil taken in-kind, (1) for internal limitation, (2) for reimbursement of salaries and other administrative costs directly related to the royalty-in-kind program.

(c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes

the royalty in-kind program to the State except

As otherwise prohibited by Federal law; and

shall consult annually with any State from which Federal oil or gas royalty is

to the Secretary to the point of delivery

maximum extent practicable, that the royalty in-kind program provides revenues to the

Greater than or equal to those likely to have been received had royalties been taken

(h) SMALL REFINERIES.—If the Secretary finds

be available in the open market to refineries that

prices.

cessions under subsection (e) that prescribe a

the American Association of Petroleum Pro-

Secretary shall consult with a State before con-

(1) oil production from marginal properties

the maximum equivalent of less than 15 barrels of oil

employment of any portion of the Federal

royalty in-kind to amounts likely to have

royalty obligation

sales contract typical of

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.

in-kind.
the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units for 90 consecutive trading days.

(c) Royalty Rates.

(1) In General.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) By striking—

(a) the first sentence of subsection (a) and inserting:—

The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the condition specified in subsection (b) is met.

(b) the term ‘‘ultra deep well’’ means a well drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(c) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $15 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(d) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $2.00 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(e) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $15 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(f) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $2.00 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(g) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $15 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(h) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $15 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(i) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $15 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(j) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $15 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(k) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $15 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.

(l) the term ‘‘marginal property’’ means—

(1) the spot price of natural gas delivered at Cushing, Oklahoma, on average, exceeds $15 per million British thermal units for 90 consecutive trading days; or

(2) the property no longer qualifies as a marginal property.
10-year term a lease that does not meet the requirements of paragraph (1)(B) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the lease and—

(A) the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on 1 or more wells drilled on the leased land in such a manner that a reasonable operator would hold the lease for potential future development;

(B) the Secretary determines the action to be necessary or gas pool, field, reservoir, or like area is all—

and operating under a unit agreement for all or part of the pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area area and any other part of the pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation, if the Secretary determines the action to be necessary or advisable in the public interest.

(2) PARTICIPATION BY STATE OF ALASKA.—The Secretary shall ensure that the State of Alaska has an interest in the mineral estate.

(3) PARTICIPATION BY REGIONAL CORPORA—

The Secretary shall ensure that any Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) is provided the opportunity for active participation concerning creation and management of units that include acreage in which the State of Alaska has an interest in the mineral estate.

(4) PARTICIPATION BY REGIONAL CORPORATIONS.—The Secretary shall ensure that any Regional Corporation has a right of participation concerning creation and management of units that include acreage in which the Regional Corporation has an interest in the mineral estate.

(5) DEPOSIT ALLOCATION METHODOLOGY.—The Secretary may use a production allocation methodology for each participating area within a unit created for land in the State of Alaska land, or Regional Corporation land shall, when appropriate, be based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and a real variation in reservoir productivity across diverse leasehold interests.

(6) PROPOSED OPERATIONS.—Drilling, production,

(7) by striking “When separate” and inserting the following:

“to the agreement.

(8) EXPLORATION INCENTIVES.—

(9) IN GENERAL.—

(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), if, after consultation with the State of Alaska and the North Slope Borough, and the State of Alaska, the Secretary determines that the waiver, suspension, or reduction is in the public interest.

(B) APPLICABILITY.—This paragraph applies to a lease that—

(1) is entered into before, on, or after the date of enactment of the Energy Policy Act of 2005; and

(2) is effective or on or after the date of enactment of that Act.

(1) UNIT AGREEMENTS.—

(A) IN GENERAL.—For the purpose of conserving natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area and any other part of the pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation, if the Secretary determines the action to be necessary or advisable in the public interest.

(B) APPLICABILITY.—This subsection applies to a lease that—

(1) is entered into before, on, or after the date of enactment of the Energy Policy Act of 2005; and

(2) is effective or on or after the date of enactment of that Act.

(C) Subparagraphs (A) and (B) shall cover only the subsurface estate constitutes oil or gas lease to the same extent as if such segregated leases remained a part of the original unsegregated lease.

SEC. 2008. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall, with a 10-year term, after a later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

(b) ACTIVITIES.—The program under subsection (a) shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities current or currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned, or idled; and

(3) include the following:

(A) W AIVER OF ADMINISTRATION FOR CONSERVATION ACT.

(B) W AIVER OF ADMINISTRATION FOR CONSERVATION ACT.

(C) Waiver of Administration for Conservation Act.

(D) Waiver of Administration for Conservation Act.

(E) Waiver of Administration for Conservation Act.

(F) Waiver of Administration for Conservation Act.

(G) Waiver of Administration for Conservation Act.

(H) Waiver of Administration for Conservation Act.


(K) Waiver of Administration for Conservation Act.

(L) Waiver of Administration for Conservation Act.

(M) Waiver of Administration for Conservation Act.


(O) Waiver of Administration for Conservation Act.

(P) Waiver of Administration for Conservation Act.

(Q) Waiver of Administration for Conservation Act.

(R) Waiver of Administration for Conservation Act.

(S) Waiver of Administration for Conservation Act.

(T) Waiver of Administration for Conservation Act.

(U) Waiver of Administration for Conservation Act.

(V) Waiver of Administration for Conservation Act.


(X) Waiver of Administration for Conservation Act.


(aa) ACTIVITIES.—The Secretary shall—

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(b) ACTIVITIES.—The Secretary shall—

(1) IN GENERAL.—The Secretary of Energy shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in identifying and developing best practices for remediation of different types of sites; and

(2) contain a plan for identifying and developing best practices for remediation of different types of sites and
(D) funding of State mitigation efforts on a cost-shared basis.

(2) Use.—Of the amounts authorized under paragraph (1), $5,000,000 are authorized for each fiscal year for activities under subsection (f).

SECTION 2009. COMBINED HYDROCARBON LEASING.

(a) Special provisions regarding leasing.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(i) by inserting “(A)” after “(2)”;

(ii) by adding at the end the following:

“(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

(H) a lease for exploration for and extraction of tar sand; and

(K) a lease for exploration for and development of oil and gas.”

(b) Special provisions regarding oil or gas leases.—Section 17(b)(4) of the Mineral Leasing Act (30 U.S.C. 226(b)(4)) is amended by adding at the end the following:

“(G) In general.—The Secretary may issue a lease, easement, or right-of-way for energy and related purposes as described in paragraph (3) on a competitive or non-competitive basis.

(2) Considerations.—In determining whether a lease, easement, or right-of-way shall be granted competitively or non-competitively, the Secretary shall consider such factors as—

(i) the prevention of waste and contamination of natural resources; and

(ii) the economic viability of an energy project.

(3) Effect of remediation, reclamation, or closure of well pursuant to an approved remediation plan.—

(A) Definition of remediation party.—In this paragraph the term “remediation party” means a person who remediates, reclaims, or closes an abandoned, orphaned, or idled well.

(B) General rule.—A remediation party who remediates, reclaims, or closes an abandoned, orphaned, or idled well in accordance with a detailed written remediation plan approved by the Secretary under this subsection, shall be immune from civil liability under Federal environmental laws for—

(i) pre-existing environmental conditions at or associated with the well, unless the remediation party owns or operates, in the past owned or operated, or is related to a person that owns or operates or in the past owned or operated, the well or the land on which the well is located; or

(ii) any remaining releases of pollutants from the well during or after completion of the remediation, reclamation, or closure of the well, unless the remediation party causes increased pollution as a result of activities that are in compliance with the approved remediation plan.

(C) Limitations.—Nothing in this section shall limit in any way the liability of a remediation party for injury, damage, or pollution resulting from the remediation party’s acts or omissions that are not in accordance with the approved remediation plan, are reckless or constitute gross negligence or wanton misconduct, or are unlawful.

(D) Regulations.—The Secretary shall promulgate regulations to carry out this subsection.

(E) Authorization of appropriations.—

(1) in general.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.
SEC. 2011. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

(a) Short Title.—This section may be cited as the “National Geological and Geophysical Data Preservation Program Act of 2005”.

(b) Program.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;  

(2) to provide a national catalog of such archival material; and  

(3) to provide technical and financial assistance to establish an archival material.

(c) Plan.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) Data Archive System.—

(1) Establishment.—The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) States.—States shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) Limitation of Designation.—The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as a component of the data archive system under the Program.

(e) Data from Federal Land.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data were collected; and  

(B) consistent with all applicable law and regulations relating to confidentiality and proprietary data.

(f) National Catalog.—

(1) In General.—As soon as practicable after the enactment of this Act, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);  

(B) the repository for particular material in the system; and  

(C) the means of accessing the material.

(2) Availability.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(g) Advisory Committee.—

(1) In General.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties—

(A) develop and maintain guidelines and procedures for providing assistance for facilities under subsection (g)(1).  

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).  

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation’s energy and mineral resources, geologic hazards, and engineering geology.  

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d) a description of the purposes of the Program under subsection (b).

(F) Financial Assistance.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(g) Federal Share of the cost of an activity carried out with assistance under this subsection shall not be more than 50 percent of the total cost of the activity.

(h) Private Contributions.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(i) Report.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;  

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and  

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(2) Maintenance of State Effort.—It is the intent of Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) Definitions.—In this section:

(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the Advisory Committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) PROGRAM.—The term “Program” means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) SURVEY.—The term “Survey” means the United States Geological Survey.

(5) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2006 through 2010.

SEC. 2012. OIL AND GAS LEASE ACREAGE LIMITATIONS.

There are authorized to be appropriated to the Secretary of the Interior $30,000,000 for each of fiscal years 2006 through 2010.
SEC. 2015. GAS HYDRATE PRODUCTION INCENTIVE.

(a) PURPOSE.—The purpose of this section is to promote natural gas production from the abundant onshore deep gas resources on Federal lands by providing royalty incentives.

(b) SUSPENSION OF ROYALTIES.—

(1) In general.—The Secretary shall grant royalty relief in accordance with this section in the amount of any decrease from deep wells spudded after the date of enactment of this Act as a suspension volume determined by the Secretary in an amount necessary to maximize production of natural gas. The maximum suspension volume shall be 50 billion cubic feet of natural gas per lease. Such royalty suspension volume shall be applied beginning with any royalty obligations for production on or after the date of enactment of this Act.

(2) Limitation.—The Secretary may place limitations on the royalty relief granted based on market price.

SEC. 2016. ONSHORE DEEP GAS PRODUCTION INCENTIVE.

(a) PURPOSE.—The Secretary shall grant royalty relief under this section as a suspension volume determined by the Secretary in an amount necessary to maximize production of natural gas. The maximum suspension volume shall be 50 billion cubic feet of natural gas per lease. Such royalty suspension volume shall be applied beginning with any royalty obligations for production on or after the date of enactment of this Act.

(b) LIMITATION.—The Secretary may place limitations on the royalty relief granted based on market price.

SEC. 2017. ENHANCED OIL AND NATURAL GAS PRODUCTION INCENTIVE.

(a) FINDINGS.—Congress finds the following:

(1) Approximately two-thirds of the original oil in place in the United States remains unproduced.

(2) Enhanced oil and natural gas production from the sequestration of carbon dioxide and other appropriate gases has the potential to increase our natural gas production in the United States by 2 million barrels of oil equivalent per day, or more.

(3) Collection of carbon dioxide and other appropriate gases from industrial facilities could provide a significant source of these gases that could be permanently sequestered into oil and natural gas fields.

(4) Such collection could be made economic by providing production incentives to oil and natural gas lessees.

(b) PROVISIONAL INCENTIVES.—

(1) General.—The Secretary shall develop a Federal commercial oil shale leasing program as soon as practicable and publish a final regulation implementing such program by not later than December 31, 2006.

(2) Requirements.—The Secretary shall publish a final regulation implementing this provision within 1 year after the date of enactment of this Act.

SEC. 2018. OIL SHALE.

(a) FINDING.—Congress finds that oil shale resources located within the United States—

(1) total almost 2 trillion barrels of oil in place; and

(2) are a strategically important domestic resource that should be developed on an accelerated basis to reduce our growing reliance on politically and economically unstable sources of foreign oil imports.

(b) REQUIREMENT.—The Secretary shall promulgate a final rule within 1 year after the date of enactment of this Act.

(c) COMMENCEMENT OF LEASESALES.—The Secretary shall hold the first oil shale lease sale under such program within 180 days after publishing the final regulation.

(d) REPORT.—Within 90 days after the date of enactment of this Act, the Secretary shall report to the Committees of the House of Representatives and the Senate on—

(1) the interim actions necessary to—

(A) develop the program under subsection (b); and

(B) promulgate the final regulation under subsection (b); and

(2) the first lease sale under the program under subsection (b); and

(3) conduct the first lease sale under the program under subsection (b).

(4) Public use—The Secretary shall conduct land exchanges under this subsection in accordance with the Federal Land

**SEC. 2019. USE OF INFORMATION ABOUT OIL AND GAS PUBLIC CHALLENGES.**

(a) FINDINGS.—Congress finds the following:

(1) The Government Accountability Office (in that report as the “GAO”) in report GAO-05-124, found that the Bureau of Land Management does not systematically gather and use nationwide information on public challenges to manage its oil and gas program.

(b) THE GAO FOUND THAT THIS FAILURE PREVENTS THE SECRETARY OF THE INTERIOR FROM...

Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (d), the Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—(1) the Pilot Project; and (2) other programs administered by the field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

Nothing in this section affects—(1) the operation of any Federal or State law; or (2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 2028. DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR Permits. Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

"(g) DETERMINATION OF FAIR MARKET VALUE.—

"(1) In general.—Effective beginning on the date of the issuance of the rules required by paragraph (2), for purposes of subsection (g), the Secretary concerned shall determine the fair market value for the use of land encompassed by a linear right-of-way granted, issued, or renewed under title I, using the valuation method described in paragraphs (3), (4), and (5).

"(2) Determination of fair market value.——

"(A) The Secretary of the Interior shall amend section 2803.1-2 of title 43, Code of Federal Regulations, in accordance with subsection (p) by adding at the end the following:

"(B) If the cumulative change in the index referred to in paragraph (3) exceeds 30 percent, or the change in the 3-year average of the 1-year Treasury interest rate used to determine the per acre figures under paragraph (3) exceeds plus or minus 50 percent, the Secretary concerned shall conduct a review of the zones and rental per acre figures to determine whether the value of Federal land has differed sufficiently from the index referred to in paragraph (3) to warrant a revision in the base zones and rental per acre figures.

"(C) The Secretary concerned may request the value of Federal land for any revision of base zones and rental per acre figure shall only affect lease rental rates at inception or renewal.

(b) RIGHTS-OF-WAY UNDER MINERAL LEASING ACT.—Section 28(i) of the Mineral Leasing Act (30 U.S.C. 185(i)) is amended by inserting before the period at the end the following:

"(2)(B) issuing a decision on permit.—If the applicant does not complete the requirements within the period specified in subparagraph (A), the Secretary shall deny the permit.

(a) Report to Congress.——

SEC. 2029. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(b) Rights-of-Way Under Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764).—The Secretary shall, not later than 30 days after the date of enactment of this Act, the Secretary shall deny the permit.

(c) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(2) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.

(a) Report to Congress.——

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

"(1) specifies the number of applications for permits to drill on Federal land filed in the office in the period covered by the report; and

"(2) describes how each of the applications was disposed of by the field office in accordance with section 2025.
**CONGRESSIONAL RECORD — HOUSE**

**H2311**

April 20, 2005

(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Federal Energy Regulatory Commission, shall submit to Congress a joint report—

(a) that addresses—

(i) the location of existing rights-of-way and designated and de facto corridors for oil, gas, and hydrogen pipelines and electric transmission and distribution facilities on Federal land; and

(ii) opportunities for additional oil, gas, and hydrogen pipeline and electric transmission and distribution facilities within those rights-of-way and corridors; and

(b) that includes a plan for making available, to the appropriate Federal, State, and local agencies, tribal governments, and other persons involved in the siting of oil, gas, and hydrogen pipelines and electric transmission and distribution facilities Geographic Information System-based information regarding the location of the existing rights-of-way and corridors and any planned right-of-way and corridors.

(2) Consultations and considerations.—In preparing the report, the Secretary of the Interior and the Secretary of Agriculture shall consult with—

(A) other agencies of Federal, State, tribal, or local units of government, as appropriate; and

(B) persons involved in the siting of oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities; and

(C) other interested members of the public.

(3) Limitation.—The Secretary of the Interior and the Secretary of Agriculture shall limit the distribution of the report and Geographic Information System-based information required under paragraph (1) as necessary for national and infrastructure security reasons, if other Secretary determines that the information may be withheld from public disclosure under a national security or other exception under section 552(b) of title 5, United States Code.

(b) Corridor Designations.—

(1) 11 contiguous Western States.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall jointly—


(i) that addresses the current and future needs for the transportation of natural gas, synthetic liquid fuel, or gaseous fuels; or

(ii) whether the efforts have had a streamlining effect; and

(B) schedule prompt action to identify, expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within the corridors, taking into account prior analyses and environmental reviews undertaken during the designation of corridors.

(2) Considerations.—In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

(a) improve reliability; and

(b) relieve congestion; and

(c) enhance the capability of the national grid to deliver electricity.

(d) Definition of corridor.—

(1) In general.—In this section and title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.), the term ‘‘corridor’’ means—

(A) a linear strip of land—

(i) that contains, or may in the future contain, a utility corridor; or

(ii) that contains, or may in the future contain, 1 or more utility, communication, or transportation facilities; and

(B) a land use designation that is established—

(i) by law; or

(ii) by Secretarial Order; or

(iii) through the land use planning process; or

(iv) by other management decision; and

(C) a designation made for the purpose of establishing and locating of compatible linear facilities and land uses.

(2) Specifications of corridor.—On designation of a corridor under this section, the centers, and compatible uses of a corridor shall be specified.

**SEC. 2031. CONSULTATION REGARDING ENERGY RIGHTS-OF-WAY ON PUBLIC LAND.**

(a) Memorandum of Understanding.—

(1) in general.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Defense, and the affected Federal agencies to prepare a single memorandum of understanding to coordinate all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary of Energy shall, to ensure timely review and permit decisions, coordinate such authorizations and reviews with any Indian tribe or Indian tribe organization, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility.

(b) Consultations.—

(1) in general.—Not later than 60 days after the completion of the environmental reviews under subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall issue all necessary grants, easements, permits, plan amendments, and other approvals to allow for the siting and construction of a high-voltage electricity transmission line right-of-way running approximately north to south through the Trabuco Ranger District of the Cleveland National Forest in the State of California and adjacent public lands.

(2)Authorization.—The Forest Service shall include provisions that—

(i) establish—

(ii) an administrative procedure for processing right-of-way applications, including land access, steps in application processing, and timeframes for application processing; and

(3) Administrative procedures.—The May 2002 document entitled ‘‘Interagency Agreement On Early Coordination Of Required Environmental And Historic Preservation Reviews Conducted In Conjunction With The Issuance Of Authorizations To Construct And Operate Interstate Natural Gas Pipelines Certified By The Federal Energy Regulatory Commission’’ shall constitute compliance with subsection (a).
(2) INCLUSIONS.—The right-of-way approvals under paragraph (1) shall provide all necessary Federal authorization from the Secretary of the Interior and the Secretary of Agriculture to engage in routing, construction, operation, and maintenance of a 500-kilovolt transmission line capable of meeting the long-term electricity transmission needs of the national Seashore and for the Serrano transmission line to the north and the Telega-Escendido transmission line to the south, and for connecting to future generating capacity that may be developed in the region.

(b) PROTECTION OF WILDERNESS AREAS.—The Secretary of the Interior and the Secretary of Agriculture shall not allow any portion of a transmission line right-of-way corridor identified in subsection (a) to enter any identified wilderness area in existence as of the date of enactment of this Act.

(c) ENVIRONMENTAL AND ADMINISTRATIVE REVIEWS.—

(1) DEPARTMENT OF INTERIOR OR LOCAL AGENCY.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall be the lead Federal agency with overall responsibility to ensure completion of required environmental and other reviews of the approvals to be issued under subsection (a).

(a) NATIONAL FOREST SYSTEM LAND.—For the portions of the corridor on National Forest System lands, the Secretary of Agriculture shall complete all required environmental reviews and administrative actions in coordination with the Secretary of the Interior.

(b) EXPEDITIOUS COMPLETION.—The reviews required for issuance of the approvals under subsection (a) shall be completed not later than one year after the date of enactment of this Act.

(c) OTHER TERMS AND CONDITIONS.—The transmission line right-of-way shall be subject to such terms and conditions as the Secretary of the Interior and the Secretary of Agriculture consider necessary, based on the environmental reviews under subsection (c), to protect the value of historic, cultural, and natural resources under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture.

(e) PREFERENCE AMONG PROPOSALS.—The Secretary of Agriculture shall give a preference to any application or preapplication proposal for a transmission line right-of-way referred to in subsection (a) that was submitted on or before December 31, 2002, over all other applications and proposals for the same or a similar right-of-way submitted on or after that date.

SEC. 2003. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT OF MINERALS UNDER PADRE ISLAND NATIONAL SEASHORE

(a) FINDINGS.—Congress finds the following:

(1) Pursuant to Public Law 87-712 (16 U.S.C. 459d et seq.), popularly known as the “Valley of the Moon Enabling Act”) and various deeds and actions under that Act, the United States is the owner of the entire surface estate of certain portions constituting the Padre Island National Seashore.

(2) Ownership of the oil, gas, and other minerals in the subsurface estate of the lands between the existing Naval Petroleum Reserve Numbered 2, Kern County, California, and the lands constituting Padre Island National Seashore was never acquired by the United States, and ownership of those interests is held by the State of Texas and private parties.

(3) Public Law 87-712 (16 U.S.C. 459d et seq.).

(A) expressly contemplated that the United States would not acquire ownership for the ownership and future development of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore by the owners and their mineral lessors; and

(B) recognized that approval of the State of Texas would be necessary to create Padre Island National Seashore.

(4) Approval was given for the creation of Padre Island National Seashore by the Secretary of the Interior in 1962 (Public Law 87-655 (76 Stat. 677)); Seashore was never acquired by the United States constituting the Padre Island National Seashore.

(5) Because of the unique economic characteristics of this resource, mineral development on this resource is infeasible.

(6) The Federal Government is the only entity capable of initiating, chaussing, and insuring a long-term lease arrangement that will result in the economic recovery and development of this resource.

(7) The economic recovery of the Padre Island National Seashore resource is essential for the long-term conservation of the resource until such time as the Federal Government acquires the resources through a 30-year special use agreement with the State of Texas.

(8) The Secretary of the Interior shall manage the lands constituting Padre Island National Seashore to provide for the development of oil, gas, and other minerals in the subsurface estate of the lands constituting Padre Island National Seashore.

SEC. 2004. TRANSFER OF ADMINISTRATIVE JURISDICTION TO SECRETARY OF THE INTERIOR

(a) AMENDMENTS.—Section 102 of Public Law 102-562 (106 Stat. 4234) is amended—

(1) by striking “(a) In general—”;

(2) by striking “subject to the reservation in subsection (b)”;

(3) by striking subsection (b);

(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of the Interior shall execute the legal instruments necessary to effectuate the amendment made by subsection (a).

Subtitle C—Naval Petroleum Reserves

SEC. 2041. TRANSFER OF ADMINISTRATIVE JURISDICTION AND ENVIRONMENTAL REMEDIATION, NAVAL PETROLEUM RESERVE NUMBERED 2, KERN COUNTY, CALIFORNIA

(a) ADMINISTRATION JURISDICTION TRANSFER TO SECRETARY OF THE INTERIOR.—Effective on the date of the enactment of this Act, administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 located in Kern County, California, other than the lands specified in subsection (c), are transferred from the Secretary of Energy to the Secretary of the Interior for management, subject to such terms and conditions as the Secretary of the Interior, in accordance with the general land laws.

(b) EXCLUSION OF CERTAIN RESERVE LANDS.—The transfer of administrative jurisdiction made by subsection (a) does not include the following lands:


(2) That portion of the surface estate of Naval Petroleum Reserve Numbered 2 conveyed to the City of Taft, California, by section 2042 of this Act.

(c) PURPOSE OF TRANSFER.—Notwithstanding any provision of law, the principle purpose of the lands subject to transfer under subsection (a) is the production of hydrocarbon resources, and the Secretary of the Interior shall manage the lands in a manner consistent with that purpose. In managing the lands, the Secretary of the Interior shall regulate operations only to prevent unnecessary degradation and to provide for ultimate economic recovery of the resources.

(d) CONFORMING AMENDMENT.—Section 3403 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 10 U.S.C. 7420 note) is amended by striking subsection (b).

SEC. 2042. LAND CONVEYANCE, PORTION OF NAVAL PETROLEUM RESERVE NUMBERED 2, TO CITY OF TAFT, CALIFORNIA

(a) CONVEYANCE.—Effective on the date of the enactment of this Act, there is conveyed to the City of Taft, California (in this section referred to as the “City”) the right, title, and interest of the United States in and to a parcel of real property consisting of approximately 167 acres located in the N-1/4 of Section 18, Township 18 north, Range 24 east, Mount Diablo meridian, more fully described as Parcels 1 and 2 according to the Record of Survey filed on July 1, 1974, in Book 11 of Record Surveys at page 68, County of Kern, State of California.

(b) CONSIDERATION.—The conveyance under subsection (a) is made without the payment of consideration by the City.

(c) TREATMENT OF EXISTING RIGHTS.—The conveyance under subsection (a) is subject to valid existing rights, including Federal oil and gas lease SAC-01657.

(d) TREATMENT OF MINERALS.—All coal, oil, gas, and other minerals within the lands conveyed under subsection (a) are reserved to the United States, except that the United States and its lessees, licensees, permittees, or assignees shall have no right of surface use or occupancy of lands. Nothing in this subsection shall be construed to require the United States or its lessees, licensees, permittees, or assignees to support the surface of the conveyed lands.

(e) INDEMNITY AND HOLD HARMLESS.—The City shall indemnify, defend, and hold harmless the United States for, from, and against, and the City shall assume all responsibility for, any and all liability of any kind or nature, including all loss, cost, expense, or damages arising from the City’s use or occupancy of, or operations on, the land conveyed under subsection (a), whether such use or occupancy of, or operations on, occurred before or occurred after the date of the enactment of this Act.

(f) INSTRUMENT OF CONVEYANCE.—Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall execute, file, and cause to be recorded in the appropriate office a deed or other appropriate instrument documenting the conveyance made by this Act.

SEC. 2043. REVOCAUION OF LAND WITHDRAWAL

Effective on the date of the enactment of this Act, the Executive Order of December 15, 1931, which created Naval Petroleum Reserve Numbered 2, is revoked in its entirety.

SEC. 2044. EFFECT OF TRANSFER AND CONVEYANCE

Nothing in this Act shall be construed—

(1) to impose on the Secretary of Energy any new liability or responsibility that the Secretary of Energy did not bear before the date of the enactment of this Act; or

(2) to increase the level of responsibility of the Secretary of Energy with respect to any responsibility borne by the Secretary of Energy before that date.


Subtitle D—Miscellaneous Provisions

SEC. 2051. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES

(a) REVIEW.—In consultation with affected private surface owners, oil and gas industry, and other interested parties, the Secretary of the Interior shall review the current policies and practices with respect to management of Federal subsurface oil and gas development activities and their impacts on the private surface.

This review shall include—

(1) a comparison of the rights and responsibilities under existing mineral and land leases, on Federal mineral leases, the private surface owners and the Department;
SEC. 2052. ROYALTY PAYMENTS UNDER LEASES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) Royalty Relief—

(1) IN GENERAL.—For purposes of providing compensation for lessees and a State for which amounts are authorized by section 6004(c) of the Oil Pollution Act of 1990 (Public Law 101–380), a lessee may withhold from payment any royalty due and owing to the United States under any leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) for offshore oil or gas production to the United States under any leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) for offshore oil or gas production to the United States.

(b) Report.—The Secretary of the Interior shall report the results of such review to Congress not later than 180 days after the date of enactment of this Act.

SEC. 32. DOMESTIC OFFSHORE ENERGY REINVESTMENT PROGRAM.

(4a) Definitions.—In this section:

(1) COASTAL ENERGY STATE.—The term ‘coastal energy State’ means a Coastal Energy State off the coastline of which, within the seaward lateral boundary as determined under section 4, outer Continental Shelf bonus bids resulting from such section do not apply.

(2) COASTAL POLITICAL SUBDIVISION.—The term ‘coastal political subdivision’ means a county, parish, or other equivalent subdivision of the United States, all or part of which lies within the boundaries of the coastal zone of the State, as identified in the State’s approved coastal zone management plan under section 6 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) on the date of the enactment of this section.

