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GASOLINE FOR AMERICA'S SECURITY ACT OF 2005

OCTOBER 6, 2005.—Ordered to be printed

Mr. BARTON of Texas, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 3893]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3893) to expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
Amendment	2
Purpose and Summary	19
Background and Need for Legislation	20
Hearings	22
Committee Consideration	22
Committee Votes	22
Committee Oversight Findings	35
Statement of General Performance Goals and Objectives	35
New Budget Authority, Entitlement Authority, and Tax Expenditures	35
Committee Cost Estimate	35
Congressional Budget Office Estimate	35
Federal Mandates Statement	42
Advisory Committee Statement	42
Constitutional Authority Statement	42
Applicability to Legislative Branch	42
Section-by-Section Analysis of the Legislation	42
Changes in Existing Law Made by the Bill, as Reported	54
Dissenting and Additional Views	66, 67
Exchange of Committee Correspondence	72

49–006

AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Gasoline for America's Security Act of 2005".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—INCREASING REFINERY CAPACITY

Sec. 101. State participation and presidential designation.
Sec. 102. Process coordination and rules of procedure.
Sec. 103. Refinery revitalization repeal.
Sec. 104. Standby support for refineries.
Sec. 105. Military use refinery.
Sec. 106. New source review under Clean Air Act.
Sec. 107. Waiver authority for extreme fuel supply emergencies.
Sec. 108. List of fuel blends.
Sec. 109. Attainment dates for downwind ozone nonattainment areas.
Sec. 110. Northwest crude oil supply.
Sec. 111. Discounted sales of royalty-in-kind oil to qualified small refineries.
Sec. 112. Study and report relating to streamlining paperwork requirements.
Sec. 113. Response to biomass debris emergency.

TITLE II—INCREASING DELIVERY INFRASTRUCTURE

Sec. 201. Federal-State regulatory coordination.
Sec. 202. Process coordination and rules of procedure.
Sec. 203. Backup power capacity study.
Sec. 204. Sunset of loan guarantees.
Sec. 205. Offshore pipelines.
Sec. 206. Savings clause.
Sec. 207. Carbon-based fuel cell development.

TITLE III—CONSERVATION AND EDUCATION

Sec. 301. Department of Energy carpooling and vanpooling program.
Sec. 302. Evaluation and assessment of carpool and vanpool projects.
Sec. 303. Internet utilization study.
Sec. 304. Fuel consumption education campaign.
Sec. 305. Procurement of energy efficient lighting devices.
Sec. 306. Minority employment.

TITLE IV—GASOLINE PRICE REFORM

Sec. 401. Short title.
Sec. 402. Gasoline price gouging prohibited.
Sec. 403. FTC investigation on price-gouging.
Sec. 404. FTC study of petroleum prices on exchange.

TITLE V—STRATEGIC PETROLEUM RESERVE

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

TITLE VI—COMMISSION FOR THE DEPLOYMENT OF THE HYDROGEN ECONOMY

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

TITLE VII—CRITICAL ENERGY ASSURANCE

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

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) No new refinery has been constructed in the United States since 1976. There are 148 operating refineries in the United States, down from 324 in 1981. Refined petroleum product imports are currently projected to grow from 7.9 percent to 10.7 percent of total refined product by 2025 to satisfy increasing demand.

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

(3) Hurricanes Katrina and Rita substantially disrupted petroleum production, refining, and pipeline systems in the Gulf Coast region, affecting energy prices and supply nationwide. In the immediate aftermath of Katrina alone, United States refining capacity was reduced by more than 2,000,000 barrels per day. However, before Hurricanes Katrina and Rita, United States refining capacity was already significantly strained by increased levels of production, with industry average utilization rates of 95 percent of capacity or higher.

(4) It serves the national interest to increase refinery capacity for gasoline, heating oil, diesel fuel, and jet fuel wherever located within the United States, to bring more reliable and economic supply to the American people.

(5) According to economic analysis, households are conservatively estimated to spend an average of $1,948 this year on gasoline, up 45 percent from 3 years ago, and households with incomes under $15,000 (1/5 of all households) this year will spend, on average, more than 1/10 of their income just on gasoline.

(6) According to economic analysis, rural American households will spend $2,087 on gasoline this year. Rural Americans are paying an estimated 22 percent more for gasoline than their urban counterparts because they must drive longer distances.

(7) A growing reliance on foreign sources of refined petroleum products impairs our national security interests and global competitiveness.

(8) Refiners are subject to significant 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. These new requirements increase business uncertainty and dissuade investment in new refinery capacity.

(9) There is currently a lack of coordination in permitting requirements and other regulations affecting refineries at the Federal, State, and local levels. There is no consistent national permitting program for refineries, compared with the Federal Energy Regulatory Commission's lead agency role over interstate natural gas pipelines, liquefied natural gas, and hydroelectric power and the Nuclear Regulatory Commission's role over nuclear plant licensing. More regulatory certainty and coordination is needed for refinery owners to stimulate investment in increased refinery capacity.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "refinery" means—

(A) a facility designed and operated to receive, load, unload, store, transport, process, and refine crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof, in order to produce gasoline or other fuel; or

(B) a facility designed and operated to receive, load, unload, store, transport, process, and refine coal by any chemical or physical process, including liquefaction, in order to produce gasoline, diesel, or other liquid fuel as its primary output; and

(3) the term "Secretary" means the Secretary of Energy.

TITLE I—INCREASING REFINERY CAPACITY

SEC. 101. STATE PARTICIPATION AND PRESIDENTIAL DESIGNATION.

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

(1) GOVERNOR'S REQUEST.—The governor of a State may submit a request to the Secretary for the application of process coordination and rules of procedure under section 102 to the siting, construction, expansion, or operation of any refinery in that State.

(2) STATE ASSISTANCE.—The Secretary and the Administrator are authorized to provide financial assistance to State governments to facilitate the hiring of additional personnel with expertise in fields relevant to consideration of applications to site, construct, expand, or operate any refinery in that State.

(3) OTHER ASSISTANCE.—The Secretary and the Administrator shall provide technical, legal, or other assistance to State governments to facilitate their review of applications to site, construct, expand, or operate any refinery in that State.

(b) PRESIDENTIAL DESIGNATION.—

(1) REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall designate sites on Federal lands, including closed military installations, that are appropriate for the purposes of siting a refinery. Any such designation may be based on an analysis of—

(A) the availability of crude oil supplies to the site, including supplies from domestic production of shale oil and tar sands and other strategic unconventional fuels;

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

(C) whether such sites are in close proximity to substantial pipeline infrastructure, including both crude oil and refined petroleum product pipelines, and potential infrastructure feasibility;

(D) the need to diversify the geographical location of the Nation's domestic refining capacity;

(E) the effect that increased refined petroleum products from a refinery on that site may have on the price and supply of gasoline to consumers;

(F) national defense; and

(G) such other factors as the President considers appropriate.

(2) MILITARY INSTALLATIONS.—

(A) DESIGNATION.—Among the sites designated pursuant to this subsection, the President shall designate no less than 3 closed military installations, or portions thereof, as suitable for the construction of a refinery. Except as provided in subparagraph (B), until the expiration of 2 years after the date of enactment of this Act, the Federal Government shall not sell or otherwise dispose of the military installations designated pursuant to this subsection.

(B) GOVERNOR'S OBJECTION.—No site may be used for a refinery under this title if, not later than 60 days after designation of the site under subparagraph (A), the Governor of the State in which the site is located transmits to the President an objection to the designation, unless, not later than 60 days after the President receives such objection, the Congress has by law overridden the objection.

(c) LEASE OF SITES.—The Federal Government shall offer for lease, or select under section 105(a), any site designated by the President under subsection (b), consistent with procedures for the disposition of such site under applicable Federal property laws. Notwithstanding any provision of such Federal property laws providing for the disposition or reuse of the site, a lease under this subsection, or selection under section 105(a), shall be deemed to be the appropriate disposition of the site. A site shall not be leased under this subsection except for the purpose of construction of a refinery.

(d) APPLICABILITY.—Section 102 shall only apply to refineries sited or proposed to be sited or expanded or proposed to be expanded—

(1) in a State whose governor has requested applicability of such section pursuant to subsection (a) of this section; or

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

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

(1) the term "closed military installations" means facilities closed pursuant to a base closure law (as defined in section 101(a)(17) of title 10, United States Code) and facilities identified for closure in 2005 and included on the list of installations forwarded by the President to Congress on September 15, 2005, pursuant to a base closure law;

(2) the term "Federal lands" means all land owned by the United States, except that such term does not include land—

(A) within the National Park System;

(B) within the National Wilderness Preservation System; and

(C) designated as a National Monument; and

(3) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

SEC. 102. PROCESS COORDINATION AND RULES OF PROCEDURE.

(a) DEFINITION.—For purposes of this section and section 105, the term "Federal refinery authorization"—

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

(2) includes any permits, special use authorizations, certifications, opinions, or other approvals required under Federal law with respect to siting, construction, expansion, or operation of a refinery.

(b) DESIGNATION AS LEAD AGENCY.—

(1) IN GENERAL.—The Department of Energy shall act as the lead agency for the purposes of coordinating all applicable Federal refinery authorizations and related environmental reviews with respect to a refinery.

(2) OTHER AGENCIES.—Each Federal and State agency or official required to provide a Federal refinery authorization shall cooperate with the Secretary and comply with the deadlines established by the Secretary.

(c) SCHEDULE.—

(1) SECRETARY'S AUTHORITY TO SET SCHEDULE.—The Secretary shall establish a schedule for all Federal refinery authorizations with respect to a refinery. In establishing the schedule, the Secretary shall—

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

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

(2) FAILURE TO MEET SCHEDULE.—If a Federal or State administrative agency or official does not complete a proceeding for an approval that is required for a Federal refinery authorization in accordance with the schedule established by the Secretary under this subsection, the applicant may pursue remedies under subsection (e).

(d) CONSOLIDATED RECORD.—The Secretary 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 Secretary or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal refinery authorization. Such record shall be the record for judicial review under subsection (e) of decisions made or actions taken by Federal and State administrative agencies and officials, except that, if the Court determines that the record does not contain sufficient information, the Court may remand the proceeding to the Secretary for further development of the consolidated record.

(e) JUDICIAL REVIEW.—

(1) IN GENERAL.—The United States Court of Appeals for the District of Columbia shall have original and exclusive jurisdiction over any civil action for the review of—

(A) an order or action, related to a Federal refinery authorization, by a Federal or State administrative agency or official; and

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

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

(2) COURT ACTION.—If the Court finds that an order or action described in paragraph (1)(A) is inconsistent with the Federal law governing such Federal refinery authorization, or that a failure to act as described in paragraph (1)(B) has occurred, and the order, action, or failure to act would prevent the siting, construction, expansion, or operation of the refinery, the Court shall remand the proceeding to the agency or official to take appropriate action consistent with the order of the Court. If the Court remands the order, action, or failure to act to the Federal or State administrative agency or official, the Court shall set a reasonable schedule and deadline for the agency or official to act on remand.

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

(4) EXPEDITED REVIEW.—The Court shall set any civil action brought under this subsection for expedited consideration.

(5) ATTORNEY'S FEES.—In any action challenging a Federal refinery authorization that has been granted, reasonable attorney's fees and other expenses of litigation shall be awarded to the prevailing party. This paragraph shall not apply to any action seeking remedies for denial of a Federal refinery authorization or failure to act on an application for a Federal refinery authorization.

SEC. 103. REFINERY REVITALIZATION REPEAL.

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

SEC. 104. STANDBY SUPPORT FOR REFINERIES.

(a) DEFINITION.—For purposes of this section, the term "authorization" means any authorization or permit required under State or Federal law.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—The Secretary may enter into contracts under this section with non-Federal entities that the Secretary determines, at the sole discretion of the Secretary, to be the first non-Federal entities to enter into firm contracts after the date of enactment of this Act to construct new refineries in the United States or refurbish and return to commercial operation existing but nonoperating refineries in the United States. The Secretary may enter into contracts under this section with respect to new refineries or refurbished refineries that add a total of no more than 2,000,000 barrels per day of refining capacity to the refining capacity of the United States as in existence on the date of enactment of this Act.

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

(A) the non-Federal entity has substantially completed construction of the new refinery or the refurbished refinery and the initial commercial operation of the new refinery or of the refurbished refinery is delayed because of—

(i) litigation that could not have been reasonably foreseen by the non-Federal entity at the time the non-Federal entity entered into the firm contract to construct; or

(ii) a failure of an agency of the Federal Government or of a State government to grant an authorization within a period specified in the contract authorized by this section; or

(B) the throughput level of commercial operation of the new or refurbished refinery is substantially reduced due to—

(i) State or Federal law or regulations enacted or implemented after the firm contract was entered into; or

(ii) litigation, that could not have been reasonably foreseen by the non-Federal entity, disputing actions taken by the non-Federal entity to conform with and satisfy Federal law or regulations enacted or implemented after the firm contract was entered into.

(3) COVERED COSTS.—Under a contract authorized under this section, the Secretary shall pay—

(A) in the case of a delay described in paragraph (2)(A), all costs of the delay in the initial commercial operation of a new refining or a refurbished refinery, including the principal or interest due on any debt obligation of the new refinery or of the refurbished refinery during the delay, and any consequential damages; and

(B) in the case of a substantial reduction described in paragraph (2)(B), all costs necessary to offset the costs of the reduced throughput and the costs of complying with the new State or Federal law or regulations.

(4) COSTS NOT COVERED.—The Secretary shall not enter into a contract under this section that would obligate the Secretary to pay any costs resulting from—

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

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

(5) DEPOSIT.—The Secretary shall not enter into a contract authorized under this section until the Secretary has deposited into the Standby Refinery Support Account amounts sufficient to cover the costs specified in paragraph (3).

(c) STANDBY REFINERY SUPPORT ACCOUNT.—There is established in the Treasury an account known as the Standby Refinery Support Account. The Secretary shall deposit into this account amounts appropriated, in advance of entering into a contract authorized by this section, to the Secretary for the purpose of carrying out this section and payments paid to the Secretary by any non-Federal source for the purpose of carrying out this section. The Secretary may receive and accept payments from any non-Federal source, which shall be made available without further appropriation for the payment of the covered costs.

(d) REGULATIONS.—The Secretary may issue regulations necessary or appropriate to carry out this section.

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

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

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

(1) in a State whose governor has requested applicability of this section pursuant to section 101(a)(1); or

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

SEC. 105. MILITARY USE REFINERY.

(a) AUTHORIZATION.—If the President determines that there is not sufficient refining capacity in the United States, the President, to the extent provided in advance in appropriations Acts, may authorize the design and construction of and select an appropriate site for, a refinery for the exclusive purpose of manufacturing petroleum products for consumption by the Armed Forces of the United States. A refinery constructed under this section shall be located at a site designated by the President under section 101(b). Such site shall be leased, for its fair market value, to the applicant selected to operate the refinery pursuant to subsection (b).

(b) SOLICITATION FOR DESIGN, CONSTRUCTION, AND OPERATION.—The President shall solicit proposals for the design, construction, and operation of a refinery under this section. In selecting a proposal or proposals under this subsection, the President shall consider—

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

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

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

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

(1) construction efficiencies; and

(2) operational efficiencies, including cost efficiencies.

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

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

(a) RULEMAKING.—Considering the devastation brought about by the recent natural disasters, and the adverse impact of such disasters on the United States energy markets, including both the availability and the price of energy, the Administrator shall initiate a rulemaking, issue guidance, and take all other appropriate steps to reform, as expeditiously as practicable, the New Source Review programs under title I, parts C and D of the Clean Air Act. Taking into account the urgent need to increase the efficiency and availability and to improve the reliability of the energy supply to consumers and industrial sources, and to secure a decrease in energy prices, the Administrator, in undertaking these reform efforts, shall utilize and draw upon the maximum legal flexibility available under existing law, in order to enable energy industry facilities, including, but not limited to, refineries, electric power generating stations, and compressor stations, to undertake without hindrance, promptly and in the least-cost manner, projects to maintain, to restore, and to improve the efficiency, the reliability, or the availability of such facilities.

(b) DEFINITION.—Section 302 of the Clean Air Act (42 U.S.C. 7602) is amended by adding the following new subsection at the end thereof:

"(aa) PHYSICAL CHANGE, OR CHANGE IN THE METHOD OF OPERATION OF EXISTING EMISSIONS UNIT.—For purposes of parts C and D of this title, the term 'physical change, or change in the method of operation of,' as applied to an existing emissions unit, means a 'modification' as defined in paragraphs (a), (b), (c), (e), and (h) of title 40 of the Code of Federal Regulations, section 60.14 (as in effect on September 22, 2005), except that paragraph (h) shall apply to all industrial categories and paragraph (e)(1) shall include all repairs and replacements covered by section 51.166(y) of title 40 of the Code of Federal Regulations (as in effect on December 31, 2004).".

SEC. 107. WAIVER AUTHORITY FOR EXTREME FUEL SUPPLY EMERGENCIES.

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

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

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

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

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

"(aa) may temporarily waive any control or prohibition respecting the use of a fuel or fuel additive required by this section; and

"(bb) may preempt and temporarily waive any related or equivalent control or prohibition respecting the use of a fuel or fuel additive prescribed by a State or local statute or regulation, including any such requirement in a State implementation plan.

"(II) The effective period of a waiver under this clause shall be the time period necessary to permit the correction of the extreme and unusual fuel or fuel additive

supply emergency caused by the natural disaster, except that such period shall not be longer than 90 days.

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

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

"(vi) A State shall not be subject to any finding, disapproval, or determination by the Administrator under section 179, no person may bring an action against a State or the Administrator under section 304, and the Administrator shall not take any action under section 110(c) to require the revision of an applicable implementation plan, because of any emissions attributable to a waiver granted by the Administrator under clause (ii) or by the President under clause (v).".

SEC. 108. LIST OF FUEL BLENDS.

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

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

(2) by redesignating subclause (VI) as subclause (V); and

(3) by inserting the following before subclause (V), as so redesignated by paragraph (2) of this subsection:

"(I) The Administrator, in coordination with the Secretary of Energy (hereinafter in this clause referred to as the 'Secretary'), shall identify and publish in the Federal Register, within 12 months after the enactment of this subclause and after notice and opportunity for public comment, a list of 6 gasoline and diesel fuel blends to be used in States that have not received a waiver under section 209(b) of this Act or any State dependent on refineries in such State for gasoline or diesel fuel supplies. The list shall be referred to as the 'Federal Fuels List' and shall include one Federal diesel fuel, one alternative diesel fuel blend approved under this subparagraph before enactment of this subclause, one conventional gasoline for ozone attainment areas, one reformulated gasoline (RFG) meeting the requirements of subsection (k), and 2 additional gasoline blends with Reid vapor pressure (RVP) controls for use in ozone nonattainment areas of varying degrees of severity. None of the fuel blends identified under this subclause shall control fuel sulfur or toxics levels beyond levels required by regulations of the Administrator.