(3) COASTAL POPULATION.—The term ‘coastal population’ means the population of a coastal political subdivision, as determined by the most recent official data of the Census Bureau.

(4) COASTLINE.—The term ‘coastline’ has the same meaning as the term ‘coast line’ in subsection (c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

(5) FUND.—The term ‘Fund’ means the Secure Energy Reinvestment Fund established by this section.

(b) Leased Tract.—The term ‘leased tract’ means—

(A) lying seaward of the zone defined and governed by section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337); or

(B) lying within such zone but to which such section does not apply.

(c) Lessee.—The term ‘lessee’—

(A) means a person or entity that, on the date of the enactment of the Oil Pollution Act of 1990, was a lessee referred to in section 6004(c) of that Act (as in effect on that date of the enactment), but did not hold lease rights in Federal offshore lease OCS-G-5668; and

(B) includes successors and affiliates of a person or entity described in subparagraph (A).

SEC. 3053. DOMESTIC OFFSHORE ENERGY REINVESTMENT.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:
“(ii) 25 percent shall be allocated based on the ratio of each coastal political subdivision’s coastline miles to the coastline miles of all coastal political subdivisions of the State. In the case of a coal lease, the Coastal political subdivision without a coastline, the coastline of the political subdivision for purposes of this clause shall be one-third the average length of the coastline of such other coastal political subdivisions of the State.

“(iii) 50 percent shall be allocated based on a formula that allocates 75 percent of the funds provided to such coastal subdivisions of the State on the basis of the Secretary’s relative distance from any leased tract used to calculate the State’s allocation and 25 percent of the funds based on the relative level of outer Continental Shelf oil and gas activities in a coastal political subdivision to the level of outer Continental Shelf oil and gas activities in all coastal political subdivisions in such State, as determined by the Secretary.

“(d) Administrative Expenses.—Of amounts in the Fund, 25 percent of the funds shall be for the administrative costs of implementing this section.

“(e) Disposition of Funds.—A Coastal Energy State or coastal political subdivision may use funds provided to such entity under this section for any payment that is eligible to be made from funds provided to such entity under section 35 of the Mineral Leasing Act (30 U.S.C. 191).”.

“SEC. 2004. REPURCHASE OF LEASES THAT ARE NOT ALLOWED TO BE EXPLAINED OR DEVELOPED.

“(a) Authority to Repurchase and Cancel Certain Leases.—Notwithstanding any other provisions of law, any Federal oil and gas, geothermal, coal, oil shale, or tar sands lease, whether onshore or offshore, issued by the Secretary not to have been in compliance with the law, or the Secretary determines that the lessee has a history of a time period required to develop and produce oil and gas, a commercial discovery is a discovery in the lawful area of a lease, and cancelled by the Secretary. If a permit, lease, or other financial assurance for a coal lease held by the Secretary is not allowed to be developed or produced in the lawful manner requested by the lessee, the Secretary shall make any inquiry or determination as to whether the contents of the request complied with the law, and the Secretary shall not allow the Secretary’s findings to be made until the Secretary determines that the lease has not been in compliance with the law, or the Secretary determines that the lessee has a history of a time period required to develop and produce oil and gas. The Secretary shall make all decisions under this subsection within 180 days of receipt of the request. The area covered by any repurchased and cancelled lease shall remain available for future leasing unless otherwise prohibited by law. The decision under this subsection shall not be final unless it is appealable, and the decision of the Secretary shall be final and binding. All decisions under this subsection shall be final and binding. The Secretary shall establish a period of time during which the Secretary, or its authorized representative or delegate, may suspend the condition of such lease, and it shall be final and binding. The Secretary shall not allow the Secretary’s findings to be made until the Secretary determines that the lease has not been in compliance with the law, or the Secretary determines that the lessee has a history of a time period required to develop and produce oil and gas. The Secretary shall make all decisions under this subsection within 180 days of receipt of the request. The area covered by any repurchased and cancelled lease shall remain available for future leasing unless otherwise prohibited by law. The Secretary shall establish a period of time during which the Secretary, or its authorized representative or delegate, may suspend the condition of such lease, and it shall be final and binding. All decisions under this subsection shall be final and binding.

“(b) Compensation.—Upon authorization by the Secretary of the repurchase of a lease under this section, the lessee shall be compensated in the amount of the total of lease acquisition costs, rentals, seismic acquisition costs, archeological and environmental studies, drilling costs, and other reasonable expenses on the lease, including expenses incurred in the repurchase process, to the extent that the lessee has not previously been compensated by the United States for such expenses. The lessee shall not be compensated for general overhead expenses, employee salaries, or interest. If the lessee is an assignee, the lessee may not claim the expenses of his assignor. Compensation shall be paid to the lessee in the form of payment transformers from the Department of the Treasury to the lessee. If the Secretary fails to make the repurchase authorization decision under subsection (a) within the required 180 days and the lease is ultimately repurchased, the compensation due to the lessee shall increase by 25 percent, plus 1 percent for every seven days that the decision is delayed beyond the required 180 days.

“(c) Delegation of Authority and Finality of Decisions.—The Secretary may delegate authority granted by this section only to the extent of the authority so delegated and with such conditions and limitations as the Secretary may prescribe in writing.

“(d) Secretary.—For purposes of this section, the term ‘Secretary’ means the Secretary of the Interior.

“(e) Regulations.—The Secretary shall issue reasonable regulations implementing this section within 1 year after date of enactment of this Act.

“(f) Secretary.—For purposes of this section, the term ‘Secretary’ means the Secretary of the Interior.

“(g) No Prejudice.—This section shall not be interpreted to prejudice any other rights that the lessee would have in the absence of this section.

“TITLE XXI—COAL

“SEC. 2101. SHORT TITLE.

“This title may be cited as the ‘Coal Leasing Amendments Act of 2005’.

“SEC. 2102. LEASE MODIFICATIONS FOR CONTIGUOUS COAL LANDS OR COAL DEPOSITS.

“Section 3 of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ‘rural’ and inserting ‘coal production’.

“SEC. 2103. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

“Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

“(4)(A) The Secretary shall not require a surety bond or any other financial assurance to cover payments of bonus, royalty, production payment, or any other payment bid installments with respect to any coal lease issued on a bonus cash bid to a lessee or successor in interest having a history of a time period required to develop and produce oil and gas in lieu of production (where applicable) and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

“(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance for a coal lease issued on the basis of the coal lease and the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in paragraph (a).

“(4) Notwithstanding any other provision of law, if the lessee under a coal lease fails to

“SEC. 2104. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

“(a) In General.—Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended to read as follows:

“(b)(i) Each lease shall be subjected to the condition of diligent development and continuous operation of the lessee, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

“(ii) The Secretary, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

“(b) Such advance royalties shall be computed—

“(1) based on—

“(I) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

“(II) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary to capture the commercial value of coal; and

“(ii) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

“(c)(1) The aggregate number of years during the initial and any extended term of any lease for which advance royalties may be accrued in lieu of the condition of continued operation shall not exceed 20.

“(2) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.

“(d) This subsection shall be applicable to any lease or logging unit in existence as of the date of the enactment of this paragraph or issued or approved after such date.

“(e) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.

“(f) Authority To Waive, Suspend, or Reduce Advance Royalties.—Section 39 of the Mineral Leasing Act (30 U.S.C. 290) is amended by striking the last sentence.

“SEC. 2105. ELIMINATION OF MAXIMUM BONUS BID FOR MINIMUM PRODUCTION PAYMENTS.

“Section 2(d) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by adding at the end the following:

“(4)(A) The Secretary shall not require a surety bond or any other financial assurance to cover payments of bonus, royalty, production payment, or any other payment bid installments with respect to any coal lease issued on a bonus cash bid to a lessee or successor in interest having a history of a time period required to develop and produce oil and gas in lieu of production (where applicable) and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

“(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance for a coal lease issued on the basis of the coal lease and the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in paragraph (a).

“(4) Notwithstanding any other provision of law, if the lessee under a coal lease fails to

“SEC. 2106. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

“Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

“(4)(A) The Secretary shall not require a surety bond or any other financial assurance to cover payment of any bid installments with respect to any coal lease issued on a bonus cash bid to a lessee or successor in interest having a history of a time period required to develop and produce oil and gas in lieu of production (where applicable) and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

“(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance for a coal lease issued on the basis of the coal lease and the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in paragraph (a).

“(4) Notwithstanding any other provision of law, if the lessee under a coal lease fails to

“H2314 CONGRESSIONAL RECORD—HOUSE April 20, 2005

“SEC. 2107. PROTECTION OF HISTORIC COAL LEASES.

“Section 37 of the Mineral Leasing Act (30 U.S.C. 293(c)) is amended by striking the last sentence.

“SEC. 2108. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

“Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

“(4)(A) The Secretary shall not require a surety bond or any other financial assurance to cover payments of bonus, royalty, production payment, or any other payment bid installments with respect to any coal lease issued on a bonus cash bid to a lessee or successor in interest having a history of a time period required to develop and produce oil and gas in lieu of production (where applicable) and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

“(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance for a coal lease issued on the basis of the coal lease and the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in paragraph (a).

“(4) Notwithstanding any other provision of law, if the lessee under a coal lease fails to
pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due—

(2) any bonus payments already made to the United States with respect to the lease shall be returned to the lessee or credited in any future lease sale."

**SEC. 2107. INVENTORY REQUIREMENT.**

(a) **REVIEW OF ASSESSMENTS.**—

(1) **IN GENERAL.**—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall review coal assessments and other available data and developments in technology that are relevant to calculating the ability of data and developments in technology to result in a commercially available technology for oil and gas exploration, development, and production. [Amendment]

(b) **APPLICATION OF AMENDMENTS.**—

(1) **IN GENERAL.**—The amendments made by this title apply with respect to any coal lease issued before, on, or after the date of enactment of this Act. [Amendment]

(2) **REFERENCES.**—For purposes of this section, the Secretary may lease all or a portion of a Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, the Secretary shall only consider alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing alternative if the Secretary determines that such action or analysis will satisfy all requirements for the analysis and consideration of the environmental impacts of proposed leasing under this title.

The Secretary shall submit to Congress a report containing a detailed inventory under subsection (a) not later than 2 years after the date of enactment of this Act; and

(a) **IN GENERAL.**—The Secretary shall periodically review and, if applicable, submit a report to Congress describing the inventory under subsection (a); and

(b) **INVENTORY REQUIREMENT.**—This title may be cited as the "Arctic Coastal Plain Domestic Energy Act."
(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the high bid resulting from the sale after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, any lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) REVERAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title. The Secretary, as a term and condition of each lease under this title and in recognizing the Governor's probable interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate in good faith for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 2206. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—The Secretary may grant oil or gas leases issued pursuant to this title to lands that are adversely affected in connection with production activities, or upon application by the lessee or by any of the subcontractors or agents of the lessee.

(b) LEASES OF SURFACE ACREAGE.—The Secretary may issue oil and gas leases that are necessary to protect karstic calving areas and other species of fish and wildlife;

(c) REQUIREMENTS FOR LEASES.—(1) The Secretary shall require that the lessee and its agents and contractors negotiate in good faith for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

(d) REQUIREMENTS FOR LEASES.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of enactment of this Act; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 2205. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary may grant oil or gas leases issued pursuant to this title to lands that are adversely affected in connection with production activities, or upon application by the lessee or by any of the subcontractors or agents of the lessee.

(b) LEASES OF SURFACE ACREAGE.—The Secretary may issue oil and gas leases that are necessary to protect karstic calving areas and other species of fish and wildlife.

(c) REQUIREMENTS FOR LEASES.—(1) The Secretary shall require that the lessee and its agents and contractors negotiate in good faith for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 2207. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARDS TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 2203, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and monitor (or to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that exploration activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 189 of the ‘‘Final Legislative Environmental Impact Statement’’ (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) All exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times.

(4) The Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(5) Design safety and construction standards for all pipelines and any access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment necessary to the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate restrictions or requirements for access to and use of the Bessemer wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on dumping of hazardous or toxic substances, in accordance with applicable Federal and State environmental law.

(9) Field crew environmental briefings.
(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited to the extent necessary.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, and restrictions provided for in subsections (a) through (d) of this section, and stipulations under this section, the Secretary shall consider the following:


(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 373.1 to 373.3 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC-ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PlANNING.

(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the site selection and construction procedures for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LANDS.—The Secretary shall:

(1) managing public lands in the Coastal Plain in accord with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

(h) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereon, shall be available only in the event that the Secretary has complied with the terms of this title and shall be based upon the administrative record of that decision. The Secretary’s identification of mitigation measures to enable leasing to proceed and the Secretary’s analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(i) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review is available under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 2209. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

(1) 50 percent shall be paid to the State of Alaska; and

(2) except as provided in section 2212(d), the balance shall be deposited into the Treasury as miscellaneous receipts.

(b) PAYMENTS TO ALASKA.—Payments to the State of Alaska under this section shall be made semiannually.

(c) USE OF BONUS PAYMENTS FOR LOW-INCOME HOMESTEAD ENERGY ASSISTANCE.—Amounts that are received by the United States as bonuses for leases under this title and deposited into the Treasury under subsection (a) shall be available to the Secretary of the Health and Human Services, in addition to amounts otherwise available, to provide assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 2210. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (43 U.S.C. 150) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that the oil and gas activities shall not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 2209(j) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 2211. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraphs (1) of subsection (d) of section 1302(h) of that Act, to the extent necessary to fulfill the Corporation’s entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining surface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 2212. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Fund established by subsection (b) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(b) ELIGIBLE ENTITIES.—The North Slope Borough, Kaktovik, and other boroughs, municipalities, subdivision local governments, and other community organized under Alaska State law shall be eligible for financial assistance under this section.

(c) USE OF ASSISTANCE.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values; and

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medical, and medical services; and

(4) establishment of a coordination office, by the North Slope Borough, in the City of Kaktovik, which shall—

(A) coordinate with and advise developers on local conditions, impact, and history of the areas utilized for development; and

(B) provide to the Committee on Resources of the Senate and the Energy and Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(d) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section through either direct application to the Secretary or through the North Slope Borough.

(e) APPLICATION ASSISTANCE.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(f) FUND.—Amendments to the fund may be used only for providing financial assistance under this section.

(g) DEPOSITS.—Subject to paragraph (4), there is deposited to the Coastal Plain Local Government Impact Aid Assistance Fund amounts received by the United States as revenues derived from rents, bonuses, and
royalties under on leases and lease sales authorized under this title.

(4) LIMITATION ON DEPOSITS.—The total amount in the fund may not exceed $1,000,000,000.

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

TITLE XXIII—SET AMERICA FREE (SAFE)

SEC. 2301. SHORT TITLE. This title may be cited as the “Set America Free Act of 2005” or the “SAFE Act”.

SEC. 2302. FINDINGS.

Congress finds the following:

(1) The three contiguous North American countries of Canada, Mexico, and the United States share many economic, environmental, and security interests, including being among each others’ largest trading partners, similar interests in clean air and clean water, concern about infiltration of terrorists from nations that host terrorist organizations, and interdependent economic systems.

(2) North American energy self-sufficiency is compromised in the face of the three contiguous North American countries and should be achieved through methods that recognize and respect the sovereignty of each of the three contiguous North American countries.

(3) The Energy Information Administration (EIA), in its April 2004 International Energy Outlook, projects that world energy consumption will increase by 54 percent from 2001 to 2025 and that world oil consumption will rise from 77 million barrels per day (Mbbl/d) in 2001 to 121 Mbbl/d in 2025.

(4) In the same report, EIA projects that, without a change in government policy, the United States oil consumption will rise by 44.4 percent from 19.6 Mbbl/d (7.15 billion barrels per year (Bbbl/y)) in 2001 to 28.3 Bbbl/y in 2025.

(5) EIA projects that, without a change in governmental policy, oil production in the three contiguous North American countries will rise by 18.3 percent from 15.4 Mbbl/d (5.6 Bbbl/y) in 2001 (19.4 percent of world production) to 18.3 Mbbl/d (6.7 Bbbl/y) in 2025 (14.5 percent of world production).

(6) EIA projects that, without a change in governmental policy, the three contiguous North American countries contain 492.7 Bbbls of oil reserves (16.8 percent of total world oil reserves) (not including unconventional oil resources such as United States oil shale or the overwhelming majority of Canadian oil sands) at the base case oil price, which represents sufficient oil to fully supply the three contiguous North American countries for 57.4 years based on 2001 oil consumption and 39.1 years based on projected 2025 oil consumption, resulting in an average of approximately 40 years of future supply.

(7) In the same report, EIA projects that, without a change in governmental policy, the United States natural gas consumption will rise by 38.9 percent from 22.6 trillion cubic feet per year (Tcf/y) in 2001 to 31.4 Tcf/y in 2025, and that the natural gas consumption of the three contiguous North American countries will rise by 48.0 percent from 26.9 Tcf/y in 2001 (29.3 percent of world consumption) to 39.6 Tcf/y in 2025 (26.3 percent of world consumption).

(8) EIA projects that, without a change in government policy, natural gas production in the three contiguous North American countries will rise by 21.7 percent from 27.6 Tcf/y in 2001 (30.3 percent of world production) to 33.6 Tcf/y in 2025 (22.3 percent of world production) (excluding Alaska gas through the natural gas pipeline, gas from hydrates, or expanded coal gasification. The United States Geological Survey estimates that natural gas hydrate resources in place total 169,000 Tcf in Alaska and its surrounding waters, and approximately 150,000 Tcf off the western Atlantic, Pacific, and Gulf of Mexico coasts.

(9) The terrorist attacks in the United States on September 11, 2001, and the subsequent expansion of terrorist organizations in regions outside of North America in areas that are major suppliers of oil, and potential suppliers of liquefied natural gas, to the United States, has increased the national security and homeland security risks to the United States of relying upon oil and natural gas supply sources located outside of the three contiguous North American countries. The United States imports 60 percent of its oil supplies—the highest in history. After Canada and Mexico, the largest oil suppliers to the United States are Saudi Arabia, Venezuela, Nigeria, Iraq, and Algeria, all of which suffer from significant instability.

(10) According to published scientific, technical, and economic reports, the three contiguous North American countries have the resources necessary to increase production of oil by at least 15 Mbbl/d by 2025 and 20 Mbbl/d by 2030 even before increases in coal liquefaction, biofuels, gas-to-liquids, and other methods of creating liquid substitutes for crude oil and crude oil products.

(11) This increase in North American oil production would be derived from a variety of resources including, among others—

(A) the United States oil shale resource base (2 trillion barrels of oil in place out of 2.6 trillion barrels available to be producible at 100 percent recovery) of 135 Mbbl/d by 2015 and 65 Mbbl/d by 2025.

(B) the Canadian Alberta oil sands resource base (1.7 trillion barrels of oil in place) is located 150 miles south of the border and is considered capable of eventually producing 10 Mbbl/d for more than 100 years.

(C) the United States heavy oil resource base (80 billion barrels of oil in place)

(D) the remaining 400 billion barrels of conventional oil in place in the United States of which 50 billion barrels are potentially producible with advanced CO2 enhanced oil recovery technology.

(E) the United States oil sands resource base of 54 Mbbl/d is certain to be producible in the next 10 years.

(F) the Arctic National Wildlife Refuge Coastal Plain area (ANWR) with a mean technically recoverable resource of more than 10 billion barrels of oil.

(G) the National Petroleum Reserve-Alaska (NPR-A) with a mean technically recoverable resource of 9.3 billion barrels of oil.

(H) the 15-18 billion barrels of oil likely to be producible in the Canadian Atlantic offshore.

(I) the extensive resources of the Canadian Arctic Archipelago offshore and the outer Continental Shelf offshore the lower-48 United States.

(J) other conventional oil resources in Canada and the United States; and

(K) the extensive oil resources of Mexico.

(12) In addition to being the “Saudi Arabia” of oil shale with at least 75 percent of the world’s oil shale resource base, the United States is also the “Saudi Arabia” of coal. The EIA estimates that total economically recoverable reserves of coal around the world are 1,083 billion short tons—enough to last approximately 210 years at current consumption levels. EIA estimates that the economically recoverable reserves of the United States, at 25 percent of total world reserves, are the largest in the world. Total United States coal resources are vastly larger at 270 billion short tons. The remaining 75 percent of the increased world consumption of coal in 2001 was 5.26 billion short tons and is projected to grow to 7.57 billion short tons in 2025. 70 percent of the increased world consumption of coal in 2001 was 1.06 billion short tons and is projected to grow to 1.57 billion short tons in 2025.

(13) Growth in world oil consumption has been outstripping growth in world production of conventional oil resources for several reasons. Increasingly, conventional oil production in most oil producing countries has peaked and is now declining, and developing nations such as China and India are greatly accelerating their consumption of crude oil.

(14) The recent increases in world oil prices are caused by the faster growth in demand over supply and this trend is likely to continue because the remaining conventional oil is more difficult and expensive to find and produce, and frequently not reasonably available.

(15) The North Atlantic Treaty Organization, an advisor to the Central Intelligence Agency, found in its report, “Mapping the Global Future,” NIC 2004–13, December 2004, that “Continued limited access of the international oil companies to major fields could restrain this investment necessary for supply to meet demand, however, and many of the areas—the Caspian Sea, Venezuela, West Africa, and South China Sea—that are being counted on to provide increased output involve substantial political or economic risk. Traditional supplies in the Middle East, already increasingly unstable. Thus sharper demand-driven competition for resources, perhaps accompanied by a major disruption of oil supplies, is a real possibility. Iraq and India, which lack adequate domestic energy resources, will have to ensure continued access to outside supplies; thus, the need for energy will be a major factor in shaping their foreign and defense policies, including expanding naval power”.

(16) Because the price of crude oil is set on a world market based on the absence of world demand for supply will inevitably drive up oil prices to levels potentially several times those of today unless all nations capable of producing significant quantities of incremental political or economic risk. Traditional supplies in the Middle East, already increasingly unstable. Thus sharper demand-driven competition for resources, perhaps accompanied by a major disruption of oil supplies, is a real possibility. Iraq and India, which lack adequate domestic energy resources, will have to ensure continued access to outside supplies; thus, the need for energy will be a major factor in shaping their foreign and defense policies, including expanding naval power”.

(17) The eventual, long-term solution is to drastically reduce the world’s dependence on oil as the primary fuel for transportation (40 percent of the United States consumption of oil is to power light motor vehicles).

(18) North America, having the ability to avoid the production of oil, must use the next 40 years as a transition period to a more sustainable energy model.

(19) The United States also has large renewable energy resource potential including wind, geothermal, solar, biomass, ocean...
Apr 20, 2005

CONGRESSIONAL RECORD — HOUSE

H2319

thermal, waves and currents, and hydroelectric. The EIA’s July 2004 report, “Rene
wable Energy Trends 2003,” found that renewa
able energy provided 6 percent of the Na
tion’s energy in 2003. The major sources of renewa
able energy were biomass, wind, and solargen
eration, which comprised 2.25 billion acres, large portions of which may be available to rapidly expand this clean and renewable alternative to fossil energy resources. These lands should be reviewed for their potential contribution to our Nation’s domestic energy security.

The United States has the strongest environmental safeguards in the world, and our standards, science, and technology have proven that the United States can produce energy in an environmentally benign manner. progress has been made compared with the lesser environmental standards in most for
eign oil producing countries.

The 1989 Clinton Administration reflected in its Benefits of Advanced Oil and Gas Exploration and Production Technology,” highlights the technological achievements of the American oil and gas industry. The report noted, “public awareness of the significant and impressive environmental benefits from new exploration and production (E&P) technology advances remains limited . . . We believe it is impor
tant to tell this remarkable story of environmen
tal progress in E&P technology. Greater aware
ness of the United States’ achievements in envi
ronmental protection will provide the context for effective policy, and for informed decision making by both the private and public sectors.

Many Americans believe the myth that spills from oil and natural gas exploration and production are the leading cause of oil pollution in the oceans and the Nation’s rivers and streams. The reality is that, to the contrary, in 2002 the National Academy of Sciences found that offshore oil and natural gas exploration and production accounted for a total of only 2 percent of the oil in the North American marine environment; natural sources account for 85 percent of such oil; industrial and municipal discharges, including urban runoff, account for 22 percent of such oil; atmospheric pollu
tion and fugitive emissions account for 17 percent of such oil; and recreational vessels account for 2 percent of such oil.

Policies consistently found have found that a majority of individuals in the United States strongly support reducing our reliance on foreign energy sources.

A recent report on “Energy and Na
tional Security” issued by Sandia National Laboratories, SAND2003-3287, September 2003, found that our national security is threatened. The report noted that on average, almost one million barrels of oil per day are now imported, and noted that the EIA has estimated that for every one million bbl/d of oil supply dis
 rupted, world oil prices might increase $3-$5 per barrel. Sandia found six solution options, including—
(A) maintenance of strategic reserves; (B) support of foreign government regimes likely to maintain production;
(C) military deterrence, protection, or intervention to secure production sources and facilities; (D) diversification of production sources; (E) reduction of oil intensity through con
parents from unstable regions of the world for 2 percent of such oil.

recreational vessels account for such oil; ma
(discharges, including urban runoff, account for 8 percent of such oil; ma
brine transportation accounts for 3 percent of such oil; and recreational vessels account for 2 percent of such oil.

Polls consistently have found that a majority of individuals in the United States strongly support reducing our reliance on foreign energy sources.

A recent report on “Energy and Na
tional Security” issued by Sandia National Laboratories, SAND2003-3287, September 2003, found that our national security is threatened. The report noted that on average, almost one million barrels of oil per day are now imported, and noted that the EIA has estimated that for every one million bbl/d of oil supply dis
rupted, world oil prices might increase $3-$5 per barrel. Sandia found six solution options, including—
(A) maintenance of strategic reserves; (B) support of foreign government regimes likely to maintain production;
(C) military deterrence, protection, or intervention to secure production sources and facilities; (D) diversification of production sources; (E) reduction of oil intensity through con
parents from unstable regions of the world for 2 percent of such oil.

recreational vessels account for such oil; ma
(discharges, including urban runoff, account for 8 percent of such oil; ma
brine transportation accounts for 3 percent of such oil; and recreational vessels account for 2 percent of such oil.

Polls consistently have found that a majority of individuals in the United States strongly support reducing our reliance on foreign energy sources.

A recent report on “Energy and Na
tional Security” issued by Sandia National Laboratories, SAND2003-3287, September 2003, found that our national security is threatened. The report noted that on average, almost one million barrels of oil per day are now imported, and noted that the EIA has estimated that for every one million bbl/d of oil supply dis
rupted, world oil prices might increase $3-$5 per barrel. Sandia found six solution options, including—
(A) maintenance of strategic reserves; (B) support of foreign government regimes likely to maintain production;
(C) military deterrence, protection, or intervention to secure production sources and facilities; (D) diversification of production sources; (E) reduction of oil intensity through con
parents from unstable regions of the world for 2 percent of such oil.

recreational vessels account for such oil; ma
SEC. 2305. NORTH AMERICAN ENERGY FREEDOM POLICY.

Within 90 days after receiving and considering the recommendations of the Commission under section 2304, the President shall submit to Congress a statement of proposals to implement or respond to the Commission’s recommendations for a coordinated, comprehensive, and long-range national policy to achieve North American energy freedom by 2025.

TITLE XXV—GRAND CANYON HYDROGEN-POWERED TRANSPORTATION DEMONSTRATION

SEC. 2501. SHORT TITLE.

This title may be cited as the “Grand Canyon Hydrogen-Powered Transportation Demonstration Act of 2003”.

SEC. 2502. DEFINITIONS.

For purposes of this title, the term—

(1) “Departments” means the Department of Energy jointly with the Department of the Interior; and

(2) “Secretaries” means the Secretary of Energy jointly with the Secretary of the Interior.

SEC. 2503. FINDINGS.

The Congress finds that—

(1) there is a need for a research and development program to foster the development, demonstration, and deployment of emerging hydrogen-based transportation technologies suitable for use in sensitive resource areas; and

(2) partnerships between the Department of Energy, the Department of the Interior, Native American Tribes, and United States industries to develop hydrogen-based energy technologies can provide significant benefits to our Nation, including enhancing our environmental stewardship, reducing our dependence on foreign energy supplies, improving public safety, and creating jobs for United States workers and improving the competitiveness of the United States in the global economy; and

(3) when technologically and economically feasible, the implementation of clean, silent, or nearly silent, hydrogen-based transportation technologies would further resource stewardship and experiential goals in sensitive resource areas including units of the National Park System, such as Grand Canyon National Park.

SEC. 2504. RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) In General.—The Secretaries shall jointly establish and carry out a research and development program, in partnership with the private sector, relating to hydrogen-based transportation technologies suitable for operations in sensitive resource areas such as national parks. The Secretaries, in partnership with the private sector, shall conduct a demonstration of hydrogen-based public transportation technology at Grand Canyon National Park within three years after the date of enactment of this Act.

(b) Purpose.—The objective of the program shall be to research, develop, and demonstrate, in cooperation with affected and related industries, a hydrogen-based alternative transportation system suitable for operations within Grand Canyon National Park, that meets the following standards:

(1) Silent or near-silent operation.

(2) Low, ultra low, or zero emission of pollutants.

(3) Reliability.

(4) Safe conveyance of passengers and operators.

(c) Partnership.—In order to accomplish the objectives set forth in subsection (b), the Secretaries shall establish a partnership among the Departments, manufacturers, other affected or related industries, Native American Tribes, and United States, Tribal, State, and local Parks Shuttle operators and tour operators authorized to provide services in Grand Canyon National Park.

SEC. 2505. REPORTS TO CONGRESS.

One year after the date of enactment of this Act, and annually thereafter for the duration of the program, the Secretaries shall submit a report to the Committees on Appropriations, Resources, and Energy and Commerce of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate describing the ongoing activities of the Secretaries and the Departments relating to the program authorized under this title and, to the extent practicable, the activities planned for the coming fiscal year.

SEC. 2506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretaries to carry out this title, in addition to any amounts made available for these or related purposes under other Acts, $400,000 per year for three consecutive fiscal years beginning with the full fiscal year following the date of enactment of this Act.

TITILE XXVI—ADDITIONAL PROVISIONS

SEC. 2601. LIMITATION ON REVIEW REQUESTED DEVELOPMENT ACT.

(a) LIMITATION ON REVIEW.—Action by the Secretary of the Interior in managing the public lands with respect to any of the activities described in subsection (b) shall not be subject to review under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), if the activity is conducted for the purpose of exploration or development of a domestic Federal energy source.

(b) ACTIVITIES DESCRIBED.—The activities referred to in subsection (a) are the following:

(1) Geophysical exploration that does not require road building.

(2) Individual surface disturbances of less than 5 acres.

(3) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously.

(4) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to the National Environmental Policy Act of 1969 analyzed such drilling as a reasonably foreseeable activity.

(5) Disposal of water produced from an oil or gas well, if the disposal is in compliance with a permit issued under the Federal Water Pollution Control Act.

(6) Placement of a pipeline in an approved right-of-way corridor.

(7) Maintenance of a minor activity, other than any construction or major renovation of a building or facility.

SEC. 2602. ENHANCING ENERGY EFFICIENCY IN AMERICAN MANAGEMENT OF FEDERAL LANDS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) ENERGY EFFICIENT BUILDINGS.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture should seek to incorporate energy efficient technologies in public and administrative buildings associated...
with management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries of the Interior, Commerce, and Agriculture.

(c) ENERGY EFFICIENT VEHICLES.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

The CHAIRMAN. No amendment to the bill shall be in order except those printed in House Report 109-49.

Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109-49.

AMENDMENT NO. 1 OFFERED BY MR. HALL

Mr. HALL. Madam Chairman, I rise as the designee of the chairman and I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 Offered by Mr. Hall:

In the item in the table of contents relating to section 142, strike “cdbg” and insert “CDBG”.

In section 105(a)(1), strike “section 801(a)” and insert “Section 801(a)(2)”.

In section 105(a)(1), strike “(42 U.S.C. 6237(a))” and insert “(42 U.S.C. 8237(a)(2))”.

In section 105(a)(1), in the proposed subparagraph (E), insert “and report to the Office of Management and Budget after ‘shall meet monthly.’”

In section 105(a)(1), in the proposed subparagraph (E), insert “No Federal agency shall be required to enter into a contract under this title unless the Office of Management and Budget has approved such contract.”

In section 105(a)(1), in the proposed subparagraph (E), insert “contracts are not exceeded.”

In section 105, strike subsections (c), (d), (e), (f), and (g), and redesignate subsection (h) as subsection (c).

In section 105(b), in the proposed subsection (f), strike “for suspended ceiling fans,” and insert “suspended ceiling fans.”

In section 133(c), in the proposed subsection (A), strike “VENTING MACHINES,” and insert “venting machines.”

In section 133(c), in the proposed subsection (B), strike “recessed ceiling fans,” and insert “recessed ceiling fans.”

In section 136, strike “Section 327” and insert “‘effective 3 years after the date of enactment of this Act.’”

In section 136, redesignate the proposed subsection (h) as subsection (i).

In section 136, in the proposed subsection (i), strike “(i)(1)” and insert “under the preceding amendment,” strike “or revised” both places it appears.

In section 148 of the bill, strike subparagraph (B) of paragraph (1) and insert the following:

(B) in paragraph (2), by inserting ‘‘; and, with respect to rules for the construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code’’ after ‘‘90.1-1989’’;”

In section 148 of the bill, strike subparagraph (D) of paragraph (2) and all that follows through the end of paragraph (3) and insert the following:

(B) by inserting ‘‘; and, with respect to rules for the 2003 International Energy Conservation Code’’ after ‘‘90.1-1989’’;”

(C) at the end, by inserting ‘‘and the 2003 International Energy Conservation Code’’ before the period at the end; and

(D) in subsection (c)—

(1) at the end, by inserting ‘‘and the 2003 International Energy Conservation Code’’ after ‘‘Model Energy Code’’; and

(2) by inserting ‘‘; or, with respect to rehabilitation of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code’’ after ‘‘1989’’.

In section 205(a), in the proposed section 570(a)(1), strike ‘‘Secretary’’ and insert ‘‘Administrator of General Services’’.

In section 205(a), in the proposed section 570(a)(3), strike ‘‘Secretary’’ and insert ‘‘Administrator’’.

In section 205(a), in the proposed section 570(b)(1), strike ‘‘Secretary’’ and insert ‘‘Administrator’’.

In section 205(a), in the proposed section 570(b)(2), strike ‘‘Secretary’’ and insert ‘‘Administrator’’.

In section 205(a), strike ‘‘Part 4 of title V of the National Energy Conservation Policy Act (42 U.S.C. 6271 et seq.),’’ and insert ‘‘Subchapter VI of chapter 31 of title 40, United States Code’’.

In section 205(a), at the beginning of the quoted material, strike ‘‘sec. 570.’’ and insert ‘‘section 57377’’.

Strike section 206 and amend the table of contents accordingly.

Strike section 213 and amend the table of contents accordingly.

Strike section 245 and amend the table of contents accordingly.

In title I, after section 330, insert the following new section and amend the table of contents accordingly:

SEC. 323. NATURAL GAS MARKET REFORM.

(a) CLARIFICATION OF EXISTING CFTC AUTHORITY—

(1) FALSE REPORTING.—Section 9(a)(2) of the Commodity Exchange Act (7 U.S.C. 13(a)(2)) is amended by inserting ‘‘false or misleading or knowingly inaccurate reports’’ and inserting ‘‘knowingly false or knowingly misleading or knowingly inaccurate reports’’.

(2) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by redesignating subsection (f) as subsection (e), and adding:

(f) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—The Commission may bring administrative or civil actions as provided in this Act against any person for a violation of any provision of this section including, but not limited to, false reporting under subsection (a).

(3) EFFECT OF AMENDMENTS.—The amendments made by paragraphs (1) and (2) restate, without substantive change, existing burden of proof provisions and existing Commodity civil enforcement authority, respectively. These clarifying changes do not alter any existing burden of proof or grant any new statutory authority. The provisions of this section, as restated herein, continue to apply to any action pending on or commenced after the date of enactment of this Act for any act, omission, or violation occurring before, on, or after, such date of enactment.

(b) FRAUD AUTHORITY.—Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking subsection (a) and inserting the following:

(a) It shall be unlawful—

(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to section 2(a)(1) of this Act, to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

(A) to cheat or defraud another person in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or any other agreement, contract, or transaction subject to section 2(a)(1) of this Act, to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

(B) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for such other person any false record;

(C) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of subsections (a)(2), with such other person; or

(D)(i) to bucket an order if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market; or

(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior knowledge of such other person, to deceive the buyer in respect to any order or offsetting order of such other person, or become the seller in respect to any buying order of such other person, if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market.

(b) SUBMISSION—(1)(i) No person shall not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to section 2(a)(1) of this Act, to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market.

(ii) No person shall not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to section 2(a)(1) of this Act, to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market.

(c) JURISDICTION OF THE CFTC.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by adding at the end:

SEC. 26. JURISDICTION.

This Act shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts,
agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Any request for information by the Commission to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity, and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission, which shall cooperate in responding to any information request by the Commission.

(d) INCREASED PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a)—

(A) by striking “$5,000” and inserting “$1,000,000”; and

(B) by striking “two years” and inserting “five years”; and

(2) in subsection (b), by striking “$500” and inserting “$50,000.”

In section 461(a), in the proposed section 461(b)(2), strike “or equal to” after “projects less than”.

In section 640, strike “Section 3110” and insert “Section 3110(a).”

In section 663, at the beginning of the proposed subsection z.1, strike “Section 922(c), (v), and (w)” and insert “Section 922(a)(4) and (o).”

In section 663, in the proposed subsection z.2(b)(1), strike “; (o), (v), and (w)” and insert “and (o).”

In section 722(b)(1)(B), strike “; scooters.”.

In title VII, amend section 773 to read as follows:

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) In General.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas;

(2) ways to promote fuel conservation measures to enhance fuel efficiency and reduce emissions; and

(3) opportunities to reduce air traffic inefficiencies that increase fuel burn and emissions.

(b) Focus.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) Report.—Not later than 1 year after the date of the submission under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) contains the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) that do not adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of those emissions on the human health.

(d) Risk Assessments.—Any assessment of the risk of harm to the environment prepared by the Administrator of the Federal Aviation Administration or the Administrator of the Environmental Protection Agency under this section shall be based on sound and objective scientific practices, shall consider the best available science, and shall present the weight of the scientific evidence concerning such risks.

In title VII, amend section 756 to read as follows:

SEC. 756. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) Definitions.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term “advanced truck stop electrification system” means a stationary system that—

(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under section 756 of this title.

(3) AUXILIARY POWER UNIT.—The term “auxiliary power unit” means a self-contained unit that—

(A) is designed to operate without adversely affecting safety and security; and

(B) is provided to fuel heavy-duty vehicles.

(4) HEAVY-DUTY VEHICLE.—The term “heavy-duty vehicle” means a vehicle that—

(A) has a gross vehicle weight rating greater than 8,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term “idle reduction technology” means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices mounted onboard a heavy-duty vehicle.

(6) ENERGY CONSERVATION TECHNOLOGY.—The term “energy conservation technology” means any device or equipment that improves the fuel economy of a heavy-duty vehicle.

(7) LONG-DURATION IDLING.—The term “long-duration idling” means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle that is engaged in gear.

(b) Requirement.—Not later than 180 days after the date of enactment of this Act, the Administrator shall require at least 50 non-Federal requirement under clause (ii) if the Administrator determines to be appropriate; and

(c) Authorization.—The Administrator may require the non-Federal requirement under clause (ii) if the Administrator determines that the requirement is necessary and appropriate to meet the objectives of this section.

(d) Idling Location Study.—Not later than 90 days after the date of enactment of this Act, the Administrator shall begin a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(e) Deadline for Completion.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(1) complete the study under subparagraph (A) and (B);

(2) prepare and make publicly available 1 or more reports on the results of the reviews.

(f) Discretionary Inclusions.—The Administrator may include in the inventory of idle reduction and energy conservation technology that is to be considered as an option for implementation under paragraphs (1) and (2) of section 402 of title 49, United States Code, if the Administrator determines to be appropriate.

(g) Idle Reduction and Energy Conservation Deployment Program.—The Administrator shall require that an entity that implements idle reduction and energy conservation technology to provide evidence to the Administrator that the entity must—

(1) complete the reviews under subparagraph (D) of section 756 of this title; and

(2) prepare and make publicly available 1 or more reports on the results of the reviews.

(h) Implementation.—The Administrator shall carry out the program established under paragraph (1) and the reports under paragraph (2)(B) of section 756 of this title.
SEC. 968B. WESTERN HEMISPHERE ENERGY CO-OPERATION.

(a) PROGRAM.—The Secretary shall carry out a program of energy cooperation with Western Hemisphere countries.

(b) ACTIVITIES.—Under the program, the Secretary shall carry out activities to work with Western Hemisphere countries to—

(1) assist the countries in formulating and adopting changing in economic policies and other policies that would have a beneficial impact on world energy markets.

(c) UNIVERSITIES AND UNIVERSITIES.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of universities so as to take advantage of the acceptance of universities by Western Hemisphere countries as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of universities that involve the participation of minority students, such as Hispanic-serving institutions and Historically Black Colleges and Universities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $8,000,000 for fiscal year 2006;

(2) $10,000,000 for fiscal year 2007;

(3) $13,000,000 for fiscal year 2008;

(4) $16,000,000 for fiscal year 2009; and

(5) $19,000,000 for fiscal year 2010.

SEC. 968C. ARCTIC ENGINEERING RESEARCH CENTER.

(a) IN GENERAL.—The Secretary of Energy (referred to in this section as the “Secretary”) in consultation with the Secretary of Transportation and the United States Arctic Research Commission shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be known as the “Arctic Engineering Research Center” to conduct research on engineering aspects of the Arctic.

(b) PURPOSE.—The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as possible;

(2) technology and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) OBJECTIVES.—The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the production of materials which shall be marketed or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region;

(2) a program of transfer technology that makes research results available to potential users in a form that can be implemented;

(3) a program of technology transfer that makes research results available to potential users in a form that can be implemented;

(4) a program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2011.

SEC. 968D. BARROW GEOPHYSICAL RESEARCH FACILITY.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretary of Energy and the Interior, the Director of the National Science Foundation, and the Director of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the “Barrow Geophysical Research Facility”, to support scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2006 through 2011.

SEC. 970. ECONOMIC DISPATCH.

(a) ECONOMIC DISPATCH.—In title XII, amend section 1298 to read as follows:

(b) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(c) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(d) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of years 2006 through 2011.

SEC. 970A. BARROW GEOPHYSICAL RESEARCH FACILITY.

(a) ECONOMIC DISPATCH.—In title XII, amend section 1298 to read as follows:

(b) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(c) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(d) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of years 2006 through 2011.

SEC. 985. ECONOMIC DISPATCH.

(a) ECONOMIC DISPATCH.—In title XII, amend section 1298 to read as follows:

(b) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(c) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(d) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of years 2006 through 2011.

SEC. 971. ECONOMIC DISPATCH.

(a) ECONOMIC DISPATCH.—In title XII, amend section 1298 to read as follows:

(b) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(c) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(d) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of years 2006 through 2011.

SEC. 972. ECONOMIC DISPATCH.

(a) ECONOMIC DISPATCH.—In title XII, amend section 1298 to read as follows:

(b) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(c) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(d) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of years 2006 through 2011.

SEC. 973. ECONOMIC DISPATCH.

(a) ECONOMIC DISPATCH.—In title XII, amend section 1298 to read as follows:

(b) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(c) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(d) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(c)(3) of such Code.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of years 2006 through 2011.
regions to be covered by each such joint board for purposes of this section.

“(b) Membership.—The Commission shall request each State to nominate a representative for each regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

“(c) The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes ‘security constrained economic dispatch’ and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

“(d) Report to the Congress.—Within one year of the effective date of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.”

In section 1443, in the amendment adding subsection (d) to section 181 of the Clean Air Act, in paragraph (4), strike “If, no more than 45 days prior to the date of enactment of this section” and insert “If, after April 1, 2003” and strike “within 12 months after the date of enactment of this subsection” and insert “after the date of enactment of this subsection”.

In title XIV, in section 1446, strike “as defined under section 2(a)(1)(A)” and insert “identified under section 2(a)(1)(B)” and strike “2720(a)(1)(A)” and insert “2720(a)(1)(B)”.

In title XV, in section 1505(a), strike “The review shall be completed no later than May 31, 2013” and insert “The review shall commence after May 31, 2013, and shall be completed no later than May 31, 2014”.

In section 1505(b), strike “No later” and insert “After completion of the review under subsection (a) and no later”.

In section 1510, in subparagraph (G) of subsection (a) (2), after “vehicle emission systems,” insert “on-road and off-road diesel rules,” and after “imposed by” insert “the Federal Government,”.

In section 1510(b) and (b)(1), strike “2007” and insert “2009”.

In title XV, in section 1530, in subsection (a) adding a new subsection (i) to section 9063 of the Energy Policy Act of 1992, strike “in paragraph (G) of paragraph (1) of such new subsection (i) and insert a period at the end of such subsection (b).”

In title XV, in section 1531, in the amendment adding new section 9014 to the Solid Waste Disposal Act, in paragraph (2)(C) strike “9001(f)” and insert “9001(l), 9001(f),” and in paragraph (2)(D) strike “9011 and 9012” and insert “9010, 9011, 9012, and 9013”.

In section 1541(c)(2), strike “preserves air quality standards” and insert “addresses air quality requirements”.

In section 1541(c)(2), strike “that results” and insert “including that which has resulted.”

In section 1541(c), insert the following new paragraph after paragraph (2) and redesignate the following paragraphs accordingly:

(3) Conduct of study.—In carrying out their joint duties under this section, the Administrator and the Secretary shall use sound science and objective science practices. The Administrator and the Secretary shall consider the best available scientific knowledge, shall use data collected by accepted means and shall consider and include a description of the weight of the scientific evidence, shall coordinate the study and shall coordinate the study required by this section with other studies required by the act and shall endeavor to avoid duplication of effort with regard to such studies.

In section 1541(c)(4) (as redesignated by the preceding amendment), strike the sentence beginning with “The Administrator shall use sound” and

In the heading of title XVII, insert “—RESOURCES” and strike “at the end (and amend the table of contents accordingly).”

In the heading of title XIX, insert “—RESOURCES” at the end (and amend the table of contents accordingly).

Strike section 2026 (and amend the table of contents accordingly).

In the heading of title XXI, insert “—RESOURCES” at the end (and amend the table of contents accordingly).

Redesignate title XXV as title XXIV, and redesignate section 2506 as sections 2401 through 2406, respectively (and amend the table of contents accordingly).

Redesignate section 2601 as section 2055, and move it to the end of subtitle D of title XX.

Redesignate section 2602 as section 112, and move it to the end of title XXVI.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Texas (Mr. HALL) and a Member opposed each with 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. HALL).

Mr. HALL. Madam Chairman, I yield myself such time as I may consume.

The Chairman. The AIDE offers the manager’s amendment which sets forth clearly all of the changes we are proposing to make in our comprehensive energy bill. We have listed all of the changes, rather than offer a substitute, so all Members know which provisions—what we are changing. Our summary clearly explains these changes.

Madam Chairman, this amendment makes some technical changes, adds a few provisions which were part of the H.R. 6 conference report from last Congress, and clarifies some of the provisions contained in this year’s bill. None of these provisions should be controversial.

We made technical changes in the ceiling fan efficiency standards. We clarify references to the firearm laws in the nuclear security provision, which had referred to a law no longer in existence. We clarified the tax status of the consortium under the ultradeep program. And we made clear the PUHCA provisions would not impair FERC’s or State commissions’ ability to enforce provisions and that companies still must comply with existing orders during the period repeal becomes effective.

We clarify dates in the NAS MTBE study, rulemaking and appropriation authorization dates for the LUST program, and clarified the bump-up dates. We allowed our clean air coal projects to be eligible to power plants of 600 MW or less. We made technical changes to the boutique fuels studies and our reference to the soybean oil within the Edible Oil Act. We have also included the on road and off-road diesel rules in the final harmonization study. We also clarified that FERC would have a role to play with the regional boards we established to set guidelines for efficient, economic dispatch of electric power. Madam Chairman, we again try to cap the energy savings performance contracts at $500 million. We disagree these provisions should score. Like many, we have voiced our opposition to this score, but we are concerned about the working of the bill, and we are trying again to cap its costs. We also tried to avoid a $64 million score on our employee benefits amendment we adopted in committee.

Some of our other changes include clarifying that the 3-year time period in which the Federal Government must establish energy efficiency standards on certain products be prospective only. Like we did in the bill of the last Congress, we moved the photovoltaic program from DOE to GSA.

We added back into the bill some of the provisions contained in our H.R. 6 conference report of the last Congress. Several were in the research and development title and include the Western Michigan Demonstration Project, the Western Hemisphere Energy Cooperation Project, the Arctic Engineering Research Center, and the Barrow Geophysical Research Facility.

Madam Chairman, most importantly, we reinserted the natural gas market provision from H.R. 6 to Congress to ensure Enron trading practices of the past are not repeated. We had to drop this provision because the parliamentarians thought it could be subject to a point of order in our committee, so we put it back into the bill.

We have also added the aircraft idling study, the engine idling program, and the hydrogen fuel bus program. If any Member has any concerns about these provisions, I look forward to working with you through conference. We have added some non-controversial amendments through the affordable housing energy efficiency provisions.

The other amendments are purely technical in nature, such as removing duplicative provisions passed by other committees.

Finally, Madam Chairman, I want to thank the gentleman from California (Mr. POMBO), chairman of the Committee on Resources; the gentleman from California (Mr. THOMAS), chair of the Committee on Ways and Means; the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science; the gentleman from Virginia (Mr. TOM DAVIES), chairman of the Committee on Homeland Security; the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure, and their staffs, for helping us put together this manager’s amendment; and I ask for its adoption.

Madam Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I claim the time in opposition, and I yield myself 3 minutes.

Madam Chairman, I rise in opposition to the Barton manager’s amendment. I have a number of concerns about the manager’s amendment.
Mr. BARTON of Texas. Madam Chairman, I do not think it is a surprise that I rise in strong support of the Barton manager's amendment, since I am the Barton who authored the amendment. But I just want to tell my good friend from Michigan, Mr. Dingell, I just listened to extremely closely as he told his tale of woe about his amendment being accepted in committee and not accepted in the manager's amendment, we found out, as we went to implement it, that there were some things we did not understand under the amendment. Now, I am sure the gentleman explained it clearly and concisely, and I was probably listening to one of my staffers and probably just did not hear his explanation, but it was actually retroactive in application.

Madam Chairman, had we accepted it and put it in the manager's amendment, there would have been an immediate outcry to implement some standards that were not yet implementable because of the changes of the Bush administration. That is the primary reason it is not in the manager's amendment.

As we go to conference, we will continue to work with the distinguished gentleman, and we probably can find some way to get part of it in in the conference. But that is the primary reason that particular amendment is not in the manager's amendment.

Mr. MARKEY. Madam Chairman, I yield myself the balance of my time.

Here is the problem with the Bush administration. The Congress, over the years, has passed any number of regulations that deal with the issue of appliance efficiency, but the Bush administration is allergic to energy efficiency. It just wants to put a big new plant, you also have all of the additional pollution. We have 8 million children with asthma. We have a rise in breast cancer and prostate cancer and other diseases. More than 50 percent of all disease is environmentally based, coming from what we breathe, from the water that we drink.

The majority, in its wisdom, has decided they are going to impose no burdens on any one who makes any appliances in America, so they have to improve their efficiency, which is very typical of the entire Bush administration's approach to these technologies. But the impact of having all of these wind turbines, solar panels, lighting fixtures, heat pumps, 3 years from now, 6 years from now, 10 years from now being just as inefficient as they were 5 years ago is that all this additional pollution has to go into the air: the carbon, the mercury, the sulfur, the nitrous oxide that is inhaled by children in our country. And I just think it is wrong, without any consultation with me, to take my amendment and put it in this manager's amendment, to have it deleted from the bill.

Madam Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Chairman, how much time does the gentleman from Texas (Mr. HALL) have?

The CHAIRMAN. The gentleman from Texas has 1 minute remaining.

Mr. BARTON of Texas. Would the gentleman from Texas (Mr. HALL) yield to me 1 minute?

Mr. HALL. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. BARTON).
occurs as a result of a sudden disturbance or unanticipated failure of system elements.

"(5) The term ‘Interconnection’ means a geographic area in which the operation of bulk-power system components is interdependent. The Commission shall not recognize an Interconnection unless it determines that such an Interconnection is necessary for the efficient and reliable operation of the bulk-power system and that it is necessary to maintain reliability of the facilities within their control.

"(6) The term ‘transmission organization’ means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission organization in a geographic area.

"(7) The term ‘Regional entity’ means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) WITHDRAWAL.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in subsection (b)(2), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) PROVISION AND APPLICABILITY.—(1) The Commission may certify 1 such ERO if the Commission determines that such ERO—

"(A) assure its independence of the users, owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and boardmaking in its board; and

"(B) file notice and the record of the proceeding with the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and the submission of reports by interested persons), may order the Electric Reliability Organization to submit to the Commission a proposal reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(4) The Commission shall order the Electric Reliability Organization to submit to the Commission a proposal reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

"(d) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such pending proceedings. The Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and the submission of reports by interested persons), may order the Electric Reliability Organization to submit to the Commission a proposal reliability standard or a modification to a reliability standard that is the subject of such penalty in any proceeding to review such proceeding.

"(e) ENFORCEMENT.—(1) Section (b)(2), any person may submit an application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such pending proceedings.
SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.
(a) System Operation Requirements.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control of transmission facilities to the Electric Reliability Organization or an independent system operator established under section 215, an RTO, or an ISO, or to require any other transaction of a Federal electric utility.
(b) Transfer of Control of Transmission Facilities.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control of transmission facilities to the Electric Reliability Organization, an RTO, or an ISO.
(c) Limitation on Annual Appropriations.—There is authorized to be appropriated not more than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).
The page contains a section of a document discussing aspects of the Public Utility Regulatory Policies Act of 1978 (PURPA), including provisions related to demand response, time-based metering, and net metering. The text is a legislative section, possibly from the Congressional Record, discussing amendments and interpretations of PURPA.
(2) Technical assistance.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying and resolving problems in transmission and distribution networks, including those available from all consumer classes, and which identifies and reviews—

(A) the annual resource contribution of demand resources;
(B) the potential for demand response as a quantifiable, reliable resource for regional transmission planning and operations, defining a reference to the date of enactment of such paragraph (14).

(B) The State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years;

(C) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years;

(D) the annual resource contribution of demand resources;

(E) steps taken to ensure, in regional transmission planning and operations, demand resources are provided equitable treatment with respect to reasonable resources necessary to the resource obligations of any load-serving entity, transmission provider, or transmitting party.

(f) Federal encouragement of demand response devices.—It is the policy of the United States that time-based pricing and other demand response and other devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) Time limitations.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

(4) Not later than 1 year after the date of enactment of this Act, the Commission shall require each person or other entity engaging in the transmission or sale of electric energy at wholesale in interstate commerce, or of the mails to use, or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for interstate commerce of natural gas for resale for the public convenience and necessity, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations of the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(h) Application of Federal Power Act to This Act.—The provisions of section 307 through 319 and 315 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.


(a) Rule required for certain waivers, etc. —Not later than 6 months after the date of enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be based on the application taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

(b) Exemption under 204(f) not applicable. —For purposes of this section, the Commission finds that such action complies with the rule under subsection (a).

SEC. 1285. Reporting Requirements in Electric Power Sales and Transmission.

(a) Audit Trails. —Section 304 of the Federal Power Act is amended by adding at the end the following:

(4) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce, or the sale of electric energy at wholesale in interstate commerce, or a sell or use of any means or instrumentality of interstate commerce or of the mails to use, or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, or the sale in interstate commerce of natural gas for resale for interstate commerce of natural gas for resale for the public convenience and necessity, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations of the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) Implementation of Federal Power Act to This Act.—The provisions of section 307 through 319 and 315 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 1284. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) Audit Trails.—Section 304 of the Federal Power Act is amended by adding at the end the following:

(4) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce, or the sale of electric energy at wholesale in interstate commerce, or the sale in interstate commerce of natural gas for resale for interstate commerce of natural gas for resale for the public convenience and necessity, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations of the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) Rules Required for Certain Waivers, Exemptions, Etc. —Not later than 6 months after the date of enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be based on the application taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

(c) Previous FERC Action. —The Commission, shall undertake a review of, rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305, respectively, no less than 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

(d) Exemption under 204(f) Not Applicable. —For purposes of this section, the Commission finds that such action complies with the rule under subsection (a).