"(II) Gasoline and diesel fuel blends shall be included on the Federal Fuels List based on the Administrator's analysis of their ability to reduce ozone emissions to assist States in attaining established ozone standards under this Act, and on an analysis by the Secretary that the adoption of the Federal Fuels List will not result in a reduction in supply or in producibility, including that caused by a reduction in domestic refining capacity triggered by this clause. In the event the Secretary concludes that adoption of the Federal Fuels List will result in a reduction in supply or in producibility, the Administrator and the Secretary shall report that conclusion to Congress, and suspend implementation of this clause. The Administrator and the Secretary shall conduct the study required under section 1541(c) of the Energy Policy Act of 2005 on the timetable required in that section to provide Congress with legislative recommendations for modifications to the proposed Federal Fuels List only if the Secretary concludes that adoption of the Federal Fuels List will result in a reduction in supply or in producibility.

"(III) Upon publication of the Federal Fuels List, the Administrator shall have no authority, when considering a State implementation plan or State implementation plan revision, to approve under this subparagraph any fuel included in such plan or plan revision if the fuel proposed is not one of the fuels included on the Federal Fuels List; or to approve such plan or revision unless, after consultation with the Secretary, the Administrator publishes in the Federal Register, after notice and opportunity for public comment, a finding that, in the Administrator's judgment, such revisions to newly adopt one of the fuels included on the Federal Fuels List will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous area. The Administrator's findings shall include an assessment of reasonably foreseeable supply distribution emergencies that could occur in the affected area or contiguous area and how adoption of the particular fuel revision would effect supply opportunities during reasonably foreseeable supply distribution emergencies.

"(IV) The Administrator, in consultation with the Secretary, shall develop a plan to harmonize the currently approved fuel blends in State implementation plans with the blends included on the Federal Fuels List and shall promulgate implementing regulations for this plan not later than 18 months after enactment of this subclause.

This harmonization shall be fully implemented by the States by December 31, 2008.".

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

"(2) FOCUS OF STUDY.—The primary focus of the study required under paragraph (1) shall be to determine how to develop a Federal fuels system that maximizes motor 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 are necessary to implement such a system. The study should include the impacts on overall energy supply, distribution, and use as a result of the legislative changes recommended. The study should include an analysis of the impact on ozone emissions and supply of a mandatory reduction in the number of fuel blends to 6, including one Federal diesel fuel, one alternative diesel fuel blend, one conventional gasoline for ozone attainment areas, one reformulated gasoline (RFG) meeting the requirements of subsection (k), and 2 additional gasoline blends with Reid vapor pressure (RVP) controls for use in ozone nonattainment areas of varying degrees of severity. ".

SEC. 109. ATTAINMENT DATES FOR DOWNWIND OZONE NONATTAINMENT AREAS.

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

"(d) EXTENDED ATTAINMENT DATE FOR CERTAIN DOWNWIND AREAS.—

"(1) DEFINITIONS.—In this subsection:

"(A) The term 'upwind area' means an area that—

"(i) affects nonattainment in another area, hereinafter referred to as a downwind area; and

"(ii) is either—

"(I) a nonattainment area with a later attainment date than the downwind area, or

"(II) an area in another State that the Administrator has found to be significantly contributing to nonattainment in the downwind area in violation of section 110(a)(2)(D) and for which the Administrator has established requirements through notice and comment rulemaking to eliminate the emissions causing such significant contribution.

"(B) The term 'current classification' means the classification of a downwind area under this section at the time of the determination under paragraph (2).

"(2) EXTENSION.—Notwithstanding the provisions of subsection (b)(2) of this section, a downwind area that is not in attainment within 18 months of the attainment deadline required under this section may seek an extension of time to come into attainment by petitioning the Administrator for such an extension. If the Administrator—

"(A) determines that any area is a downwind area with respect to a particular national ambient air quality standard for ozone;

"(B) approves a plan revision for such area as provided in paragraph (3) prior to a reclassification under subsection (b)(2)(A); and

"(C) determines that the petitioning downwind area has demonstrated that it is affected by transport from an upwind area to a degree that affects the area's ability to attain,

the Administrator, in lieu of such reclassification, may extend the attainment date for such downwind area for such standard in accordance with paragraph (5).

"(3) APPROVAL.—In order to extend the attainment date for a downwind area under this subsection, the Administrator may approve a revision of the applicable implementation plan for the downwind area for such standard that—

"(A) complies with all requirements of this Act applicable under the current classification of the downwind area, including any requirements applicable to the area under section 172(c) for such standard;

"(B) includes any additional measures needed to demonstrate attainment by the extended attainment date provided under this subsection, and provides for implementation of those measures as expeditiously as practicable; and

"(C) provides appropriate measures to ensure that no area downwind of the area receiving the extended attainment date will be affected by transport to a degree that affects the area's ability to attain, from the area receiving the extension.

"(4) PRIOR RECLASSIFICATION DETERMINATION.—If, after April 1, 2003, and prior to the time the 1-hour ozone standard no longer applies to a downwind area, the Administrator made a reclassification determination under subsection (b)(2)(A) for such downwind area, and the Administrator approves a plan consistent with subparagraphs (A) and (B) for such area, the reclassification shall be withdrawn and, for purposes of implementing the 8-hour ozone national ambient air quality standard, the area shall be treated as if the reclassification never occurred. Such plan must be submitted no later than 12 months following enactment of this subsection, and—

"(A) the plan revision for the downwind area must comply with all control and planning requirements of this Act applicable under the classification that applied immediately prior to reclassification, including any requirements applicable to the area under section 172(c) for such standard; and

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

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 end of the first complete ozone season following the date on which the last reductions in pollution transport that have been found by the Administrator to significantly contribute to nonattainment are required to be achieved by the upwind area or areas.

"(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 new date that the area would have been subject to had it been reclassified under subsection (b)(2).

"(6) RULEMAKING.—Within 12 months after the enactment of this subsection, the Administrator shall, through notice and comment, promulgate rules to define the term 'affected by transport to a degree that affects an areas ability to attain' in order to ensure that downwind areas are not unjustly penalized, and for purposes of paragraphs (2) and (3) of this subsection.".

SEC. 110. NORTHWEST CRUDE OIL SUPPLY.

Section 5(b) of the Act entitled "An Act to authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972", enacted October 18, 1977 (Public Law 95–136) is amended by striking "for consumption in the State of Washington".

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

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

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

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

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

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

(d) QUALIFIED SMALL REFINERY.—In this section the term "qualified small refinery" means a refinery of a small business refiner (as that term is defined in section 45H(c)(1) of the Internal Revenue Code of 1986) that demonstrates to the Secretary of the Interior that it had unused crude oil processing capacity in 2004.

SEC. 112. STUDY AND REPORT RELATING TO STREAMLINING PAPERWORK REQUIREMENTS.

(a) STUDY.—The Administrator shall study ways to streamline the paperwork requirements associated with title V of the Clean Air Act and corresponding requirements under State laws, particularly with regard to States that have more stringent requirements than the Federal Government in this area.

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

SEC. 113. RESPONSE TO BIOMASS DEBRIS EMERGENCY.

(a) USE OF BIOMASS DEBRIS AS FUEL.—Notwithstanding any other provision of law, the Secretary of Energy may authorize any facility to use as fuel biomass debris if—

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

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

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

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

(1) shall certify to the State in which the facility is located that no significant impact on meeting national ambient air quality standards will result and shall propose emission limits adequate to support such certification; and

(2) may begin burning biomass debris fuel upon filing the certification required by paragraph (1) unless the State notifies the facility to the contrary.

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

(1) adopt (or as appropriate amend) the proposed emission limits for the biomass burning at the facility; and

(2) retain other existing emissions limits wherever they are necessary and reasonable.

(d) NEW SOURCE REVIEW.—No activities needed to qualify a facility to burn biomass debris as fuel in accordance with this section shall trigger the requirements of new source review or new source performance standards under the Clean Air Act.

TITLE II—INCREASING DELIVERY INFRASTRUCTURE

SEC. 201. FEDERAL-STATE REGULATORY COORDINATION.

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

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

(c) INTERSTATE COMPACTS.—(1) The consent of Congress is given for 2 or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional pipeline siting agencies to facilitate siting of future crude oil or refined petroleum product pipeline facilities within those States.

(2) The Secretary may provide technical assistance to regional pipeline siting agencies established under this subsection.

SEC. 202. PROCESS COORDINATION AND RULES OF PROCEDURE.

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

(1) the term "Commission" means the Federal Energy Regulatory Commission; and

(2) the term "Federal pipeline authorization"—

(A) means any authorization required under Federal law, whether administered by a Federal or State administrative agency or official, with respect to siting of a crude oil or refined petroleum product pipeline facility in interstate commerce; and

(B) includes any permits, special use authorizations, certifications, opinions, or other approvals required under Federal law with respect to siting of a crude oil or refined petroleum product pipeline facility in interstate commerce.

(b) DESIGNATION AS LEAD AGENCY.—

(1) IN GENERAL.—The Commission shall act as the lead agency for the purposes of coordinating all applicable Federal pipeline authorizations and related environmental reviews with respect to a crude oil or refined petroleum product pipeline facility.

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

(c) SCHEDULE.—

(1) COMMISSION'S AUTHORITY TO SET SCHEDULE.—The Commission shall establish a schedule for all Federal pipeline authorizations with respect to a crude oil or refined petroleum product pipeline facility. In establishing the schedule, the Commission shall—

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

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

(2) FAILURE TO MEET SCHEDULE.—If a Federal or State administrative agency or official does not complete a proceeding for an approval that is required for a Federal pipeline authorization in accordance with the schedule established by the Commission under this subsection, the applicant may pursue remedies under subsection (e).

(d) CONSOLIDATED RECORD.—The Commission 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 Commission or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to any Federal pipeline authorization. Such record shall be the record for judicial review under subsection (e) of decisions made or actions taken by Federal and State administrative agencies and officials, except that, if the Court determines that the record does not contain sufficient information, the Court may remand the proceeding to the Commission for further development of the consolidated record.

(e) JUDICIAL REVIEW.—

(1) IN GENERAL.—The United States Court of Appeals for the District of Columbia shall have original and exclusive jurisdiction over any civil action for the review of—

(A) an order or action related to a Federal pipeline authorization by a Federal or State administrative agency or official; and

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

The failure of an agency or official to act on a Federal pipeline authorization in accordance with the Commission's schedule established pursuant to subsection (c) shall be considered inconsistent with Federal law for the purposes of paragraph (2) of this subsection.

(2) COURT ACTION.—If the Court finds that an order or action described in paragraph (1)(A) is inconsistent with the Federal law governing such Federal pipeline authorization, or that a failure to act as described in paragraph (1)(B) has occurred, and the order, action, or failure to act would prevent the siting of the crude oil or refined petroleum product pipeline facility, the Court shall remand the proceeding to the agency or official to take appropriate action consistent with the order of the Court. If the Court remands the order, action, or failure to act to the Federal or State administrative agency or official, the Court shall set a reasonable schedule and deadline for the agency or official to act on remand.

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

(4) EXPEDITED REVIEW.—The Court shall set any civil action brought under this subsection for expedited consideration.

(5) ATTORNEY'S FEES.—In any action challenging a Federal pipeline authorization that has been granted, reasonable attorney's fees and other expenses of litigation shall be awarded to the prevailing party. This paragraph shall not apply to any action seeking remedies for denial of a Federal pipeline authorization or failure to act on an application for a Federal pipeline authorization.

SEC. 203. BACKUP POWER CAPACITY STUDY.

Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report assessing the adequacy of backup power capacity in place as of the date of enactment of this Act, and the need for any additional capacity, to provide for the continuing operation during any reasonably foreseeable emergency situation, of those crude oil or refined petroleum product pipeline facilities that the Secretary finds to be significant to the Nation's supply needs, in areas that have historically been subject to higher incidents of natural disasters such as hurricanes, earthquakes, and tornados.

SEC. 204. SUNSET OF LOAN GUARANTEES.

Section 116(a) of the Alaska Natural Gas Pipeline Act is amended by adding at the end the following new paragraph:

"(4) The Secretary shall not enter into an agreement under paragraph (1) or (2) after the date that is 24 months after the date of enactment of the Gasoline for

America's Security Act of 2005 if the State of Alaska has not entered into an agreement pursuant to Alaska Stranded Gas Development Act which in good faith contractually binds the parties to deliver North Slope natural gas to markets via the proposed Alaska Natural Gas Pipeline.".

SEC. 205. OFFSHORE PIPELINES.

The Natural Gas Act is amended—

(1) in section 1(b) 15 U.S.C. 717(b)) by inserting after "to the production or" the following: ", except as provided in section 4(g),"; and

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

"(g)(1) For the purposes of this subsection—

"(A) the term 'gas service provider' means an entity that operates a facility located in the outer Continental Shelf that is used to move natural gas on or across the outer Continental Shelf; and

"(B) the term 'outer Continental Shelf' has the meaning given that term in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

"(2) All gas service providers shall submit to the Commission annually the conditions of service for each shipper served, consisting of—

"(A) the full legal name of the shipper receiving service;

"(B) a notation of shipper affiliation;

"(C) the type of service provided;

"(D) primary receipt points;

"(E) primary delivery points;

"(F) rates between each pair of points; and

"(G) other conditions of service deemed relevant by the gas service provider.

"(3) This subsection shall not apply to—

"(A) a gas service company that serves exclusively a single entity (either itself or one other party), until such time as—

"(i) the gas service provider agrees to serve a second shipper; or

"(ii) a determination is made that the gas service provider's denial of a request for service is unjustified;

"(B) a gas service provider that serves exclusively shippers with ownership interests in both the pipeline operated by the gas service provider and the gas produced from a field or fields connected to a single pipeline, until such time as—

"(i) the gas service provider offers to serve a nonowner shipper; or

"(ii) a determination is made that the gas service provider's denial of a request for service is unjustified;

"(C) service rendered over facilities that feed into a facility where natural gas is first collected, separated, dehydrated, or otherwise processed; and

"(D) gas service providers' facilities and service regulated by the Commission under section 7 of this Act.

"(4) When a gas service provider subject to this subsection alters its affiliates, customers, rates, conditions of service, or facilities, within any calendar quarter, it must then file with the Commission, on the first business day of the subsequent quarter, a revised report describing the status of its services and facilities.".

SEC. 206. SAVINGS CLAUSE.

Nothing in this title shall be construed to amend, alter, or in any way affect the jurisdiction or responsibilities of the Department of Transportation with respect to pipeline safety issues under chapter 601 of title 49, United States Code, or any other law.

SEC. 207. CARBON-BASED FUEL CELL DEVELOPMENT.

(a) GRANT AUTHORITY.—The Secretary 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 carbon-based fuel cell with a proven current density of 100 milliamps per square centimeter at a voltage of 0.6 volts.

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

TITLE III—CONSERVATION AND EDUCATION

SEC. 301. DEPARTMENT OF ENERGY CARPOOLING AND VANPOOLING PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) Metropolitan transit organizations have reported heightened interest in carpooling and vanpooling projects in light of recent increases in gasoline prices.

(2) The National Transportation Database reports that, in 2003, American commuters traveled over 440,000 miles using public transportation vanpools, an increase of 60 percent since 1996.

(3) According to the Natural Resource Defense Council, if each commuter car carried just one more passenger once a week, American gasoline consumption would be reduced by about 2 percent.

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

(c) GRANTS TO STATE AND LOCAL GOVERNMENTS.—As part of the program established under subsection (b), the Secretary may make grants to State and local governments for carpooling or vanpooling projects. The Secretary may make such a grant only if at least 50 percent of the costs of the project will be provided by the State or local government. If a private sector entity provides vehicles for use in a carpooling or vanpooling project supported under this subsection, the value of those vehicles may be counted as part of the State or local contribution to the project.

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

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

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

(3) Whether the area in which the project is located is a nonattainment area (as that term is defined in section 171 of the Clean Air Act (42 U.S.C. 7501)).

SEC. 302. EVALUATION AND ASSESSMENT OF CARPOOL AND VANPOOL PROJECTS.

(a) IN GENERAL.—The Administrator, in consultation with the Secretary, shall evaluate and assess carpool and vanpool projects funded under the congestion mitigation and air quality program established under section 149 of title 23, United States Code, to—

(1) reduce consumption of gasoline;

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

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

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary, shall submit to Congress a report including recommendations and findings that would improve the operation and evaluation of carpool and vanpool projects funded under the congestion mitigation and air quality improvement program and shall make such report available to all State and local metropolitan planning organizations.

SEC. 303. INTERNET UTILIZATION STUDY.

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

(1) linking riders with local carpools and vanpools;

(2) providing real-time messaging communication between drivers and riders;

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

(4) marketing existing vanpool and carpool programs.

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

SEC. 304. FUEL CONSUMPTION EDUCATION CAMPAIGN.

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

(b) ACCESSIBILITY.—The public information campaign shall be designed to reach the widest audience possible. The education campaign may include television, print,

Internet website, or any method designed to maximize the dissemination of gasoline savings information to drivers.

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

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

SEC. 305. PROCUREMENT OF ENERGY EFFICIENT LIGHTING DEVICES.

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

"(3) The head of an agency shall procure the most energy efficient and cost-effective light bulbs or other electrical lighting products, consistent with safety considerations, for use in that agency's facilities and buildings.".

SEC. 306. MINORITY EMPLOYMENT.

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

"(d) PROGRAM.—The Secretary of Energy is authorized and directed to establish a program to encourage minority students to study the earth sciences and enter the field of geology in order to qualify for employment in the oil, gas, and mineral industries. There are authorized to be appropriated for the program established under the preceding sentence $10,000,000.".

TITLE IV—GASOLINE PRICE REFORM

SEC. 401. SHORT TITLE.

This title may be cited as the "Gas Price Gouging Prevention Act".

SEC. 402. GASOLINE PRICE GOUGING PROHIBITED.

(a) UNLAWFUL CONDUCT.—During a period and in an area of a major disaster, it shall be an unfair or deceptive act or practice in violation of section 5 of the Federal Trade Commission Act for any person to sell gasoline or diesel fuel at a price which constitutes price gouging as defined by rule pursuant to subsection (b).