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) Audit Trails. —Section 304 of the Federal Power Act is amended by adding at the end the following:

(4) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce, or the sale of electric energy at wholesale in interstate commerce, or the sale in interstate commerce of natural gas for resale for interstate commerce of natural gas for resale for the public convenience and necessity, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations of the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) Implementation of Federal Power Act to This Act.—The provisions of section 307 through 319 and 315 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 1284. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) Audit Trails. —Section 304 of the Federal Power Act is amended by adding at the end the following:

(4) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce, or the sale of electric energy at wholesale in interstate commerce, or the sale in interstate commerce of natural gas for resale for interstate commerce of natural gas for resale for the public convenience and necessity, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations of the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.
such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

(2) Section 201(f) shall not limit the application of this subsection.

(b) Definition.—As used in this section the term "natural gas information processor" means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting in, coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, newspaper, magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, any bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of actions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission as a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) Prohibition.—No electric power or natural gas information processor may make use of any service, instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to—

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase, sale, or use of electric power, natural gas, the transmission of electric energy, or the transportation of natural power; or

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase, sale, or use of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information.

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity.

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms that are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase, sale, or use of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas;

(F) assure equal regulation of all markets involving the sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) Related Commodities.—For purposes of this section, the phrase "purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas" includes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is included in regulations under the Commodity Exchange Act pursuant to section 2 of that Act.

(d) Prohibition.—No person who owns, controls, or is under the control or ownership of a public utility, any company, or a public utility holding company may own, control, or operate any electronic computer network or other multilateral trading facility unless they are subject to regulation under electricity or natural gas.

SEC. 1287. TRANSPARENCY.

(a) Definition.—As used in this section the term "power or natural gas information processor" means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting in, coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

(b) Prohibition.—No electric power or natural gas information processor may make use of any service, instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity.

(c) Assurance of Fairness.—The Federal Energy Regulatory Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

SEC. 1288. PENALTIES.

(a) Criminal Penalties.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking "$5,000" in subsection (a) and inserting "$5,000,000 for an individual and $25,000,000 for any other defendant and by striking out "two years" and inserting "five years".

(2) By striking "$500,000" in subsection (b) and inserting "$1,000,000".

(3) By striking subsection (c).

(b) Civil Penalties.—Section 316A of the Federal Power Act (16 U.S.C. 825o(b)) is amended as follows:

(1) By striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II".

By striking "$10,000 for each day that such violation continues" and inserting the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation.

By adding the following at the end thereof:

(c) Authority of a Court to Prohibit Persons From Certain Activities.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest, and that one or more of the following applies to such entity:

(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact or which has omitted to state any such application or report any material fact which is required to be stated therein.

(2) Such entity has been convicted of any felony or misdemeanor substantially equivalent to any of the above, or of an act substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

(A) involves the purchase or sale of electric energy, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce;

(C) involves the larceny, theft, robbery, embezzlement, forgery, fraud, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of a court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or government securities dealer, or substantially equivalent foreign statute.

(4) Such entity is permanently or temporarily enjoined by order, judgment, or decree of a court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or government securities dealer, or substantially equivalent foreign statute.
the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, in connection with the purchase or sale of any security.

(4) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

(A) made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before a foreign regulatory authority, any material fact that is required to be stated therein;

(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any such provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

(6) Such entity has been found by a foreign financial or energy regulatory authority to—

(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign regulatory authority, any statement or information, or any material fact, that is required to be stated therein;

(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statute provided for in section 1341, 1342, or 1343 or chapter 25 or 47 of title 12, and has failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.
SEC. 1288. REVIEW OF PURA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to a person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating pursuant to a claim of exemption under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not these exemptions or claims of exemption should continue in force and effect.

SEC. 1290. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report of the results of his review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 1292. PROTECTION OF FERC REGULATORS AGAINST RACIAL OR ETHNIC PROTEST.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

“(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any violations of the electric Reliability Act of 2005, the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.”

SEC. 1294. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting “electric utility,” after “Any person,”

(2) By inserting “, transmitting utility,” after “licensee” each place it appears.

(b) REVIEW ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l) is amended by inserting “electric utility,” after “person,” in the first 2 places it appears and by striking “any person unless such person” and inserting “any entity unless such entity”;

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825n(a)) is amended as follows:

(1) By inserting “, electric utility, transmitting utility, or other entity” after “person” each time it appears;

(2) By striking the period at the end of the first sentence and inserting the following: “or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.”

SEC. 1295. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from disclosure of information regarding a connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the exchange of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CHARGING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term “State regulatory authority” has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms “electric consumer” and “electric utility” have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

(3) ELECTRIC CONSUMER.—The term “electric consumer” means: (A) a rate charged by a public utility under authority of the Federal Energy Regulatory Commission to permit any person to sell or distribute electric energy at market-based rates.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. BARTON) each will control 10 minutes.

Mr. DINGELL. Madam Chairman, I yield myself 3 minutes.

Mr. DINGELL asked and was given permission to revise and extend his remarks.

Mr. DINGELL. Madam Chair, it is regrettable indeed that we function under such a constrained rule, but the amendment which I have been permitted to offer here contains real benefits for electricity consumers and includes many of the reforms that I and my colleagues have proposed as an amendment to the Energy Policy Act, on the House floor, and in conference during consideration of various energy bills.

First, the amendment would prevent future Enron-like debacles by providing the Federal Energy Regulatory Commission with broad authority to deter and punish fraudulent behavior that distorts electricity and natural gas markets.

Enron’s ingenuity demonstrates how difficult it is for regulators to foresee, punish, prevent, and correct every type of misconduct. A recent FERC report concluded, “Currently, the Commission has few remedies to address rate and market manipulation.”

Second, my amendment addresses an important real electricity concern, the need to provide that the FERC has the authority to issue orders requiring refund for all electricity overcharges. Importantly, that is the provision that is needed in a case where the skill and arts of Enron and Enron-like rascals will enable them to escape many of the refunds which they should
make after the most active kind of wrong doing, as we saw in the western part of the United States.

Third, the amendment does not repeal the Public Utility Holding Company Act of 1935 without which Enron would not have purchased utilities than it did, sunk its tentacles even more deeply into the electric industry, and skinned more consumers and innocent buyers of electricity.

The amendment requires the SEC to review a company's exempted structures. I would note a revision under the act to make sure they do not assert false claims, as the commission belatedly determined Enron had done.

With due respect to the gentleman from Texas (Mr. BARTON), I believe my amendment provides an alternative for consumers than the wholly inadequate provisions of H.R. 6. H.R. 6 includes only limited cosmetic changes to current Federal electricity law. It outlaws "roundtrip trading" and filing of false bidding records, but the protection against schemes like Enron's Death Star, Get Shorty, or Richochet. Moreover, H.R. 6 does not authorize FERC to grant full refunds to consumers who were skewed by inflated electricity prices, but rather allows refunds only from the date when the complaint is filed.

Finally, H.R. 6 repeals PUHCA, leaving consumers and investors even more vulnerable to deception by Enron-type players who concoct "special purpose entities" to move money around while hiding behind complex, opaque corporate structures. I would note a recent Standard & Poor report states: "Utility investment in non-core businesses has been responsible for most of the credit deterioration in the utility industry." I urge my colleagues to adopt the amendment.

Mr. BARTON of Texas. Madam Chairman, I yield myself 4 minutes.

Ms. ESHOO. Madam Chairman, I rise in opposition to the Dingell substitute. I do want the record to show that I supported at the Committee on Rules that it be made in order so we could have a full debate. The Dingell substitute, if it were actually to be implemented into the bill and become law, would go far beyond anything currently being considered in the electricity sector. It would increase the fines already under the bill that go up to $10 million. The Dingell substitute would take that to $5 million and in some cases $25 million. I will admit with the gentleman from Michigan that the current fine is insignificant. I think it is $5,000, and we need to increase that. So the bill takes it to $1 million. The Dingell substitute would take it to between $5 million and $25 million.

The Dingell substitute does not repeal PUHCA. The bill before us does repeal the Public Utility Holding Company Act, but the bill before us in order the reporting requirements under PUHCA so the SEC would have the ability to maintain analysis of records and things like that of the companies that are subject to PUHCA. The Dingell substitute would require retroactive refunds for market-based rates. It would go back into contracts that have already been executed and would direct the FERC to make sure money for that electricity has been paid, and for the first time create a retroactive refund. I think that is unwise and unnecessary.

Basically, I would say that the Dingell substitute is well intentioned but in some cases it goes too far, and in some cases it is silent on the underlying bill. I would hope we would oppose it and keep the base text of the bill that is before us.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER asked and was given permission to revise and extend his remarks.

Mr. BOUCHER. Madam Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time, and I want to commend the gentleman for bringing this very important consumer protection bill to the floor in the House this afternoon. I strongly support the substitute for the electricity provisions in the bill put forward by the gentleman from Michigan (Mr. DINGELL).

The Dingell substitute would improve current law in a number of ways. It would enhance the FERC's ability to deter and punish parties that engage in fraudulent activities that harm consumers. It would create reporting requirements based on the record-keeping requirements under the Federal securities laws for all wholesale energy transactions. It would increase civil and criminal penalties under the Federal Power Act modeled on the penalties under the Natural Gas Act. It would enhance FERC's authority to review approved market-based rates on an annual basis to remain sure that they are fair and reasonable as circumstances change.

Mr. BASS. Madam Chairman, I rise in opposition to the Dingell substitute. I do want the record to show that I supported the Dingell amendment, and that is what the Dingell substitute would require. It would enhance the FERC's ability to deter and punish parties that engage in fraudulent activities that harm consumers. It would create reporting requirements based on the record-keeping requirements under the Federal securities laws for all wholesale energy transactions. It would increase civil and criminal penalties under the Federal Power Act modeled on the penalties under the Natural Gas Act. It would enhance FERC's authority to review approved market-based rates on an annual basis to remain sure that they are fair and reasonable as circumstances change.

Mr. ESHOO. Madam Chairman, I want to speak to one aspect of this very important consumer protection amendment, and that is what the amendment is: it protects consumers. The issue I want to talk about is refund authority.

Can there be any doubt today that Western consumers were gouged as a result of energy market manipulation in 2000 and 2001? Can there be any doubt that refunds are owed? Can there be any doubt that a Member rises on the floor and talks about retroactive and it is not fair to have something retroactive, we have to have the arm of the law reach back so
Mr. BASS. I thank the gentleman for yielding.

Madam Chairman, over the past several months, the gentleman from Texas and I have worked toward a fair and equitable solution to the problem of contamination caused by Enron getting into our groundwater and other waters.

I appreciate all his efforts and the faith he has placed in me on this issue which is so critical to New Hampshire, a State that has been affected significantly and, obviously, other affected States.

Like him, I had hoped that we would be able to have our solution ready for today's House consideration of the Energy Policy Act. However, I am not satisfied that what we have agreed upon in principle is sufficient to the problem or comprehensive enough to have my support, and I would rather not rush it simply for the sake of being done today.

Does the gentleman agree that spending additional time will result in an improved product that will provide a mechanism to ensure that our drinking water is clean and safe today and into the future?

Mr. BARTON of Texas. Madam Chairman, I agree with the gentleman from New Hampshire. He and I have been working toward a solution to the contamination problem in New Hampshire and across the Nation. If he is not satisfied with the solution thus far, then I agree with him that more must and will be done.

With the time that we will have to continue our already significant progress, I appreciate his commitment to reach out to other Members with similar problems like his. Committee staff and I stand ready to assist in every way and are fully committed to resolving the problem before the bill is presented to the President for enactment.

Mr. BASS. I thank the gentleman for those comments.

Does the gentleman also agree that the principles we have established so far, including a fair funding system, strict cleanup standard and an appropriate amount of time for contamination discovery will be safeguarded in the final product unless equivalent mechanisms can be developed?

Mr. BARTON of Texas. I agree with that statement, also. The principles the gentleman has outlined should be part of the solution. I am confident that our work will adequately satisfy New Hampshire and other contaminated States with problems similar to his State's.

Madam Chairman, I will just say that we are in opposition to the Dingell substitute and would urge a "no" vote at the appropriate time.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Without objection, the gentleman from Massachusetts (Mr. MARKEY) will control the balance of the time.

There was no objection.

Mr. MARKEY. Madam Chairman, I yield myself 1¾ minutes.

The provisions which are in the bill already are good. It is that they just do not go far enough to deal with this electricity crisis that we saw that went across the country.

What the Dingell amendment does is very simple. It creates an antifraud authority at the Federal Energy Regulatory Commission with tough new criminal and civil penalties. It ensures, in other words, that they can get the real job done.

It also provides real transparency on pricing and trading of electricity in this marketplace. It also prohibits self-dealing, interaffiliate dealing. All of the kinds of activities which were identified in the aftermath of the Enron and the related scandals is prohibited; and the authority is given to the FERC in order to make sure that they get the job done. This is needed final piece to make sure we do not see a repetition of what happened at Enron.

Vote "aye" on the Dingell amendment.

Madam Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, if my colleagues want a replication of Enron and the abuses, the stealing, the dishonesty that hurt pensioners, retirees, shareholders, others in the industry, hundreds and hundreds of ratepayers and hurt the structure of the States in the western United States, then vote against this amendment.

This amendment stops self-dealing. This amendment requires that there be repayment of money wrongfully taken. It allows FERC and the SEC to provide the necessary tools that will stop Enron and others like Enron from doing what Enron did, which caused such desperate hurt to millions of Americans in the western United States.

My amendment does go further than anything else being considered. Enron's abuses went further than anyone expected, far beyond, and they shook the entire electric industry. But it also hurt consumers, States, and also retirees and pensioners and the stakeholders.

This amendment will stop that abuse. I urge my colleagues to vote for it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DINGELL. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. DINGELL) will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 109–49.
Ladies and gentlemen, this is a huge test for us. The Republican majority has decided not to do anything about making SUVs and automobiles more fuel efficient, and that is where 70 percent of all gasoline, all oil, goes, into those gasoline tanks. Instead of making those vehicles more efficient, what they have decided to do is construct a gasoline station on top of the Arctic Wildlife Refuge in order to fuel those inefficient vehicles. We must stop them.

Madam Chairman, I reserve the balance of my time.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Madam Chairman, I thank the chairman of the Committee on Resources for yielding me this time.

This is a perennial amendment we have. This energy bill provides for production, construction, research, but ANWR is one of the most important production parts. Granted we cannot produce ourselves out of these high energy prices, but we have to produce in our own country if we ever expect to lower the prices.

Our Nation needs more energy. Our economy, consumers and workers bid against China, Europe and India’s economies for every barrel of Middle Eastern, African and Venezuelan oil. The Congress so far has refused to open new areas to exploration, even as Cuba, employing Spanish and Chinese energy companies, is drilling 60 miles from the Florida Keys, much closer than we allow American companies to do.

No nation can produce energy more responsibly than ours. Energy production is not like it used to be 50, 25 or even 10 years ago. It is much cleaner and much more scrutinized. Supporting only long-term solutions and conservation is important, but not enough. Our cars get 25 percent of their gas from U.S. lands, but our children will see even less if we do not produce at home.

Two-thirds of the world’s oil reserves are in the Middle East, controlled by OPEC. If they act as a cartel, they will test for us. The Republican majority, and the gentlewoman from California (Ms. LEE).

Ms. LEE. Madam Chairman, first, let me just say. I want to thank the gentleman from Massachusetts (Mr. MARKEY) for yielding me the time, for his leadership and the gentlewoman from Connecticut (Mrs. JOHNSON) for her leadership in making sure that this is a bipartisan amendment. Opening up the Arctic National Wildlife Refuge to oil and gas drilling is not the answer to our long-term energy or security needs.

The fact is, we are addicted to oil. The proponents of this bill would have you believe that the only way to cure an addict is to feed the addiction at whatever cost, regardless of the effect on the environment on our wildlife, and on our public health.

As a psychiatric social worker by profession, I can tell you this does not work. We should be working to reduce our dependency by promoting energy efficiency and energy conservation, and funding research to develop and utilize clean and renewable sources of energy. By allowing drilling in the Arctic refuge, we are spoiling a pristine natural environment, we are furthering our dependence on oil, and we are contributing to high levels of asthma, such as in my own district in west Oakland and throughout the country.

Reducing dependencies on alcohol and on drugs leads to individuals leading clean and sober lives. Our country needs to reduce its dependency on oil, for a clean and sober and independent future is what our children deserve.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Madam Chairman, as I rise to the podium here, I want to bring up a poster which shows what this Arctic National Wildlife Area really is. First of all, let me say that the Arctic National Wildlife Refuge is 19.5 million acres of Alaska, set aside in 1960. Also, in 1960, they set aside 1.5 million acres for exploration for oil. That is called the area 1002 part of ANWR.

This is area 1002. This is the area we are going to be drilling on for oil and gas. As you can see, no big trees, no big mountains, no big herds of anything. It is just frozen tundra out there.

But the 1002 area will continue to provide, as the USGS has already said, an estimated oil reservoir for this country that will equal the amount of oil we get from Saudi Arabia for 30 years, Madam Chairman; 10.4 billion barrels would make it the largest oil reserve find in the world since the
nearby Prudhoe Bay discovery was done 30 years ago.

Madam Chairman, the area 1002 is not a wilderness. It is part of ANWR set aside 18 years ago for oil and gas exploration. This is where this 2,000-acre disturbance is going to take place. We are not talking about a pristine wilderness area that one would find in any of the southern 48 contiguous States that have forests.

So with that, Madam Chairman, I rise to support this amendment. Since coming to Congress, I have been committed to the need to maximize our domestic energy resources. However, I firmly believe that we must pursue energy independence in a manner that protects our natural resources like the Arctic National Wildlife Refuge. Instead of opening up ANWR to oil drilling, I believe that we should look to new sources and new technologies to increase our energy independence.

I am proud to say that my State of Minnesota is a leader in the field of renewable energy such as ethanol, biodiesel, and wind energy. Minnesota companies offer innovative technologies to reduce our energy needs. These renewable energy sources and technologies offer a sensible alternative to help reduce our reliance on foreign sources of oil without endangering the environment. That is why I support the Markey-Johnson amendment and urge my colleagues to do the same.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY). Mr. KENNEDY of Minnesota. Madam Chairman, I rise to support this amendment.

Since coming to Congress, I have been committed to the need to maximize our domestic energy resources. However, I firmly believe that we must pursue energy independence in a manner that protects our natural resources like the Arctic National Wildlife Refuge. Instead of opening up ANWR to oil drilling, I believe that we should look to new sources and new technologies to increase our energy independence.

I am proud to say that my State of Minnesota is a leader in the field of renewable energy such as ethanol, biodiesel, and wind energy. Minnesota companies offer innovative technologies to reduce our energy needs. These renewable energy sources and technologies offer a sensible alternative to help reduce our reliance on foreign sources of oil without endangering the environment. That is why I support the Markey-Johnson amendment and urge my colleagues to do the same.

Mr. POMBO. Madam Chairman, I yield 4 minutes to the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure. Mr. YOUNG of Alaska. Madam Chairman, I want to thank the gentleman from California (Chairman Pombo) and the gentleman from Texas (Chairman Barton) for their fine work on a good piece of legislation that starts our process in becoming independent, providing energy policy, which I have heard none from the other side. Remarkably, when I hear people talking about new innovative ideas, they do not tell me what “new” is.

We are fossil-fuel oriented, and I will admit to that. And we are also dependent, and we have to admit to that. And we are talking about an area that is not pristine, an area, in fact, that should be developed that is 74 miles from the pipeline, an area that we have developed already in Prudhoe Bay, and we can see the great damage that is done up there. The caribou are using the pipeline to rub their backs on. The caribou are calving around the wells. The gentleman from Massachusetts (Mr. MARKEY) has never been there; so he would not know. And we have polar bears now using the line for a transportation corridor.

So, Madam Chairman, those who would support the Markey amendment are really supporting terrorism because you do not want to develop the domestic fuel supply in our country and we can. We should be doing this right now. And I hear people tell me it will only affect us 10 years from now. If you had done it when I asked you to do it 20 years ago, we could have solved that problem.

The thing that sort of strikes me the most is I hear people talk about special interests. In fact, the gentleman from Massachusetts (Mr. MARKEY) mentioned it today about special interests, serving up interests. But I would like to just read a little short letter that I happened to pick up off a Web site. It says: “Dear friend, in a few short hours the Republican energy bill will be brought up for debate and a vote. I need your immediate help to ensure that this terrible bill never becomes law.”

“Last week in the Committee on Energy and Commerce, I offered a series of amendments to increase the average fuel efficiency” and it was turned down by the Republicans.

“I then offered an amendment in the Committee on Resources to strip a provision from the bill that would open the Arctic National Wildlife Refuge for oil drilling.” The Republicans again voted against it.

“If we allow drilling in the Arctic National Wildlife Refuge we will forever ruin this unique wilderness and allow this oil industry to target all 450 National Wildlife Refuges.”

“For the last 5 years, I have led the battle in the House to stop the Republicans in the Congress from selling off one of our greatest natural resources to the powerful special interests. Help me continue to fight to expose to the American people the dangers of this extreme and ineffective action by making a contribution today.”

Just, by the way, dial in to www.edmendar.net/contribute. That is a special interest.

“Help me to continue to fight for sensible, clean and independent energy future and shine a light on the Republican Party backroom attempts to cater to special interests by making an immediate contribution.”

As Justice Louis Brandeis used to say, “Sunshine is the best disinfectant.”

This is a blatant use of an issue to raise money, and you ought to be ashamed of yourself. To raise money on an issue that has nothing to do with energy, energy that this country needs. We are no longer the only buyers on the block in this world with China and India in the field. And if we do not wake up, we will have a collapse in our economy. We must develop not only ANWR but other sources of fossil fuels in this country as well as nuclear and as well as hydro and as well as wind and all the other forms of energy and all those other forms of energy are working about places because if we do not, there will not be the jobs for the future generations and this country cannot lead this world. And to have someone stand on this floor and allow an amendment to take out the only provisional production is against America, against this great Nation, and, in fact, would do the wrong thing for this Nation.

So I ask Members to vote “no” on the Markey amendment. Keep this good bill intact. Let us produce energy for this Nation. Let us provide for future generations.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY). Ms. WOOLSEY. Madam Chairman, I want to commend my colleagues for offering this sensible amendment.

I should not even be having this discussion because drilling in ANWR will not make us energy independent and it will not end our Nation’s reliance on Middle East oil. Drilling in ANWR will do little to reduce our current dependence on foreign oil because it will take more than 10 years, yes, more than 10 years to process what little oil may be there. In fact, if we spent half the time promoting legislation that encourages the use of renewable energy that we have been discussing drilling in ANWR, we would be close to developing a sensible energy policy that would ensure real energy independence. We would invest in alternative renewable clean energy, conservation, and efficiency.

That is why I will support this sensible amendment, and I encourage my colleagues to do the same.

Mr. BARTON of Texas asked and was given permission to revise and extend his remarks. Mr. BARTON of Texas. Madam Chairman, I thank the gentleman from California for yielding me this time.

First, let me say that I do oppose the Markey amendment, but I want to say the letter that was just read is totally legal. He has got every right if he wants to use something to try to raise money. He did not send me that letter. Had he sent it to me, I would have had to reply in the negative that I could not make the contribution. But I recognize his right to do it in that manner.

I oppose the Markey amendment because I want to pay less for gasoline in Texas. I would like to tell the Members that my great State is self-sufficient in energy production and self-sufficient in oil, but it is not true. We are the largest producer of oil of the 50 States, but we are also the largest consumer.
ANWR has the potential to produce up to 2 million barrels a day for 30 years. And depending on one’s point of view, that is a lot or a little. If one wants to say it is a lot, it is more than we import from Saudi Arabia. If one wants to say it is a little, it is less than we use in a year in this country. But 2 million barrels a day for 30 years would lower prices for every American at the pump.

I would point out that in terms of the environment, we have been producing successfully in Prudhoe Bay for almost 30 years without any harm to the environment, as the gentleman from Alaska (Chairman Young) showed in those pictures when he was up here right before me.

My district produces substantial amounts of oil and gas. We are producing 1.5 billion cubic feet of gas every day. That is one half of a trillion cubic feet a year. That is one half of a trillion dollar invested in our economy. I can’t tell the American people the benefits that we get from that. We are producing it from underneath downtown cities that I represent. We are producing it through the water table and supplies of many of the cubic feet a day. That is one half of a trillion dollars spent on petroleum production which is about 2 percent of our gross domestic product. I cannot tell the American people the benefits that we get from that.

I want to thank our colleagues in the other body for already agreeing in the reconciliation instructions, and I urge a ‘no’ vote on the Markey amendment.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Ohio (Mr. Kucinich).

Mr. KUCINICH. Madam Chairman, I have the greatest respect for the gentleman from Alaska (Mr. Young), and I simply have a difference of opinion with him on this despite that great respect.

In what has become a congressional ritual, the prospect of drilling in the Arctic has been repeatedly struck down in recognition of the fact that American working families do not want it. Still, we have proponents telling us that drilling is good for jobs.

Some of the Nation’s largest unions, I might point out, like the SEIU, United Auto Workers, United Steelworkers, and United Farm Workers, are on record opposing drilling in the Arctic Refuge. Why? Because it is bad labor policy. Oil production is one of the least labor-intensive industries, supporting fewer than three direct jobs per $1 million of investment. Energy efficiency supports 27 jobs for the same investment.

It is also bad economic policy. One dollar spent on petroleum production creates only $1.51 in economic value. But that same dollar, when invested in energy efficiency, creates $2.23 in economic value.

Our Nation’s energy policy should not include drilling in the Arctic.

Mr. POMBO. Madam Chairman, I yield 1½ minutes to the gentleman from California (Mr. Nunes).

Mr. NUNES. Madam Chairman, I had an opportunity to go up and visit in Alaska the gentleman from Alaska’s (Chairman Young). And I find it really interesting to hear the opposition to this bill when I went up there. I envisioned that I would see trees, running water, big mountains, things that the American people would want to preserve. However, when I got there, I found nothing but tundra. And it was just kind of a wasteland of ice and tundra.

And as the American people are paying upwards of $2.50 a gallon for fuel today and we sit in the white building on Capitol Hill, I wonder what they are thinking out there.

This should have been opened long ago. We could get 10 percent of our daily supply from ANWR. But I believe that the environmental groups have been using this as a fund-raising tool for their organizations because what they say is in ANWR and what we see when we get there does not exist. And now I think the fund-raising has continued. Unfortunately, though, it has spread here to the halls of Congress. And with all the ethics charges that are being brought today by the Democrats, I find it very interesting that the author of this amendment sends out fund-raising letters, and I have the fund-raising letter right here that, that asks people to contribute today. And I would like to submit this for the RECORD, Madam Chairman, because this is outrageous when people are paying $2.50 a gallon and the Democrats and the radical environmental groups are using this as a fund-raising tool.

DEAR FRIEND: In a few short hours, the Republican Energy Bill will be brought up for debate and a vote of the House of Representatives. I need your immediate help to ensure that this terrible bill never becomes law.

Last week in the Energy and Commerce Committee, I offered a series of amendments to increase the average fuel efficiency of cars, mini-vans and SUVs. Each of these amendments was voted down by the Republican majority on the Committee, ensuring that the most technologically advanced nation in the world will continue to ignore energy conservation and not diminish its demand for oil. Why is it that we can send a man to the moon and beyond but cannot make our cars more efficient? This is auto mechanics, not rocket science.

I then offered an amendment in the Resources Committee to strip a provision from the bill that would open the Arctic National Wildlife Refuge for oil drilling. The Republicans on that committee voted against my amendment, choosing to set up a gas station in this pristine National Refuge.

If we allow drilling in the Arctic National Wildlife Refuge, we will forever ruin this unique wilderness and allow the oil industry to target all wildlife using the faces of the Alaska Wildlife Refuge for drilling and exploitation—all for a few meager months worth of oil. Furthermore, drilling in the Refuge is completely unnecessary. If we use average fuel efficiency of cars, mini-vans and SUV’s by only three miles per gallon, we would conserve more oil in ten years than could ever be produced by drilling in the Arctic National Wildlife Refuge.

For the last five years I have led the battle in the House to stop the Republican Congress from selling off one of our greatest natural treasures to the powerful special interests. Help me continue to fight to expose to the American people the dangers of this extreme and ineffective action by making a contribution today.

Today, I will offer these amendments again on the House floor. This series of votes is a critical moment for our country’s energy future. I need your help now to expose the travesty of this Republican energy plan and ensure that this horrible bill, with handouts to the special interests, is ultimately defeated. If this bill passes, we will create more pollution, forever spoil one of our most important and beautiful public lands and be forced to continue placing our soldiers in harm’s way in defense of oil in the Middle East.

Help me continue to fight for a sensible, clean and independent energy future and shine a light on the Republican Party’s backroom attempts to cater to the special interests by making an immediate contribution. As Justice Louis Brandies used to say, ‘sunshine is the best disinfectant.’

Thank you for your action.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Washington State (Mr. Inslee).

Mr. INSLEE asked and was given permission to revise and extend his remarks.

Mr. INSLEE. Madam Chairman, the gentleman from Alaska (Mr. Young) asked a very important question: Where are the technologies that we can use to avoid having to destroy the character of one of our most pristine areas in America?

And the answer is that we have technologies today that we simply stopped using 20 years ago.

If you look at this graph, it shows the mileage of our cars that we have. You see, starting in 1975 it went up dramatically because we had a bipartisan consensus to demand to use existing technologies to improve our automobile efficiency. It went up dramatically, almost doubling, almost doubling by 1985.

And then what happened? We fell off the wagon, and since that time, our average full economy shown by this middle line has absolutely, absolutely gone down since 1985.

The fact of the matter is, these are not future techno dreams that someone has dreamed up in their garage somewhere; they are technologies that exist today. I drive a car that gets 44 miles to the gallon. I am 62 years old; 200 miles; it is totally safe and comfortable.

We need to get back on the fuel efficiency wagon as we were in the 1980s on a bipartisan basis and not put a mustache on the Mona Lisa. You say 2,000 acres? It is still a mustache on the Mona Lisa for our most pristine areas.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. Burgess).
Mr. BURGESS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in opposition to the Markey amendment. Of course, energy independence should be the goal of this Congress. Worldwide demand for petroleum has increased in the last decade. Our production has been relatively flat.

The inevitable result is higher prices at the gas station. The reality is, it takes a long time to go from the oil field to the gasoline station, and we have lost considerable time in this regard.

Ten years ago, 1995, 104th Congress, H.R. 2491 would have allowed oil exploration in the ANWR. The Department of Energy has estimated, and the chairman quoted today, between 1 and 2 million barrels of oil a day could be derived from this source.

Unfortunately, this legislation, passed in the House and the Senate, was vetoed by President Clinton. That was nearly 10 years ago. Given a time line of 7 to 14 years for building a pipeline structure, it is time that we could scarcely afford.

Just like the other gentleman from California, I have been to ANWR. The vast coastal plain is unsuitable for habitation during the summer months because of the marshy consistency. Any caribou unlucky enough to calve in this region would likely die from exsanguination at the hands of the mosquitoes there.

The people in ANWR are counting on this Congress to do the right thing and allow them, the rightful owners of these mineral rights, to begin developing the sources that were granted to them upon statehood in 1959.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Chairman, I thank the gentleman from Massachusetts for his leadership on this issue.

I see a far different place than the two gentlemen that have spoken before us from the opposition. When I went up to the Arctic National Wildlife Refuge, I saw a tremendously diverse area in terms of wildlife. I saw musk oxen, grizzly bears, Arctic char, and this marvelous caribou herd, which is the largest in North America, migrate to and from the coastal plain where they calve. I saw eight lakes scattered across the refuge containing enough unfrozen water to build a mile or more of ice roads. That means the only alternative truly is permanent gravel roads crisscrossing the refuge and, in fact, there is not one oil field in Alaska’s North Slope that does not have permanent gravel roads.

Some drilling supporters cite the central Arctic caribou herd as illustrating that the caribou and drilling can coexist harmoniously. But calving females have completely withdrawn from the drilling area around Prudhoe Bay and are declining around the Kuparuk complex. While there is ample area for the central Arctic herd to move away from the drilling facilities for calving and still be supported, this is not the case for the porcupine caribou and coastal herd. The porcupine caribou and the coastal plain where they calve is much smaller. They would be displaced into the foothills where both they and their calves would be extremely vulnerable to predators.

Finally, it would take a decade to deliver oil from the ANWR, and the amount, again, as I said earlier, would be very limited, according to the U.S. Geological Survey.

On the other hand, the National Petroleum Reserve and other areas are capable of providing far more oil. In fact, the Federal Government, the State of Alaska, the Arctic Slope Regional Corporation, and others are in the process of leasing 56 million undeveloped acres in this region.

We do not need to drill on the ANWR plain. If we were to increase the fuel efficiency of automobiles by just 3 miles per gallon, we would save a million barrels of oil a day. Five times the amount we would get out of ANWR. Or, if just California increased their use of currently available clean diesel technology, cars, pickups and SUVs just to the levels seen in Europe today, just 33,000,000 gallons of gasoline by the year 2010.

So this vote is not about oil, it is about our values and how we balance the value we place on a critical environmental resource and its ecosystems, the value we place on protection in a low-yield area. Indeed, it is about prudent stewardship.

Mr. POMBO. Mr. Chairman, I reserve the balance of the time.

The Acting CHAIRMAN. The gentleman from Massachusetts has 2 minutes remaining.

Mr. MARKEY. Mr. Chairman, this is a huge amount of oil for the 105th Congress. Inside of the Republican bill that we are voting on is a continuation of the $35,000 tax break to purchase Hummer IIIs, a tax break to buy a Hummer II, $35,000. And then they turn with policies like that and they say, We need more gasoline in our country. If we really want to turn to an Arctic wildlife refuge as the first example of where they will go, rather than saying, Well, you know, if our country could put a man on the moon in 1969, if we could deploy the Internet around the world in the last 15 years, if we could craft a human genome, then maybe we could find a way to reinvent the automobile and the SUV so that it would average more than 23 miles per gallon, 1983 average; these are the average standards for automobiles.

It is wrong, it is immoral for this Congress not to have any fuel efficiency standards for automobiles or SUVs in their bill, to continue tax breaks, giving incentives for Americans to purchase the most inefficient vehicles, and to then turn to the wilder areas and say, We need the energy.

America is great because its people are great, and what makes us great is we are technological giants. We have done the moon in 6 days, we have done the Internet around the world, but with our brains, we can make vehicles that are twice as efficient as the ones that we use today, if
Mr. CROWLEY. Mr. Chairman, this debate comes down to Fact v. Fiction. Fiction—The other side argues that drilling in pristine areas will lower gas prices. Fact—The President's top counselor Dan Bartlett said this week that there is no magic well that will be produced. Fiction—Opening ANWR will relieve the U.S. from turning to foreign sources. Fact—This bill makes our country more dependent on fossil fuels from places like the Mid-East as scientists of all ideologies have stated the limited amount of oil will not result in a lessening of oil dependency for the U.S.

Fiction—Opening ANWR will weaken OPEC and strengthen the U.S. Fact—The Bush administration's own Department of Energy contradicts this point, when it determined last year that if world oil markets continue as they currently do, OPEC could “countermand any potential price impact of Arctic Refuge production by reducing its exports by an equal amount.”

Fact—Drilling in ANWR will not lower gas prices at the pump; will not protect our national sovereignty, and will not reduce our dependence on foreign oil.

Fact—Vote for Mark-Johnson.

Fiction—Vote for Mo Udall.

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Mark-Johnson Amendment to protect the Alaska National Wildlife Refuge.

The coastal plain of ANWR is the last major part of the North Slope that has not been developed. In my judgment, it would be far better to develop prudent and lasting alternate fuel energies than to risk irreparable damage to the wilderness of one of North America's most beautiful frontiers.

The reason the ANWR “solution” seems so simple is because it’s too good to be true. It won’t fix our energy problems—with so little oil available up there, it couldn’t possibly, as it will take a decade to get the oil down here. That time would be far better spent developing clean, renewable energy sources that will provide infinite energy without imperiling our last remaining wilderness areas. Even a modest increase in CAFE standards would save more oil than would be produced by drilling in ANWR.

We simply won’t have a world to live in if we continue our neglectful ways. What we really need to ask ourselves is how can we square legitimate environmental concerns with our expanding energy needs?

Mr. Chairman, drilling in the Arctic Refuge is the wrong answer to the right question. I urge my colleagues to vote yes on the Mark-Johnson Amendment.

The Acting CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKET).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. MARKET. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. MARKET) will be postponed.
Amendment No. 4 printed in House Report 109-49.

Amendment No. 4 offered by Mr. Boehlert

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. Boehlert.

In title VII, at the end of subtitle E, add the following:

SEC. 775. AVERAGE FUEL ECONOMY STANDARDS.

(a) PURPOSE.—The purpose of this section is to seek to save each year after 2014 10 percent of the oil that would otherwise be used for fuel by automobiles in the United States if average fuel economy standards remained at the same level as the standards that apply for model year 2007.

(b) IN GENERAL.—Section 32902 of title 49, United States Code, is amended by redesignating subsections (i) and (j) in order as subsections (j) and (i), and by inserting after subsection (h) the following:

"(1) STANDARDS FOR MODEL YEARS AFTER 2007.—The Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles manufactured by a manufacturer in model years after 2007, that shall—"

"(1) ensure that average fuel economy standards do not degrade the safety of automobiles manufactured by a manufacturer; and"

"(2) maximize the retention of jobs in the automobile manufacturing sector of the United States."

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (e)(1) in the first sentence by inserting "and subsection (i)" after "of this subsection"; and

(2) in subsection (k) (as redesignated by subsection (a)) by striking "or (g)" and inserting "(g), or (i)".

The Acting CHAIRMAN. The gentleman from New York (Mr. Boehlert) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. Boehlert).

Mr. BOEHLERT. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. Markey), and I ask unanimous consent that he be able to control that time.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Acting CHAIRMAN. The gentleman from Massachusetts will be allotted 5 minutes and will control the 5 minutes.

Does the gentleman from Michigan (Mr. Dingell) claim the time in opposition?

Mr. DINGELL. I am opposed to the amendment.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. Dingell) will be recognized 10 minutes.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to yield 5 minutes to the gentleman from Michigan (Mr. Upton) and that he be permitted to yield as he might see appropriate amongst his colleagues.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I yield myself 1 minute. Mr. Chairman, let me make several quick points. First, we cannot become less dependent on foreign oil unless we increase the fuel economy of our vehicles.

We are importing 14 million barrels of oil every day. Cars and light trucks consume 9 million barrels of oil every day, and consumption is going up not down. We are on a collision course with disaster.

Second, we have been losing ground on fuel economy. We use more gas to drive a mile today than we did 20 years ago. Third, this amendment would cut, would cut U.S. consumption by 2 million barrels a day by 2020, more of a savings than any other single source in the bill.

Fourth, the National Academy of Sciences said that full economy can be increased "without degradation of safety." A representative of the Alliance of Automobile Manufacturers confirmed at a recent hearing that I chaired that CAFE could be increased without compromising safety.

Finally, the biggest beneficiary of this amendment will be the consumers. They are sick and tired of paying sky-high gasoline prices for gasoline, $40 to $50 to fill up. They want relief. This amendment offers them hope that we are doing something about it.

Finally, support this commonsense science-based amendment that will help the Nation while leaving more money in consumer's pockets, their not ours.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute.

Mr. DINGELL asked and was given permission to revise and extend his remarks.

Mr. DINGELL. Mr. Chairman, I know the amendment is offered with the best of good will. It is nonetheless a bad amendment which is going to cost this country jobs. I urge my colleagues to oppose it.

The amendment appears to say that it would only require CAFE to be fixed at 33. In point of fact, it would be required, because of the language in the amendment go to 36 miles per gallon. If you like driving around in small cars, this will assure that that is what they want to do, not what they really want to do. We are going to tell them that they have to do something whether they want to or not.

We would list as Exhibit A the parking garage of the Cannon Office Building or the Rayburn Office Building or the Longworth Office Building. There are cars and trucks on the market today that meet the standards that would have to be met if this amendment were to become law. I doubt that the congressional fleet meets that standard, because we, like everybody else, want some convenience and want some power under the hood.

But if you want a car or truck that gets 35 or 36 miles a gallon or 40 miles a gallon or more, you can buy it today. How many of us do that? I have had one vehicle that my son actually bought it was a Nissan Sentra. He probably got 35 miles to the gallon on the highway. When he got through with it and bought himself a little bit bigger, more fancy vehicle, he let me drive it, and I brought it up here, used it as my car for a while. My staff was so embarrassed, it did not run air conditioner; it was a standard transmission. I could hardly get them to get in the car.
But I did have one vehicle in my life that would have met the standard that is in this bill. I represent an assembly plant in Arlington, Texas, a UAW plant. I doubt very many of those folks actually vote for me because I am a Republican and most of them are not, but they have bought a right to make the Chevrolet Tahoes and the Cadillac Escalades, because a lot of Americans want to drive that vehicle.

I am not going to go down and tell them, you cannot make that vehicle because it does not meet these fuel-efficiency standards. Let the market decide. If America wants more fuel-efficient vehicles, they are available in the marketplace today.

We do not need a government fiat telling them that that is the only vehicle that they can purchase. Vote against this amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Markey-Boehlert, et al amendment. People used to own slaves and we look back and say how could they? Future generations will say we destroyed the environment and how could we?

Let us conserve, let us see oil prices go down as we stop wasting what we have. SUVs, mini-vans, and trucks need to get better mileage; and we need to tell the automobile manufacturers to make this happen.

Mr. Chairman, I rise in strong support of the amendment to reduce our consumption of oil by increasing fuel economy standards for passenger cars and light trucks.

This amendment requires the Department of Transportation to raise fuel economy standards for automobiles from today's average of 25 miles per gallon to 33 miles per gallon by 2015.

Under this amendment, the Administrator of the National Highway Transportation Safety Administration would have maximum flexibility in how the standards are set, the standard could be increased for cars or SUVs or only the heaviest trucks.

Mr. Chairman, I agree with those who say, "We cannot conserve our way out of this energy problem." However, until we raise CAFE standards, we cannot honestly tell the American people this is a balanced energy plan.

It is absolutely imperative we are more efficient and make better use of our precious resources.

This is a common sense amendment, which represents a modest step forward in our nation's efforts to become more energy efficient. Our amendment will help protect the environment, reduce our dependence on foreign oil and save drivers money at the pump.

The United States cannot continue on a course of increased oil consumption with little to no regard for the implications it has on our environment, economy and national security. There is no better time to focus on reducing our reliance on foreign oil than right now. Increased fuel efficiency standards and tax incentives for conservation and renewable energy sources should be at the heart of our national energy policy in a post-September 11 world.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I rise today to oppose the Boehlert-Markey amendment to the energy bill. This unnecessary amendment would hurt our nation's economy and increase our dependence on foreign oil.

It threatens the jobs of workers in Flint, Bay City, Saginaw, and other communities in my congressional district and in my home State of Michigan.

It undermines the hard work of our auto companies and auto workers that is being made through the investment of billions of dollars in alternative fuels and advanced technology vehicles. The drastic increases called for in this amendment would have negative consequences for passenger safety and consumer choice.

The National Highway Traffic Safety Administration has increased CAFE standards, which is their obligation. Clearly, the current process, Mr. Chairman, is working. Opposing this amendment protects jobs, passenger safety, consumer choice, and advancing auto technology.

I urge my colleagues to oppose this amendment.

Mr. MARKEY. Mr. Chairman, I yield 1 1/2 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus.

Mr. MENENDEZ. Mr. Chairman, I rise in strong support of the Boehlert-Markey amendment. Despite the bill's claims to meet our Nation's energy needs and provide for our Nation's future, H.R. 6 ignores a pivotal approach that will reduce our foreign dependence on oil and alleviate our high oil consumption, increasing fuel economy standards.

Let us look at what we know. We know that fuel economy standards have helped to reduce our dependence on foreign oil. We know that raising the standard to 33 miles a gallon over the next 10 years, which this amendment would do, would save 10 percent of the gas we will consume, and we know that the potential in this country to make cars and light trucks much more efficiently.

Mr. Chairman, we need to unlock that potential. We have the technology; we have the innovation. Despite all of this, the bill before us makes no effort to increase those standards. We have a choice: Do we want an energy future that is stagnant and dependent on traditional sources, or do we want a future that will break new boundaries in innovation and technology, reduce our dependence on foreign oil, increase conservation and efficiency and ensure the security of our Nation?

Let us prove that we are serious about our Nation's energy future. Increasing fuel economy standards are an integral part of our National energy policy. And I urge my colleagues to vote for the Boehlert-Markey amendment.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from the great State of Michigan (Mr. ROGERS).

Mr. ROGERS. Of Michigan. Mr. Chairman, you know you cannot make a fat guy skinny by mandating smaller pant sizes. People have to want to buy the vehicle that you try to sell them. There is a reason that moms go through the pain and agony of buying an SUV and a mini-van, because they are safe, because they can get their whole family in there, because they are safe, because they can get all the groceries in there.

They buy them because they want them and they are safe. The automobile companies today do not get enough credit for all of the money they are investing in trying to make these things efficient. Believe me, if they could get 40 miles to the gallon in an SUV, they would be on these front steps having a press conference selling these things. Technology has not made what consumers want. Let them do that. You artificially interfere with where we are going, they are making huge strides. To do this costs Americans jobs. It costs Americans jobs.

Let them do what they are doing best, and innovate their way to those high-mileage SUVs and mini-vans so moms do not have to drive Mini Coo-

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I believe that this amendment actually saves American lives. Mr. Chairman, there is no better way to look at this issue than through the eyes of a young soldier stationed in the Middle East.

One of the reasons why we pay so much attention to the Persian Gulf is that the economy of the West is totally dependent on oil from this region. We need the Persian Gulf forces there to make sure that nothing happens to our supply of energy.

And nothing can change this situation right now. But this amendment can change this situation for the future. By adopting CAFE standards, we will make the Persian Gulf much less important. We will reduce the need to ever deploy young Americans into harm's way. Look into the eyes of a 10-year-old American and think of him or her, and vote for policies which will make them much less likely that any President would ever ask them to return to harm's way in the Persian Gulf.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan asked and was given permission to revise and extend her remarks.

Ms. KILPATRICK. Of Michigan. Mr. Chairman, I rise in strong opposition to this amendment. The National Traffic and Motor Vehicle Administration is the body who sets those standards. There are standards. They scientifically set those standards. And sometimes they raise
Mr. BURGESS. Mr. Chairman, I yield 30 seconds to the gentlewoman from California (Ms. ESHOO).

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I stand today in opposition for raising the CAFE standards. This is an irrelev-

ant piece of legislation that is not only unnecessary, it is an outdated so-

lution in search of a 21st century prob-

lem.

Changing technology and innovation have rendered this amendment unnec-

essary. The increasing use of hybrid ve-

hicles shows that a market-based ap-

proach to increasing fuel efficiency is a

better way to reduce American oil con-

sumption than key placing arbitrary stan-

dards on automobiles that harm our domestic manufacturers. And, in fact, the only thing we get with CAFE stan-
dards down in my district are car dealers with acres and acres of tiny cars that no one will buy.

With today’s high gas prices, hybrid vehicles will help reduce the amount of

money that our constituents pay at the gas pump.

Mr. Chairman, in the interest of full
disclosure, I drive a hybrid vehicle. I
did not buy it because of the tax break.
I did not buy it because of any legisla-
tion that we passed in this Congress. I
bought it largely because of air quality
concerns back in my district. But now I
look positively brilliant that gasoline
prices are so high. But the best thing
about a hybrid vehicle, Mr. Chairman,
is it allows you that feeling of moral
superiority as you drive your car.

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. PLATT.

Mr. PLATTS. Mr. Chairman, I rise in support of this bipartisan amendment. If we want a national energy policy that is truly about economic security for all Americans, not just those in the auto industry, that is about national security for all Americans, it needs to be comprehensive. It needs to be about hybrid vehicles, alternative fuels, re-
newable energy, and it needs to be about bet-
ter using our resources we have. But it
also needs to be about conservation.

This amendment is one of the great-
est steps we can take in the area of being forward in conservation. It is not
about whether you should be able to buy
an SUV. It is about whether you should be able to buy an SUV that gets 27.5 miles per gallon like a car does in-
stead of 20-7-It is about choice and effi-
cency.

This amendment is a good amend-
ment. I urge a “aye” vote. I commend the prime sponsors of the amendment for bringing it before the House.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from Penn-
sylvania (Mr. DOYL.

(Mr. DOYLE asked and was given
permission to revise and extend his re-
marks.)

Mr. DOYLE. Mr. Chairman, I would respectfu-
lly add my voice to those op-
posing this amendment.

While clearly we all want to reduce our imports of foreign oil, I have been convinced CAFE standards would actually accomplish this. As I understand it, our imports’ share of oil consumption was 35 percent in 1974. Since then, our new car fuel economy has roughly doubled, but our auto import share has risen nonetheless to about 50 percent. For this rea-
son, I am not convinced that the amend-
ment, if adopted, will achieve one of its primary goals.

Additionally, our national economy is struggling, to say the least. In my home State of Pennsylvania, which is not normally thought of as a State closely tied to the automotive indus-
try, a total of 220,800 jobs are depend-
ent on the industry; 39,700 of these peo-
ple are directly employed by it, and
when you add in other spin-off employ-
ment, we are talking about over 220,000 jobs in Pennsylvania alone.

Mr. Chairman, in these difficult eco-
nomic times, I simply do not think it is practical to put those jobs and this vital industry in jeopardy when it is not clear the benefits potentially derived would merit doing so.

With the gentleman from Michigan
(Mr. DINGELL) I urge defeat of the amend-
ment.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentleman from Cali-
ifornia (Mr. CARDOZA). Mr. CARDOZA, Mr. Chairman. I rise today in support of the amendment and in opposition to the underlying legisla-
tion.

We need to increase our fuel effi-
cency if the U.S. is ever going to get seri-
ous about our energy crisis. Last year, Mr. Chairman, I voted for this en-
ergy bill because I thought we needed a national plan, but that was when oil was selling at $30 a barrel.

This year, when oil is averaging $55 a barrel and gas prices are nearly $3 a
gallon in some places, it is bad public
policy to add to the national debt, bor-
rowing the money to give to companies who are making record profits. The American people deserve better.

I ask for an “aye” vote.

The Acting CHAIRMAN. The gen-
tleman from Michigan (Mr. UPTON) has 1 minute remaining.

Mr. UPTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have a trivia ques-
tion for you. What automaker has the most vehicles that get a highway fuel
economy of 30 miles per gallon or greater? I will give you a hint. They make 19 of the vehicles, and that is more than any other automaker.

Do you know who it is? General Mo-
tors.

What frustrates me about this debate is the misconception that CAFE stand-
ards are some Holy Grail that foreign
manufacturers can get to, but domestic ones cannot. We do not need to micro-
manage our auto manufacturers. They are doing just fine. CAFE standards are being met and they are being exceeded virtually every single day.

But the more important work is find-
ing new alternatives and developing them, for every dollar we force the auto compa-
nies to spend on the CAFE standards is a dollar they will not spend on hybrids, hydrogen fuel cell and other alter-
native fuel cell vehicles.

I am sick of hearing the same old de-
bate. I want to get us to the point where we talk about which one of the new alternatives we are most excited about.

I urge you to defeat this used amend-
ment and vote for a new car. Please de-
fet this amendment.

Mr. Chairman, I yield back the bal-
ance of my time.

Mr. BOEHLERT. Mr. Chairman, I re-
serve the balance of my time.

Mr. DINGELL. Mr. Chairman, I be-
lieve that I am entitled to close the de-
bate.

The Acting CHAIRMAN. The gen-
tleman from Michigan (Mr. DINGELL) is entitled to close and the gentleman has 1 minute remaining.

Mr. DINGELL. Mr. Chairman, I re-
serve the balance of my time.

The Acting CHAIRMAN. The gen-
tleman from Massachusetts (Mr. MAR-
KEY) has 2 minutes remaining.
Mr. MARKEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this is the key issue if we are going to get serious about the imports of oil into our country.

We put 70 percent of all oil that we consume into tanks. In 1975, we averaged 13 miles per gallon; we averaged 13 miles per gallon in 1935. But Congress, because of the energy crisis, passed a law mandating a doubling of the standards in 10 years, and the auto industry responded; and by 1986, the average was 27 miles per gallon, and we had OPEC on its back.

The price of oil fell to $12 a barrel. We, using our technological genius, had won.

Now, it is almost 20 years later and America is now averaging 23 miles per gallon. We have gone backwards 4 miles per gallon, and played into gallon. We have gone backwards 4 miles per gallon, and we had OPEC on its back. And the auto industry responded; and doubling of the standards in 10 years, energy crisis, passed a law mandating a doubling of the standards in 10 years, in 1935. But Congress, because of the energy crisis, passed a law mandating a doubling of the standards in 10 years, in 1935. But Congress, because of the energy crisis, passed a law mandating a doubling of the standards in 10 years.

We want more fuel efficiency, and we owe it to them and to ourselves to deliver it.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) has 1 minute remaining.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Michigan (Mr. STUPAK) to close the debate.

Mr. STUPAK. Mr. Chairman, I rise in opposition to the amendment. Encouraging and supporting the development of innovative new technology is preferable to arbitrary increases in CAFE standards that will truly hurt thousands of American workers. Moreover, the National Academy of Sciences report on oil. This amendment will only the subcompact car segment of our fleet could be expected to achieve this fuel economy level.

This suggests that a substantial portion of the vehicles on the road would have to be very small to reach this objective. Reducing our consumption of oil should come from new technology, not by mandating a standard that requires most vehicles to be a subcompact.

The National Academy of Sciences also raises concerns about potential increases in highway fatalities if the auto industry is forced into selling a greater share of small vehicles. According to the analysis of the Insurance Institute for Highway Safety Data in 1999, since CAFE standards were first announced in 1975, approximately 46,000 people died in crashes who would have survived if CAFE had not encouraged smaller, lighter cars.

I am concerned that this amendment would lead to more unnecessary fatalities. For these reasons, I urge a "no" vote on this amendment.

The Acting CHAIRMAN. The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. BOEHRLERT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to rule XIX, further proceedings on the amendment offered by the gentleman from New York (Mr. BOEHRLERT) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109–49.

Amendment No. 5 offered by Mrs. JOHNSON of Connecticut.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mrs. JOHNSON of Connecticut:

In title VII, subtitle E, add at the end the following new section:

SEC. 775. UPDATE TESTING PROCEDURES.


The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Connecticut (Mr. STUPAK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I ask unanimous consent to yield to the gentleman from New Jersey (Mr. HOLT) 2½ minutes for purposes of control.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support of the Johnson-Holt amendment. It is a simple amendment. It is simply truth in advertising, EPA truth in advertising.

For the past 3 decades, American motorists have been buying cars, relying on miles-per-gallon stickers that grossly overestimate the miles per gallon a car can get. For some vehicles, the advertised miles per gallon is off by as much as 30 percent. With gas at $2 a gallon and some cars costing more than my husband and I paid for our first home, such false information is simply intolerable, and it is intolerable that our tax dollars are paying for the EPA to develop false and misleading information.

The auto makers are not at fault; neither are the oil companies. It is our own government. That is the culprit, and we cannot tolerate EPA providing wildly inaccurate miles-per-gallon information in the future.
The way to change this is simple. We simply have to modernize the testing procedures that EPA uses. The EPA uses 30-year-old testing standards. The EPA assumes that highway drivers never exceed 50 miles an hour; but of course, they do, and then faster. They drive in stop-and-go traffic and jam and resistance then, they get and the lower fuel economy they achieve.

The EPA also assumes that the rate at which drivers brake and accelerate has not changed over 30 years. Even though the cars have changed dramatically and so have the driving habits. They do not notice that driving in cities is entirely different with its stop-and-go traffic and traffic jams than it used to be 30 years ago.

So our amendment is really simple, straightforward, and common sense. It mandates that EPA update the tests used in determining estimated fuel-economy ratings to reflect real-world driving habits of American motorists. This is an important little amendment. It is a pocketbook issue. New cars are expensive. Gasoline is expensive. People can buy whatever car they want, that is their right; but they should have accurate information on which to base their choice, and their tax dollars should not be spent for false and misleading information.

So I urge the support of my amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). The gentlewoman from Connecticut (Mrs. JOHNSON) 2½ minutes has expired.

Mr. BARTON of Texas. Mr. Chairman, I rise in mild opposition to the Johnson amendment.

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I said mild opposition because it is exactly what it is. I chair the committee of jurisdiction that would have this amendment, and we have been working with the Congresswoman from Connecticut to try to perfect her amendment. She has been very gracious to come up to me on the floor, and then her staff and committee staff have been working, and we really thought that earlier in the week or late last week we had an amendment that everybody could agree to. For various reasons, that was not agreed to, so we have the situation today.