(b) PRICE GOUGING.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate any rules necessary for the enforcement of this section. Based on its findings from the investigation required by section 403, the Commission shall, in such rules, define "price gouging" for purposes of this section. Such rules shall be consistent with the requirements for declaring unfair acts or practices in section 5(n) of the Federal Trade Commission Act (15 U.S.C. 45(n)).

(c) ENFORCEMENT BY FTC.—A violation of subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

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

(e) DEFINITION OF MAJOR DISASTER.—

(1) DETERMINATION.—As used in this section, and for purposes of any rule promulgated pursuant to this section, the term "major disaster" means a major disaster declared by the President as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) that the Secretary of Energy determines to have substantially disrupted the production, distribution, or supply of gasoline or diesel fuel.

(2) APPLICABLE AREA AND PERIOD.—The prohibition in subsection (a) shall apply in an area determined to be a major disaster under paragraph (1) and for a period of 30 days after such determination is made.

SEC. 403. FTC INVESTIGATION ON PRICE-GOUGING.

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

(1) a comparison of, and analysis of the reasons for changes in, profit levels of subject companies during the 12-month period ending on August 31, 2005, and their profit levels for the month of September, 2005, including information

for particular companies on a basis that does not permit the identification of any company to which the information relates;

(2) a summary of tax expenditures (as defined in section 3(3) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(3)) for such companies;

(3) an examination of the effects of increased gasoline prices and gasoline price-gouging on economic activity in the United States;

(4) an analysis of the overall cost of increased gasoline prices and gasoline price-gouging to the economy, including the impact on consumers' purchasing power in both declared State and National disaster areas and elsewhere; and

(5) an analysis of—

(A) the role and overall cost of credit card interchange rates on gasoline and diesel fuel retail prices; and

(B) the varying cost of credit card interchange rates that are applied to different channels of trade.

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

(1) any company with total United States wholesale sales of gasoline and petroleum distillates for calendar year 2004 in excess of $500,000,000; and

(2) any retail distributor of gasoline and petroleum distillates against which multiple formal complaints (that identify the location of the particular retail distributor and provide contact information for the complainant) of price-gouging were filed in August or September 2005, with a Federal or State consumer protection agency.

(c) EVIDENCE OF PRICE-GOUGING.—In conducting its investigation, the Commission shall treat as evidence of price-gouging any finding that the average price of gasoline available for sale to the public in September, 2005, or thereafter in a market area located in an area designated as a State or National disaster area because of Hurricane Katrina, or in any other area where price-gouging complaints have been filed because of Hurricane Katrina with a Federal or State consumer protection agency, exceeded the average price of such gasoline in that area for the month of August, 2005, unless the Commission finds substantial evidence that the increase is substantially attributable to additional costs in connection with the production, transportation, delivery, and sale of gasoline in that area or to national or international market trends.

(d) REPORTS.—

(1) NOTIFICATION TO STATE AGENCIES.—In any areas of markets in which the Commission determines price increases are due to factors other than the additional costs, it shall also notify the appropriate State agency of its findings.

(2) PROGRESS AND FINAL REPORTS TO CONGRESS.—The Commission shall provide information on the progress of the investigation to the Appropriations Committees of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, every 30 days after the date of enactment of this Act. The Commission shall provide those Committees a written interim report 90 days after such date, and shall transmit a final report to those Committees, together with its findings and recommendations, no later than 180 days after the date of enactment of this Act. Such reports shall include recommendations, based on its findings, for any legislation necessary to protect consumers from gasoline price-gouging in both State and National disaster areas and elsewhere.

(e) EVIDENCE OF CRIMINAL MISCONDUCT.—If, during the investigation required by this section, the Commission obtains evidence that a person may have violated a criminal law, the Commission may transmit that evidence to appropriate Federal or State authorities.

SEC. 404. FTC STUDY OF PETROLEUM PRICES ON EXCHANGE.

Not later than 180 days after the date of enactment of this Act, the Federal Trade Commission shall transmit to Congress a report on the price of refined petroleum products on the New York Mercantile Exchange and the effects on such price, if any, of the following:

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

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

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

(4) The control of the storage and delivery market infrastructure.

(5) The effectiveness of temporary trading halts and the monetary threshold for such temporary trading halts.

TITLE V—STRATEGIC PETROLEUM RESERVE

SEC. 501. STRATEGIC PETROLEUM RESERVE CAPACITY.

(a) AUTHORITY TO DRAWDOWN AND SELL PETROLEUM PRODUCTS FOR EXPANSION OF RESERVE.—Notwithstanding any other provision of law, the Secretary may drawdown and sell petroleum products from the Strategic Petroleum Reserve to construct, purchase, lease, or otherwise acquire additional capacity sufficient to permit filling the Strategic Petroleum Reserve to its maximum authorized level.

(b) ESTABLISHMENT OF SPR EXPANSION FUND.—The Secretary of the Treasury shall establish in the Treasury of the United States an account to be known as the "SPR Expansion Fund" (in this section referred to as the "Fund"), and the proceeds from any sale pursuant to subsection (a) shall be deposited into the Fund.

(c) OBLIGATION OF FUNDS FOR EXPANSION.—Amounts in the Fund may be obligated by the Secretary to carry out the purposes in subsection (a) to the extent and in such aggregate amounts as may be appropriated in advance in appropriations Acts for such purposes.

SEC. 502. STRATEGIC PETROLEUM RESERVE SALE.

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

"(3) Any contract under which petroleum products are sold under this section shall include a requirement that the person or entity that acquires the petroleum products agrees—

"(A) not to resell the petroleum products before the products are refined; and

"(B) to refine the petroleum products primarily for consumption in the United States.".

SEC. 503. NORTHEAST HOME HEATING OIL RESERVE CAPACITY.

Section 181(a) of the Energy Policy and Conservation Act (42 U.S.C. 6250(a)) is amended by striking "2 million barrels" and inserting "5 million barrels".

TITLE VI—COMMISSION FOR THE DEPLOYMENT OF THE HYDROGEN ECONOMY

SEC. 601. ESTABLISHMENT.

There is established a commission to be known as the "Commission for the Deployment of the Hydrogen Economy" (in this title referred to as the "Commission").

SEC. 602. DUTIES OF COMMISSION.

The Commission shall develop a strategic plan that identifies the best methods available to marshal the resources of the Federal Government, State governments, local governments, the private sector, and academia to achieve the mass commercialization of hydrogen as an energy source for stationary fuel cells and vehicle fuel cells at the soonest possible date. Such plan shall take into account actions previously taken by the Federal Government, State governments, local governments, the private sector, and academia. The Commission shall also examine ways to ensure that the United States can use all available feedstocks for hydrogen production, and shall make recommendations for an appropriate entity to monitor ongoing progress in implementing the strategic plan.

SEC. 603. MEMBERSHIP.

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

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

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

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

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

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

(c) APPOINTMENT DATE.—Appointments under subsection (a) shall be made not later than 2 months after the date of enactment of this Act.

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

(e) BASIC PAY.—

(1) RATES OF PAY.—Members shall each be paid at a rate not to exceed the daily rate of basic pay for level V of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(2) PROHIBITION OF COMPENSATION OF FEDERAL EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Commission.

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

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

(h) CHAIRPERSON; VICE CHAIRPERSON.—The Chairperson and Vice Chairperson of the Commission shall be elected by the members. The Vice Chairperson shall be a member of the Commission appointed by an appointing official of a different political party than the official who appointed the Chairperson to the Commission.

SEC. 604. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to rules prescribed by the Commission, the Commission may appoint and fix the pay of personnel as it considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

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

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this title.

SEC. 605. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

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

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

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

(f) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district

court under the Federal Rules of Civil Procedure for the United States district courts.

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

SEC. 606. REPORT.

The Commission shall transmit a report to the Congress not later than 8 months after the date of enactment of this Act. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for legislation, administrative actions, and such other actions as the Commission considers appropriate.

TITLE VII—CRITICAL ENERGY ASSURANCE

SEC. 701. EVACUATION PLAN REVIEW.

Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report of the Secretary's review of the fuel supply plan components of State evacuation plans and the National Capitol region. Such report shall determine the sufficiency of such plans, and shall include recommendations for improvements thereto. Annually after the transmittal of a report under the preceding sentence, the Secretary shall transmit a report to the Congress assessing plans found insufficient under previous reports.

SEC. 702. DISASTER ASSISTANCE.

(a) AUTHORITY.—During any federally declared emergency or disaster, the Secretary may provide direct assistance to private sector entities that operate critical energy infrastructure, including refineries.

(b) ASSISTANCE.—Assistance under this section may include emergency preparation and recovery assistance, including power generation equipment, other protective or emergency recovery equipment, assistance to restore access to water, power, or other raw materials, and transportation and housing for critical employees. The Secretary may request assistance from other Federal agencies in carrying out this section.

SEC. 703. CRITICAL ENERGY ASSURANCE ACCOUNT.

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

SEC. 704. REGULATIONS.

The Secretary may issue regulations necessary or appropriate to carry out this title.

PURPOSE AND SUMMARY

H.R. 3893, the Gasoline for America's Security Act of 2005, or the GAS Act, seeks to increase the domestic production of transportation fuels, create sufficient capacity to deliver such fuels to consumers, make available more fuels throughout more regions of the country, and provide incentives to conserve fuel use in order to increase supply and decrease demand. The bill encourages new refinery capacity to increase gasoline supply by giving the Department of Energy (DOE) a new coordinating role, requiring DOE to establish a schedule for all Federal authorizations, providing new judicial review procedures, and providing regulatory risk insurance. The bill further requires the President to designate sites on Federal lands, including at least three closed military installations that are appropriate for the purposes of siting a refinery. Also, the President is authorized to enter into contract to have a military use

refinery permitted, constructed and operated to make petroleum products for military consumption.

The GAS Act also seeks to address increasing gasoline prices by limiting the number of "boutique fuels" that have limited fuel supply to certain regions of the country. The Act requires the Administrator of the Environmental Protection Agency (EPA) to identify a total of six gasoline and diesel fuels for a Federal Fuels List, down from the approximately 17 today that are available in limited markets and contribute to a decrease in the fungibility of supply for use and consumption throughout the United States whenever supply disruptions or shortages of fuel occur.

H.R. 3893 seeks to promote pipeline expansions by giving the Federal Energy Regulatory Commission (FERC) a new coordinating role, requiring FERC establish a schedule for all Federal authorizations and providing new judicial review procedures. Expeditious construction of the Alaska Natural Gas Pipeline is encouraged by sunsetting loan guarantees on the Alaska Natural Gas Pipeline within two years of enactment of the GAS Act of 2005, if the State of Alaska has not entered into an agreement regarding construction of the pipeline. Outer Continental Shelf "gathering" companies are required to provide key information to the Federal Energy Regulatory Commission to help prevent monopolistic practices that can increase costs for consumers.

H.R. 3893 promotes conservation by establishing a DOE grant program that encourages the use of carpooling and vanpooling to reduce the consumption of gasoline. The Act also requires the Administrator of EPA to assess carpool and vanpool projects funded under the Congestion Mitigation and Air Quality Program to ensure the effective implementation of those projects under the program. Conservation is further promoted by establishing a public-private group through the DOE to create a multimedia public education campaign to inform drivers how to conserve fuel.

The GAS Act protects consumers by banning price gouging in gasoline or diesel fuel sales and requiring the Federal Trade Commission (FTC) to promulgate a standard for price gouging within one year without affecting state anti-gouging measures. Further protections are afforded by requiring the FTC to report on the price of refined petroleum products on the New York Mercantile Exchange.

H.R. 3893 promotes emergency planning by permitting the Secretary of the DOE to sell petroleum products from the Strategic Petroleum Reserve (SPR) to finance construction of the additional capacity needed to fill the SPR to 1 billion barrels. Furthermore, the GAS Act also requires the Secretary to review plans to protect energy supplies in the event of a national emergency.

BACKGROUND AND NEED FOR LEGISLATION

Prior to Hurricanes Katrina and Rita, a number of forces were affecting oil markets resulting in higher prices. Increased demand both at home and abroad, production disruptions among major exporters, and the Organization of the Petroleum Exporting Companies' (OPEC) ability to constrain supply, have all kept oil prices high. Until refining capacity and production capacity grow faster than demand, oil markets will likely remain tight and vulnerable

to supply disruptions, whether caused by weather, foreign production disruptions, or some other cause.

Approximately 47 percent of U.S. refining capacity and 28 percent of oil production is concentrated in the Gulf of Mexico. Within a week of Hurricane Katrina's landfall, the national average retail price for motor vehicle gasoline rose by 46 cents to $3.069 per gallon. Prices of other refined fuels also rose quickly in response to the hurricane.

No new refinery has been constructed in the United States since 1976. Total capacity at operating refineries is 17 million barrels per day, while total United States demand averages nearly 21 million barrels per day. This growing gap is met by an increasing amount of imports of refined products from foreign sources. Refined petroleum product imports are expected to grow from 7.9 percent to 10.7 percent of total refined product by 2025.

On August 29, 2005, Hurricane Katrina made landfall and caused considerable damage to the Gulf Coast communities in its path. The Gulf Coast region is home to a number of petroleum and natural gas operations. These operations were disrupted as a result of the storm. These disruptions caused a spike in gasoline prices. According to the Energy Information Administration the average retail price of gasoline rose from $2.58 a gallon on August 29th and peaked at $3.04 on September 5th. The spike in gasoline prices sparked intense debate about the cause of price increases in the retail gasoline market. The debate raised the possibility of price gouging.

Twenty-eight states prohibit price gouging. Those laws vary significantly, but define price gouging on the basis of increases in price for a commodity during a time of emergency. The amount of consideration given to normal and expected market forces varies significantly from state to state. There is currently no Federal prohibition against price gouging. Committee hearings on the effects of Katrina revealed an interest in a federal prohibition of and enforcement for price gouging. Those hearings included testimony concerning the potential market distortions and shortages produced when artificial regulation supplants normal supply-and-demand as the primary means of pricing a commodity. In this legislation, the Committee provides for the first statutory Federal prohibition on gasoline price gouging, by treating it as an unfair trade practice under the FTC Act.

The Committee also authorizes the FTC to investigate gasoline prices in areas affected by Katrina as well as other areas where consumer complaints alleging price gouging were filed with state and Federal agencies. The FTC will examine the prices before Katrina made landfall and compare those prices with the post-Katrina prices. The FTC will also examine and evaluate price increases in light of any disruptions that would have caused cost increases in connection with production, distribution, transportation or delivery of gasoline and diesel fuel. The Committee believes the findings of the FTC will provide valuable information for the basis of determining a proper definition of "price gouging" as it relates to gasoline and diesel fuel.

HEARINGS

The Committee on Energy and Commerce has not held hearings on the legislation.

COMMITTEE CONSIDERATION

On Wednesday, September 28, 2005, the Full Committee met in open markup session and ordered H.R. 3893 reported to the House, amended, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following are the recorded votes taken on amendments offered to the measure, including the names of those Members voting for and against. A motion by Mr. Barton to order H.R. 3893 reported to the House, amended, was agreed to by a voice vote.

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 55

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: A substitute amendment by Mr. Stupak, No. 1, to (1) prohibit the selling of crude oil, gasoline, natural gas, or petroleum distillates in an area during any energy emergency declared by the President under a declaration of energy emergency that is unconscionably excessive or indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonable; (2) define a declaration of energy emergency; (3) provide enforcement by the FTC; (4) to provide enforcement at the retail level by the State Attorneys General; (5) provide for market transparency for crude oil, gasoline, and petroleum distillates, (6) require a report on United States energy emergency preparedness; and, (7) establish a Strategic Refinery Reserve.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 23 yeas to 27 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell	X		
Mr. Hall		X		Mr. Waxman	X		
Mr. Bilirakis		X		Mr. Markey			
Mr. Upton		X		Mr. Boucher	X		
Mr. Stearns		X		Mr. Towns	X		
Mr. Gillmor		X		Mr. Pallone	X		
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield				Mr. Gordon	X		
Mr. Norwood		X		Mr. Rush	X		
Ms. Cubin				Ms. Eshoo	X		
Mr. Shimkus		X		Mr. Stupak	X		
Ms. Wilson		X		Mr. Engel			
Mr. Shadegg		X		Mr. Wynn	X		
Mr. Pickering		X		Mr. Green	X		
Mr. Fossella		X		Mr. Strickland	X		
Mr. Blunt		X		Ms. DeGette	X		
Mr. Buyer				Ms. Capps	X		
Mr. Radanovich		X		Mr. Doyle	X		
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts		X		Mr. Davis			
Ms. Bono		X		Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis	X		
Mr. Terry		X		Mr. Gonzalez	X		
Mr. Ferguson		X		Mr. Inslee	X		
Mr. Rogers				Ms. Baldwin	X		
Mr. Otter		X		Mr. Ross	X		
Ms. Myrick		X					
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn		X					

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 56

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Pitts, No. 3, to allow a governor to object to a Presidential designation of a closed military installation as a potential refinery site subject to Congressional override.

DISPOSITION: **AGREED TO,** by a roll call vote of 24 yeas to 21 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton	X			Mr. Dingell		X	
Mr. Hall				Mr. Waxman		X	
Mr. Bilirakis	X			Mr. Markey		X	
Mr. Upton	X			Mr. Boucher		X	
Mr. Stearns				Mr. Towns			
Mr. Gillmor	X			Mr. Pallone		X	
Mr. Deal	X			Mr. Brown		X	
Mr. Whitfield				Mr. Gordon		X	
Mr. Norwood	X			Mr. Rush			
Ms. Cubin	X			Ms. Eshoo		X	
Mr. Shimkus	X			Mr. Stupak		X	
Ms. Wilson	X			Mr. Engel			
Mr. Shadegg	X			Mr. Wynn		X	
Mr. Pickering	X			Mr. Green		X	
Mr. Fossella	X			Mr. Strickland		X	
Mr. Blunt				Ms. DeGette		X	
Mr. Buyer				Ms. Capps			
Mr. Radanovich	X			Mr. Doyle		X	
Mr. Bass	X			Mr. Allen		X	
Mr. Pitts	X			Mr. Davis			
Ms. Bono	X			Ms. Schakowsky		X	
Mr. Walden	X			Ms. Solis		X	
Mr. Terry	X			Mr. Gonzalez		X	
Mr. Ferguson				Mr. Inslee		X	
Mr. Rogers	X			Ms. Baldwin		X	
Mr. Otter	X			Mr. Ross		X	
Ms. Myrick	X						
Mr. Sullivan	X						
Mr. Murphy	X						
Mr. Burgess							
Ms. Blackburn	X						

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 57

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Allen, No. 4, to strike provisions authorizing Presidential designation of closed military installations as potential refinery sites.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 20 yeas to 28 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell	X		
Mr. Hall		X		Mr. Waxman	X		
Mr. Bilirakis		X		Mr. Markey	X		
Mr. Upton		X		Mr. Boucher	X		
Mr. Stearns				Mr. Towns	X		
Mr. Gillmor				Mr. Pallone	X		
Mr. Deal		X		Mr. Brown			
Mr. Whitfield				Mr. Gordon		X	
Mr. Norwood		X		Mr. Rush	X		
Ms. Cubin		X		Ms. Eshoo	X		
Mr. Shimkus		X		Mr. Stupak			
Ms. Wilson		X		Mr. Engel			
Mr. Shadegg		X		Mr. Wynn	X		
Mr. Pickering		X		Mr. Green	X		
Mr. Fossella		X		Mr. Strickland	X		
Mr. Blunt				Ms. DeGette	X		
Mr. Buyer		X		Ms. Capps			
Mr. Radanovich		X		Mr. Doyle	X		
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts		X		Mr. Davis			
Ms. Bono		X		Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis	X		
Mr. Terry		X		Mr. Gonzalez	X		
Mr. Ferguson		X		Mr. Inslee	X		
Mr. Rogers		X		Ms. Baldwin	X		
Mr. Otter		X		Mr. Ross	X		
Ms. Myrick		X					
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn		X					

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 58

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Markey, No. 6, to strike the judicial review provisions in the siting of refineries and pipelines as provided for in sections 102(e)(5) and 201(f)(5).