At the close of this debate, the gentleman from Michigan (Mr. ROGERS), a member of the committee of jurisdiction, is going to offer a perfecting amendment to the Johnson amendment and I am going to support that at the appropriate time.

We support the goal of the Johnson amendment. She is trying to get consumers fair and accurate information when they go into a showroom or are thinking about purchasing a new vehicle. She states, and I agree, that the consumer has a right to know what the fuel economy is of that particular vehicle; and under current law, the way the tests are conducted, there is some discrepancy, as she has pointed out in her statement in support of her amendment.

Having said that, there are those that have reviewed her amendment and think that it could be a backdoor approach to CAFE standard increases. We just had the debate on the Boehlert-Markey amendment. I voted in the negative on that, and I think when that rollecall is called, the majority of the House is going to be in the negative. So I know that is not the intent of the gentlewoman’s amendment, but there are some that think it could be.

We are going to oppose this amendment and support the gentleman from Michigan’s (Mr. ROGERS) amendment in the nature of a substitute or amendment to the Johnson amendment. I think at the end of the day, the House is going to work its will, and the gentlewoman from Connecticut (Mrs. JOHNSON) is going to be happy and the gentleman from Michigan (Mr. ROGERS) is going to be happy and the consumers of America are going to be happy when they go into showrooms a year or two from now and see these new window labels that show what the fuel economy is.

Mr. Chairman, I reserve the balance of my time.

Mr. HOLT. Mr. Chairman, I yield 45 seconds to the gentlewoman from California (Mrs. DAVIS).

Mrs. WOOLSEY. Mr. Chairman, I wonder how many Americans have bought a car and wondered why their gas mileage was not what had been advertised. Well, it is because the fuel economy advertised by automobile manufacturers are based on 30-year-old fuel economy tests, tests that have not been adjusted for today’s realities, and that leads Americans to be regularly misled by inaccurate labels.

The automobile industry has changed significantly over the last 3 decades, but the EPA standards are stuck in the past, overestimating fuel economy data.

I support this amendment. It will require the EPA to update its testing standards so that consumers will have accurate fuel economy information in the future.

P AR LIAMEN T A R Y I NQUIRY

Mr. BARTON of Texas. Mr. Chairman, parliamentary inquiry, since the Rogers amendment, which is next in line, amends, or perfects, the Johnson amendment, does the gentleman from Michigan (Mr. ROGERS) have to seek recognition to offer his amendment before the close of debate on the gentlewoman from Connecticut’s (Mrs. JOHNSON) amendment, or does he wait until her debate concludes and then offers his amendment?

The Acting CHAIRMAN. The gentleman may offer his amendment to the amendment at any time during debate on the Johnson amendment.

Mr. BARTON of Texas. At any time.

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) is recognized.

Mr. BARTON of Texas. Mr. Chairman, I reserve my time.

Mr. HOLT. Mr. Chairman, I yield 45 seconds to the other gentlewoman from California (Mrs. DAVIS). (Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Chairman, I support this bill so that we can, and the public can, rely on the energy-conscious information that they are getting and that they know that is correct and accurate, and they can move forward with that.

Mr. Chairman, Members, are your constituencies asking you about doing high gas prices? We must answer that question in this bill.

Individuals can do something about their gasoline consumption when they select a car to buy. We need to help them. I believe we can expect that, when they look at the window sticker, the miles per gallon figures that the EPA supplies are what they will get when they purchase the car. They are not.

When one of my staff members complained to the car dealer that the gas mileage figures were way off for City Driving for the car she had selected for its fuel efficiency, the dealer said, “Oh, that doesn’t apply to driving in DC.” I support this amendment because it would require the EPA to correct the long-standing inaccuracies in its testing procedures.

Our constituents must be able to rely on these facts to be the energy-conscious consumers they want to be.

Amendment No. 6 offered by Mr. ROGERS of Michigan to amendment No. 5 offered by Mrs. Johnson of Connecticut.

Mr. ROGERS of Michigan. Mr. Chairman, I offer an amendment to the amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment No. 6 offered by Mr. ROGERS of Michigan to amendment No. 5 offered by Mrs. Johnson of Connecticut:

In the matter proposed to be inserted by the amendment, strike “test procedures” and all that follows through “Later Model Year Test Procedures” and insert “the adjustment factors in sections”.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Michigan (Mr. ROGERS) and the gentlewoman from Connecticut (Mrs. JOHNSON) each will have 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan asked and was given permission to revise and extend her remarks.
Ms. KILPATRICK of Michigan. Mr. Chairman, I thank the gentleman for yielding me time.

We rise to make this a better amendment. If we want EPA to do the testing, to make sure that things are right and fair, then we have to make sure that there is one test to do that. What we do not want to do is put additional funds, additional costs, additional measures on the auto industry that is already very fragile.

So in opposition to the Johnson amendment and ask that our amendment be considered because the testing is there. We do not need to have two tests, as is required by the Johnson amendment. It doubles the cost for product, and it allows the competition to be more advanced in our competition war than we are now considering.

The auto industry in America is fragile. We all know that they have invested millions of dollars in their products to make them better, make them fuel efficient, do alternate energy sources.

We believe that our amendment is a perfecting one; and, yes, it requires that the EPA do the proper tests, not two times but the one time that is required and that the labeling be accurate.

We hope that our colleagues will support this Rogers/Kilpatrick amendment. It is a much better amendment, and it allows the competition to be more advanced in the competition war than we are now considering.

Consumers deserve to know that the sticker in their window actually reflects the mileage they will get the vehicle.

The EPA should revisit their fuel economy standards and the Rogers/Kilpatrick amendment would require the EPA to change the adjustment factors that it currently uses to make the fuel economy label accurate.

The proposed Rogers amendment requires the EPA to change the “testing procedures” that auto companies use to determine the fuel economy numbers that go on the dealer label. Her amendment would require two test auto companies to do one test for labeling and a separate test for CAFE.

JOHNSON’s language doubles the cost to the companies.

The Rogers/Kilpatrick amendment deals with the need for improved dealer label accuracy while only requiring one test.

Instead of requiring EPA to change the “testing procedures” the Rogers/Kilpatrick amendment requires the EPA to change the “adjustment factors” that EPA currently uses to make the fuel economy label accurate.

This simple change prevents the auto companies from having to run two separate tests.

Rather the auto companies can run one test that could be used and adjusted with appropriate factors to provide a more accurate fuel economy label.

The Rogers/Kilpatrick perfecting amendment to the Johnson amendment achieves precisely the same goal that the Johnson amendment strives to achieve: accurate fuel economy labels on new cars.

The difference is that the Rogers/Kilpatrick amendment achieves this goal by having EPA revise the current test, instead of compelling EPA to conduct two separate tests.

The Rogers/Kilpatrick perfecting amendment makes clear that the objective is to change the fuel economy label values—NOT the test procedures. This will ensure that this measure will improve consumer information regarding mileage without imposing an increase in the stringency of CAFE or creating a second fuel economy test for labeling.

The Johnson amendment COULD threaten to increase the stringency of CAFE.

The Johnson amendment would require EPA to change fuel economy testing for labeling purposes.

If the intent of this change is to create a new test for fuel economy labeling then the burden on automakers to test vehicles for both CAFE and fuel economy labeling would increase substantially.

If, however, the intention is to retain only one vehicle fuel economy test, then the test protocol currently used for determining CAFE values will also be affected—lowering the fleet fuel economy averages of manufacturers and making compliance with the CAFE standards more stringent.

Depending upon the test procedure changes implemented, the stringency of the CAFE standards could increase by 10-20% (or up to a 6 mpg increase in the stringency of the CAFE requirements).

The Acting CHAIRMAN. The current test is utilized currently for fuel economy labeling.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I believe the balance of my time (Mr. HOLT) comments on our amendment.

The Acting CHAIRMAN. We are currently on the Rogers amendment.

Mr. HOLT. That is fine, if the gentleman would yield.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT) on our amendment.

Mr. HOLT. Mr. Chairman, it is my understanding that I also have 1 minute remaining on the underlying amendment.

The Acting CHAIRMAN. The gentleman from New Jersey (Mr. HOLT) has 1/2 minutes remaining.

Mr. HOLT. Mr. Chairman, I thank the gentlewoman for the time.

When you go to the showroom to pick out a new car, the sticker in the window has a number for city mileage, highway mileage. You would like to think that that bore some relationship to reality. Now, on the television ads, you see, they say your actual mileage may vary, when, in fact, your actual mileage probably bears no relationship whatsoever to those numbers in the window because EPA has specified that the auto manufacturers use an archaic testing method.

The amendment that the gentlewoman from Connecticut and I have offered would correct that testing method. That is the way to take care of this problem. It is not the right thing to do to use one multiplier factor, a scale factor, to grade on a curve or to use a fudge factor. That is what the gentleman from Michigan (Mr. ROGERS) is proposing to do, rather than getting at the heart of the problem, which is that the tests are not done in a realistic way.

The tests do not reflect the way people actually drive. The tests suggest the highway speeds. By 2001, a congestion took about 26 hours per year out of a person’s driving time. That is not realistically reflected in the testing method.

The testing method assumes gentle acceleration and braking. That is not the way city driving is done.

The tests suggest or require that there be no air conditioning, and it overestimates trips.

In other words, the tests are wrong. The tests should be modified to reflect the way people actually drive. Using a fudge factor, a multiplier will hide the actual differences between cars, and it will obscure what this is about, which is giving consumers accurate information.

It is certainly the case that for a government-mandated test we should get it right. That is all we are suggesting, and this amendment that the gentleman from Michigan (Mr. ROGERS) has may technically, under parliamentary terms, be called a perfecting amendment. In fact, it completely changes the nature of what we are trying to do, which is to give consumers accurate information.

The Acting CHAIRMAN. The Chair would clarify for the Members, on the underlying amendment, the gentlewoman from Connecticut (Mrs. JOHNSON) has 2 1/2 minutes remaining. The gentleman from Michigan (Mr. ROGERS) has 3/4 minutes remaining.

Upon the amendment by the gentlewoman from Connecticut, the gentleman from Texas (Mr. BARTON) has 2 1/2 minutes remaining. The gentleman from New Jersey (Mr. HOLT) has 1 1/2 minutes remaining. The gentlewoman from Connecticut’s (Mrs. JOHNSON) time has expired.

Mr. BARTON of Texas. Mr. Chairman, could I ask a parliamentary inquiry. Before we go to the gentleman from Michigan, when it comes time to vote, are we going to vote on the Rogers amendment to the Johnson amendment, and then if it is amended, we will vote on the Johnson amendment; is that correct? There will be two votes, Rogers to amend Johnson and then Johnson, either amended or unamended, depending on how the Rogers amendment fares?

The Acting CHAIRMAN. If a recorded vote is requested on the Rogers second degree amendment, the Chair would postpone the request and would not put the question on the amendment until after disposition of the vote on the amendment of the gentleman from Michigan.
Mr. BARTON of Texas. But we are going to have two votes?

The Acting CHAIRMAN. All time for debate will be consumed now.

Mr. BARTON of Texas. Thank you, Mr. Chairman.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. MIKE ROGERS) is recognized.

Mr. ROGERS of Michigan. Mr. Chairman, parliamentary inquiry, how do we get to the chairman's 2½ minutes remaining for the amendments?

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) may use his 2½ minutes now if he wishes.

1900

Mr. BARTON of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. UPTON), the distinguished chairman of the Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce.

Mr. UPTON. Mr. Chairman, I thank my distinguished chairman for yielding me this time, and I rise in strong support of the Rogers amendment to the Johnson underlying amendment.

Currently, there is one test conducted on vehicles to determine the fuel economy rating. The Johnson amendment would require EPA to change that fuel economy testing for label purposes. What this will result in is having automakers being forced to do two or three or four, or maybe even more, separate tests. That costs money, more money, and is unnecessary and more burdensome.

Additionally, as written, the Johnson amendment could also affect how CAFE is calculated. The Johnson amendment could lower the fleet fuel economy averages of manufacturers that make compliance with the CAFE standards much more difficult. Instead of running the substantial risk under the Johnson amendment, the Rogers/Kilpatrick bipartisan perfecting amendment makes a technical change to clarify that automakers do not have to run multiple duplicative tests to update fuel economy labeling and ensures that the CAFE program is not manipulated.

Let us take this into a normal example. This morning, many of us, we live in different States, but we come and commute here to Washington. I live in Virginia; it is 7 miles from the Capitol to my house. It took me more than 30 minutes to get in today. If I had to drive 7 miles in my town of St. Joseph, Michigan, it would take me almost 12 minutes. We know that when we buy a car.

I had a staff member that bought a great new Ford hybrid vehicle the other day. He gets accelerated CAFE, or he gets much better gas mileage with that car when he is in the big city driving. When he goes to Chicago, to see the Chicago White Sox, however, he gets a lot better mileage because he is stopping and starting all the time. In Kalamazoo, which is a city of 100,000, where he lives, he does not get quite the same mileage because it is a different scenario.

You cannot have 20 or 30, who knows how many tests. Maybe it is like boutique fuels. You have all these different driving areas, personal driving habits, and you cannot expect that the EPA is going to put a laundry list of these different tests on the window. We know that when we buy our vehicles.

We know about what it is going to be based on, our history of purchasing cars. And any applicable test with these multiple numbers will only be more confusing rather than less confusing to the consumer.

That is why I strongly urge my colleagues on both sides of the aisle, as we have with this bipartisan amendment, to support the Rogers amendment to the Johnson amendment so we can make more sense for every consumer as they purchase a new American car.

Mr. ROGERS of Michigan. Mr. Chairman, I yield all my time.

Mr. Chairman, I want to thank the gentlewoman from Connecticut (Mrs. JOHNSON) has done a great job of focusing on one of the problems. We all want accurate numbers on those stickers and times have changed.

The gentleman from Michigan and the gentlewoman from Michigan, I think, have outlined exceptionally well why this perfecting amendment makes the intent of what our colleague wants to do exactly that. It clarifies it to the point that we do not get into CAFE, we get accurate numbers, and we do not foment a whole set of new costs onto automakers who are today struggling to keep people employed.

We want accurate numbers as well. But I will tell you, families across this country are suffering in the automobile industry. They are suffering. They have layoffs, and currently, there is a lack of hope in some areas and anxiety you cannot believe in others. So let us err on the side of those families.

Let us stand up today and say, yes, we should have accurate numbers on these stickers. The very true intent of what the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from New Jersey (Mr. HOLT) are trying to do and trying to accomplish.

Let us do that, but we can do that without new costs, without new burdens, without the courts running close to this argument that they are going to get into the CAFE debate, and accomplish exactly what they want.

I think my colleagues can be proud of this amendment, as amended, back in their districts and tell people that they fought valiantly to get the 2005 standards on stickers for cars they are going to buy today. It is the right thing to do.

So I would urge my colleague to look deep down and say, do I want to take the chance that I will put out one more American family out of work? Because I think you will. I passionately believe you will, the way your amendment is constructed. It will foment new, unnecessary costs on automakers.

Let us do it the way we know can accomplish what you want and have families at the end of the day saying, I am going to show up in the finest cars in the world right here, in the great State of Michigan, or any other of the 49 great States of this great country.

Mr. Chairman, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to this amendment.

Now, let me get to the heart of this matter, because if I thought this was going to cost people jobs, I certainly would not bring it up. This question specifically was litigated in 1985 in the D.C. Circuit Court, Center for Auto Safety v. Thomas, and the court clearly determined that the CAFE calculation cannot be changed unless Congress changes U.S. Code, section 32904(c).

My amendment does not change that section. My amendment only changes section 32906, which has to do with the data that underlies those changes.

Now, the EPA has changed its testing procedures at least twice since 1975. It did not add a lot of cost. It was not a big problem. It is an EPA center that does this testing. And every time they changed the testing procedures for the sticker purpose, they did not change the CAFE standard purpose, because to do that, you have to change section 32904, and my amendment does not change section 32904.

So I am sorry we have not been able to communicate well enough about this, because I certainly do not want to cost manufacturing jobs. I am a big advocate of manufacturing. But I do want to make sure that we know the causes. And the adjustment in information that the Rogers amendment to my amendment brings is an amendment that will bring down the miles per gallon for those that are high achievers and bring it up for those that are actually low achievers. So it actually makes the problem worse rather than better.

So I urge the body to oppose the Rogers amendment and support the Johnson amendment, because the Rogers amendment has the effect of gutting my amendment, whereas my amendment does not address the CAFE standards section of the law, which is section 32904(c) and only addresses the vehicle sticker section of the law, 32906.

Mr. Chairman, I reserve the balance of my time.

Mr. HOLT. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, on the second order amendment, how much time does the gentleman from Connecticut have remaining?

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from New Jersey
CONGRESSIONAL RECORD — HOUSE
H2347
April 20, 2005

(Mr. HOLT) has 1½ minutes remaining on the original bill and the gentle-
woman from Connecticut (Mrs. JOHN-
son) has ½ minute remaining on the perfecting amendment.

Mrs. JOHNSON of Connecticut. Mr. Chair-
man, I yield the balance of my time to the gentleman from New Jer-
y (Mr. HOLT).

The Acting CHAIRMAN. The gen-
tleman may use his ½ minute also.

Mr. HOLT. Mr. Chairman, I yield my-
self 2 minutes, and I thank my col-
league for yielding her time to me.

Mr. Chairman, to begin to address the second order amendment, which, as I say, may be technically and in par-
lamentary terms called a perfecting amendment, but in fact it would gut the amendment, it does not get at the heart of the problem, which is that the tests are wrong. The tests are unreal-
istic. The tests give results that bear no relationship to reality.

Why should taxpayers pay for a test, a government-mandated test, or auto purchasers pay for a test that gives in-
accurate information? We need to fix the EPA test. It can be fixed without giving the folks in the State of Michi-
gan or other automobile manufactur-
ers their heartburn. It does not change the fleet average calculation. It only addresses the issue of consumer infor-
мation, so that the purchaser will have accurate information.

If you use this scale factor, or fudge factor as I call it over the under-
lying problem. It will distort the fuel efficiency difference between different types of types. In fact, my colleague earlier talked about how some hybrid vehicles behave differently under differ-
ent situations.

The tests themselves need to be changed, not an after-the-fact fudge factor, so that when you go into the show-
room to purchase a car and you see the number in the window for city mile-
age and highway mileage, you will have a reasonable expectation that that car, when used on actual Amer-
ican streets and actual American highways, will give mileage comparable to what is posted there.

The ad says your actual mileage may vary. The way it is today, with the tests that we have, your actual mileage and highway mileage, you will have a reasonable expectation that that car, when used on actual American

Mr. BISHOP of New York. Mr. Chair-
man, I offer an amendment.

The Acting CHAIRMAN. Pursuant to
clause 6 of rule XVIII, further pro-
ceedings on the amendment offered by the gentleman from Michigan (Mr. MIKR ROGERS) to the amend-
ment offered by the gentleman from Con-
necticut (Mrs. JOHNSON).

The question is on the amendment offered by the gentleman from Michigan (Mr. MIKR ROGERS) to the amend-
ment offered by the gentleman from Con-
necticut (Mrs. JOHNSON). The Acting
Chairman announced that the ayes appeared to have it.

Mr. HOLT. Mr. Chairman, I yield a
recorded vote.

The Acting CHAIRMAN. Pursuant to
clause 6 of rule XVIII, further pro-
ceedings on the amendment offered by the gentleman from Michigan (Mr. MIKR ROGERS) will be postponed. It is now in order to consider amend-
ment No. 7. printed in House Report 109-49.

AMENDMENT NO. 7 OFFERED BY MR. BISHOP OF NEW YORK

Mr. BISHOP of New York. Mr. Chair-
man, I offer an amendment.

The Acting CHAIRMAN. The Clerk
will designate the amendment.

The text of the amendment is as fol-
ows: Amendment No. 7 offered by Mr. Bishop of New York:

In section 109(2), at the end of the quoted
material insert the following new para-
graph: "(v) All housing constructed under the
military housing privatization initiative of
the Department of Defense shall, to the max-
imum extent practicable—"

"(A) meet Federal building energy effi-
cy standards under this section; and

"(B) ensure, in general, that

(i) not more than 25 percent of available
models in a product class receive the Energy Star designation;

(ii) Energy Star designated products and buildings in at least 10 percent more effi-
cient than—"

"(1) appliance standards in effect on the
date of enactment of this section; and

"(2) the most recent model energy code;"

In section 131(a), add at the end the fol-
lowing new paragraphs:

"(45)(A) The term ‘commercial prerefined
spray valve’ means a handheld device
designed and marketed for use with commercial
dishwashing and ware washing equip-
ment that sprays water on dishes, flatware,
and other food service items for the purpose
of removing food residue before cleaning
the items."

"(ii) The term ‘commercial prerefined spray
valve’ may include (as determined by the
secretary by rule) products—"

"(i) that are extensively used in conjunc-
tion with commercial dishwashing and ware
washing equipment;"

"(ii) the application of standards to which
would result in significant energy savings;
and"

"(iii) the application of standards to that
would meet the criteria specified in sub-
section (o)(4)."

(46) The term ‘dehumidifier’ means a
self-contained, electrically operated, and me-
chanically encased assembly consisting of—"

"(A) a refrigerated surface (evaporator)
that condenses moisture from the atmos-
phere; and"

"(B) a refrigerating system, including an
electric motor;"
"(C) an air-circulating fan; and

"(D) means for collecting or disposing of the condensate."

In section 133(c)(1), insert after the proposed paragraph (18) the following new paragraphs:

"(19) Test procedures for dehumidifiers shall be based on the American Society for Testing and Materials Standard F2234, entitled "Standard Test Method for Dehumidifiers'.

In section 133(c), at the end of the quoted material insert the following new subsection:

"(ee) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

<table>
<thead>
<tr>
<th>Product Capacity (pints/day)</th>
<th>Minimum Energy Factor (Liters/KW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>..................................</td>
<td>1.10</td>
</tr>
<tr>
<td>&gt; 25</td>
<td>1.40</td>
</tr>
<tr>
<td>&gt; 35</td>
<td>1.50</td>
</tr>
<tr>
<td>&gt; 45</td>
<td>1.60</td>
</tr>
</tbody>
</table>

(2) On October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the standards established under paragraph (1) should be amended.

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

"(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after January 1, 2006, shall have a flow rate less than or equal to 1.6 gallons per minute.

"(gg) STANDARDS.—In section 135, at the end of subsection (a), insert the following new paragraph:

"(A) January 1, 2007, or

"(B) the date that is 60 days after the final rule is prescribed.

In section 135, in the proposed subsection (h), insert ",, upon adoption of a standard under this Act after "fan light kits".

In title I, subtitle C, add at the end the following new section:

SEC. 137. COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively; and

(B) by inserting after subparagraph (E) the following:

"(C) The term "final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and

(ii) the new standard shall apply to any product manufactured after the date that is 5 years after the date on which the final rule is promulgated.

In section 135, in the proposed subsection (h), insert at the end the following new paragraph:

"(1) Dehumidifiers covered under section 135(e), the Commission shall not require an Energy Guide label.

"(2) A later than July 1, 2006, the Commission shall require by rule, pursuant to this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

"(3) The requirements shall be based on the test procedure and labeling requirements contained in the Energy Star Program Requirements for Residential Ceiling Fans, version 2.0, issued by the Environmental Protection Agency, except that third party testing and other non-labeling requirements shall not be promulgated unless the Commission determines that the requirements are necessary to achieve the standards.

"(b) Standards.—In section 135, subsection (a), paragraph (11), in the item that begins "large commercial package air conditioning and heating equipment", after the semicolon, insert ", except for gas unit heaters and gas duct furnaces".

(b) STANDARDS.—In section 135, subsection (a), paragraph (11), in the item that begins "large commercial package air conditioning and heating equipment", after the semicolon, insert "gas unit heaters and gas duct furnaces, not less than 80 percent; and

(c) Compliance.—In section 325(e), the Commission shall determine whether the standards established under this section take effect, the Secretary shall promulgate a final rule to determine whether that standard shall be amended.

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

"(i) the final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and

"(ii) the new standard shall apply to any product manufactured after the date that is 5 years after the date on which the final rule is promulgated.

In section 135, in the proposed subsection (h), insert at the end the following new paragraph:

"(1) The rule shall apply to products manufactured after the date of

(A) January 1, 2007, or

(B) the date that is 60 days after the final rule is prescribed.

In section 135, in the proposed subsection (h), insert ",, upon adoption of a standard under this Act after "fan light kits".

In title I, subtitle C, add at the end the following new section:

SEC. 137. COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended by—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively; and

(B) by inserting after subparagraph (E) the following:

"(C) The term "commercial package air conditioning and heating equipment" means air-cooled, water-cooled, evaporatively-cooled (including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

"(B) The term 'small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

"(C) The term 'large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(D) The term 'very large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated at or above 240,000 Btu per hour and below 670,000 Btu per hour (cooling capacity).

"(ee) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

<table>
<thead>
<tr>
<th>Product Capacity (pints/day)</th>
<th>Minimum Energy Factor (Liters/KW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>..................................</td>
<td>1.10</td>
</tr>
<tr>
<td>&gt; 25</td>
<td>1.40</td>
</tr>
<tr>
<td>&gt; 35</td>
<td>1.50</td>
</tr>
<tr>
<td>&gt; 45</td>
<td>1.60</td>
</tr>
</tbody>
</table>

(2) On October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the standards established under paragraph (1) should be amended.

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

"(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after January 1, 2006, shall have a flow rate less than or equal to 1.6 gallons per minute.

"(ff) COMMERCIAL PRERINSE SPRAY VALVES.—In section 137, subsection (a), paragraph (18), in the item that begins "commercial package air conditioning and heating equipment", after the semicolon, insert the following:

"large commercial package air conditioning and heating equipment, except as provided in paragraphs (2) and (3), a furnace (including a furnace designed solely for installation in a mobile home) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of—

"(A) for natural gas- and propane-fired equipment, not less than 80 percent; and

"(B) for oil-fired equipment not less than 83 percent.

(2)(A) Dehumidifiers manufactured on or after January 1, 2006, shall have a flow rate less than or equal to 1.6 gallons per minute.

"(1) Notwithstanding subsection (f) and except as provided in paragraph (2) and (3), a furnace (including a furnace designed solely for installation in a mobile home) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of—

"(A) for natural gas- and propane-fired equipment, not less than 80 percent; and

"(B) for oil-fired equipment not less than 83 percent.

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

"(i) a boiler (other than a gas steam boiler) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of not less than 84 percent; and

"(ii) a dehumidifier manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of not less than 82 percent.

"(B) Notwithstanding subsection (f), if, after the date of enactment of this sub-
above 65,000 btu per hour (cooling capacity) and less than 135,000 btu per hour (cooling capacity) shall be—

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

(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(b) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 btu per hour (cooling capacity) and less than 135,000 btu per hour (cooling capacity) shall be—

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

(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 btu per hour (cooling capacity) and less than 760,000 btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 45 degrees F db).

(10) Notwithstanding paragraph (4) and except as provided in paragraph (11), the minimum thermal efficiency at the maximum rated capacity of a gas-fired warm-air furnace with the capacity of 225,000 Btu per hour or more manufactured 4 or more years after the date of enactment of this paragraph shall be 79 percent.

(11) Notwithstanding paragraph (4) and except as provided in paragraph (14), the minimum combustion efficiency at the maximum rated capacity of a commercial packaged boiler with the capacity of 300,000 Btu per hour or more manufactured 4 or more years after the date of enactment of this paragraph shall be 84 percent.

(12) Notwithstanding paragraph (5) (excluding paragraph (5)(g)), and except as provided in paragraph (14), the maximum standby loss (expressed as a percent per hour) of a gas-fired storage water heater shall be 1.30 (expressed as a measurement of storage volume in gallons); and

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

(13) Except as provided in paragraph (14), each gas unit heater and gas duct furnace manufactured 3 or more years after the date of enactment of this paragraph shall be equipped with—

(A) an intermittent ignition device; and

(B) (i) power venting; or

(ii) an automatic flue damper.

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

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

(i) the final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and

(ii) the new standard shall apply to any product manufactured 4 or more years after the date on which the final rule is promulgated.

(c) Testing Procedures.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended in subsections (a) and (c) by striking the first and second sentences, by inserting “very large commercial package air conditioning and heating equipment,” after “large commercial package air conditioning and heating equipment,” each place it appears.

(d) Labeling.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by adding a section designated as section 344(1)(D) to the same extent and in the same manner as section 327 applies under paragraph (4)(F) and on the date of enactment of this subsection.

(1) The Secretary shall publish a final rule providing for a uniform, non-duplicative, and non-evaluative process for determining if a new appliance, or a series of appliances (or different versions of an appliance) is energy effective after, the standards established under section 215(a)(9) take effect on January 1, 2010.

In section 304, insert at the end the following new section:

SEC. 305. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, to address the crude oil price problem in the short-term, the President should communicate immediately to the Organization of Petroleum Exporting Countries (OPEC) cartel and non-OPEC countries that participate in the cartel of crude oil producing countries that the United States will do all in its power to maintain strong relations with crude oil producers around the world while promoting international efforts to remove barriers to energy trade and investment and increased access for United States energy firms around the world;

(2) the United States believes that restricting supply in a market that is in demand for additional crude oil does serious damage to the efforts that OPEC members have made to demonstrate that they represent a reliable source of crude oil supply;

(3) the United States believes that stable crude oil prices and supplies are essential for strong economic growth throughout the world;

(4) the United States seeks an immediate increase in the OPEC crude oil production quotas; and

(5) the United States will temporarily suspend further purchases of crude oil for the Strategic Petroleum Reserve, thereby freeing up additional supply for the market.

Amend section 355 to read as follows (and amend the table of contents accordingly):

SEC. 355. GREAT LAKES OIL AND GAS DRILLING BAN.

No Federal or State permit or lease shall be issued for new oil and gas drilling, directional, or offshore drilling in or under one or more of the Great Lakes.

Title XII is amended by striking sections 1201 through 1226 and sections 1277 through 1298, by striking the title heading, by inserting the following title before title XIII, by redesignating section 1226 relating to native load forecasting and market power, as redesignated by the following or inserting such redesignated section 1223 after section 1232 of the following, and by making the necessary conforming changes in the title of contents:

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the “Electric Reliability Act of 2005.”

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) In General.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

(10) ELECTRIC RELIABILITY.

(3) If the California Energy Commission adopts, not later than March 31, 2005, a regulation concerning the energy efficiency or energy effective after, the standards established under section 343(a)(9) take effect on January 1, 2010."

In section 304, insert at the end the following new section:
The term ‘bulk-power system’ means—

(1) the bulk-power system components, systems, and facilities used in the delivery of electric energy, including the interconnected delivery grid, the bulk-power system facilities, and the electric energy transmission networks operated by entities that are members of the Electric Reliability Organization; and

(2) the term ‘Electric Reliability Organization’ means an organization, such as the Electric Reliability Organization, that is governed by—

(1) an independent board consisting of such a number of persons as the Commission determines to be appropriate; and

(2) the term ‘ERO’ means an organization as the Electric Reliability Organization, the reliability standard that it is subject to subsection (e)(2). The Electric Reliability Organization shall file with the Commission a proposed reliability standard, or a modification to a reliability standard, not later than 180 days after the date of publication of the notice of the proposed reliability standard or modification to a reliability standard in the Federal Register. The proposed reliability standard, or a modification to a reliability standard, shall take effect upon approval by the Commission, or upon order by the Commission. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of the proposed standard or modification to a reliability standard. The Commission shall give due weight to the technical expertise of a national or international organization that is recognized by the Commission as being capable of providing an adequate level of reliability to the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO after notice and an opportunity for a hearing finds that—

(1) the user or owner or operator of the bulk-power system has violated a reliability standard under this section; and

(2) the Commission certifies that such violation has caused, or will cause, a violation of a reliability standard approved by the Commission under subsection (d). The ERO and the Commission shall, within 30 days after the date such notice is given, adopt and enforce the reliability standard. The Commission may order compliance with the reliability standard immediately; and

(3) A proposed reliability standard, or a modification to a reliability standard, shall take effect upon approval by the Commission, or upon order by the Commission. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of the proposed standard or modification to a reliability standard. The Commission shall give due weight to the technical expertise of a national or international organization that is recognized by the Commission as being capable of providing an adequate level of reliability to the bulk-power system.
Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may authorize a regional advisory body to provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governing body of the regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, and not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of such regional advisory body if that body is organized on an Interconnection-wide basis.

The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

The coordination with Canada and Mexico. The Commission may authorize a regional advisory body if that body is organized on an Interconnection-wide basis.

Responsibility imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

Changes in electric reliability organization rules. The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon request of any interested or affected person, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, and not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of this subsection.

Reliability reports. The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission facilities, or the enforcement of reliability rules outside the United States. A regional entity, appointed by the Governor of each State, and may include representatives of agencies, States, and private electric reliability organizations.

The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

Limitation. The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

Transfer of control of transmitting utility. Nothing in this section authorizes the Commission to order the unregulated transmitting utility to transfer control or operational control of its transmission facilities to an RTO or any other Commission-approved or designated transmission organization designated to provide nondiscriminatory transmission access.

Definition. For purposes of this section, the term "unregulated transmitting utility" means an entity that—

1. owns or operates facilities used for the transmission of electric energy in interstate commerce; and

2. is an entity described in section 201(f).

Federal utility participation in regional transmission organizations. The term "appropriate Federal regulatory authority" means—

1. with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency, or act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

2. with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

The term "transmission system" means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

Transmitter. The appropriate Federal regulatory authority may enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

1. performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary to ensure appropriate standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the transmission service agreement, and are consistent with existing contracts and third-party financing arrangements; and
consistency with said Federal utility’s statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the regional transmission organization of the fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement if it determines that such action is necessary or appropriate for any reason.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility’s electric power sales activities.

(c) Existing Statutory and Other Obligations.—(1) System Operation Requirements.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) Open Access.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including those that are limited to any requirement relating to the efficient or economical operation of electric facilities; and

(B) authorize brokering of any contract or treaty obligation.


SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) Adoption of Standards.—Section 112(d)(13) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2650l(d)(13)) is amended by adding at the end the following:

“(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, typically not changing more often than twice a year, and participants have the option of purchasing such electricity at the wholesale-level for the benefit of the consumer. Prices paid for energy consumed during these time periods may be lower, and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices. Such prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

“(ii) critical peak pricing whereby time-of-use pricing is applied to certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility to bill the customer to offer and receive such rate, respectively.

“(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

“(E) In a State that permits third-party marketers to sell electric energy to retail consumers, such consumers shall be entitled to receive the same time-based metering and communications service as a retail electric consumer of the electric utility.

“(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 112(a)(1) and issue a report as to whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).

(b) State Investor-Owned Utility Demand Response and Time-Based Metering.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2650k) is amended as follows:

(1) By inserting in subsection (b) after the phrase “the standard for time-of-day rates established by section III(d)(3)” the following: “and the standard for time-based metering and communications established by section III(d)(14)”.

(2) By inserting in subsection (b) after the phrase “are likely to exceed the metering” the following: “and communications”.

(3) By adding at the end the following:

“(D) Time-Based Metering and Communications.—In making a determination with respect to the standard established by section III(d)(14), the investigation requirement of section II(d)(4)(P) applies: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide advanced or forward based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.”

(c) Federal Assistance on Demand Response.—Section III(d)(2) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking “and” at the end of paragraph (3), striking the period at the end of paragraph (4), and substituting “; and” for the period at the end of such paragraph.

“(B) cross-reference.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ‘In the case of each of such standards established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this section shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).’.”

SEC. 1252. SMART METERING.

(a) In General.—Section 111(d)(1) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2650l(d)(1)) is amended by adding at the end the following:

“(d) Time-Based Metering and Communications.—(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customers a time-based rate schedule under which the rate charged by the electric utility varies during different periods of time, such as hourly, for any, or in the utility’s costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable such customers to elect to purchase electricity use and cost through advanced metering and communications technology.

(B) The types of time-based rate schedules referred to in subparagraph (A) include, among others—

“(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, typically not changing more often than twice a year, and participants have the option of purchasing such electricity at the wholesale-level for the benefit of the consumer. Prices paid for energy consumed during these time periods may be lower, and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices. Such prices may reflect the costs of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

“(ii) critical peak pricing whereby time-of-use pricing is applied to certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility to bill the customer to offer and receive such rate, respectively.

“(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

“(E) In a State that permits third-party marketers to sell electric energy to retail consumers, such consumers shall be entitled to receive the same time-based metering and communications service as a retail electric consumer of the electric utility.

“(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section II(d)(1) and issue a report as to whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).

(b) State Investor-Owned Utility Demand Response and Time-Based Metering.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2650k) is amended as follows:

(1) By inserting in subsection (b) after the phrase “the standard for time-of-day rates established by section III(d)(3)” the following: “and the standard for time-based metering and communications established by section III(d)(14)”.

(2) By inserting in subsection (b) after the phrase “are likely to exceed the metering” the following: “and communications”.

(3) By adding at the end the following:

“(D) Time-Based Metering and Communications.—In making a determination with respect to the standard established by section III(d)(14), the investigation requirement of section II(d)(4)(P) applies: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide advanced or forward based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.”

(c) Federal Assistance on Demand Response.—Section III(d)(2) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking “and” at the end of paragraph (3), striking the period at the end of paragraph (4), and substituting “; and” for the period at the end of such paragraph.
the end of paragraph (4) and inserting "

(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs;

(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007;

(e) MANDATORY REQUIREMENTS.

The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in:

(1) In GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in:

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

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

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

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act (16 U.S.C. 2622) is amended by adding the following:

—

Subsection 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end of the section:

"(4) A State regulatory authority for which it has ratemaking authority, and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d)."

(f) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end of the section:

"(4) A State regulatory authority for which it has ratemaking authority, and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d)."

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end of the section:

"(4) A State regulatory authority for which it has ratemaking authority, and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d)."

(h) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.

(1) In general.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end of the section:

"(e) Prior State Actions.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard) for such utility within the previous 3 years;

"(2) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years; or

"(3) the State legislative body has made a reference to the date of enactment of such paragraph, each State regulatory authority, with respect to the electric utility for which it has ratemaking authority, and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d)."

(i) RENEWABLE ENERGY POLICIES.

(1) The Secretary of Energy shall commence the consideration referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d)."

(j) CHARTER ORGANIZATION FORMED BY 2 OR MORE STATES.

(1) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority, with respect to the electric utility for which it has ratemaking authority, and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d)."

(k) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE.

(1) The Secretary of Energy shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in:

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

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

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

(D) identifying specific measures consumers can take to participate in these demand response programs.

(2) Cross Reference.—Section 124 of such Act (16 U.S.C. 2628) is amended by adding the following at the end thereof:

"In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14)."

Subtitle D—Market Transparency, Enforcement, and Consumer Protection

SEC. 1293. MARKET TRANSPARENCY, ENFORCEMENT, AND CONSUMER PROTECTION

SEC. 1294. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC UNDER FEDERAL POWER ACT

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

"SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and with the public interest.

(b) Moratorium on Certain Waivers, Exemptions, etc.—After the date of enactment of
of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 303, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

(c) PROHIBITION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that will not occur before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 306 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

"(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

"(2) Section 201(f) shall not limit the application of this subsection.

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

"(d) The Commission shall, by rule or order, require each person or other entity engaged in the purchase, sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was made or gained or lost avoided by reason of such violation.

(3) By adding the following at the end thereof:

"(E) assure that all electricity and natural gas and all persons effecting transactions involving or through the use of the mails or any means or instrumentalities of commerce or of interstate commerce, or the transportation of natural gas as is collocated or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was made or gained or lost avoided by reason of such violation.

SEC. 1286. TRANSPARENCY.

(a) TRANSPARENCY.—In any proceeding under this section the term "electric power or natural gas information processor" means any person engaged in the business of:

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) information with respect to such transactions or quotations.

(b) TRANSPARENCY.—In any proceeding under this section the term "electric power or natural gas information processor" means any person engaged in the business of:

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any clearinghouse, dealer, broker, or cooperative bank, if such bank, broker, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institution in connection with the clearing, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act, and subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(2) By striking "$5,000" in subsection (a) and inserting "$5,000,000 for each individual and $25,000,000 for any other defendant" and by striking out "two years" and inserting "five years".

(3) By striking "$500" in subsection (b) and inserting "$1,000,000".

(4) By striking subsection (c).

SEC. 1287. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825(o)(c)) is amended as follows:

(1) By striking "$5,000" in subsection (a) and inserting "$5,000,000 for each individual and $25,000,000 for any other defendant" and by striking out "two years" and inserting "five years".

(2) (b) By striking "$500" in subsection (b) and inserting "$1,000,000".

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o(b)) is amended as follows:

(1) By striking "section 211, 212, 213, or 214" each place it appears and inserting "Part II".

(2) By striking "$10,000 for each day that such violation continues" and inserting "the substantial amount of $1,000,000 or profit made or gain or loss avoided by reason of such violation."

(3) By adding the following at the end thereof:

"(E) authorize a court to void Persons from Certain Activities.—In any proceeding under this section, the court may order (or, in the case of a violation of a function, duties, or responsibilities of, or operations of, a court, or of any other entity holding a monopoly, control, or operate any electronic computer network or other multilateral trading facility utilized for trade electricity or natural gas, or the transportation of natural gas, and

SEC. 1288. AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may order (or, in the case of a violation of

"(2) By striking "willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was made at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

(2) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency.

(2) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was made at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

(2) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was made at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

(2) By striking "willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was made at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

(2) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was made at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

(2) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was made at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.
“(A) involves the purchase or sale of electricitry, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

“(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce, or the selling in interstate commerce of natural gas for resale for ultimate consumption by any person of any provision of any statute or regulation regarding the transmission or sale of electricity or natural gas;

“(C) aided, abetted, counseled, commanded, induced, or participated in the violation by any person of any provision of any statute or regulation regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules, or listed on or traded on any board of trade, if or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violation of any statute, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

“(7) Such entity subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or other financial institutions, insurance commission (or any agency of the relevant foreign government), or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee performing like functions, an appropriate Federal banking agency (as defined in section 3(a) of the Federal Reserve Act (12 U.S.C. 1813(a))), or the National Credit Union Administration, that—

(A) is a person association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, or credit union activities; or

(B) constitutes a final order based on violations of any laws or regulations that prohibit fraud, fraudulent, or deceptive conduct.

“(4) Such entity subject to statutory disqualification within the meaning of section 3(a)(3) of the Securities Exchange Act of 1934.

“(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

“(A) AUTHORITY OF A COURT TO PROHIBIT PROHIBITED ACTIVITY.—In any proceeding under this section, the court may—

(c) cause the plea of nolo contendere to prevent and detect, insofar as practicable, any such violation by such other person, and

(D) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such regulation, rule, or order, without reasonable cause to believe that such procedures and system were not being complied with.

“(b) such entity has willfully or caused to be made in any application or report required to be filed with the foreign regulatory authority, or in any proceeding before a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement, which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein;

“(C) involved in any substantially equivalent foreign statute or regulation, or in any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee performing like functions, an appropriate Federal banking agency (as defined in section 3(a) of the Federal Reserve Act (12 U.S.C. 1813(a))), or the National Credit Union Administration, that—

(A) is a person association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, or credit union activities; or

(B) constitutes a final order based on violations of any laws or regulations that prohibit fraud, fraudulent, or deceptive conduct.

“(4) Such entity subject to statutory disqualification within the meaning of section 3(a)(3) of the Securities Exchange Act of 1934.

“(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

“(A) AUTHORITY OF A COURT TO PROHIBIT PROHIBITED ACTIVITY.—In any proceeding under this section, the court may—

(c) cause the plea of nolo contendere to prevent and detect, insofar as practicable, any such violation by such other person, and

(D) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such regulation, rule, or order, without reasonable cause to believe that such procedures and system were not being complied with.

“(b) such entity has willfully or caused to be made in any application or report required to be filed with the foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement, which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein;
empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such regulations, rules or regulations, another person who commits such a violation, if such other person is subject to his supervision.

(7) Any entity subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, the Federal Deposit Insurance Corporation (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. 1813(q)), or the National Credit Union Administration, that—

(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit unions, respectively; or

(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.

SEC. 1288. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating under the exemption or claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 1289. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRANSACTIONS.

Not later than 12 months after the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a review of the final results of its report on accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting, and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 1290. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 203(d) of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

(g) RULES AND PROCEDURES TO PROTECT CONSUMERS OF PUBLIC UTILITIES.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility shall be used for the benefit of another entity for the purpose of protecting such entity or preserving or enhancing the value or the market price of securities of such entity.

SEC. 1291. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

1. By adding a new clause to the first sentence to read as follows: “In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding except that in the case of a complaint with regard to market-based rates, the Commission may establish an earlier refund effective date.”

2. By striking the second and third sentences.

3. By striking out “the refund effective date or by” and “,” whichever is earlier,” in the fifth sentence.

4. In the seventh sentence by striking “through a date fifteen months after such refund effective date” and insert “and prior to the conclusion of the proceeding” and by striking the proviso.

SEC. 1292. ACCOUNTS AND REPORTS.

Section 205 of the Federal Power Act is amended by adding the following to the end thereof: “This section shall not apply to sections 301 and 304 of this Act.”

SEC. 1293. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:—

“(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall establish rules and procedures to protect the public interest and the protection of consumers of such public utility.

SEC. 1294. ENFORCEMENT.

(a) PROHIBITION.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(d) STATE AUTHORITY.—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1295. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(c) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(d) STATE AUTHORITY.—If the Federal Trade Commission determines that a State’s regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1296. SAVINGS PROVISION.

Nothing in this title or any amendment made by this title shall be construed to affect the authority of any court to make a determination in any proceeding commenced before the enactment of this Act regarding the authority of the Federal Energy Regulatory Commission to permit any person to sell or distribute electric energy at market-based rates.

In section 25(c)(b)(1)(A) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after clause (i) the following new clauses:—

(iv) $150 for each electric heat pump water heater, 
(v) $200 for each advanced natural gas, oil, propane, furnace, or hot water boiler installed in 2006 ($150 for equipment installed in 2005, $175 for equipment installed in 2007, $200 for equipment installed in 2008),
(vi) $150 for each advanced natural gas, oil, or propane water heater, 
(vii) $50 for each mid-efficiency natural gas, oil, or propane water heater, and 
(viii) $50 for an advanced main air circulating fan which is installed in a furnace.
with an Annual Fuel Utilization Efficiency of less than 92 percent, (ix) $150 for each advanced combination space and water heating system, (x) $250 for each geothermal heat pump, and (xi) $250 for each advanced central air conditioner or central heat pump ($150 for equipment installed in 2008).

In section 25C of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after paragraph (3) the following new paragraph:

(3) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property specified in clause (iv) through (xii) of paragraph (1) unless such property meets the performance and quality standards, and the certification requirements (if any), which:

(A) have been prescribed by the Secretary by regulations (consistent with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

(B) are in effect at the time of the acquisition of the property, and

(C) are in effect at the time of the acquisition of the property.

In section 25C(c) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, add at the end the following new paragraphs:

(4) ENERGY EFFICIENT BUILDING PROPERTY.—The term ‘‘energy efficient building property’’ means—

(A) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

(B) an advanced natural gas, oil, propane furnace (as defined in clause (ii) of subparagraph (A) of section 48(i)(1)(A) of the Energy Policy and Conservation Act), which is tested by manufacturers at 95 degrees Fahrenheit, and

(ii) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

(ii) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

(C) are in effect at the time of the acquisition of the property.

The term ‘‘energy efficient building property’’ means—

(A) any sealant, insulation material, or opaque window which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

(B) any advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

(C) any advanced air circulating fan, and

(D) any advanced air circulating fan, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure.

The term ‘‘energy efficient building envelope component improve- ment’’ means—

(A) any sealant, insulation material, or opaque window which has an energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

(B) a geothermal heat pump which has water heating capability by a desuperheater or full-conversion option and which has an energy efficiency ratio (EER) of at least 18 for ground-loop systems, at least 21 for ground-water systems, and at least 17 for direct Geothermal Exchange systems, manufactured by a firm certified to have a level of annual heat gain or cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(2) the following new paragraph:

(2) COORDINATION WITH CERTAIN CREDITS.—(A) the basis of any property referred to in subsection (a) shall be reduced by the amount so allowed for purposes of subsection (a), and

(B) expenditures taken into account under section 25C(c)(4) shall not be taken into account under this section.

(3) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE CONTRACTOR.—The term ‘‘eligible contractor’’ means—

(A) the person who constructed the qualified new energy efficient home, or

(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufacturer, home producer of such home.

(2) ENERGY EFFICIENT PROPERTY.—The term ‘‘energy efficient property’’ means a qualified new energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which, in the case of a dwelling unit, results in a dwelling unit meeting the requirements of this section.

(3) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term ‘‘qualified new energy efficient home’’ means a dwelling unit—

(A) located in the United States, and

(B) constructed or substantially completed after the date of the enactment of this section, and

(C) which is—

(i) designed and constructed to have a level of annual heating and cooling energy consumption which is at least 30 percent below such annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations establishing the standards of the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and 62 Federal Register 47128 at the time of construction, and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(ii) designed and constructed to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(3) ELIGIBLE CONTRACTOR.—The term ‘‘eligible contractor’’ means—

(A) the person who constructed the qualified new energy efficient home, or

(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufacturer, home producer of such home.

(4) ENERGY EFFICIENT PROPERTY.—The term ‘‘energy efficient property’’ means a qualified new energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which, in the case of a dwelling unit, results in a dwelling unit meeting the requirements of this section.

(5) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term ‘‘qualified new energy efficient home’’ means a dwelling unit—

(A) located in the United States, and

(B) constructed or substantially completed after the date of the enactment of this section, and

(C) which is—

(i) designed and constructed to have a level of annual heating and cooling energy consumption which is at least 30 percent below such annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations establishing the standards of the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and 62 Federal Register 47128 at the time of construction, and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(ii) designed and constructed to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(6) BUILDING ENVELOPE COMPONENT.—The term ‘‘building envelope component’’ means—

(A) any sealant, insulation material, or window which has an energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

(B) a geothermal heat pump which has water heating capability by a desuperheater or full-conversion option and which has an energy efficiency ratio (EER) of at least 18 for ground-loop systems, at least 21 for ground-water systems, and at least 17 for direct Geothermal Exchange systems, manufactured by a firm certified to have a level of annual heat gain or cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(7) ELIGIBLE CONTRACTOR.—The term ‘‘eligible contractor’’ means—

(A) the person who constructed the qualified new energy efficient home, or

(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufacturer, home producer of such home.

(8) ENERGY EFFICIENT PROPERTY.—The term ‘‘energy efficient property’’ means a qualified new energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which, in the case of a dwelling unit, results in a dwelling unit meeting the requirements of this section.

(9) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term ‘‘qualified new energy efficient home’’ means a dwelling unit—

(A) located in the United States, and

(B) constructed or substantially completed after the date of the enactment of this section, and

(C) which is—

(i) designed and constructed to have a level of annual heating and cooling energy consumption which is at least 30 percent below such annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations establishing the standards of the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and 62 Federal Register 47128 at the time of construction, and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(ii) designed and constructed to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(10) ELIGIBLE CONTRACTOR.—The term ‘‘eligible contractor’’ means—

(A) the person who constructed the qualified new energy efficient home, or

(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufacturer, home producer of such home.

(11) ENERGY EFFICIENT PROPERTY.—The term ‘‘energy efficient property’’ means a qualified new energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which, in the case of a dwelling unit, results in a dwelling unit meeting the requirements of this section.

(12) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term ‘‘qualified new energy efficient home’’ means a dwelling unit—

(A) located in the United States, and

(B) constructed or substantially completed after the date of the enactment of this section, and

(C) which is—

(i) designed and constructed to have a level of annual heating and cooling energy consumption which is at least 30 percent below such annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations establishing the standards of the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and 62 Federal Register 47128 at the time of construction, and to have building envelope component improvements account for at least 50 percent of such 50 percent.

(ii) designed and constructed to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least 50 percent of such 50 percent.
“(2) FORM.—A certification described in subsection (c)(3)(C) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.”

“(e) BASIS OF DEDUCTION.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

SEC. 1319. ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.

(a) In General.—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

(b) Maximum Amount of Deduction.—The deduction under subsection (a) with respect to any property placed in service during any taxable year shall not exceed an amount equal to the product of:

(1) $2.25, and

(2) the square footage of the building.

(c) Definitions.—For purposes of this section—

(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term ‘energy efficient commercial building property’ means property—

(A) which is installed on or in any building located in the United States,

(B) which is installed as part of—

(i) the interior lighting systems,

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

(iii) the building envelope, and

(C) which is certified in accordance with subsection (d) and is installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilating, and associated electrical systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1–2001 using methods of calculation under subsection (d)(2).

A building described in subparagraph (A) may include any residential rental property, including any low-rise multifamily structure or single family home, such property which is not within the scope of Standard 90.1–2001, but shall not include any qualified new energy efficient home (within the meaning of section 45K(d)(3)) for which a credit under section 45K has been allowed.


(d) Special Rules.

(1) Partial Allowance.—

(A) In General.—Except as provided in subsection (c), if the requirement of subsection (c)(1)(C) is not met, but

(i) there is a certification in accordance with paragraph (c) that any system referred to in subsection (c)(1)(B) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such building, and

(ii) then the requirement of subsection (c)(1)(C) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting ‘4.75’ for ‘2.25’.

(B) Regulations.—The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in paragraph (c)(1)(B) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(C).

(2) Merit-Order Calculation.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Residential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2005 California Residential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the manner in which energy consumption per unit of space, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on one or more of the usage costs for use in the performance standards of the State’s building energy code before the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

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

(C) The calculation methods shall be fuel neutral, such that the same energy efficient structures shall qualify for the deduction under this section regardless of whether the heating source is a gas or oil furnace, a steam system, or an electric heat pump. The reference building for a proposed design which employs electric resistance heating shall be modeled as using a heat pump.

(D) The calculation methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either Standard 90.1–2001 or in the 2005 California Residential Alternative Calculation Method Approval Manual, including the following:

(i) Natural ventilation.

(ii) Evaporative cooling.

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

(iv) Daylighting.

(v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or with other than conventional systems.

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

(vii) Advanced unloading mechanisms for mechanical ventilation and variable air volumes.

(viii) Advanced variable speed compressor technology.

(ix) The calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

(x) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy.


(xii) Any calculation under paragraph (2) shall be prepared by qualified computer software.

(xiii) Qualified computer software. For purposes of this paragraph, the term ‘qualified computer software’ means software—

(i) for which the software designer has certified that the software meets all process and detail requirements for calculating energy and power consumption and costs as required by the Secretary.

(ii) which provides such forms as required by the Secretary to evidence the deduction allowed under this section, and
“(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

“(A) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promote a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the deduction to the person primarily responsible for generating the energy. This provision shall be effective for taxable years ending after the date of enactment of this Act, and shall be in addition to other provisions of this section.

“(B) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall prescribe the method and manner for the making of certifications under this section.

“(2) NOTIFICATION.—Each certification required under this section shall include an explanation of the energy savings plans and targets for the property. Such procedures shall be comparable, given the differences between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

“(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

“(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

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

“(1) the lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the requirements in Title 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1-2001.

“(2) The amount in deduction if reduction less than 25 percent.

“(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

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

“(i) 50, and

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

“(C) nonapplication of this subsection shall not apply to any system—

“(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not include provision for bi-level switching in all occupancies except hotel and motel guest rooms, store rooms, and public plazas, or


“(f) COORDINATION WITH OTHER TAX BENEFITS.—

“(1) NO DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) with respect to any property in which a credit under section 45K has been allowed.

“(2) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTIES.—A deduction under section 200 or a credit under section 25C shall have been allowed with respect to property in connection with a building, the annual energy and power costs of the reference building referred to in subsection (c)(1)(C) shall be determined as assuming such reference building contains the property for which such deduction or credit has been allowed.

“(b) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

“(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

“(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(C) or (d)(1)(A) is not fully implemented.

“(c) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2010.

“(b) CONFORMING AMENDMENTS.—

“(1) Section 101(k) is amended by inserting ‘and’ at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ‘, and’, and by adding at the end the following new paragraph:

“(36) to the extent provided in section 179C(e).

“(2) Section 1245(a) is amended by inserting ‘179C’, after ‘179B’, both places it appears in paragraphs (2)(C) and (3)(C).

“(3) Section 1290(b)(3) is amended by inserting before the period at the end of the first sentence—‘or by section 179C’—

“(a) ENERGY EFFICIENCY PERCENTAGE.—The energy efficiency percentage and the energy efficiency percentage of a system is the fraction—

“(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

“(ii) the denominator of which is the lower heating value of the fuel sources for the system.