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 19 yeas to 23 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell	X		
Mr. Hall		X		Mr. Waxman	X		
Mr. Bilirakis		X		Mr. Markey			
Mr. Upton		X		Mr. Boucher	X		
Mr. Stearns				Mr. Towns	X		
Mr. Gillmor		X		Mr. Pallone	X		
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield				Mr. Gordon			
Mr. Norwood				Mr. Rush	X		
Ms. Cubin		X		Ms. Eshoo	X		
Mr. Shimkus		X		Mr. Stupak	X		
Ms. Wilson		X		Mr. Engel			
Mr. Shadegg		X		Mr. Wynn	X		
Mr. Pickering		X		Mr. Green	X		
Mr. Fossella		X		Mr. Strickland	X		
Mr. Blunt				Ms. DeGette	X		
Mr. Buyer				Ms. Capps			
Mr. Radanovich		X		Mr. Doyle	X		
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts		X		Mr. Davis			
Ms. Bono		X		Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis			
Mr. Terry		X		Mr. Gonzalez	X		
Mr. Ferguson		X		Mr. Inslee			
Mr. Rogers		X		Ms. Baldwin	X		
Mr. Otter				Mr. Ross	X		
Ms. Myrick							
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn							

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 59

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Ross, No. 9, to require fuels produced at a military use refinery contain 10% ethanol.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 19 yeas to 25 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell	X		
Mr. Hall		X		Mr. Waxman	X		
Mr. Bilirakis		X		Mr. Markey			
Mr. Upton		X		Mr. Boucher			
Mr. Stearns				Mr. Towns	X		
Mr. Gillmor		X		Mr. Pallone			
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield		X		Mr. Gordon	X		
Mr. Norwood		X		Mr. Rush	X		
Ms. Cubin		X		Ms. Eshoo	X		
Mr. Shimkus		X		Mr. Stupak	X		
Ms. Wilson		X		Mr. Engel			
Mr. Shadegg		X		Mr. Wynn	X		
Mr. Pickering				Mr. Green		X	
Mr. Fossella		X		Mr. Strickland	X		
Mr. Blunt				Ms. DeGette	X		
Mr. Buyer				Ms. Capps			
Mr. Radanovich				Mr. Doyle	X		
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts		X		Mr. Davis			
Ms. Bono				Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis	X		
Mr. Terry	X			Mr. Gonzalez		X	
Mr. Ferguson		X		Mr. Inslee	X		
Mr. Rogers		X		Ms. Baldwin	X		
Mr. Otter				Mr. Ross	X		
Ms. Myrick		X					
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn		X					

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 60

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Bass, No. 11, to limit the provision authorizing the Environmental Protection Agency's rulemaking on New Source Review under the Clean Air Act to refineries, electric power generating stations and compressor stations.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 16 yeas to 25 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell	X		
Mr. Hall		X		Mr. Waxman	X		
Mr. Bilirakis		X		Mr. Markey	X		
Mr. Upton		X		Mr. Boucher		X	
Mr. Stearns				Mr. Towns			
Mr. Gillmor		X		Mr. Pallone			
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield		X		Mr. Gordon			
Mr. Norwood				Mr. Rush	X		
Ms. Cubin		X		Ms. Eshoo	X		
Mr. Shimkus		X		Mr. Stupak			
Ms. Wilson	X			Mr. Engel			
Mr. Shadegg		X		Mr. Wynn		X	
Mr. Pickering		X		Mr. Green			
Mr. Fossella	X			Mr. Strickland			
Mr. Blunt				Ms. DeGette	X		
Mr. Buyer		X		Ms. Capps			
Mr. Radanovich		X		Mr. Doyle			
Mr. Bass	X			Mr. Allen	X		
Mr. Pitts		X		Mr. Davis			
Ms. Bono	X			Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis			
Mr. Terry		X		Mr. Gonzalez		X	
Mr. Ferguson	X			Mr. Inslee	X		
Mr. Rogers		X		Ms. Baldwin	X		
Mr. Otter				Mr. Ross		X	
Ms. Myrick		X					
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn							

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 61

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Inslee, No. 14, to strike section 110 authorizing discounted sales of royalty-in-kind oil to qualified small refineries.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 19 yeas to 29 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell	X		
Mr. Hall		X		Mr. Waxman	X		
Mr. Bilirakis		X		Mr. Markey	X		
Mr. Upton		X		Mr. Boucher	X		
Mr. Stearns		X		Mr. Towns	X		
Mr. Gillmor		X		Mr. Pallone			
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield		X		Mr. Gordon			
Mr. Norwood		X		Mr. Rush	X		
Ms. Cubin		X		Ms. Eshoo	X		
Mr. Shimkus		X		Mr. Stupak	X		
Ms. Wilson		X		Mr. Engel	X		
Mr. Shadegg		X		Mr. Wynn	X		
Mr. Pickering		X		Mr. Green		X	
Mr. Fossella		X		Mr. Strickland	X		
Mr. Blunt				Ms. DeGette			
Mr. Buyer		X		Ms. Capps			
Mr. Radanovich		X		Mr. Doyle	X		
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts		X		Mr. Davis			
Ms. Bono		X		Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis			
Mr. Terry		X		Mr. Gonzalez	X		
Mr. Ferguson				Mr. Inslee	X		
Mr. Rogers		X		Ms. Baldwin	X		
Mr. Otter		X		Mr. Ross	X		
Ms. Myrick							
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn		X					

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 62

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Markey, No. 16, to restrict the application of the provisions of Title I to refineries not having achieved profits of more than 25% in the year prior to enactment.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 18 yeas to 29 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell	X		
Mr. Hall		X		Mr. Waxman	X		
Mr. Bilirakis		X		Mr. Markey	X		
Mr. Upton		X		Mr. Boucher	X		
Mr. Stearns				Mr. Towns	X		
Mr. Gillmor		X		Mr. Pallone			
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield		X		Mr. Gordon			
Mr. Norwood		X		Mr. Rush	X		
Ms. Cubin		X		Ms. Eshoo	X		
Mr. Shimkus		X		Mr. Stupak	X		
Ms. Wilson		X		Mr. Engel	X		
Mr. Shadegg		X		Mr. Wynn	X		
Mr. Pickering		X		Mr. Green		X	
Mr. Fossella		X		Mr. Strickland	X		
Mr. Blunt				Ms. DeGette	X		
Mr. Buyer		X		Ms. Capps			
Mr. Radanovich		X		Mr. Doyle	X		
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts		X		Mr. Davis			
Ms. Bono		X		Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis			
Mr. Terry		X		Mr. Gonzalez		X	
Mr. Ferguson				Mr. Inslee	X		
Mr. Rogers				Ms. Baldwin	X		
Mr. Otter		X		Mr. Ross		X	
Ms. Myrick							
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn		X					

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 63

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Markey, No. 25, to mandate an increase in Corporate Average Fuel Economy standards for model years after 2008 of 33 miles per gallon by 2015.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 12 yeas to 33 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell		X	
Mr. Hall		X		Mr. Waxman			
Mr. Bilirakis		X		Mr. Markey	X		
Mr. Upton		X		Mr. Boucher			
Mr. Stearns		X		Mr. Towns		X	
Mr. Gillmor		X		Mr. Pallone	X		
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield		X		Mr. Gordon			
Mr. Norwood				Mr. Rush		X	
Ms. Cubin		X		Ms. Eshoo	X		
Mr. Shimkus				Mr. Stupak		X	
Ms. Wilson		X		Mr. Engel	X		
Mr. Shadegg		X		Mr. Wynn		X	
Mr. Pickering		X		Mr. Green		X	
Mr. Fossella				Mr. Strickland		X	
Mr. Blunt				Ms. DeGette	X		
Mr. Buyer		X		Ms. Capps	X		
Mr. Radanovich		X		Mr. Doyle		X	
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts				Mr. Davis			
Ms. Bono	X			Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis			
Mr. Terry		X		Mr. Gonzalez		X	
Mr. Ferguson		X		Mr. Inslee	X		
Mr. Rogers				Ms. Baldwin	X		
Mr. Otter				Mr. Ross		X	
Ms. Myrick		X					
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn		X					

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 64

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Mr. Engel, No. 28, to provide for a National Replacement Tire Efficiency Program, to provide for a uniform grading system and minimum fuel economy standards for replacement tires designed for use on passenger cars and light trucks, and to provide for related matters.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 16 yeas to 28 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell		X	
Mr. Hall		X		Mr. Waxman			
Mr. Bilirakis		X		Mr. Markey			
Mr. Upton		X		Mr. Boucher			
Mr. Stearns		X		Mr. Towns		X	
Mr. Gillmor		X		Mr. Pallone	X		
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield		X		Mr. Gordon			
Mr. Norwood				Mr. Rush		X	
Ms. Cubin		X		Ms. Eshoo			
Mr. Shimkus		X		Mr. Stupak	X		
Ms. Wilson	X			Mr. Engel	X		
Mr. Shadegg		X		Mr. Wynn	X		
Mr. Pickering		X		Mr. Green	X		
Mr. Fossella		X		Mr. Strickland	X		
Mr. Blunt				Ms. DeGette	X		
Mr. Buyer		X		Ms. Capps	X		
Mr. Radanovich		X		Mr. Doyle	X		
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts				Mr. Davis			
Ms. Bono		X		Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis			
Mr. Terry		X		Mr. Gonzalez	X		
Mr. Ferguson		X		Mr. Inslee	X		
Mr. Rogers				Ms. Baldwin	X		
Mr. Otter				Mr. Ross		X	
Ms. Myrick		X					
Mr. Sullivan		X					
Mr. Murphy							
Mr. Burgess		X					
Ms. Blackburn		X					

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 65

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: An amendment by Ms. DeGette, No. 29, to amend the Public Utility Regulatory Policies Act to establish a Federal Renewable Portfolio Standard requiring an increase of 1 percent each year until 2027 when 20% of electricity sold by a retail electric supplier is generated from renewable energy resources, defines renewables to include incremental hydropower, biomass, solar, wind, geothermal, ocean power or landfill gas, and provides for related matters.

DISPOSITION: **NOT AGREED TO**, by a roll call vote of 13 yeas to 30 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton		X		Mr. Dingell	X		
Mr. Hall		X		Mr. Waxman			
Mr. Bilirakis		X		Mr. Markey	X		
Mr. Upton		X		Mr. Boucher			
Mr. Stearns		X		Mr. Towns			
Mr. Gillmor		X		Mr. Pallone	X		
Mr. Deal		X		Mr. Brown	X		
Mr. Whitfield				Mr. Gordon			
Mr. Norwood		X		Mr. Rush			
Ms. Cubin		X		Ms. Eshoo			
Mr. Shimkus		X		Mr. Stupak	X		
Ms. Wilson		X		Mr. Engel	X		
Mr. Shadegg		X		Mr. Wynn	X		
Mr. Pickering		X		Mr. Green		X	
Mr. Fossella		X		Mr. Strickland			
Mr. Blunt				Ms. DeGette	X		
Mr. Buyer		X		Ms. Capps	X		
Mr. Radanovich		X		Mr. Doyle		X	
Mr. Bass		X		Mr. Allen	X		
Mr. Pitts				Mr. Davis			
Ms. Bono		X		Ms. Schakowsky	X		
Mr. Walden		X		Ms. Solis			
Mr. Terry		X		Mr. Gonzalez		X	
Mr. Ferguson		X		Mr. Inslee	X		
Mr. Rogers				Ms. Baldwin	X		
Mr. Otter				Mr. Ross		X	
Ms. Myrick		X					
Mr. Sullivan		X					
Mr. Murphy		X					
Mr. Burgess		X					
Ms. Blackburn		X					

9/28/2005

COMMITTEE ON ENERGY AND COMMERCE -- 109TH CONGRESS
ROLL CALL VOTE # 66

Bill: H.R. 3893, Gasoline for America's Security Act of 2005.

AMENDMENT: A substitute amendment to the Wilson amendment by Mr. Stearns, No. 31a, to (1) direct the Federal Trade Commission (FTC) to define gasoline "price gouging" by rule based on its findings in the investigation of price changes required pursuant to Section 403; (2) prohibit price gouging and treat it as an unfair or deceptive act under section 5 of the FTC Act for up to 30 days in an area declared a disaster and for which the energy supply, distribution, or production has been disrupted; and, (3) provide for the enforcement of violations by the FTC with penalties up to $11,000 per day in which the violation occurs.

DISPOSITION: **AGREED TO**, by a roll call vote of 26 yeas to 24 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Barton	X			Mr. Dingell		X	
Mr. Hall	X			Mr. Waxman			
Mr. Bilirakis	X			Mr. Markey		X	
Mr. Upton	X			Mr. Boucher		X	
Mr. Stearns	X			Mr. Towns		X	
Mr. Gillmor	X			Mr. Pallone		X	
Mr. Deal	X			Mr. Brown		X	
Mr. Whitfield				Mr. Gordon			
Mr. Norwood	X			Mr. Rush		X	
Ms. Cubin		X		Ms. Eshoo			
Mr. Shimkus	X			Mr. Stupak		X	
Ms. Wilson		X		Mr. Engel		X	
Mr. Shadegg	X			Mr. Wynn		X	
Mr. Pickering	X			Mr. Green		X	
Mr. Fossella	X			Mr. Strickland		X	
Mr. Blunt	X			Ms. DeGette		X	
Mr. Buyer	X			Ms. Capps		X	
Mr. Radanovich	X			Mr. Doyle		X	
Mr. Bass	X			Mr. Allen		X	
Mr. Pitts	X			Mr. Davis			
Ms. Bono	X			Ms. Schakowsky		X	
Mr. Walden	X			Ms. Solis			
Mr. Terry		X		Mr. Gonzalez		X	
Mr. Ferguson	X			Mr. Inslee		X	
Mr. Rogers	X			Ms. Baldwin		X	
Mr. Otter				Mr. Ross		X	
Ms. Myrick	X						
Mr. Sullivan	X						
Mr. Murphy	X						
Mr. Burgess	X						
Ms. Blackburn	X						

9/28/2005

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

H.R. 3893 attempts to provide some relief to the pressures acting upon U.S. oil markets by increasing refinery capacity, promoting geographic diversity in siting new refineries, improving delivery infrastructure, promoting conservation, vigorously investigating charges of price gouging, and expanding the capacity of the Strategic Petroleum Reserve (SPR).

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 3893, the Gasoline for America's Security Act of 2005, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 2005.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce,
House of Representative, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3893, the Gasoline for America's Security Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Kathy Gramp.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 3893—Gasoline for America's Security Act of 2005

Summary: H.R. 3893 would authorize new programs and spending related to the supply and use of petroleum and other energy products. It would provide subsidies to small refiners, make certain federal lands available for siting new refineries, and revise the

terms and procedures for approving these and other energy projects. The bill also would modify various standards in the Clean Air Act, direct the Federal Trade Commission (FTC) to issue and enforce regulations regarding gasoline price gouging, and create two new funds to cover certain costs incurred by energy firms. Other provisions would authorize appropriations for the construction of a refinery for the Armed Services, for several energy studies and conservation initiatives, and for a Commission for the Deployment of the Hydrogen Economy. Finally, H.R. 3893 would authorize the Department of Energy (DOE) to increase the capacity of the Northeast Home Heating Oil Reserve and allow oil in the Strategic Petroleum Reserve (SPR) to be sold for new purposes.

CBO estimates that enacting H.R. 3893 would increase direct spending by $1.5 billion over the next five years, and by $3 billion over the 2006–2015 period. Enacting this bill could affect revenues, but CBO estimates that any effect would not be significant. In addition, CBO estimates that implementing the bill would cost about $500 million over the 2006–2010 period, assuming appropriation of the necessary amounts.

H.R. 3893 contains numerous mandates, as defined in the Unfunded Mandates Reform Act (UMRA), that would affect both intergovernmental and private-sector entities. CBO estimates that the aggregate cost of those mandates would be below the annual thresholds established in UMRA ($62 million for intergovernmental mandates and $123 million for private-sector mandates in 2005, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3893 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense), 270 (energy), 300 (natural resources and environment), 370 (commerce and housing assistance), and 950 (undistributed offsetting receipts).

	By fiscal year in, millions of dollars—				
	2006	2007	2008	2009	2010
CHANGES IN DIRECT SPENDING [1]					
Estimated Budget Authority	300	300	300	300	300
Estimated Outlays	300	300	300	300	300
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Specified Authorizations:					
Authorization Level	5	2	2	2	2
Estimated Outlays	4	3	2	2	2
Refinery for Armed Services:					
Estimated Authorization Level	5	15	15	60	300
Estimated Outlays	3	11	15	42	204
Heating Oil Reserve:					
Estimated Authorization Level [2]	10	73	68	8	8
Estimated Outlays	10	73	68	8	8
Other:					
Estimated Authorization Level	18	10	6	6	6
Estimated Outlays	14	12	7	6	6
Total Authorizations in H.R. 3893					
Estimated Authorization Level	38	100	91	76	316
Estimated Outlays	31	99	92	58	220

[1] CBO estimates that the direct spending costs would continue at a level of about $300 million a year through 2015.

[2] These estimates are based on oil price assumptions in CBO's March 2005 baseline. Using current prices could raise the provision's total cost by $75 million or more.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted in the fall of 2005 and that the amounts authorized will be appropriated as necessary.

Direct spending and revenues

CBO estimates that enacting H.R. 3893 would reduce offsetting receipts (a credit against direct spending) by an estimated $3 billion over the 2006–2015 period as a result of provisions that would provide federal royalty oil to small refiners at below-market prices. Other provisions in the bill could affect direct spending and revenues, but CBO estimates that the net effect of those changes would not be significant.

Discounted Sales of Royalty-In-Kind Oil to Small Refiners. Under current law, when collecting royalties from federal oil and gas leases, the Secretary of the Interior may accept payments in the form of product (known as royalty in-kind, or RIK) rather than cash. The Minerals Management Service (MMS) sells most of the oil taken in-kind from offshore leases on the open market, but a portion of that oil is sold through competitive auctions to certain small refiners. Through that program, eligible refiners can request to purchase up to 60 percent of their supply of crude oil from MMS rather than on the open market. Net proceeds from sales of offshore oil under those programs are deposited in the Treasury as offsetting receipts (a credit against direct spending).

Section 111 would require MMS to offer crude oil to eligible refiners at a discount of up to $4.50 per barrel. Because current law effectively prohibits MMS from accepting less than the market value of oil sold to small refiners, enacting this provision would reduce offsetting receipts from those sales. In addition, CBO expects that offering discounted oil would significantly increase the volume of oil that small refiners request to purchase from the agency, resulting in a further loss of receipts. Based on information from MMS, CBO estimates that increased demand under the proposed program would greatly exceed the supply of oil that the agency is currently taking in-kind. MMS currently receives about 180,000 barrels of RIK oil per day. Assuming that the agency makes all of that oil available for sale at a discount, we estimate that this provision would reduce offsetting receipts by up to $300 million a year starting in 2006.

Under the bill, MMS could only offer discounted oil during times when the Secretary of Energy determines that domestic refining capacity is insufficient. The Secretary is not currently required to make such a determination, and for this estimate, CBO assumes that the Administration would not deem domestic capacity to be sufficient in the near future because refinery capacity is unlikely to change significantly in the next decade. Obtaining the necessary approvals, permits, and financing for a new refinery general1y takes several years, and construction usually takes an additional several years.

Strategic Petroleum Reserve. DOE built the existing SPR with appropriated funds and filled it to a target level of 700 million barrels with oil purchased directly on the open market and oil transferred from the Department of the Interior under the RIK program. Under current law, DOE is authorized to expand the capacity of the SPR to 1 billion barrels of oil.

H.R. 3893 would allow the department to sell some of the oil in the existing SPR to raise money to finance an expansion of the SPR. Any spending for new capacity would be subject to appropriation. If DOE opted to draw down the nation's existing SPR reserve for this purpose, CBO expects that it would take steps to refill the reserve by transferring oil from the Department of the Interior's RIK program as DOE has done in recent years. Thus, any increase in offsetting receipts from the sale of SPR oil would be offset by a reduction in receipts from royalties collected by the Department of the Interior, resulting in no significant net change in federal receipts over time. Given the complexity of these transactions, it is unclear whether DOE would use these authorities in the next few years.

Energy Assistance Accounts. H.R. 3893 would create two new sources of financial assistance for energy firms: a Standby Refinery Support Account to pay for certain private costs resulting from regulatory or litigation delays in the construction or renovation of refineries, and a Critical Energy Assurance Account to assist certain private energy companies during federally declared disasters or emergencies. Funding for the new accounts would be derived from any voluntary contributions from nonfederal entities and any funds provided in future appropriation acts. DOE would be allowed to spend private-sector contributions without further appropriation but no federal funds could be spent without appropriation. CBO anticipates that contributions from nonfederal sources and any related spending are likely to be negligible.

Lease of Federal Lands for Refineries. H.R. 3893 would direct the President to designate and lease sites on federally owned lands for the construction of refineries, subject to certain terms and conditions. Factors to be considered for selecting federal property include proximity to crude oil supplies and related pipeline infrastructure, geographic diversity of refinery capability, and approval of the Governor of the state. CBO has no information about when or which sites might be leased; however, based on payment rates for the use of other federal land, CBO estimates that offsetting receipts from such leases probably would not be significant.

Revenues

H.R. 3893 would expand the scope of the FTC's enforcement authorities by treating price gouging as a violation of rules regarding unfair or deceptive acts or practices. The FTC would be authorized to enforce new standards and impose civil penalties for any violations. Amounts collected as civil penalties are classified as governmental receipts (revenues). CBO estimates that enacting this provision would be unlikely to have a significant effect on revenues.

Spending subject to appropriation

H.R. 3893 would authorize appropriations for various activities, ranging from the design and construction of a refinery to studies of ways to promote carpools and vanpools. CBO estimates that implementing those provisions would cost about $500 million over the 2006–2010 period, assuming appropriation of the necessary amounts.

Specified Authorizations. This bill would expressly authorize the appropriation of $13 million for three programs administered by

DOE. It would authorize the appropriation of $10 million for a DOE program to encourage minority students to study geologic subjects that would enable them to work in energy industries; $2.5 million for a campaign to encourage drivers to conserve gasoline; and $850,000 for a grant to an educational institution to develop a prototype of a coal-based fuel cell.

Federal Refinery Project. H.R. 3893 would authorize the President to build a petroleum refinery plant on federal land to serve the fuel needs of the Armed Services, subject to certain terms and conditions. A project could be developed only if the President found that domestic refining capability was not sufficient and if construction funds were appropriated in advance.

Petroleum refineries are expensive facilities, with capital costs ranging from about $2 billion to $4 billion, depending on their size, capabilities, and location. Industry studies suggest that obtaining the necessary approvals and financing typically takes several years and that construction usually takes more than five years. Given the lead times for planning such a facility, CBO expects that near-term costs would primarily be for planning and siting a facility, with construction-related expenditures beginning in 2010. Thus, assuming the President chooses to build a refinery and that the necessary amounts are appropriated, CBO estimates that implementing this project would cost about $275 million over the 2006–2010 period for planning and preconstruction activities and a total of at least $2 billion over the 10-year period.

Northeast Home Heating Oil Reserve. H.R. 3893 would increase the authorized capacity of the Northeast Home Heating Oil Reserve from 2 million barrels to 5 million barrels. For this estimate, we assume that DOE would purchase additional oil over the 2006–2008 period.

Using the oil price assumptions in CBO's March 2005 baseline projections, we estimate that adding 3 million barrels would cost about $167 million dollars over the 2006–2010 period, assuming appropriation of the necessary amounts. However, current prices far exceed those assumed in the March baseline. If oil prices remain near current levels, the cost of this provision could be higher by $75 million or more.

Energy Assistance Accounts. This bill would authorize appropriations to the proposed Standby Refinery Support Account and Critical Energy Assurance Account. The amount of any federal contributions over the 2006–2010 period is uncertain because the need for funding would depend on actions taken by private parties or events such as natural disasters that are hard to predict. CBO's estimate does not include any costs for implementing the two funds over the 2006–2010 period, but such costs could be significant in later years.

The Standby Refinery Support Account would pay for certain costs incurred by private developers of new or expanded refinery capacity in the United States. Refiners would be eligible for payments if projects experience delays due to federal or state regulatory actions or unforeseen litigation. Virtually all costs attributable to the delay would be eligible for compensation, including principal or interest due on any debt and the costs of complying with new regulations.

The need to appropriate money for this purpose would occur only if private parties choose to invest in new or expanded refinery capacity and experienced delays. CBO believes that the likelihood of new refinery projects being built in the next few years is relatively low, given the high capital cost of refineries, their generally low rates of return, and the availability of alternative sources of refined products. Even if firms choose to invest in new or refurbished refineries, it is likely that the costs that could be attributed to a regulatory delay would be incurred after 2010, given the standard lead times needed for planning, siting, and financing a project. Standby support for such multibillion dollar projects could be very costly over a longer period, however, because such large projects commonly experience some regulatory or litigation delays in the course of their development.

The Critical Energy Assurance Account would be available to assist private firms that operate critical energy infrastructure during any federally declared emergency or disaster. The fund could be used to pay for equipment needed to restore access to power, water, and other materials as well as for logistical support and emergency planning. Such costs typically are borne by private companies, and CBO assumes that such federal assistance would only occur in the event of a major disaster such as Hurricane Katrina. Because such disasters are uncommon and cannot be predicted, CBO's estimate does not include any spending for this program over the 2006–2010 period.

Other Authorizations. Other provisions of the bill would authorize appropriations for several energy studies and conservation initiatives at DOE; FTC actions on gasoline price gouging; new rulemaking proceedings at the Environmental Protection Agency; and a Commission for the Deployment of the Hydrogen Economy. Based on the costs of similar programs and activities, CBO estimates that implementing those provisions would cost about of $45 million over the 2006–2010 period.

Intergovernmental and private-sector impact: H.R. 3893 contains numerous mandates, as defined in UMRA, that would affect both intergovernmental and private-sector entities. The bill would preempt the authority of state and local governments to implement their own clean fuel programs and to authorize the siting of refineries within their borders. Those preemptions constitute intergovernmental mandates as defined in UMRA, however, CBO estimates that they would not impose significant additional costs on state, local, or tribal governments and would be well below the threshold established in UMRA ($62 million in 2005, adjusted annually for inflations).

The bill also would impose several private-sector mandates on all U.S. refineries and natural gas service providers. Based on information provided by industry and government sources, CBO expects that the aggregate direct costs of complying with those mandates would be minimal compared to the annual threshold established by UMRA for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

State participation and presidential designation

Section 101 would preempt the authority of state and local governments that receive a Presidential designation for the purposes

of siting a refinery on federal lands within their borders. A Governor of a state receiving such a designation would be able to object to the designation, but the Congress would be authorized to override such an objection. CBO estimates that the costs associated with this preemption would be minimal.

Governmental entities also would be subject to a judicial review and possibly fees associated with litigation if they do not comply with procedures associated with a Presidential designation. CBO cannot estimate the number of judicial reviews or the amount of fees that could result from enactment of this provision; however, we expect that the requirements would not impose significant costs.

Waiver authority for extreme fuel supply emergencies

Section 107 would authorize the President, in consultation with the EPA and DOE, to waive—for a period not more than 90 days—state or local statutes or regulations related to fuel or fuel-additive requirements. This provision also would preempt state authority to address local or regional concerns with air quality. CBO estimates that this preemption would not impose significant additional costs on governmental entities.

Federal list of fuel blends

The Clean Air Act allows individual states to implement their own clean fuel programs to address local or regional concerns about air quality. The Energy Policy Act of 2005 (EPACT) requires the EPA to (1) determine the total number of fuels approved by the federal government in all state implementation plans and (2) publish a list of those fuels in the Federal Register for public review and comment no later than November 6, 2005. EPACT also limits the total number of fuels on the approved list and would prohibit the addition of new fuels to the list without the removal of an older fuel.

Section 108 would require EPA to identify and publish in the Federal Register a new list of six approved fuel blends, and thereby limit the number of federally approved fuel blends. The federal list of fuels would supersede any list currently allowed under state implementation plans. The federal fuels list would include one diesel fuel, one alternative diesel fuel, one conventional gasoline for ozone attainment areas, one reformulated gasoline, and two additional gasoline blends with Reid Vapor pressure (RVP) controls for use in ozone nonattainment areas. RVP indicates how quickly a substance evaporates. Gasoline with a high RVP evaporates more readily at a given temperature, allowing components of gasoline that contribute to smog formation to escape into the atmosphere.

In reviewing state implementation plans under section 108, EPA would be required to deny plans containing fuels not on the federally approved list. This provision would preempt state authority to implement their own clean fuel programs. CBO estimates that the costs associated with this preemption would be minimal.

In effect, section 108 also would require any refinery currently producing a fuel blend that is not on the federal fuels list to cease production of that fuel. Such a restriction would constitute a private-sector mandate as defined in UMRA. According to various industry contacts, most refineries are capable of changing their fuel blends with minimal, if any, retooling. Those sources also sug-

gested that the new federal list would not require refineries to incur costs due to losses associated with the possibility of not using current blend stocks because all fuel blends contain similar additives but in different mixture ratios. Consequently, CBO estimates that the costs associated with any retooling necessary to comply with the provisions of this section would be minimal, if any.

Reporting requirements for gas service providers

Section 205 would require all gas service providers to submit to the Federal Energy Regulatory Commission (FERC) annual reports regarding the conditions of service for each shipper served. Currently, gas service providers are not required to issue such reports to FERC. Requiring gas service providers to generate and submit such reports to FERC would constitute a private-sector mandate as defined in UMRA. Since the information being requested is collected as a part of each business transaction, CBO estimates that the costs associated with generating and submitting such reports once a year would be small.

Estimate prepared by: Federal Costs: Kathleen Gramp and Megan Carroll. Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum. Impact on the Private Sector. Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; table of contents

Section 1 designates the title of the bill, the "Gasoline for America's Security Act of 2005."

Section 2. Findings

Section 2 presents the findings of Congress.

Section 3. Definitions

Section 3 defines the terms reference throughout the Act.

Section 101. State participation and presidential designation

Section 101 encourages the siting of new or the expansion of existing refineries by giving the DOE a new coordinating role, requiring DOE establish a schedule for all Federal authorizations and providing new judicial review procedure if the new or expanded refinery is to be located in a state whose Governor has requested application of such procedures or if the proposed refinery or refinery expansion is to be located on Federal land that has been designated by the President as appropriate for the purposes of siting a refinery. Federal lands designated by the President may include closed military bases.

Section 102. Process coordination and rules of procedure

Section 102 provides a process for obtaining all Federal authorizations required to site, construct, operate, or expand a refinery and is intended to provide for a timely resolution of the refinery authorization process. Under this section, DOE is identified as lead agency for the purposes of coordinating all Federal authorizations required to site, construct, operate, or expand a refinery. As lead agency, DOE is required to set a schedule and develop a consolidated project record of all Federal authorizations required for the refinery project. The D.C. Circuit Court of Appeals is given exclusive jurisdiction over all appeals of an agency decision regarding a Federal authorization. The term Federal authorization means any authorization required under Federal law, whether administered by a Federal or state administrative agency or official. In any proceeding brought pursuant to subsection (e), if the court finds that an order, action, or failure to act would prevent the siting, construction, expansion, or operation of the refinery, the court shall remand the proceeding to the agency or official to take appropriate action consistent with the order of the court.

Section 103. Refinery revitalization repeal

Section 103 repeals Subtitle H of Title III of the Energy Policy Act of 2005.

Section 104. Standby support for refineries

Section 104 authorizes the Secretary of Energy (Secretary) to provide standby support for the construction of new refinery capacity on sites in states where the Governor has requested such support or on sites designated by the President pursuant to section 101 of the Act. This provision is limited to the first 2 million barrels per day of new refinery construction or refurbishment of existing, but non-operating facilities. Sponsors of new refinery capacity may enter into contracts with the Secretary to be reimbursed for certain unforeseen regulatory or litigation delays that prevent commencement of operations, or substantially reduce throughput. Sponsors may be reimbursed for debt obligations and consequential damages. The Secretary shall not reimburse any costs that result

from the facility sponsor failing to take any action required by law or regulation, or events within the control of the sponsor.

Section 105. Military use refinery

Section 105 authorizes the President to enter into contracts with private industry to have a refinery permitted, constructed, and operated to manufacture petroleum products for consumption by the Armed Forces of the United States, provided the President has made a determination that there is not sufficient refining capacity in the United States.

Section 106. New source review under Clean Air Act

Section 106 directs the EPA, under the Clean Air Act New Source Review programs, to use the maximum legal flexibly under existing law in order to enable energy industry facilities to undertake projects to maintain, to restore, and to improve the efficiency, the reliability, or the availability of such facilities. This section clarifies that the term "modification" as used in both the New Source Review Program and the New Source Performance Standards Program should be consistent. Section 106 would codify the NSPS definition of modification as it applies to routine maintenance, repair, and replacement and apply the NSPS definition of modification in 40 C.F.R. 60.14(h) to all industrial sources. Finally, section 106 codifies the EPA's previously issued Equipment Replacement Provision rule.

Section 107. Waiver authority for extreme fuel supply emergencies

Section 107 provides the President the authority to temporarily waive Federal, state, and local fuel or fuel additive requirements in the event of an extreme and unusual supply circumstance caused by a natural disaster. Waivers issued by the President, in consultation with EPA and DOE, are for the time period necessary to permit the correction of the extreme and unusual supply circumstance caused by the natural disaster but shall not be for a period longer than 90 days. Existing Section 211(c)(4)(C)(ii) of the Clean Air Act, enacted as Section 1541(a) of the Energy Policy Act of 2005, granted the Administrator of the EPA fuel waiver authority in the event of an extreme and unusual fuel supply circumstance. Section 107 of the bill is in addition to the authority granted to EPA under the Energy Policy Act of 2005, not a substitute for it. This section also directs that states shall not be subject to any actions against or sanctions, including the revision of an applicable implementation plan, due to any emissions attributable to a waiver issued by either EPA or the President.

A temporary waiver issued by the President under this section shall not permit an alteration of the properties of the fuel to the extent that the use of the fuel prevents the normal functioning of the vehicle, engine, component, system, or equipment in which the fuel is used or would materially degrade such functioning over the useful life of the vehicle, engine, component, system, or equipment. This limitation ensures that the President, in exercising the waiver authority under this section, takes into account practical considerations for current production plans for auto manufacturing. However, allowing the President broad waiver discretion in times of a natural disaster is critical in times where a fuel emergency may re-

sult. Therefor, the President shall consider the effects of such waiver only to the extent it prevents the normal functioning of the vehicle, engine, component, system, or equipment, from operating. A presidential waiver of a control or prohibition respecting the use of a fuel or fuel additive shall not be allowed if it will prevent the vehicles it is intended to help operate from doing so during times of an extreme and unusual supply circumstance caused by a natural disaster. The President also shall use discretion regarding the waiver if such waiver would materially degrade functioning over the useful life of the vehicle, engine, component, system, or equipment. The term "materially degrade" is meant to include more than just performance and warranty issues that could be caused by slight changes in the fuel standards. This consideration should be weighed against the scope of the natural disaster and the long-term effects any such waiver would bring.

Section 108. List of fuel blends

Section 108 directs the EPA to develop a Federal Fuels List comprised of a total of 6 gasoline and diesel fuels for use in states except California or states dependent on refineries in California for gasoline or diesel fuel. Section 108 directs the Federal Fuels List to include fuels that, as determined by the Administrator of EPA and the Secretary, reduce ozone emissions to assist states in attaining established ozone standards and will not result in a reduction in supply or producibility, including that caused by a reduction in domestic refining capacity as a result of the adoption of the Federal Fuels List. Furthermore, the list developed must include one Federal diesel fuel, one alternative diesel fuel, one conventional gasoline, one reformulated gasoline meeting the requirements of the Clean Air Act, and two additional gasolines with Reid vapor pressure controls for use in ozone nonattainment areas of varying degrees of severity. The Administrator and the Secretary must focus their analysis and proposal on those fuels that provide environmental benefits and are already prevalent in the domestic market. If the Administrator or the Secretary seeks to offer alternatives to widely used fuels in the proposed Federal Fuels List, those alternatives must have the ability to reduce ozone emissions and not reduce domestically produced supply. Nothing in Section 108 shall be construed or interpreted to affect the elimination, required by the Energy Policy Act of 2005, of the oxygen content requirement for reformulated gasoline under the Clean Air Act.

This section provides that should DOE determine that the list of fuels developed result in a reduction in supply or producibility, EPA and DOE will report that finding to Congress and suspend the implementation of the list. Upon such a finding and suspension of implementation of the clause, the EPA and DOE will conduct the study required under Section 1541(c) of the Energy Policy Act of 2005.

Section 108 amends the Boutique Fuels Study in Section 1541(c) of the Energy Policy Act of 2005 to include an examination of the impact on ozone emissions and supply of a mandatory reduction to a total of 6 fuels along with the original focus of the study on the development of a fuels system maximizing fungibility and supply, while preserving air quality and reducing price volatility, including that which may have resulted from the proliferation of boutique

fuels. Nothing in this section shall be construed or interpreted to alter or affect any existing law or regulation in effect pertaining to any fuel additive registered in accordance with the Clean Air Act, including ethanol and methyl tertiary butyl ether, or to alter or affect any state's authority to enact laws or issue regulations therefor after the effective date of this section.

Section 109. Attainment dates for downwind ozone nonattainment areas

Section 109 permits a downwind area to seek, by petitioning EPA, an attainment date extension 18 months prior to or within 18 months after its attainment date deadline. The Administrator may extend the attainment date for the downwind area, in lieu of reclassification, if the Administrator: (1) determines that any area is a downwind area with respect to a particular National Ambient Air Quality Standard (NAAQS) for ozone; (2) approves a plan revision for such area which complies with all requirements applicable under the current classification of the downwind area, includes additional measures needed to demonstrate attainment by the extended attainment date sought, and provides appropriate measures to ensure no area located downwind of the downwind area receiving the extended attainment date will be affected by transport to a degree that affects the area's ability to attain; and (3) determines the downwind area has demonstrated it is affected by transport from an upwind area to a degree that affects the area's ability to attain. The extended date shall be for the attainment of such NAAQS as expeditiously as practicable, and by no later than the date the area would have been subject to, had it been reclassified.

Furthermore, section 109 grants the Administrator the ability to withdraw the reclassification of a downwind area reclassified after April 1, 2003, and prior to the revocation of the 1-hour ozone standard, if the Administrator made the reclassification determination and approved a plan for the downwind area, submitted within 12 months of enactment. The plan shall comply with all control and planning requirements applicable to the classification of the downwind area prior to reclassification and include any additional measures needed to demonstrate attainment no later than the date on which the last reductions in pollution transport are required to be achieved by the upwind area or areas. The attainment date extension in such case shall provide for attainment in the downwind area as expeditiously as practicable, but no later than the end of the first complete ozone season following the date on which the last reductions in pollution transport found to significantly contribute to nonattainment are required to be achieved by the upwind area or areas.

Section 110. Northwest crude oil supply

Section 110 lifts Federal law restrictions on the purpose for which crude oil imports imported through the navigable waters of Puget Sound may be used and consumed.

Section 111. Discounted sales or royalty-in-kind oil to qualified small refineries

Section 111 requires the Secretary of the Interior (Secretary) to issue and implement regulations under which the Secretary shall

charge a discounted price in any sale to a qualified small refinery of crude oil obtained by the United States as royalty-in-kind.

Section 112. Study and report relating to streamlining paperwork requirements

Section 112 requires the EPA Administrator to study and provide a report to Congress regarding techniques to streamline paperwork requirements associated with Title V of the Clean Air Act and corresponding state law. The report must include an analysis of the possible efficiencies of allowing a more stringent state filing and filing process to replace any corresponding federal filing and filing process requirements.

Section 113. Response to biomass debris emergency

Section 113 permits the Secretary of Energy to authorize any facility to use biomass debris as fuel if: (1) the debris results from a declared major disaster; (2) the debris is located in the area where the disaster was declared; and, (3) if certification is provided that the facility will present no significant impact on meeting national ambient air quality standards.

Section 201. Federal-State regulatory coordination

Section 201 encourages the siting of crude and petroleum product pipelines that will be used in interstate commerce by giving the FERC a new coordinating role, requiring FERC establish a schedule for all Federal authorizations and providing new judicial review procedures if the pipeline is to be located in a state whose Governor has requested application of such procedures. This section also authorizes interstate compacts, subject to approval by Congress, establishing regional pipeline siting agencies to facilitate siting of future crude oil and refined petroleum product pipeline facilities within those States.

Section 202. Process coordination and rules of procedure

Section 202 provides a process for obtaining all Federal authorizations required to site crude oil or petroleum product pipelines that will be used in interstate commerce. Under this section, FERC is identified as lead agency for the purposes of coordinating all Federal authorizations required to site a crude oil or petroleum product pipeline. As lead agency, FERC is required to set a schedule and develop a consolidated project record of all Federal authorizations required for the pipeline project. The D.C. Circuit Court of Appeals is given exclusive jurisdiction over all appeals of an agency decision regarding a Federal authorization.

Section 203. Backup power capacity study

Section 203 requires the Secretary of Energy to transmit to Congress within 6 months a report assessing the adequacy of backup power capacity, and the need for additional capacity, to provide for continuing operation of major crude oil and refined product facilities located in areas subject to higher incidents of natural disasters such as hurricanes, tornadoes, and earthquakes.

Section 204. Sunset of loan guarantees

Section 204 sunsets loan guarantees for the Alaska Natural Gas Pipeline if the State of Alaska has not entered into an agreement regarding construction of the pipeline under the Alaska Stranded Gas Development Act within 24 months of enactment of this Act.

Section 205. Offshore pipelines

Section 205 amends the Natural Gas Act to require natural gas gathering service providers operating in the Outer Continental Shelf to provide certain information regarding such operations. Such information shall include the full legal name of the shipper(s) receiving service, the type of service(s) provided, primary receipt point(s), primary delivery point(s), rates between each pair of point(s) and other conditions of service deemed relevant by the gas service provider.

Section 206. Savings clause

Section 206 provides that nothing within Title II of this Act shall be construed to amend, alter or in any way affect the jurisdiction or responsibilities of the Department of Transportation with respect to pipeline safety issues under chapter 601 of title 49 of the United States Code.

Section 207. Carbon-based fuel cell development

Section 207 authorizes the Secretary to make a grant to a qualified institution to design and fabricate a 5-kilowatt prototype coal-based fuel cell with certain performance objectives.

Section 301. Department of Energy carpooling and vanpooling program

The Committee recognizes the potential of carpooling and vanpooling to aid Americans seeking relief from high gas prices. Section 301 directs the Secretary to establish and carry out a program to encourage the use of carpooling and vanpooling. The Secretary may make matching grants to state and local governments for carpooling or vanpooling projects. The section further states that vehicles provided by private sector entities may be counted as part of the state or local contributor to the project. When determining grants under the program, the Secretary shall consider the projects potential to conserve oil, its contribution to state and local disaster planning, and the status of attainment in the area the project is located, with emphasis put on nonattainment areas.

Section 302. Evaluation and assessment of carpool and vanpool projects

Section 302 requires the EPA Administrator to evaluate and assess the capacity of carpool and vanpool projects funded under the Congestion Mitigation and Air Quality (CMAQ) program to reduce consumption of gasoline and to determine the direct and indirect impact of the projects on air quality and congestion levels.

The Administrator shall further assess whether CMAQ funds are being properly dedicated towards carpooling and vanpooling programs, particularly those operated by metropolitan planning organizations and nonprofit transportation management associations. Should the Administrator find that carpool and vanpool programs

are not being effectively implemented, then the Administrator shall identify recommendations to improve the operation of carpool projects in a report to Congress.

Section 303. Internet utilization study

Section 303 directs the Secretary to study ways in which the Internet is currently being used to facilitate vanpooling and carpooling, and the manner in which the Internet can be used to advance these projects. In particular, the Secretary should evaluate techniques to match riders with local drivers, including emerging instant messaging systems that allow for near on demand carpooling. The report may discuss how this technology can be applied to both inter-company carpools and other existing vanpool services.

Section 304. Fuel consumption education campaign

Section 304(a) requires the Secretary to establish a public-private partnership to create a public education campaign to inform drivers how to conserve fuel. It has been widely reported that there are simple actions drivers can take to make substantial progress toward conserving fuel, and the campaign should educate consumers on how best to utilize these specific options already at their disposal. The campaign should educate consumers, for instance, that fuel can be saved by driving the speed limit. A vehicle loses approximately one percent in fuel economy for each one mile per hour driven above 55 mph. A passenger car that is rated at 30 miles per gallon would achieve 28.5 miles per gallon at 55 miles per hour, 27 miles per gallon at 60 miles per hour, and only 25.5 miles per gallon at 70 miles per hour. By eliminating the idling of 145 million passenger vehicles for five minutes a day, approximately four million gallons of gasoline can be conserved daily. Inflating tires to the proper inflation level can result in substantial fuel savings. For every two to three pounds per square inch of under inflation of a tire, up to one percent in gas mileage can be lost. Thus, if half of all Americans' vehicles have properly inflated tires, at least 2.8 million gallons of gasoline could be saved daily. A properly tuned vehicle can consume over 25 percent less gasoline than a poorly tuned vehicle. The simple act of replacing a clogged air filter can improve fuel economy by as much as 10 percent. The Committee expects this kind of information to be conveyed to the consumer in a multimedia public education campaign. The Secretary should confer with all Federal agencies as appropriate in developing and implementing the education campaign.

The Committee believes that the task of educating U.S. drivers can be best accomplished by joining the financial resources of the Federal Government with the resources of specific transportation industry sectors, such as automobile manufacturers, tire manufacturers, automobile dealers, oil companies, and motorist organizations such as the American Automobile Association, to create a multi-media public education campaign to communicate this information to U.S. drivers. Contributions for the public education campaign from the private sector should be allocated based on size and funding of each such organization.

Section 304(b) directs the Secretary to make the public education campaign as widely accessible as possible. To most efficiently use funds, the Committee intends that the Secretary work in partner-

ship with a private, nonprofit agency that is the leading producer of public service advertisements and is able to use the services of volunteer advertising agencies and donated media, such as the Ad Council. The education campaign may include broadcast television and radio, print, Internet websites, or any other method designed to maximize the dissemination of gasoline conservation information to United States drivers.

Section 304(c) states that the Secretary shall provide no more than 50 percent of the funding for the campaign. Finally, section 304(d) authorizes $2,500,000 in appropriations.

Section 305. Procurement of energy efficient lighting devices

Section 305 requires agencies of the Federal government to purchase the most energy efficient and cost-effective electric lighting products available, consistent with safety considerations.

Section 306. Minority employment

Section 306 amends Section 385 of the Energy Policy Act of 2005 to direct the Secretary to establish a program to encourage minority students to study earth sciences and enter the field of geology in order to qualify for employment in the oil, gas, and mineral industries. This section authorizes the appropriation of $10,000,000.

Section 401. Short title

Section 401 provides that Title IV shall be known as the "Gas Price Gouging Prevention Act."

Section 402. Gasoline price gouging prohibited

Section 402(a) makes it unlawful during a period and in an area of a disaster for any person to sell gasoline or diesel fuel at a price that constitutes price gouging as defined by rule by the FTC. Such a violation would be treated as an unfair or deceptive practice under Section 5 of the FTC Act. The term any person is intended to cover all persons in the supply chain of the production and distribution of gasoline and diesel fuel.

Section 402(b) provides the FTC shall issue rules to enforce this section within one year of enactment of this Act. In writing the rules, the FTC shall define "price gouging" for purposes of this section based on its findings from the investigation it conducts pursuant to section 403 of this Act. By linking the definition of price gouging to the required investigation, the Committee intends this requirement to provide substantive and objective standards that can be applied nationally based on the evidence and the situation. The Committee does not intend the definition of price gouging to delineate specific price increases that would constitute price gouging.

The rules promulgated by the FTC shall be consistent with the requirements of section 5(n) of the FTC Act for unfair acts or practices. Section 5(n) stipulates that the FTC has no authority to declare an act or practice unfair unless the act or practice meets certain criteria. Specifically, the act must cause or be likely to cause substantial injury to consumers "which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition." Price increases for legitimate market reasons do not constitute an injury to consumers. The

Committee recognizes the legitimacy of price increases to signal supply shortages. Finally, in the context of price gouging, the Committee intends that countervailing benefits under section 5(n) of the FTC Act include an analysis of the benefits of increases in prices in a time of supply shortages.

The Committee intends that a rule defining "price gouging" will adhere to these requirements. These criteria provide an appropriate balance for the FTC in its rulemaking and will be used in making a distinction between price increases due to market conditions and price gouging which is unfair in that "gouging" is unrelated to actual supply-and-demand forces.

Section 402(c) provides that a violation of subsection (a) shall be enforced as a violation of an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the FTC Act. The FTC shall enforce this Act with all its powers and jurisdiction as if all were incorporated directly into the FTC Act (except as provided in section 402(d)). This provision is intended to clarify that the FTC has all its enforcement authority prescribed under the FTC Act.

Section 402(d) provides that anyone who violates subsection (a) shall be subject to a civil penalty up to $11,000 per day that a violation occurs. As described in subsection (c), the FTC maintains enforcement authority for penalties, including equitable relief.

Section 402(e) provides the Definition of a Major Disaster, which is the same as a disaster declared by the President defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, but also requires that the Secretary of Energy determine that the disaster has substantially disrupted the production, distribution, or supply of gasoline or diesel fuel. Such a determination triggers the prohibition in subsection (a) to the area declared a disaster and for a period of 30 days.

Section 403. FTC investigation on price-gouging

Section 403(a) requires the FTC to conduct an investigation into nationwide gasoline prices as well as evidence of price gouging in the aftermath of Hurricane Katrina. The investigation should also include an analysis and comparison of profit level for companies for the month of September 2005, compared to the profit levels for the previous 12 months. The investigation should include non-identifying information for particular companies.

The investigation should also include a summary of tax expenditures for such companies, an examination of the effects of increased gasoline prices and gasoline price gouging on the economic activity in the U.S., and the overall cost of increased gasoline prices and price gouging to the economy including the impact on consumers' purchasing power in both declared State and National disaster areas and elsewhere.

Section 403 (a)(5) requires the FTC in the conduct of the study on price gouging to provide an analysis of the role and overall cost of credit card interchange rates on gasoline and diesel fuel retail prices and the varying cost of credit card interchange rates that are applied to different channels of trade.

Section 403(b) specifies that the investigation should examine wholesalers with more than $500,000,000 in annual sales revenue and any retail gas distributor who is the subject of multiple con-

sumer complaints filed with a state consumer protection agency alleging gas price gouging in August or September 2005.

Section 403(c) directs the FTC to treat as evidence of price gouging certain findings of its investigation. Specifically, a finding that the average price in an area affected by Katrina or in an area where consumer complaints of price gouging were filed exceeded the average price in that area for the month of August 2005 shall be treated as evidence of price gouging. It shall not be treated as price gouging if the average price increase is substantially due to cost increases associated with production, transportation, delivery, and sale of gasoline in that area or to national or international market trends. This provision is meant to take into account the natural economics of supply and demand that affect prices, either locally or nationally, related to disruptions in the supply chain. Such disruptions will be expected to raise average prices, all else held constant. The Committee interprets price gouging to be price increases that are otherwise unrelated to the economics of supply and demand.

The FTC is required to report any finding of price increases unrelated to supply and demand costs to appropriate state and Federal agencies, as well as provide the relevant Congressional Committees of jurisdiction with a report of its finding and recommendations.

Section 404. FTC study of petroleum prices on exchange

Section 404 requires that the FTC complete a study on the price of refined petroleum products on the New York Mercantile Exchange. The study should consider the effects of such price on the: (1) geographic size of delivery market; (2) proximity of energy futures markets to the source of supply; (3) specified grade of gasoline deliverable on the exchange; (4) control of the storage and delivery market infrastructure; and, (5) effectiveness of trading halts.

The FTC is to complete the study six months from the date of enactment.

Section 501. Strategic Petroleum Reserve capacity

Section 501 authorizes the Secretary to drawdown crude oil from the Strategic Petroleum Reserve (Reserve) for the purpose of financing the acquisition of increased capacity for the Reserve. Revenue generated from any such drawdown is to be deposited in a Strategic Petroleum Reserve Expansion Fund. The Committee would expect the Secretary to exercise fiscal responsibility and conduct any such drawdown at times when crude oil prices are generally higher and restock the Reserve when crude oil prices are generally lower.

Section 502. Strategic Petroleum Reserve sale

Section 502 requires that crude sold from the Strategic Petroleum Reserve to refiners be used for consumption in the United States and not be sold before it has been refined.

Section 503. Northeast Home Heating Oil Reserve capacity

Section 503 increases the total authorized capacity for the Northeast Home Heating Oil Reserve from 2 million barrels to 5 million barrels.

Section 601. Establishment

Section 601 establishes the name of the Commission as the Commission for the Deployment of the Hydrogen Economy.

Section 602. Duties of Commission

Section 602 sets the duties of the Commission, namely to develop a strategic plan that identifies the best methods to marshal all financial resources, both public and private sector, to achieve mass commercialization of hydrogen.

Section 603. Membership

Section 603 creates a Commission of 8 appointed members with at least 5 years of experience in science, technology, engineering, or public policy. Each member shall be paid at a rate not to exceed the pay for level V of the Executive Schedule. Federal employees may not receive pay.

Section 604. Staff of Commission; experts and consultants

Section 604 allows the Commission to appoint and fix the pay of staff as appropriate, and may procure temporary and intermittent services of experts and consultants. Upon request of the Commission, the head of any Federal department or agency may detail any personnel of that department to the Commission.

Section 605. Powers of Commission

Section 605 allows the Commission to hold hearings, take testimony, and receive evidence. The Commission may also secure information from any department or agency, use the mails as other departments and agencies, and may request administrative support services from the Administrator of General Services. Finally, the Commission may issue subpoenas and apply to a U.S. District Court for enforcement of such subpoenas.

Section 606. Report

Section 606 requires the Commission to transmit its report to Congress, including findings and recommendations, no later than 8 months after the date of enactment of this Act.

Section 701. Evacuation plan review

Section 701 requires the Secretary within six months to review and report to Congress on the sufficiency of the fuel supply component of State and the National Capital region evacuation plans, and to make recommendations. It further requires the Secretary to report yearly thereafter on state evacuation plans that were found insufficient.

Section 702. Disaster assistance

Section 702 allows the Secretary to provide direct assistance during Federally declared emergencies or disasters to private entities to restore critical energy infrastructure, including refineries. Assistance may include emergency preparation and recovery assistance, including power generation equipment, protective or recovery equipment, and assistance to restore access to water and power, and transportation and housing for critical employees. The Secretary may request assistance from other Federal agencies.

Section 703. Critical Energy Assurance Account

Section 703 creates an account in the United States Treasury to deposit amounts appropriated or received from non-Federal sources that shall be available to the Secretary to carry out this title.

Section 704. Regulations

Section 704 permits the Secretary of Energy to issue regulations needed to carry out this title.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ENERGY POLICY ACT OF 2005

* * * * * * *

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 this Act is as follows:

Sec. 1. Short title; table of contents.

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TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

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[Subtitle H—Refinery Revitalization

[Sec. 391. Findings and definitions.
[Sec. 392. Federal-State regulatory coordination and assistance.]

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TITLE III—OIL AND GAS

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Subtitle G—Miscellaneous

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SEC. 385. STUDY OF AVAILABILITY OF SKILLED WORKERS.

(a) * * *

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(d) PROGRAM.—The Secretary of Energy is authorized and directed to establish a program to encourage minority students to study the earth sciences and enter the field of geology in order to qualify for employment in the oil, gas, and mineral industries.

There are authorized to be appropriated for the program established under the preceding sentence $10,000,000.

* * * * * * *

[Subtitle H—Refinery Revitalization

[SEC. 391. FINDINGS AND DEFINITIONS.

[(a) FINDINGS.—Congress finds that—

[(1) it serves the national interest to increase petroleum refining capacity for gasoline, heating oil, diesel fuel, jet fuel, kerosene, and petrochemical feedstocks wherever located within the United States, to bring more supply to the markets for the use of the American people;

[(2) United States demand for refined petroleum products currently exceeds the country's petroleum refining capacity to produce such products;

[(3) this excess demand has been met with increased imports;

[(4) due to lack of capacity, refined petroleum product imports are expected to grow from 7.9 percent to 10.7 percent of total refined product by 2025;

[(5) refiners are still subject to significant environmental and other regulations and face several new requirements under the Clean Air Act (42 U.S.C. 7401 et seq.) over the next decade; and

[(6) better coordination of Federal and State regulatory reviews may help facilitate siting and construction of new refineries to meet the demand in the United States for refined products.

[(b) DEFINITIONS.—In this subtitle:

[(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

[(2) STATE.—The term "State" means—

[(A) a State;

[(B) the Commonwealth of Puerto Rico; and

[(C) any other territory or possession of the United States.

[SEC. 392. FEDERAL-STATE REGULATORY COORDINATION AND ASSISTANCE.

[(a) IN GENERAL.—At the request of the Governor of a State, the Administrator may enter into a refinery permitting cooperative agreement with the State, under which each party to the agreement identifies steps, including timelines, that it will take to streamline the consideration of Federal and State environmental permits for a new refinery.

[(b) AUTHORITY UNDER AGREEMENT.—The Administrator shall be authorized to—

[(1) accept from a refiner a consolidated application for all permits required from the Environmental Protection Agency, to the extent consistent with other applicable law;

[(2) enter into memoranda of agreement with other Federal agencies to coordinate consideration of refinery applications and permits among Federal agencies; and

[(3) enter into memoranda of agreement with a State, under which Federal and State review of refinery permit applications will be coordinated and concurrently considered, to the extent practicable.

[(c) STATE ASSISTANCE.—The Administrator is authorized to provide financial assistance to State governments to facilitate the hiring of additional personnel with expertise in fields relevant to consideration of refinery permits.

[(d) OTHER ASSISTANCE.—The Administrator is authorized to provide technical, legal, or other assistance to State governments to facilitate their review of applications to build new refineries.]

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TITLE XV—ETHANOL AND MOTOR FUELS

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Subtitle C—Boutique Fuels

SEC. 1541. REDUCING THE PROLIFERATION OF BOUTIQUE FUELS.

(a) * * *

* * * * * * *

(c) STUDY AND REPORT TO CONGRESS ON BOUTIQUE FUELS.—

(1) * * *

[(2) FOCUS OF STUDY.—The primary focus of the study required under paragraph (1) shall be to determine how to develop a Federal fuels system that maximizes motor fuel fungibility and supply, addresses air quality requirements, and reduces motor fuel price volatility including that which has resulted from the proliferation of boutique fuels, and to recommend to Congress such legislative changes as are necessary to implement such a system. The study should include the impacts on overall energy supply, distribution, and use as a result of the legislative changes recommended.]

(2) FOCUS OF STUDY.—The primary focus of the study required under paragraph (1) shall be to determine how to develop a Federal fuels system that maximizes motor 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 are necessary to implement such a system. The study should include the impacts on overall energy supply, distribution, and use as a result of the legislative changes recommended. The study should include an analysis of the impact on ozone emissions and supply of a mandatory reduction in the number of fuel blends to 6, including one Federal diesel fuel, one alternative diesel fuel blend, one conventional gasoline for ozone attainment areas, one reformulated gasoline (RFG) meeting the requirements of subsection (k), and 2 additional gaso-

line blends with Reid vapor pressure (RVP) controls for use in ozone nonattainment areas of varying degrees of severity.

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CLEAN AIR ACT

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TITLE I—AIR POLLUTION PREVENTION AND CONTROL

* * * * * * *

PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS

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Subpart 2—Additional Provisions for Ozone Nonattainment Areas

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SEC. 181. CLASSIFICATIONS AND ATTAINMENT DATES.

(a) * * *

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(d) EXTENDED ATTAINMENT DATE FOR CERTAIN DOWNWIND AREAS.—

(1) DEFINITIONS.—In this subsection:

(A) The term "upwind area" means an area that—

(i) affects nonattainment in another area, hereinafter referred to as a downwind area; and

(ii) is either—

(I) a nonattainment area with a later attainment date than the downwind area, or

(II) an area in another State that the Administrator has found to be significantly contributing to nonattainment in the downwind area in violation of section 110(a)(2)(D) and for which the Administrator has established requirements through notice and comment rulemaking to eliminate the emissions causing such significant contribution.

(B) The term "current classification" means the classification of a downwind area under this section at the time of the determination under paragraph (2).

(2) EXTENSION.—Notwithstanding the provisions of subsection (b)(2) of this section, a downwind area that is not in attainment within 18 months of the attainment deadline required under this section may seek an extension of time to come into attainment by petitioning the Administrator for such an extension. If the Administrator—

(A) determines that any area is a downwind area with respect to a particular national ambient air quality standard for ozone;

(B) approves a plan revision for such area as provided in paragraph (3) prior to a reclassification under subsection (b)(2)(A); and

(C) determines that the petitioning downwind area has demonstrated that it is affected by transport from an upwind area to a degree that affects the area's ability to attain,

the Administrator, in lieu of such reclassification, may extend the attainment date for such downwind area for such standard in accordance with paragraph (5).

(3) APPROVAL.—In order to extend the attainment date for a downwind area under this subsection, the Administrator may approve a revision of the applicable implementation plan for the downwind area for such standard that—

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

(B) includes any additional measures needed to demonstrate attainment by the extended attainment date provided under this subsection, and provides for implementation of those measures as expeditiously as practicable; and

(C) provides appropriate measures to ensure that no area downwind of the area receiving the extended attainment date will be affected by transport to a degree that affects the area's ability to attain, from the area receiving the extension.

(4) PRIOR RECLASSIFICATION DETERMINATION.—If, after April 1, 2003, and prior to the time the 1-hour ozone standard no longer applies to a downwind area, the Administrator made a reclassification determination under subsection (b)(2)(A) for such downwind area, and the Administrator approves a plan consistent with subparagraphs (A) and (B) for such area, the reclassification shall be withdrawn and, for purposes of implementing the 8-hour ozone national ambient air quality standard, the area shall be treated as if the reclassification never occurred. Such plan must be submitted no later than 12 months following enactment of this subsection, and—

(A) the plan revision for the downwind area must comply with all control and planning requirements of this Act applicable under the classification that applied immediately prior to reclassification, including any requirements applicable to the area under section 172(c) for such standard; and

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

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 end of the first complete ozone season following the date on which the last reductions in pollution transport that have been found by the Administrator to significantly contribute to nonattainment are required to be achieved by the upwind area or areas.

(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 new date that the area would have been subject to had it been reclassified under subsection (b)(2).

(6) RULEMAKING.—Within 12 months after the enactment of this subsection, the Administrator shall, through notice and comment, promulgate rules to define the term "affected by transport to a degree that affects an areas ability to attain" in order to ensure that downwind areas are not unjustly penalized, and for purposes of paragraphs (2) and (3) of this subsection.

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TITLE II—EMISSION STANDARDS FOR MOVING SOURCES

* * * * * * *

PART A—MOTOR VEHICLE EMISSION AND FUEL STANDARDS

* * * * * * *

REGULATION OF FUELS

SEC. 211. (a) * * *

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(c)(1) * * *

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(4)(A) * * *

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(C)(i) * * *

* * * * * * *

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

(aa) may temporarily waive any control or prohibition respecting the use of a fuel or fuel additive required by this section; and

(bb) may preempt and temporarily waive any related or equivalent control or prohibition respecting the use of a fuel or fuel additive prescribed by a State or local statute or regulation, including any such requirement in a State implementation plan.

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

(III) A temporary waiver issued under this clause shall not permit an alteration of the properties of the fuel to the extent that the use of the fuel prevents the normal functioning of the vehicle, engine, component, system, or equipment in which the fuel is used or would

materially degrade such functioning over the useful life of the vehicle, engine, component, system, or equipment.

(vi) A State shall not be subject to any finding, disapproval, or determination by the Administrator under section 179, no person may bring an action against a State or the Administrator under section 304, and the Administrator shall not take any action under section 110(c) to require the revision of an applicable implementation plan, because of any emissions attributable to a waiver granted by the Administrator under clause (ii) or by the President under clause (v).

[(v)] *(vii)* Nothing in this subparagraph shall—

(I) * * *

* * * * * * *

[(v)(I) The Administrator shall have no authority, when considering a State implementation plan or a State implementation plan revision, to approve under this paragraph any fuel included in such plan or revision if the effect of such approval increases the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans.

[(II) The Administrator, in consultation with the Secretary of Energy, shall determine the total number of fuels approved under this paragraph as of September 1, 2004, in all State implementation plans and shall publish a list of such fuels, including the States and Petroleum Administration for Defense District in which they are used, in the Federal Register for public review and comment no later than 90 days after enactment.

[(III) The Administrator shall remove a fuel from the list published under subclause (II) if a fuel ceases to be included in a State implementation plan or if a fuel in a State implementation plan is identical to a Federal fuel formulation implemented by the Administrator, but the Administrator shall not reduce the total number of fuels authorized under the list published under subclause (II).

[(IV) Subclause (I) shall not limit the Administrator's authority to approve a control or prohibition respecting any new fuel under this paragraph in a State implementation plan or revision to a State implementation plan if such new fuel—

[(aa) completely replaces a fuel on the list published under subclause (II); or

[(bb) does not increase the total number of fuels on the list published under subclause (II) as of September 1, 2004.

In the event that the total number of fuels on the list published under subclause (II) at the time of the Administrator's consideration of a control or prohibition respecting a new fuel is lower than the total number of fuels on such list as of September 1, 2004, the Administrator may approve a control or prohibition respecting a new fuel under this subclause if the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register after notice and comment a finding that, in the Administrator's judgment, such control or prohibition respecting a new fuel will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas.

[(V) The Administrator shall have no authority under this paragraph, when considering any particular State's implementation plan or a revision to that State's implementation plan, to approve

any fuel unless that fuel was, as of the date of such consideration, approved in at least one State implementation plan in the applicable Petroleum Administration for Defense District. However, the Administrator may approve as part of a State implementation plan or State implementation plan revision a fuel with a summertime Reid Vapor Pressure of 7.0 psi. In no event shall such approval by the Administrator cause an increase in the total number of fuels on the list published under subclause (II).]

(viii)(I) The Administrator, in coordination with the Secretary of Energy (hereinafter in this clause referred to as the "Secretary"), shall identify and publish in the Federal Register, within 12 months after the enactment of this subclause and after notice and opportunity for public comment, a list of 6 gasoline and diesel fuel blends to be used in States that have not received a waiver under section 209(b) of this Act or any State dependent on refineries in such State for gasoline or diesel fuel supplies. The list shall be referred to as the "Federal Fuels List" and shall include one Federal diesel fuel, one alternative diesel fuel blend approved under this subparagraph before enactment of this subclause, one conventional gasoline for ozone attainment areas, one reformulated gasoline (RFG) meeting the requirements of subsection (k), and 2 additional gasoline blends with Reid vapor pressure (RVP) controls for use in ozone nonattainment areas of varying degrees of severity. None of the fuel blends identified under this subclause shall control fuel sulfur or toxics levels beyond levels required by regulations of the Administrator.

(II) Gasoline and diesel fuel blends shall be included on the Federal Fuels List based on the Administrator's analysis of their ability to reduce ozone emissions to assist States in attaining established ozone standards under this Act, and on an analysis by the Secretary that the adoption of the Federal Fuels List will not result in a reduction in supply or in producibility, including that caused by a reduction in domestic refining capacity triggered by this clause. In the event the Secretary concludes that adoption of the Federal Fuels List will result in a reduction in supply or in producibility, the Administrator and the Secretary shall report that conclusion to Congress, and suspend implementation of this clause. The Administrator and the Secretary shall conduct the study required under section 1541(c) of the Energy Policy Act of 2005 on the timetable required in that section to provide Congress with legislative recommendations for modifications to the proposed Federal Fuels List only if the Secretary concludes that adoption of the Federal Fuels List will result in a reduction in supply or in producibility.

(III) Upon publication of the Federal Fuels List, the Administrator shall have no authority, when considering a State implementation plan or State implementation plan revision, to approve under this subparagraph any fuel included in such plan or plan revision if the fuel proposed is not one of the fuels included on the Federal Fuels List; or to approve such plan or revision unless, after consultation with the Secretary, the Administrator publishes in the Federal Register, after notice and opportunity for public comment, a finding that, in the Administrator's judgment, such revisions to newly adopt one of the fuels included on the Federal Fuels List will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous area. The Administrator's findings shall include an assess-

ment of reasonably foreseeable supply distribution emergencies that could occur in the affected area or contiguous area and how adoption of the particular fuel revision would effect supply opportunities during reasonably foreseeable supply distribution emergencies.

(IV) The Administrator, in consultation with the Secretary, shall develop a plan to harmonize the currently approved fuel blends in State implementation plans with the blends included on the Federal Fuels List and shall promulgate implementing regulations for this plan not later than 18 months after enactment of this subclause. This harmonization shall be fully implemented by the States by December 31, 2008.

[(VI)**]** *(V)* Nothing in this clause shall be construed to have any effect regarding any available authority of States to require the use of any fuel additive registered in accordance with subsection (b), including any fuel additive registered in accordance with subsection (b) after the enactment of this subclause.

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TITLE III—GENERAL

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DEFINITIONS

SEC. 302. When used in this Act—

(a) * * *

* * * * * * *

(aa) PHYSICAL CHANGE, OR CHANGE IN THE METHOD OF OPERATION OF EXISTING EMISSIONS UNIT.—For purposes of parts C and D of this title, the term "physical change, or change in the method of operation of," as applied to an existing emissions unit, means a "modification" as defined in paragraphs (a), (b), (c), (e), and (h) of title 40 of the Code of Federal Regulations, section 60.14 (as in effect on September 22, 2005), except that paragraph (h) shall apply to all industrial categories and paragraph (e)(1) shall include all repairs and replacements covered by section 51.166(y) of title 40 of the Code of Federal Regulations (as in effect on December 31, 2004).

* * * * * * *

SECTION 5 OF THE ACT OF OCTOBER 18, 1977

(Public Law 95–136)

AN ACT To authorize appropriations for fiscal year 1978 to carry out the Marine Mammal Protection Act of 1972.

SEC. 5. (a) * * *

(b) Notwithstanding any other provision of law, on and after the date of enactment of this section, no officer, employee, or other official of the Federal Government shall, or shall have authority to, issue, renew, grant, or otherwise approve any permit, license, or other authority for constructing, renovating, modifying, or otherwise altering a terminal, dock, or other facility in, on, or immediately adjacent to, or affecting the navigable waters of Puget Sound, or any other navigable waters in the State of Washington east of Port Angeles, which will or may result in any increase in

the volume of crude oil capable of being handled at any such facility (measured as of the date of enactment of this section), other than oil to be refined [for consumption in the State of Washington].

SECTION 116 OF THE ALASKA NATURAL GAS PIPELINE ACT

SEC. 116. LOAN GUARANTEES.

(a) AUTHORITY.—(1) * * *

* * * * * * *

(4) The Secretary shall not enter into an agreement under paragraph (1) or (2) after the date that is 24 months after the date of enactment of the Gasoline for America's Security Act of 2005 if the State of Alaska has not entered into an agreement pursuant to Alaska Stranded Gas Development Act which in good faith contractually binds the parties to deliver North Slope natural gas to markets via the proposed Alaska Natural Gas Pipeline.

* * * * * * *

NATURAL GAS ACT

* * * * * * *

NECESSITY FOR REGULATION OF NATURAL GAS COMPANIES

SECTION 1. (a) * * *

(b) The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural gas companies engaged in such transportation or sale, and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or*, except as provided in section 4(g),* gathering of natural gas.

* * * * * * *

RATES AND CHARGES; SCHEDULES; SUSPENSION OF NEW RATES

SEC. 4. (a) * * *

* * * * * * *

(g)(1) For the purposes of this subsection—

(A) the term "gas service provider" means an entity that operates a facility located in the outer Continental Shelf that is used to move natural gas on or across the outer Continental Shelf; and

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

(2) All gas service providers shall submit to the Commission annually the conditions of service for each shipper served, consisting of—

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

(B) a notation of shipper affiliation;

(C) the type of service provided;

(D) primary receipt points;

(E) primary delivery points;

(F) rates between each pair of points; and

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

(3) This subsection shall not apply to—

(A) a gas service company that serves exclusively a single entity (either itself or one other party), until such time as—

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

(ii) a determination is made that the gas service provider's denial of a request for service is unjustified;

(B) a gas service provider that serves exclusively shippers with ownership interests in both the pipeline operated by the gas service provider and the gas produced from a field or fields connected to a single pipeline, until such time as—

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

(ii) a determination is made that the gas service provider's denial of a request for service is unjustified;

(C) service rendered over facilities that feed into a facility where natural gas is first collected, separated, dehydrated, or otherwise processed; and

(D) gas service providers' facilities and service regulated by the Commission under section 7 of this Act.

(4) When a gas service provider subject to this subsection alters its affiliates, customers, rates, conditions of service, or facilities, within any calendar quarter, it must then file with the Commission, on the first business day of the subsequent quarter, a revised report describing the status of its services and facilities.

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SECTION 553 OF THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) * * *

* * * * * * *

(d) SPECIFIC PRODUCTS.—(1) * * *

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(3) The head of an agency shall procure the most energy efficient and cost-effective light bulbs or other electrical lighting products, consistent with safety considerations, for use in that agency's facilities and buildings.

* * * * * * *

ENERGY POLICY AND CONSERVATION ACT

* * * * * * *

TITLE I—MATTERS RELATED TO DOMESTIC SUPPLY AVAILABILITY

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PART B—STRATEGIC PETROLEUM RESERVE

* * * * * * *

DRAWDOWN AND SALE OF PETROLEUM PRODUCTS

SEC. 161. (a) * * *

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(e)(1) * * *

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

(A) not to resell the petroleum products before the products are refined; and

(B) to refine the petroleum products primarily for consumption in the United States.

* * * * * * *

PART D—NORTHEAST HOME HEATING OIL RESERVE

ESTABLISHMENT

SEC. 181. (a) Notwithstanding any other provision of this Act, the Secretary may establish, maintain, and operate in the Northeast a Northeast Home Heating Oil Reserve. A Reserve established under this part is not a component of the Strategic Petroleum Reserve established under part B of this title. A Reserve established under this part shall contain no more than [2 million barrels] *5 million barrels* of petroleum distillate.

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ADDITIONAL VIEWS

ADDITIONAL VIEWS OF REPRESENTATIVES GENE GREEN AND CHARLES A. GONZALEZ

We opposed H.R. 3893, the "Gasoline for America's Security Act of 2005", because it would do little if anything to solve the energy problems highlighted by Hurricanes Katrina and Rita. In addition, the flawed process that brought this bill before the Committee is not one that we can endorse as a means to produce thoughtful legislation that addresses real problems.

Refinery capacity is an issue that both Democrats and Republicans are properly concerned about and one that the Congress should examine thoroughly. Our current capacity issues, however, were years in the making and cannot be solved by a series of "quick fixes." Sweeping changes to public health and environmental laws without the benefit of hearings or due legislative process will only lead to the kind of protracted and contentious debate that we experienced during the Committee markup—without addressing the real need to increase refinery capacity.

With regard to the high gasoline prices the Nation saw after Hurricane Katrina, H.R. 3893, as amended during the markup, purports to address part of the problem through a price-gouging provision of dubious merit that would represent a rollback of some of the existing authorities of the Federal Trade Commission. This is hardly a position that we can support.

Democrats offered a sensible substitute during the markup that addressed price-gouging and refinery capacity, and we would be willing to work with our Republican colleagues to perfect that legislation. But we did not support H.R. 3893, or the process that produced it.

GENE GREEN.
CHARLES A. GONZALEZ.

DISSENTING VIEWS

DISSENTING VIEWS OF REPRESENTATIVES JOHN D. DINGELL, HENRY A. WAXMAN, EDWARD J. MARKEY, RICK BOUCHER, EDOLPHUS TOWNS, FRANK PALLONE, JR., SHERROD BROWN, BART GORDON, BOBBY L. RUSH, ANNA G. ESHOO, BART STUPAK, ELIOT L. ENGEL, ALBERT R. WYNN, TED STRICKLAND, DIANA DEGETTE, LOIS CAPPS, MICHAEL F. DOYLE, TOM ALLEN, JIM DAVIS, JAN SCHAKOWSKY, HILDA L. SOLIS, JAY INSLEE, TAMMY BALDWIN, AND MIKE ROSS

We oppose H.R. 3893, the "Gasoline for America's Security Act of 2005". The bill will do nothing to lower gasoline and other fuel prices. It will do nothing to deal with the problems found in the aftermath of Hurricanes Katrina and Rita. Despite new regulatory subsidies to a refining industry making record profits, it is unlikely to increase refinery capacity. It includes a panoply of unrelated provisions, mainly designed to reduce public health and environmental protections. And all of this was done through a deeply flawed process that included no legislative hearings and limited time for consideration.

We offered an answer to the awful rise in gasoline prices and the projected increases in home heating oil, natural gas, and propane prices this winter, as well as dealing with refinery problems identified in the wake of hurricanes. Unfortunately our alternative was defeated on a straight party-line vote.

The bill will do nothing to deal with high gasoline and other fuel prices

The only provision in the bill which even purports to deal with high gasoline prices is totally ineffective and represents a rollback of some of the existing authorities of the Federal Trade Commission (FTC). The so-called price gouging provision appears directed toward small gas station owners. According to a recent analysis of price increases at the pump published in the Washington Post, however, margins at gas stations increased by less than one cent per gallon, less than a 5 percent increase.

The major increase in prices at the pump were at the refinery level, where gasoline prices have increased by 71 cents, or 255 percent. While there is some question over whether the bill's provisions even cover these refineries, the bill's penalty provisions ensure that its provisions are meaningless.

In the first known case of a legislative provision limiting the court's ability to calculate civil penalties for a violation of the FTC Act, the bill limits penalties to any person for price gouging to $11,000 per day. So even if a company such as Exxon Mobil, with

profits in the last quarter of $7.62 billion (or more than $84 million per day), the maximum find would be $11,000 per day, less than one-hundredth of one percent of profits.

The provision lacks real enforcement authority since it does not allow for state attorneys general to enforce the Federal law. Nor does it make market manipulation a cause of action. Finally, the provision fails to cover other fuels. The Energy Information Administration (EIA) has forecast natural gas prices to rise by 71 percent in the Midwest but natural gas, along with home heating oil and propane, are not even covered under the proposal.

Despite new subsidies to a refining industry making record profits, it is unlikely to increase refinery capacity

The bill resurrects some old proposals that were discarded in the recently passed Energy Policy Act of 2005, adds some new subsidies to oil companies, and repeals some provisions of the recently passed Act. All of the proposals are based upon an unproven and flawed assumption that environmental laws have thwarted the building of refineries.

The bill's refinery provisions provide a new fast track authority for permitting refineries that removes court decisions from State or local district courts to the Federal Court of Appeals in the District of Columbia. The standard for judicial review appears to permit the overturning of State or Federal actions to block refinery siting, but does not appear to provide for the overturning of actions that permit refinery siting. In addition, the bill provides a new "regulatory insurance subsidy" that could put taxpayers on the hook for unlimited damages if a refinery is stalled in litigation or must meet new regulatory standards. The bill would give away Federal lands and closed military bases to oil companies to build refineries, without allowing any public input. The bill even has a provision that would require litigants, such as States and localities, to pay for the oil company's litigation costs should the company prevail in a lawsuit, but would not provide for the company to pay the opponents of a refinery its costs even if they successfully prove that the refinery siting violates Federal law.

While the Committee has never held hearings on these proposals, or conducted any serious investigations into the reasons the oil industry has closed more than 30 refineries in the past three decades, most evidence, including studies by the Government Accountability Office (GAO), suggests that the reasons relate to economic considerations, not environmental laws. In the only case of a company seeking a new refinery (in Arizona), a permit was granted in 1992, but the company chose not to build on the site for financial reasons. After taking no action for nearly 10 years, the company submitted a new permit application and then decided to move to a new site. After submitting its last permit application in July of 2004, the company was awarded a permit by the Environmental Protection Agency (EPA) in less than a year.

It appears that a more likely answer, found both by GAO and other investigations, is that refinery margins were traditionally low, and by removing capacity from the market, margins could grow. We know that refinery margins are now at an all-time high,

and new regulatory subsidies and special treatment for this industry are at best a dubious policy.

We are also particularly concerned by a provision of the bill that would allow the President to designate closed military sites for use as a refinery. The provision provides no opportunity for public input into the decision. At a minimum, it could preclude a local community from making decisions to transform the site into an economically useful area for at least an additional two years.

On September 14, 2005, Ranking Member Dingell sent a letter to EPA about how the provisions of the Energy Policy Act of 2005 to coordinate permitting of refineries were working, but no response was provided. We may never find out, because the bill even repeals these provisions. He also sent a letter on September 15, 2005, to Secretary of Energy Bodman requesting information on the status of the 30 refineries that have been closed over the past 10 years, as well as an analysis of which closed military bases, if any, were suitable for a refinery. This letter too remains unanswered.

In short, the bill heaps large new subsidies on industry in the form of regulatory relief without any record that these provisions will work, and without any record on whether the recently enacted law already solves perceived problems.

The bill includes a panoply of unrelated provisions, mainly designed to reduce environmental protection

The bill inappropriately uses the catastrophes of Hurricanes Katrina and Rita to enact changes to environmental and other laws that are totally unrelated to either high fuel prices or damages from the hurricanes.

Among the provisions of the bill is a codification of the Administration's controversial New Source Review regulations, with an expansion to cover all industries, not just energy industries. Another provision known as "bump-up" relates to delays in compliance under the Clean Air Act. Other provisions change the regulation over natural gas offshore gathering pipelines. Another provision arbitrarily establishes a limit on six types of gasoline and diesel.

Regardless of our views of the merits of any of these provisions, none has been subjected to serious consideration in hearings in this committee. Repeated questions of counsel on these provisions indicated a lack of full understanding of the implications of these provisions, or even in some cases, the rationale.

The bill is a product of a deeply-flawed process that included no legislative hearings and limited time for consideration

Were this emergency legislation, such as near term help for the hurricane victims, we would be ready to act quickly. This bill, however, is not such a bill, a fact conceded by the chairman when he stated during debate that this legislation "is also a generic energy bill." No matter what you label it, the impacts on such matters as energy supplies and refinery construction would likely be a decade or more away.

Unfortunately, the bill was considered under a lightning fast process that did not include a single legislative hearing. The bill was unveiled on Friday night at 10:00 p.m., leaving Members two

business days to evaluate it, and formulate amendments, prior to its consideration on Wednesday. Ranking Member Dingell along with Subcommittee Ranking Members Boucher and Solis requested legislative hearings on the matter, but the request was ignored.

At the Wednesday markup Members were informed that the markup would consist of just a single day. The markup began at 8:00 a.m. and continued until midnight. During the course of the markup Members asked questions concerning the provisions of the bill that could not be answered.

If for no other reason, this bill should be rejected for its utter lack of a legislative record.

Despite the lack of time for consideration of the bill, we offered a thoughtful alternative that addressed the problems of high fuel prices and refinery problems identified in the aftermath of the hurricanes

The Democratic substitute for the first time gave explicit authority to the FTC to stop price gouging, not just for gasoline and diesel, but for natural gas, home heating oil, and propane. The substitute provided for enhanced civil penalties equal to three times the amount of unjust profits gained or up to $3 million. Penalties would be put toward the Low-Income Home Energy Assistance Program. Market manipulation would be explicitly outlawed. State attorneys general would be empowered to enforce the Federal law. The provision explicitly allowed State price gouging laws to continue in effect. In addition, the substitute called for the FTC to set rules for market transparency, and to protect the public from anticompetitive behavior. The Secretary of Energy would be directed to review preparedness of the oil industry for natural disasters, terrorist attacks, and other supply disruptions.

The Democratic substitute also responded to a real problem revealed by the hurricanes. The Strategic Petroleum Reserve (SPR), designed to protect us from an energy supply disruption, was of limited use due to the damage to refineries to process the crude oil. The substitute would establish a Strategic Refinery Reserve (SRR) patterned after the SPR. The Secretary of Energy would be directed to establish the SRR either by building new refineries or reopening previously closed facilities. The SRR would be designed to produce 5 percent of the demand for gasoline.

During normal times the SRR would operate to meet the needs of the Federal fleet, including the Department of Defense. During supply disruptions the refined products would be made available for public consumption. The SRR would ensure that Federal fleet and military needs would be met at all times; ramping up to full production would be eased by keeping the refineries operating at a reduced level at all times; and production for the Federal uses would free up additional supply, decreasing price pressures.

The Democratic substitute was defeated on a straight party-line vote.

Conclusion

H.R. 3893 should be defeated. It is the product of a flawed process, will not alleviate high prices at the pump or heating costs in the winter, and will not provide the reserve refining capacity that

the hurricanes showed is badly needed. It represents an attempt by the bill's proponents to use the tragedy of the hurricanes to rush through an agenda unrelated to the problems those hurricanes posed and implicating key public health and environmental protections. The Democratic alternative would provide relief to consumers and protection against future supply disruptions, but it fell victim to the Republican agenda.

JOHN D. DINGELL.
HENRY A. WAXMAN.
EDWARD J. MARKEY.
RICK BOUCHER.
ED TOWNS.
FRANK PALLONE, JR.
SHERROD BROWN.
BART GORDON.
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HILDA L. SOLIS.
JAY INSLEE.
TAMMY BALDWIN.
MIKE ROSS.

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Democratic Staff Director

3 October 2005

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
2125 Rayburn HOB
Washington, D.C. 20515

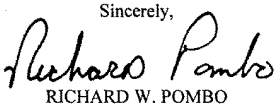
Dear Mr. Chairman:

The Committee on Resources has a substantial jurisdictional interest in H.R. 3893, a bill to expedite the construction of new refinery capacity in the United States, to provide more reliable and affordable energy for the American people, and for other purposes. The bill was referred to the Committee on Resources primarily for its effects on public lands, oil and gas development from those lands, and the applicable of the National Environmental Policy Act, the Endangered Species Act, the Coastal Zone Management Act, the Federal Land Policy Management Act, the National Historic Preservation Act, and other natural resources laws within the Committee on Resources' jurisdiction.

Because of the need to expedite H.R. 3893 to provide relief from high energy prices to the American people and to secure more diversified and reliable sources of energy, I will not insist on the Committee on Resources' referral of the bill and agree to allow the Committee to be discharged from further consideration. Of course, by allowing this to occur, the Committee on Resources does not waive its jurisdiction over H.R. 3893 or any other similar matter. If a conference on H.R. 3893 or a similar energy legislative package becomes necessary, I would expect your support to have Committee on Resources members named to the conference committee. Moreover, this action should not be seen as precedent for any Committee on Energy and Commerce bill which affects the Committee on Resources' jurisdiction. Finally, I ask that you include this letter in the report on the bill to document this understanding.

Thank you for your work on this issue so important to American families, and I look forward to consideration of a more comprehensive energy diversification and supply disruption bill by the House of Representatives soon.

Sincerely,



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Washington, DC 20515–6115

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October 4, 2005

The Honorable Richard Pombo
Chairman
Committee on Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, DC 20515

Dear Chairman Pombo:

I write in regards to H.R. 3893, Gasoline for America's Security Act of 2005.

As the Committee on Resources was named as an additional Committee of jurisdiction upon the bills introduction, I acknowledge and appreciate your willingness to not exercise your full referral on the bill. In doing so, I agree that your decision to forgo further action on the bill will not prejudice the Committee on Resources with respect to its jurisdictional prerogatives on this legislation or similar legislation. Further, I recognize your right to request conferees on those provisions within the Committee on the Resources' jurisdiction should they be the subject of a House-Senate conference on this or similar legislation.

I will include our exchange of letters in the Committee's report on H.R. 3893, and I look forward to working with you as we prepare to pass this important energy legislation for the American people.

Sincerely,

Joe Barton
Chairman

cc: The Honorable John D. Dingell
Mr. John Sullivan, Parliamentarian

DON YOUNG, CHAIRMAN

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

October 6, 2005

The Honorable Joe Barton, Chairman
Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in matters being considered in H.R. 3893, the Gasoline for America's Security Act of 2005. The bill was referred to the Transportation Committee as an additional Committee.

As you know, I object to the provisions in title II that designates FERC as the lead agency for oil or refined petroleum siting process coordination. I believe strongly that the appropriate agency is the Pipeline and Hazardous Materials Safety Administration (PHMSA) within the Department of Transportation. PHMSA currently has the expertise and resources to ensure that pipelines are not only sited quickly but also in a manner that ensures the safety of the public and protects the environment. FERC does not possess the resources or expertise to do this.

Our Committee recognizes the importance of H.R. 3893 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over a number of provisions of the bill, I do not intend to exercise the Committee's referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego the referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee. This is also conditional on your assurance that you will support in conference a mutually acceptable resolution of the concerns we have with title II of the reported bill.

The Committee on Transportation and Infrastructure also asks that you support our request to be conferees on the provisions over which we have jurisdiction during any House-Senate conference. I would appreciate it if you would include a copy of this letter and of your response acknowledging our jurisdictional interest in the Committee Report and as part of the *Congressional Record* during consideration of the bill by the House.

Thank you for your cooperation in this matter.

Sincerely,

DON YOUNG
Chairman

cc: Hon. J. Dennis Hastert
Hon. James L. Oberstar
Hon. John V. Sullivan

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MIKE ROSS, ARKANSAS

October 6, 2005

The Honorable Don Young
Chairman
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Young:

I write in response to your letter regarding H.R. 3893, Gasoline for America's Security Act of 2005.

As the Committee on Transportation and Infrastructure was named as an additional Committee of jurisdiction upon the bills introduction, I acknowledge and appreciate your willingness to not exercise your full referral on the bill. In doing so, I agree that your decision to forgo further action on the bill will not prejudice the Committee on Transportation and Infrastructure with respect to its jurisdictional prerogatives on this legislation or similar legislation. Further, I commit to working toward a mutually acceptable resolution of your objections with title II in a conference on the reported bill. I also recognize your right to request conferees on those provisions within the Committee on the Transportation and Infrastructure's jurisdiction should they be the subject of a conference on this or similar legislation.

I will include our exchange of letters in the Committee's report on H.R. 3893, and I look forward to working with you as we prepare to pass this important energy legislation for the American people.

Sincerely,

Joe Barton
Joe Barton
Chairman

cc: The Honorable John D. Dingell
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