“(c) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

“(C) IN AND OUTPUT PROPERTY NOT INCLUDED.—The term ‘combined heat and power’ property means property that includes property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(D) PUBLIC UTILITY PROPERTY.—

“(1) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property, the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(ii) CERTAIN EXCEPTION NOT TO APPLY.—The matter in subsection (a)(3)(C) which follows subparagraph (D) thereof shall not apply to creditable heat and power systems property which includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, paragraph (1) shall be applied without regard to subparagraphs (A), (C), and (D) thereof.

“(E) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse at least 90 percent of the energy source.

“(a) paragraph (1)(A) shall not apply, but

“(b) the amount of credit determined under subsection (a) with respect to such
system shall not exceed the amount which bears the same ratio to such amount of credit as determined without regard to this paragraph as the energy efficiency percentage of such equipment bears to 75 percent.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1320A. EXTENSION THROUGH 2010 FOR PLACING QUALIFIED FACILITIES IN SERVICE FOR MARKETING RENEWABLE ELECTRIC ENERGY.

(a) IN GENERAL.—Subsection (d) of section 45 is amended by striking “January 1, 2006” each place it appears and inserting “January 1, 2011”.

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

At the end of title XIII, insert after subtitle C the following new subtitle:

Subtitle D.—Method of Accounting for Oil, Gas, and Primary Products Thereof

SEC. 1331. PROHIBITION ON USING LAST IN, FIRST-OUT ACCOUNTING FOR OIL, GAS, AND PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Section 472 (relating to last-in, first-out inventories) is amended by adding at the end the following new section:

“(h) OIL AND GAS.—Notwithstanding any other provision of this section—

(1) oil, gas, and any primary product of oil or gas, shall be inventoried separately, and

(2) a taxpayer may not use the method provided in subsection (b) in inventorying oil, gas, and any primary product of oil or gas.”

(b) EFFECTIVE DATE AND SPECIAL RULE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over a period not greater than 10 taxable years beginning with such first taxable year.

SEC. 1332. EMERGING TECHNOLOGIES TRUST FUND.

(a) IN GENERAL.—Chapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

“SEC. 9511. EMERGING TECHNOLOGIES TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ‘Emerging Technologies Trust Fund’, consisting of amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 962(b).

(b) TRANSFERS TO TRUST FUND.—

(1) There are hereby appropriated to the Emerging Technologies Trust Fund amounts equivalent to the taxes recevied in the Treasury by reason of section 472(h) (relating to prohibition on use of last-in, first-out inventory accounting for oil and gas).

(2) LIMITATION.—The amount appropriated to the Trust Fund under paragraph (1) for any fiscal year shall not exceed $5,000,000,000.

(c) EXPENDITURES.—Amounts in the Emerging Technologies Trust Fund shall be available to the Secretary of Energy to carry out a program to research and develop emerging technologies for more efficient and renewable energy sources.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

“Sec. 9511. Emerging Technologies Trust Fund.”

In title XIV, add at the end the following new sections:

SEC. 1452. SMALL BUSINESS COMMERCIALIZATION ASSISTANCE.

(a) AUTHORITY.—The Secretary of Energy shall provide assistance, to small businesses with less than 100 employees and startup companies, for the commercial application of renewable energy and energy efficiency technologies developed by or with support from the Department. Such assistance shall be provided through a competitive review process.

(b) APPLICATIONS.—The Secretary of Energy shall establish requirements for applications for assistance under this section. Such applications shall contain a commercial application plan, including a description of the financial, business, and technical support (including support from universities and national laboratories) the applicant anticipates in its commercial application effort.

(c) SELECTION.—The Secretary of Energy shall select applicants to receive assistance under this section on the basis of which applications are the most likely to result in commercial application of renewable energy and energy efficiency technologies.

(d) LIMIT ON FEDERAL FUNDING.—The Secretary of Energy shall provide under this section no more than 50 percent of the costs of the project funded.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are appropriated to be appropriated to the Secretary of Energy for carrying out this section $200,000,000 for each of the fiscal years 2006 through 2010, and such sums as may be necessary for each of the fiscal years 2011 through 2026.

SEC. 1453. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President has failed to present a strategy in place that will help this country over time become less dependent on foreign oil.

It is really important,” said the President. “It is an important part of our economic security and it is an important part of our national security.”

Those were the President’s words last week. But the President then went on to call upon Congress to pass the Republican energy bill, a bill replete with a rich assortment of tax and deregulatory incentives for the oil and gas companies to explore, even though they are already already drowning in windfall profits. The price of oil has doubled essentially from $25 a barrel to more than $50 a barrel. That is all extra cash in the oil companies’ pockets.

So the President, I think, has to rely upon his own Energy Department, because his own Energy Department has acknowledged that this bill that we are debating would result in only negligible changes to overall demand, production, and imports, a bill that the Energy Department acknowledges will actually increase costs. The price of oil would increase greatly, to the pump between 3.5 and 8 cents a gallon. The bill will increase the price of gasoline.
So even though the President says the oil companies do not need incentives to drill when prices are so high, in this bill we are providing more than $3 billion in tax incentives to Big Oil. This is just at the point at which all of their profits are doubling. We are giving them tax breaks. It is absolutely unbelievable.

So what the gentleman from New York (Mr. BISHOP) has done is put out a series of provisions. If Members do not want to have to face the fact that increasing fuel economy standards for SUVs and automobiles so we can take on OPEC, what we have is another series of alternatives that can be engaged in which are much less Draconian, but will at least give us some improvement in the way this country interrelates with gas, oil, and other energy sources.

If Members feel that the Boehlert-Markey amendment is too radical, this is your cup of tea. I thank the gentleman from New York (Mr. BISHOP) for his help on this amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. BISHOP) and I am pleased to join in his support.

Last Thursday, the President addressed the American Society of Newspaper Editors. He said:

I will tell you with $25 oil we don’t need incentives to oil and gas companies to explore. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent. It’s an important part of our economic security, and it’s an important part of our national security.

But the President then went on to call upon Congress to pass the Republican energy bill—a bill replete with a rich assortment of tax and deregulatory “incentives” for the oil and gas companies to explore, a bill that the President’s own Energy Department has acknowledged would result in only “negligible” changes to overall demand, production and imports, a bill that the Energy Department acknowledges would see gas prices at the pump by between 3.5 and 8 cents a gallon. So, even though the President says the oil companies don’t need “incentives” to drill when prices are so high, we are providing more than $3 billion in tax incentives to Big Oil. We are giving them “royalty relief” so they don’t have to pay the public a fair price for drilling on public lands.

That is what H.R. 6 offers up as a solution to high oil and gasoline prices. This bill says let’s give more tax breaks to oil and gas companies to explore a bill that even a President who was a former Texas oil man has said are not needed. This bill says let’s enact proposals that would actually increase the price that consumers pay to fill up their gas tanks.

That is no solution.

The amendment being offered by the gentleman from New York and myself takes a different approach.

While I continue to believe that the real solution to the current high gas prices is increased efficiency, the House has already debated the amendment and the majority of Members aren’t willing to take the step of mandating higher fuel efficiency standards, are you at least willing to take some more modest steps?

On the issue of gas prices, our amendment says, when oil prices are at record highs, let’s stop filling the Strategic Petroleum Reserve. Let’s return to the principle of considering the impact of oil and gas prices and the economy when we are making decisions about whether and when to fill the Reserve. Are you at least willing to do that?

At the same time, our amendment expresses the Sense of Congress that the Federal Trade Commission and the Justice Department should exercise vigorous oversight of our Nation’s oil and gas markets to guard against price gouging or market manipulation. It expresses the Sense of Congress that the President should put pressure on OPEC and non-OPEC oil producers to increase oil production to help bring down prices. It gives the FTC the power to require full disclosure by refiners and distributors of fuel pricing policies, costs, and profits, so consumers will be better able to determine whether the oil companies are profiteering from the current volatility in oil markets. Are you at least willing to do that?

Our amendment also would extend the renewable energy production tax credit for 5 years, so that companies know that there will be incentives out there to make the investment in building new solar, wind, geothermal and biomass technologies, so we can become less dependent on coal and natural gas to generate electricity.

Our amendment strikes the cap on Energy Savings Performance Contracts, an important tool used by the Federal government to reduce the amount of energy consumed in Federal buildings across the country.

Our amendment would put in place three additional appliance efficiency standards—commercial packaged air conditioners and heat pumps, residential dehumidifiers, and commercial spray valves used in restaurants. In addition, under the amendment, efficiency standards for residential and commercial furnaces and boilers, which have been languishing over at the Energy Department for more than 10 years, would be speeded up.

We would strike the Home Depot ceiling fan language that immediately preempts state ceiling fan standards before there’s even a Federal standard in place.

We would provide a new 10 percent investment tax credit for high-efficient combined heat and power systems.

We would provide a tax deduction for expenses needed to reduce energy use of new and existing commercial buildings by 50 percent below model commercial codes.

We would provide a tax credit for new homes that reduce energy costs by 20–50 percent, and we’d provide a tax deduction for expenses needed to cut energy use at new and existing commercial buildings.

We would provide for the creation of an Emerging Technology Trust Fund to help develop technologies for more efficient and renewable energy sources, as well as a Small Business Commercialization Program, to provide assistance for small businesses and start-up companies trying to introduce alternative energy and efficiency technologies into the marketplace.

Finally, our amendment includes the Dingell amendment that would codify the electric generating company Act. The Dingell language would also give FERC stronger legal authorities to police electricity and natural gas markets for fraud.

The Bishop-Markey Democratic en bloc amendments make some modest but useful steps toward making this energy bill a more balanced bill and a more consumer friendly bill. I urge my colleagues to vote for the amendment.

Mr. BARTON of Texas. Mr. Chairman, I claim the time in opposition.

The Acting Chairman (Mr. SMITH). The Chair recognizes the gentleman from Texas (Mr. BARTON) for 15 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

On the Johnson amendment immediately prior, I was in mild opposition. On this amendment, I want to be recorded in strong opposition.

Here is the amendment. It is 124 pages. It may be great. I do not believe it is, but I have to stipulate it is possible. There has been no hearing on this, no markup on this. Most of the amendments before the body today, there may be a paragraph, a page, most of them are amendments that were at least debated in one of the committees of jurisdiction. This is a 124-page amendment which Members could say is a substitute for the entire bill. There are 50 pages of efficient standards in this amendment.

Then there is the Dingell electricity substitute, which we have already had a debate on earlier today, and then at the end there are another 30 pages of tax credits. To top it off, we have some sort of a scheme to fix the price of oil.

What is not in this amendment is anything that would increase production, anything that addresses clean coal technology, I believe, or hydrogen research or any of those things. Again, I will stipulate this is probably a well-intentioned amendment. It is certainly lengthy drafted, but I cannot conceive at this stage of the game after all of the hearings and the markup and the amendments we have already had in this Congress and the debate that went on in the prior Congress, in the conference report that this House voted on two times, that the House would accept this amendment.

With all due respect to the authors, I would urge a strong “no” vote on this on a bipartisan basis because I do not think this amendment is right for inclusion or substitution for the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Chairman, I yield myself 3 minutes.

I am pleased to offer the Bishop-Markey-McDermott en bloc amendment this evening along with my colleagues. We have an opportunity within our reach to make a real advancement in energy policy, but we are about to do the unimaginable: pass an energy bill that will do nothing to lower gas prices.

Let me say that again because I think it is important to our constituents who are paying $2.25 or more for a
Mr. Chairman, let us give Americans in the Northeast and on the West Coast something to cheer about. America needs electricity reliability and protection from fraud and blackouts. H.R. 6 would repeal the Public Utility Holding Company Act. Our act would strike any of the rhetoric that we heard about the underlying bill is just talk because this amendment does nothing to affect those provisions the gentleman was speaking against.

What this amendment does is basi-
cally double the oil and gas reserves, at least the tax provisions in this bill. We have not had time, and the chairman of the Committee on Energy and Commerce spoke about the number of pages in this amendment, we have not had time, frankly, to analyze it from a budgetary aspect to see if it violates the House budget that we have already passed. It very well could. But it takes the cost of tax provisions in this bill from about $8 billion over 10 years to about $17 billion over 10 years.

Now, the accounting gimmick, as the gentleman from Washington put it, is called LIFO, last in first out. This is not an accounting principle used just by the oil and gas industry. It is used by every sector of our economy. It is in common usage, and there is a reason. The reason is if we insisted on industri-
ally double the cost of this bill, at any point.

Democrats are proposing something else, investing in the 21st century energy sources. We provide a tax credit for new homes that reduce energy use, as well as tax credits for new and existing commercial buildings to reduce energy use; and we would also offer an investment tax credit for the development of higher efficiency heating and cooling systems.

In short, we offer tax cuts and credits that America will embrace and at the same time create a cleaner and healthier environment for our children. We will allow consumers to make more informed decisions about energy-effi-
cient appliances for their homes or businesses by adding greater meaning to the Energy Star label. This will carry that label. Currently, according to the Alliance to Save Energy, only the top 25 percent of products will carry that label. Currently, ac-
counting gimmick allows Big Oil to escape paying anything close to its fair share of taxes. That is the Republican way. The Democrats propose, and I proposed in the Committee on Ways and Means, something radically different in our alternative energy bill, actually paying for it. Imagine that, a bill we paid for on the floor of this House.

We want to eliminate the provision called LIFO. It means last in first out. You buy a barrel of oil at $20, and you buy a barrel 6 months later at $50. When you put it out, you use the $50 barrel. You cut down the profits. Of course, that is what they do. That is the American way of saying to Big Oil: pay now less, and then pay even less later.

Democrats are proposing something else, investing in the 21st century energy sources. We provide a tax credit for new homes that reduce energy by at least 30 percent. That benefits Americans and encourages a paradigm shift in thinking to produce energy by sav-
ing it. We will establish an emergency technology trust fund. We want to harn-
arness the power of our best minds to chart a course of energy independence.

We want to extend the renewable energy tax credit. America needs the power of wind. My State is full of wind farms promoted by Mother Nature, and can we harness it. Democrats see how America as strong and free of an addiction to Big Oil. We are addicted to oil; and as long as we remain addicted to oil, we are not going to get any better in this whole area. We see in America where people are not faced with choosing gasoline over food. At $3 a gallon for gasoline, you are hitting pretty hard on the food
considerations instead of market considerations. Last in first out is something commonly used throughout industry, not just the oil and gas industry. They cannot game it. There are regulations in place to keep them from shifting their inventory around. The American Petroleum Institute is aligned with the advancement of a market rule. So this is not something, some gimmick for the oil and gas industry. It is a very sound accounting principle used throughout industry in this country.

So I would urge this House not to listen to the gentleman from Michigan (Mr. STUPAK) and look at the action embodied in the amendment. This amendment does nothing to the underlying tax provisions in the bill. It doubles the cost of the bill, and it would impose upon the oil and gas industry, just one industrial sector in this country, a retroactive tax increase because under his accounting change, those companies would have to go back and recapture what they would have paid in taxes and pay them prospectively over the next 10 years. I hope we have concluded in this body that retroactive tax increases are bad policy. So for that reason alone, I would recommend that we reject this amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK). Mr. Chairman, I rise today in support of the Markey-Bishop amendment. This amendment includes a provision that permanently bans oil and gas drilling in and under our Great Lakes.

I offered this language as an amendment before the Committee on Rules last night. However, the Committee on Rules Republican majority refused to allow my bipartisan amendment to be considered on the floor despite strong bipartisan support for it in the House and by the American people.

The Great Lakes are one of our Nation's greatest natural resources and are vital to more than 30 million Americans who rely upon them for their drinking water. Understanding this, Congress has repeatedly banned oil and gas drilling in and under the Great Lakes to protect this vital resource. In 2001, the House voted overwhelmingly, 283-157, in favor of instituting a ban.

Last week when the Committee on Energy and Commerce marked up this legislation, I offered my amendment. Unfortunately, the gentleman from Michigan (Mr. ROGERS) undermined my amendment in favor of a watered-down version. Mr. ROGERS is included in the bill we find before us today.

The Rogers amendment does nothing to stop drilling in the Great Lakes. What the Rogers amendment does is leave drilling practices up to the eight Great Lakes States and their legislators. What is missing is any requirement for policies on drilling in our lakes. Plus it is Congress that regulates commerce amongst the several States, as is found in the Constitution in the interstate commerce clause. The Great Lakes already face a number of threats, invasive species and contamination that leads to beach closures. Given these threats, it makes no sense to further endanger the Great Lakes by opening them up to oil and gas drilling.

The bottomlands of the Great Lakes will not provide enough oil or natural gas to make even a small dent in the amount of America’s energy needs that are supplied by imported oil and natural gas. And an oil spill on the shoreline can contaminate our groundwater. Unfortunately, pollution knows no boundaries. When one or more of the Great Lakes States does not have a ban and a blowout or a spill occurs, those States, all of the States, may be forced to pay the public health and environmental price.

The message is clear. Even an energy crisis is not enough to justify threatening the world’s largest body of fresh water, to extract what industry experts agree will be a small amount of oil and gas.

I ask that my colleagues approve this amendment to enact a permanent ban on oil and gas drilling in and on the Great Lakes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume. I would ask to engage in a dialogue with one of the authors of the amendment, if they wish to do so. I am not being facetious about this. I want to let the gentleman from New York know right up front. I have spent the last 10 minutes actually trying to look at the amendment to try to get a sense of it. It appears to me that most of it is the Dingell electricity substitute. Would the gentleman from New York agree with that?

Mr. BISHOP of New York. Yes, I would, Mr. Chairman.

Mr. BARTON of Texas. In the beginning, he has some efficiency standards. He goes through and sets some specific standards on specific appliances, dishwashers and things like this. But on page 21, there is something beginning on line 16 that I just do not understand and I just cannot think my way through it. The gentleman from New York may not understand it either, because he may not have had much advance work in drafting this.

The gentleman from New York may not understand it either, because he may not have had much advance work in drafting this. The hearing is Administration, Penalties, Enforcement and Preemption. It says, “Section 346 of the Energy Policy and Conservation Act, 42 U.S. Code 6316, is amended by adding at the end the following.” It just goes down and says if a State wants to set up a specific standard, that is fine, and that States are preempted until the Federal standards established under this bill take effect on January 1, 2010. I understand that. He is saying the States can set a standard, but once the standards in the bill kick in on January 1, 2010, the Federal standard preempts. That is a policy debate; we can argue that back and forth.

The next section, I do not understand, subsection paragraph 3, line 16.

"If the California Energy Commission adopts, not later than March 31, 2005, a regulation concerning the energy efficiency or energy effective after, the standards established under section 342(a)(9) take effect on January 1, 2010."

What does that mean? While the gentleman is trying to get me an answer, this is the kind of thing that if we had this in regular order in a markup, there would be counsel at the desk and members of the committee of jurisdiction would ask the counsel to explain it; and if it is a drafting error, then that could be corrected. If it is not a drafting error, then at least the members know. I am assuming that is a drafting error, but I just do not know.

Mr. BISHOP of New York. It is, in fact, a drafting error. These efficiency standards were taken from the Senate bill from the 108th Congress and it is a drafting error. The date needs to be updated.

Mr. BARTON of Texas. Then right underneath that, we are talking about administration, penalties, enforcement and preemption on efficiency standard for appliances. After that paragraph I just read, then you go back and just out of the blue, it says, “In determining whether to defer such acquisition, the Secretary shall use market-based practices when deciding to acquire petroleum for the Strategic Petroleum Reserve.”

Again, I am going to assume that this was a cut-and-paste effort and something got left out and that should be in another place. Am I correct or incorrect on that?

Mr. BISHOP of New York. If the gentleman can just give me one second.

Mr. Chairman, I guess what I would say in response is that I understand the questions that the gentleman from Texas is raising and I understand, I guess, the consternation that he has with respect to receiving such a lengthy amendment with little notice. I would only say that the underlying bill is equally complex, equally dense, and that there are sections of the underlying bill that were not subjected to hearings, as well.

Mr. BARTON of Texas. I sincerely respect the intent of the authors of the amendment. I am just trying to point out that even on a cursory examination, there are things that were just kind of hastily put together. They have not been vetted.

The underlying bill has been through countless hearings. The Energy and Commerce markup took 3½ days. The base text is the conference report from the Senate and House that was extensively reviewed both inside and out of the conference. At this stage of the game, to adopt this, even as well intentioned
Mr. BISHOP of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH). Mr. KUCINICH. I thank the gentleman for yielding me this time.

Mr. Chairman, I want to concur with the amendment offered by my friend (Mr. STUPAK) who spoke in favor of a Federal ban on drilling for oil or gas in the Great Lakes. I represent Cleveland, Ohio, which is a city proud to be part of the Great Lakes community. We in Cleveland understand that the Great Lakes contain 20 percent of the Earth’s fresh water surface and supplies drinking water for over 40 million people. This is a matter that any State can choose to go along with or against. This is clearly an area for Federal policy.

We need a Federal policy which says the people of the United States have a right to clean drinking water. Water is the oil of the 21st century and we are here acting as though it is not the basis of life on our planet.

As the gentleman from Texas knows well, we have several States who deal with Lake Michigan and four of the five Great Lakes are international borders, a ban, if it is going to come, a permanent ban, which we seek, would have to be Federal legislation because of the interstate commerce clause, from which our committee gets its jurisdiction. That is why we were very disappointed in that, especially.

In fact, in 2001, we did have a moratorium on oil and gas drilling in the Great Lakes, and it passed 265-157. We have strong bipartisan support. That is why we are disappointed that the Committee on Rules did not make our amendment in order.

Mr. BARTON of Texas. If I could reclaim my time, the gentleman from Michigan is a valued member of the committee and has several amendments that were accepted, that are in the bill. I hope he is at least in a quandary about maybe voting for the bill at some point in time, although he has not yet done so.

But as he just pointed out on the underlying bill, we do encourage States, I think the language is, encourages the States to have such a ban, but we do not have the Federal preemptive ban that the gentleman from Michigan wanted.

Mr. Chairman, in summary, I oppose this amendment. I think we have pointed out a number of flaws in it. I would move at the appropriate time the body would vote it down.

Mr. Chairman, I yield back the balance of my time.
It is now in order to consider amendment No. 8 printed in House Report 109-49.

AMENDMENT NO. 8 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. Slaughter

In Title I, subtitle C, add at the end the following new section:

SEC. 135. INTERMITTENT ESCALATORS.

Section 543 of the National Energy Conservation Act (42 U.S.C. 8253) is amended by adding at the end the following new subsection:

"(e) INTERMITTENT ESCALATORS.—

(1) REQUIREMENT.—Except as provided in paragraph (2), any escalator acquired for installation in a Federal building shall be an intermittent escalator.

(2) EXCEPTION.— Paragraph (1) shall not apply at a location outside the United States where the Federal agency determines that to acquire an intermittent escalator would require an expenditure greater cost to the Government over the life of the escalator.

(3) ADDITIONAL ENERGY CONSERVATION MEASURES.—In addition to complying with paragraphs (1) and (2) of this section, the Federal agencies shall incorporate other escalator energy conservation measures, as appropriate.

(4) DEFINITION.—For purposes of this subsection, the term ‘‘intermittent escalator’’ means an escalator that remains in a stationary position until it automatically operates at the approach of a passenger, returning to a stationary position after the passenger completes passage.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentlewoman from New York (Ms. Slaughter) and the gentleman from Texas (Mr. Barton) each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. Slaughter).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

In 1998 Congress set a goal for 2005 to improve the energy efficiency in congressional buildings by 20 percent. And I know that the Architect of the Capitol has been working very hard to reach the goal. However, we have not yet. The skyrocketing gasoline prices remind us that we must do more for conservation.

I am disappointed that the underlying legislation gives 94 percent of its benefits to the oil and gas industry and only 6 percent to conservation and renewable efforts.

My amendment, I think, is a good start at least on some conservation. It would simply require that any new escalator being installed in Federal buildings to be an intermittent escalator. These have been in use in Europe for 30 or 40 years; and I know that when I first saw one, I could hardly believe it. It does not begin until the passenger steps on a pad entering into the escalator. When the passengers are off, we would save about 40 percent of the fuel costs, the electricity costs, the energy costs. But in addition to that, what we would save simply on the wear and tear, the pure mechanics of the escalator, probably would be even higher than the energy savings.

Mr. Chairman, the traditional escalators are used more than 90 billion times a year in the United States; and with more than 30,000 of them across the country, escalators move more people than airplanes. And since almost all of them are out of order a good percentage of the time, we know that it is important that we do something to conserve the time, energy and the money and the investment we have made in the escalators.

As I pointed out, the amount of energy consumed is estimated to be 260 million kilowatts an hour, which we would save a cost to the Nation, if all of them were intermittent, of $260 million a year.

I want to quote an analyst at Lawrence Livermore National Laboratory. The intermittent escalators, says Lawrence Livermore, are 40 to 50 percent more energy efficient than traditional escalators. This was borne out by a case study supplied to me from the German Embassy, which found 40 percent savings in Germany. Energy can be particularly saved when the escalator is used only during rush hours.

Replacing all of them would save us an awful lot of money, but this bill does not replace them all. It simply requires that new escalators be of the intermittent variety. And I strongly hope that we will accept this amendment this evening as part of this energy bill.

Mr. Chairman, I reserve the balance of my time.

Mr. Barton of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to qualify in opposition. And I say ‘‘qualify’’ because when I looked at the amendment seven days ago, I concluded that it was another reason. So we had lots of reasons to say yes, and so we did say yes.

Then we found out that the gentleman from Alaska (Mr. Young), the chairman of Committee on Transportation and Infrastructure, had some concerns about it, and the General Services Administration had some concerns about it. And the concern is that these intermittent escalators sometimes cause a safety problem because they start and stop too soon and they apparently break down more frequently than continuous-operation escalators.

So here is my proposal to the gentlewoman: I am willing to accept it with the understanding that we are going to work with the General Services Administration and the gentleman from Alaska (Chairman Young) to see if there is a meeting of the minds between now and conference. We will go into the base bill. It will be a House position when we go to conference. But if for some reason we cannot satisfy these safety concerns, since I am probably going to be the House chairman of the conference, I would reserve the right to drop it in conference after consultation with the gentlewoman if we cannot work out some of these concerns. But for tonight we would take it.

Mr. Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman very much for his support. I appreciate that. And if it is all right with the chairman, I will inundate him with that information between now and then.

Mr. Chairman, I yield back the balance of my time.

Mr. Barton of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, with that reservation, the majority accepts the gentlewoman’s amendment and urges a mild ‘‘yes’’ vote.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Ms. Slaughter).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 109-49.

It is now in order to consider amendment No. 10 printed in House Report 109-49.

Mr. Barton of Texas. Mr. Chairman, I ask unanimous consent, on the Oberstar amendment, even though he is not here, that the gentleman from Michigan (Mr. Dingell) be allowed to offer it, and if he will on the gentleman from Minnesota’s (Mr. Oberstar) behalf, I will accept it.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT NO. 10 OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. Dingell

At the end of subtitle A of title II, add the following (and conform the table of contents accordingly):

SEC. 209. INSTALLATION OF PHOTOVOLTAIC SYSTEM.

There is authorized to be appropriated to the General Services Administration to install a photovoltaic system, as set forth in the Sun Wall Design Project, for the head- quarters building of the Department of Energy located at 1000 Independence Avenue Southwest in the District of Columbia, commencing on the chairman’s building, $20,000,000 for fiscal year 2006. Such sums shall remain available until expended.

April 20, 2005 CONGRESSIONAL RECORD—HOUSE H2365
Mr. BARTON of Texas. Mr. Chairman, since the gentleman from California is a member of the committee of jurisdiction and since he offered this in committee and it was made in order by the Committee on Rules to be offered, even though he was somewhat tardy in arriving, would it not be in order for him to make the amendment, if made and not objected to, give him the right to offer the amendment in order?

The Acting CHAIRMAN. Such a request may be entertained in the full House.

Mr. BARTON of Texas. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FLAKE) having assumed the chair, Mr. SIMPSON, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, had come to no resolution thereon.

MAKING IN ORDER AT ANY TIME WAXMAN AMENDMENT NO. 9 DURING FURTHER CONSIDERATION OF H.R. 6, ENERGY POLICY ACT OF 2005

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that Waxman amendment No. 9 be allowed to be offered at any time to H.R. 6.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ENERGY POLICY ACT OF 2005

The SPEAKER pro tempore. Pursuant to House Resolution 219 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that Waxman amendment No. 9 be allowed to be offered at any time to H.R. 6.

The motion was agreed to.

Mr. WAXMAN. The amendment now?

Mr. BARTON of Texas. Mr. Chairman, I reserve the right to object, and I will not object.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows: