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

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

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

Mr. McGOVERN. Mr. Speaker, I yield 1½ minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy.

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

It is ironic that the American public's vision is much clearer than Congress. They want to increase the CAFE standards. The public has very clear views about the Arctic Wildlife Refuge, that it is the last place America should look for oil, not the next place.

They oppose a waiver and relief to the MTBE manufacturers at the expense of State and local authorities and the quality of local drinking water.

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

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

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

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

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

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

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

The gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) just talked about her clean air amendment which was not made in order.

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

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

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

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

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

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

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

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

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

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

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

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

ENERGY POLICY ACT OF 2005

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

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

□ 1458

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, with Mr. LATHAM (Acting Chairman) in the chair.

The Clerk read the title of the bill.

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

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

The gentleman from Texas (Mr. BARTON) and the gentleman from Michigan

(Mr. DINGELL) each will control 15 minutes from the Committee on Energy and Commerce.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

□ 1500

Mr. BARTON of Texas. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I rise in strong support of H.R. 6, the Energy Policy Act of 2005. Passage of this comprehensive bill will ensure a more affordable, environmentally friendly energy supply.

America's prosperity and national security are at stake. The bill before us today is a balanced bill and it is a bipartisan bill. It will have lower energy prices over time for consumers, it will help spur our economy, create hundreds of thousands of jobs, and take unprecedented steps to promote greater energy conservation and efficiency.

The Energy Policy Act of 2005, among other things, improves our Nation's electric transmission capacity; promotes a cleaner environment with new innovations on alternative power sources, the Clean Cities authorization, and the hydrogen fuel cell car program; it promotes clean coal technologies, provides incentives for renewable energies, such as biomass, wind, solar and hydroelectricity.

The bill would provide leadership in energy conservation by establishing new mandatory efficiency requirements for Federal buildings, and expands the Energy Star program to tell American consumers what products save the most energy.

The bill also provides an efficient approval process for siting new liquified natural gas facilities. It would, for the first time, give an expedited procedure, hopefully in brownfield areas and high-unemployment areas, for expanding or building some new refineries. We have not built a new oil refinery in this country for the past 30 years.

I could go on and on, Mr. Chairman, but simply let me say at the beginning of the debate that it is time for an energy policy for America. It is time for the House of Representatives to say we want a strong economy based on the world's best and most open free market for energy supplies, and also to put some incentives in for conservation.

I strongly support the bill, and I look forward to the debate we are about to begin.

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

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

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

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

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

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

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

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

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

As far as consumers are concerned, it is hard to imagine a better case for increasing consumer protections than the debacle which took place in the West Coast electricity markets in 2000 and 2001. The Federal Energy Regulatory Commission has determined widespread fraud existed, and there are tapes to prove it; yet this bill gives only cosmetic reforms in law and, in point of fact, repeals the Public Utility Holding Company Act of 1935, which protects consumers and investors.

And it does nothing to assure refunds of unjust and unreasonable overcharges. While blackouts cost the consumers $80 billion, this bill holds a sensible reliability provision hostage to its more controversial provision and caps the necessary expenditure to set the job right.

Taxpayers will also be hit hard by this bill. We do not know the total cost, but last time it cost over $30 billion, four times the amount requested by the administration.

This is a bad bill. I urge my colleagues to reject it.

Mr. BARTON of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD), a member of the committee.

Mr. NORWOOD. Mr. Chairman, I thank the gentleman for yielding me this time, and I have a little different view of this.

This is a good bill. It is a bill this country needs. We need a national energy policy, there is no question about it, and I congratulate the gentleman from Texas (Mr. BARTON) on years of hard, dedicated work to bring this to the floor.

Having said that, like any other bill I have ever seen, it is not a perfect bill; it has its good and bad parts. And if I could, Mr. Chairman, just for the record, I would like to have a little quick colloquy with the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman will yield, I would be happy to have a colloquy with the gentleman from Georgia.

Mr. NORWOOD. Mr. Chairman, as my colleague from Texas knows, the electricity title is very, very important to my consumers and my constituents in the southeast as well as in the northwest, and one of the provisions in the title that is not there is regarding participatory funding.

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

What can I anticipate on participatory funding down the road?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

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

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

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

I thank my colleague, and I look forward to working with him on this as we move forward toward conference.

Mr. BARTON of Texas. If the gentleman will continue to yield, there will be a provision in the conference report that comes back when we report the conference out.

Mr. NORWOOD. I thank the Chairman.

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. WAXMAN).

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

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

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

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

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

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

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

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

I urge my colleagues to oppose this fundamentally flawed legislation.

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

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

For 6 years now, the President of the United States has been saying that one of our primary failings as a country was to have an energy policy that moved forward. For three Congresses, our body has responded to that, first with the leadership of the gentleman from Texas as chairman of the subcommittee, and now with his leadership as chairman of the full committee, bringing an energy bill to the House floor for three straight Congresses.

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

Now, it will not solve these problems next week or next month, or even maybe the month after that. If, however, we had passed the bill my colleague had brought to the floor 4 years ago, these problems we see today would not be the large problems that we see today. And for the leadership of this chairman, the leadership of the chairman of the Committee on Ways and Means, and the leadership of the chairman of the Committee on Resources, I am grateful.

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

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

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

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

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

Mr. DINGELL. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

□ 1515

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

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

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

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

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

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

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

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

There is a special provision in the bill that provides a $1.3 billion subsidy to the Idaho National Laboratory to build a special advance nuclear reactor to produce hydrogen for the hydrogen car. Bad bill; vote ''no.''

Mr. Chairman, I rise in opposition to H.R. 6.

I have the greatest respect and affection for the Chairman of the Committee, the distinguished gentleman from Texas (Mr. BARTON), but I must say in all honesty that this is really a terrible energy bill.

The Chairman comes from Texas, and I'm sure that from a Lone Star State perspective, this looks like a pretty good bill. But most of our constituents don't come from oil producing states. Most of our constituents are energy consumers, and from a consumer perspective this bill is seriously deficient. In fact, I would suggest that this bill is a bit like that old Clint Eastwood spaghetti Western: "The Good, the Bad and the Ugly."

There is a tiny bit of good in the bill—like extending daylight saving time by a month in the Spring and a month in the Fall. Now, that was a good idea, it really was—and I'm glad that the gentleman from Michigan (Mr. UPTON) and I were able to get it in the bill.

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

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

This bill does virtually nothing to address the current spike in crude oil prices or the price of gasoline at the pump. In fact, a Department of Energy analysis of an almost identical bill in the last Congress concluded that "changes to production, consumption, imports and prices are negligible."

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

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

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

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

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

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

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

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

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

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

There's the special provision added that authorizes "grants and other assistance" to something called "the Dine Power Authority, an Enterprise of the Navajo Nation." Who are they? Why do they deserve our largess?

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

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

This is not what a national energy policy should be—a tiny bit of Good in a sea of Bad and Ugly provisions. No. We should try to seek a fair balance between the interests of consumers and producers, between the need for new production and the preservation of our natural environment. We should take advantage of America's strength—our technological superiority—and not play to our weakness (the fact that we control only 3 percent of the world's oil reserves, while OPEC controls more than 70 percent).

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

It didn't have to be this way. I lived through the energy policy battles of the late It didn't have to be this way. It really didn't. But the Republican Majority that controls this Congress today decided to make energy policy partisan with a bill that is extreme and overreaching. So I would say to my Republican Colleagues, you may have the votes to prevail here on the House floor this week, but this extreme bill will not become law. Democrats in this body, along with our colleagues in the Senate, will fight to ensure that the Bad and Ugly provisions that presently make up the bulk of this bill are deleted or revised. And if they are not, we will fight to prevent this bill from moving to the President's desk.

I urge my colleagues to vote against this bill. We can and must do much better.

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

Mr. SHIMKUS. Mr. Chairman, I thank the gentleman from Texas (Mr. BARTON) for yielding me this time and for his great work on this bill. It sounds like it is not the bill that I voted on, but I am very pleased to support it. There is no more important bill in my time here in Congress than the bill we are addressing today, and there is no more important bill for the State of Illinois than the bill we are addressing today. It makes all of the years of our work pay off because I think this time we will get it across the finish line because it meets the demands of the country. We have to diversify our energy portfolio. We can no longer rely on one fuel source, whether it is for electricity generation or to move our vehicles. We have to diversify our energy portfolio, and that is what this bill does.

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

It brings renewable fuels to the forefront in this debate. Gasoline is $2.20, $2.30. Consumers can buy E–85 ethanol fuel for $1.65 a gallon. So what we have been doing in the past is working. This bill addresses the supply end, and it also addresses the demand end. We have to have a national energy policy. We can no longer allow the country to not have a plan.

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

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

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

Mr. Chairman, one provision epitomizes the bill's failures. H.R. 6 grants liability protection for people who make MTBE who are responsible for polluting groundwater in dozens of States, leaving hundreds of communities saddled with billions of dollars in cleanup costs. Supporters claim it is fair to protect MTBE producers from liability since Congress mandated its use in the Clean Air Act, but there is no mandate for MTBE and even the chairman of the committee has acknowledged as much. In fact, 120 million barrels were added to gasoline before the clean air regulations were ever issued. Most damning, documents unearthed in court cases show that manufacturers knew the dangers MTBE posed to groundwater, and they still added it to gasoline. The result is what we have today, over 1,800 contamination sites in 29 different States serving 45 million Americans.

I wanted to offer an amendment to strike this provision because in its wisdom the House leadership would not want to vote on this. Perhaps it is because too many Members on both sides of the aisle represent districts with bad MTBE problems in places where lawsuits are pending. Because of the MTBE provisions alone, we should reject this bill.

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

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

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

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

Importantly, this bill provides incentives to clean coal technology, renewable energies like wind and solar; and it also increases LIHEAP funding authorization to $5 billion for this year.

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

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

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

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

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

There is a lot to be said about this bill. We have an energy bill for the first time in my 12 years in Congress.

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

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

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

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

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

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

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. BUYER).

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

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

The last big oil discovery was 30 years ago in the North Sea. China is trying to buy oil companies in Canada; India is trying to buy oil companies in Russia; the present world production capacity is 83 million barrels a day; and we are running an estimated 81.5 million today, which means we are in the red zone. The 14 largest oil fields in the world are 40 years old. Once they are taken out to 50 percent, water and fluids need to be pumped to keep production at existing levels. We have some significant challenges. Support this bill.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield for the purpose of a unanimous consent request to the gentleman from Connecticut (Mr. SHAYS).

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

Mr. SHAYS. Mr. Chairman, I rise in opposition to the legislation.

Mr. Chairman, protecting our environment and promoting energy independence are two of the most important jobs I have as a Member of Congress. Unfortunately, the bill before us today represents a real missed opportunity to reduce our dependence on foreign oil, promote energy efficiency and conservation, and improve our air, land and water quality.

For decades, our country has lacked a national energy policy. While I did not agree with the Administration's energy plan, I was grateful President Bush put forward a comprehensive proposal. The President's energy plan was superior to the severely flawed bill before us today.

We had a chance to devise a forward-looking energy policy that would have increased fuel efficiency, made polluters (including MTBE producers) pay for harming our environment, and advanced a renewable portfolio standard. Instead what we have is quite a bad bill.

Instead of creating a balanced energy policy that provides incentives to make renewable energy more affordable and widely available, we are making fiscally irresponsible and environmentally-reckless decisions for the benefit of a few profitable industries that don't need this kind of help from taxpayers.

I fail to understand why the major thrust of the bill's tax provisions involve further subsidizing the fossil fuel industry, rather than providing incentives for conservation and renewable sources of energy. These are enormously profitable industries operating in a time of record energy prices. Clearly, these profits demonstrate the market has already provided the fossil fuel industries with sufficient incentive to increase production.

I strongly oppose a provision in the bill that allows for the permanent activation of the Cross Sound Cable. In doing so, the bill subverts the regulatory process and ignores sound environmental policy regarding the depth at which the Cable should be buried.

In addition to its environmental shortsightedness, I also oppose provisions in this bill related to energy transmission. For instance, the Energy Policy Act allows the Federal Electric Regulatory Commission (FERC) to preempt state siting authorities when it is determined that a high-voltage power line is of "national significance," and overrides state authorities when expanding or siting new liquefied natural gas (LNG) terminals. In our own Long Island Sound just off Connecticut, this is a very real possibility. While energy security is a national issue, it seems to me the communities who will live with these siting decisions deserve a voice in the process.

Finally, I strongly oppose opening the Arctic National Wildlife Refuge to drilling. We simply won't have a world to live in if we continue our neglectful ways. In my judgment, it would be far better to develop prudent and lasting alternate fuel energies than to risk irreparable damage to the wilderness of one of North America's most beautiful frontiers. Drilling in the Arctic will not fix our energy problems—with so little oil available up there it couldn't possibly, as it will take a decade to get the oil down here. That time would be far better spent developing clean, renewable energy sources that will provide infinite energy without imperiling our last remaining wilderness areas.

I look forward to the day when we will have an opportunity to vote for a fiscally-prudent, environmentally-responsible national energy policy. Today is not that day.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minutes to the gentleman from Florida (Mr. STEARNS), a distinguished subcommittee chairman.

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

Mr. STEARNS. Mr. Chairman, here we go again. As I said, this is the third time, and it should be a charm.

We have passed this comprehensive legislation before; and I know I speak for a lot of my colleagues, probably on both sides of the aisle, that we should finally move forward after the large increases in gasoline. This is a timely piece of legislation.

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

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

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

Mr. Chairman, here we go again. As they say, the third time's the charm. This is the third Congress in a row we have tried to pass comprehensive energy legislation. I know I speak for many of my colleagues in saying I hope we can finally move forward and enact this very important and increasingly timely legislation.

As we all know too well, energy is the lifeblood of the economy. The availability of energy at reasonable prices is key to economic growth and stability. Comprehensive national energy policy must ensure affordable, reliable energy and also promote national security. H.R. 6 does that and I urge all my colleagues to support it.

The Department of Energy predicts that by the year 2025, U.S. oil and natural gas demand will rise by 46 percent, with energy demand increasing 1 percent for every 2 percent growth in GDP. This increased demand at home, coupled with an explosion of demand worldwide, has lead to an increase in the cost of crude oil. To combat this and the resulting record gas prices, the American people are looking to Congress to act.

This legislation contains a number of provisions that would lower gas prices. H.R. 6 encourages more domestic production of oil, promotes a greater refining capacity, and increases the gasoline supply by stopping the proliferation of expensive regional boutique fuels.

Ending our dependence on foreign oil is not only important to the economy but also doubly important to national security. Currently, the U.S. imports about 60 percent of its oil. The Department of Energy projects this number will increase to 73 percent by the year 2025. In order to ensure reliable and secure supplies of oil, we have no choice but to increase the domestic supply.

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

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

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

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

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

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

These are all strong recommendations not only made by the General Accounting Office, but they have also been previously passed by the House. They are proenvironment, antipolluter provisions. I urge their support and the support of the bill.

Mr. BARTON of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. UPTON), another distinguished subcommittee chairman.

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

Mr. UPTON. Mr. Chairman, yes, we have an energy crisis, and the sad thing is that it did not start this year, but neither did this bill which started more than 4 years ago. Maybe with gas prices hovering near $2.50 a gallon, we can finally get this bill to the President's desk.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. BARTON of Texas. Mr. Chairman, I want to compliment the members of the Committee on Energy and Commerce on both sides of the aisle for the way we prepared this legislation. It was reported out of committee 39–16 last Wednesday night after a 3½-day markup. Every amendment that was offered that wanted to be voted on and considered was.

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

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

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

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

The Acting CHAIRMAN. The gentlewoman from Illinois is recognized.

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

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

H.R. 6 represents a good investment in advanced, cutting-edge energy technologies to expand and diversify our energy supply, meet growing demand and reduce the environmental impact of energy production and use. The only changes to the R&D title from the 108th Congress are ones that reflect the latest research, the emergence of innovative technologies and new ways of thinking about our power problems.

Most noteworthy is a pilot grant program to encourage the design and construction of energy-efficient buildings that demonstrates new efficiency technologies. Also worth mentioning are two new additions to the subtitle on renewable energy R&D.

First is a grant program for States to support the development and demonstration of solar technologies nationwide. Second, the bill requires the Department to work with industry to create biorefinery demonstration projects. As a result, this bill does more for renewable energy R&D than any other energy bill previously considered by the House.

The bill also recognizes that advanced energy technologies do not grow on trees. Instead, they grow out of basic scientific research like those that are supported by the DOE at our universities and national laboratories. That is why H.R. 6 increases authorized funding to the DOE Office of Science which supports over 40 percent of basic research in the physical sciences, more than any other Federal agency. This funding will support basic fusion research and greater use of supercomputers for energy applications, as well as systems biology research and the construction and operation of scientific facilities like the rare isotope accelerator.

America cannot hope to compete in the world economy based on labor costs. Our competitive strength is the depth of our ingenuity and technology, and the science programs in this bill are the basic building blocks of our technological edge.

In closing, I want to thank the leadership of the Committee on Science and my colleagues on the committee for their contributions to the development of the provisions in the R&D title of H.R. 6.

Mr. Chairman, I reserve the balance of my time.

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

First I would like to thank the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science, and the gentlewoman from Illinois (Mrs. BIGGERT), chair of the Subcommittee on Energy, for their hard work and cooperation in developing the foundation of Title IX, the R&D title of this bill.

A stable domestic energy supply is essential to the economic well-being and security of our Nation. While the bill on the floor today has provisions that are not acceptable to many Democrats and Republicans, there are good points worth mentioning in Title IX. Of particular note are the provisions ensuring greater DOE cooperation with the smaller colleges and universities who will train our next generation of scientists, mathematicians, technicians and teachers. The Department, as well as the traditional large research universities, could benefit from the enormous pool of talented researchers in the Nation's smaller colleges and universities, and I encourage greater collaboration.

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

The interest of the gentleman from California (Mr. HONDA) in the progress of the Next Generation Lighting Initiative, the Stanford linear accelerator and the Joint Genomics Institute and his work with the gentleman from Connecticut (Mr. LARSON) on transit bus demonstrations of fuel cells;

The continued dedication of the gentlewoman from California (Ms. WOOLSEY) and the gentleman from Colorado (Mr. UDALL) to clean, renewable and efficient energy technologies;

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

The vision of the gentlewoman from California (Ms. ZOE LOFGREN) in support of domestic fusion energy research and international fusion projects;

The work of the gentleman from Tennessee (Mr. DAVIS) to ensure good science continues at Oak Ridge National Laboratory, particularly in the area of high-end computing;

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

Finally, the tireless commitment of the gentlewoman from Texas (Ms.

JACKSON-LEE) to research and development at historically black colleges and universities and other minority-serving institutions.

The Committee on Science contributed virtually all of Title IX, the research and development title of this bill. While research and development programs typically have not been controversial, I believe the Title IX provisions represent a major part of this legislation. The R&D programs authorized in this bill will provide the means to produce energy that this country will need for the foreseeable future.

Mr. Chairman, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Chairman, it gives me great pleasure to yield 5 minutes to the gentleman from New York (Mr. BOEHLERT), the illustrious chairman of the Committee on Science.

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

Mr. BOEHLERT. Mr. Chairman, with great regret, but with even greater conviction, I rise in opposition to this bill. While this bill certainly has some worthy provisions, including those reported out by our committee, overall this bill is a step backward. This bill will not lessen our dependence on foreign oil, and it will do nothing to reduce energy prices. It will increase the deficit, weaken our economy, compromise our national security and endanger our environment.

The supporters of this bill are certainly right about one thing. We desperately need a good national energy policy. This measure does not pass that test.

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

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

So what do we do to reduce our dependence on foreign oil? Yes, we need to increase the supply of fossil and nuclear and renewable energy.

But most importantly, we need to become more energy efficient. And does this bill do to make us more energy efficient? Virtually nothing.

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

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

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

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

We would not have to look far to come up with better ideas. While the House has been writing a bill based on ideological purity rather than careful analysis, others have come forward with bipartisan, sensible balanced approaches to energy policy. Groups like the National Commission on Energy Policy and the Alliance to Save Energy and the Energy Future Coalition have all offered carefully considered proposals that could have formed the basis of an effective bill with Republican credentials.

But instead, we have decided to close our minds and open our purse in a way that will harm taxpayers and consumers and weaken our economic health and national security.

We can do better. We ought to do better. We have an obligation to do better. Let us defeat this bill and start over.

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

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

In fact, by promoting the interests of corporations over consumers and pollution over conservation, this bill makes the United States much less secure.

H.R. 6 will harm more than just our environment, however. America's continued reliance on Middle East oil for the majority of our energy needs is the single largest factor that contributes to our lack of national security. It is time we stopped all efforts to drill in ANWR because this is only a stop-gap measure. Instead, we need real energy independence, and that will only come when we start focusing our efforts as a Nation on clean, renewable sources of energy, conservation, and efficiency. It would be hypocritical for anyone who cares about our Nation's well-being to vote for this legislation. I urge my colleagues, join me, vote against it.

Mrs. BIGGERT. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina (Mr. INGLIS), a member of the Committee on Science.

Mr. INGLIS of South Carolina. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I agree with the chairman of the Committee on Science. We have an opportunity to do better.

I hope that we do better as we improve the hydrogen title of this bill. Perhaps the other body will have a title that will work a little bit better in the hydrogen area, and I hope that we will catch the vision of a different way of getting around.

Imagine that one takes delivery today in Spartanburg, South Carolina of a brand new BMW. It runs on hydrogen. It is powered and controlled by a computer, maybe made by IBM, maybe software by Microsoft. These are companies committed to making hydrogen and to making smart cars work. They get in the car, they program it to go somewhere, they take their hands off the wheel. It seems like science fiction, but the good news is that we on the Committee on Science are in the business of making science fiction into reality, and it is not that far away.

If we can make a commitment like we made when we decided to go to the Moon, we can get there. We as a Nation can decide that now is the time to really commit to forging ahead to create a hydrogen economy. Now is the time to be spending good money on that. It is time to stop simple spending and start thoughtful investing. There is a big difference. In this bill we have the opportunity to do just that, to invest serious money in the technology that can lead us to a hydrogen economy. If we do that, we will do good work for the American people and we will lessen our dependence on Middle Eastern oil.

And, by the way, it is also about jobs. If we can retool the automobile and make it so that we not just develop the technology but also produce it here, we can tremendously expand the economy of the United States, providing jobs and, while doing that, cleaning up the environment and reducing the oil pressure on the Middle East. That is a trifecta. Let us get about it with a better title.

Mr. GORDON. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. HONDA).

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

Mr. HONDA. Mr. Chairman, there are very few things I like about this energy bill. However, I do support title IX, and I am proud to be the ranking member of the Committee on Science's Energy Subcommittee, which authored this portion of the bill.

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

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

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

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

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

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

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

I urge my colleagues to oppose this bill.

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

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

Mr. KIRK. Mr. Chairman, I am concerned this bill will not clear the Budget responsibility.

H.R. 6 technically does not violate the Budget Act because it is an unreported bill, and Budget Act points of order generally only apply to reported bills. The bill generally is inconsistent with the 302(a) allocations for both the 2005 and House-passed 2006 budget resolutions. Section 2053 of the bill does, however, create a new entitlement program outside the budget window (specifically, FY 2016). It uses a portion of outer-continental receipts to fund new mandatory state-run conservation, education, and infrastructure programs. Estimates indicate that the annual cost of this provision could be in the range of $1.75 billion. If H.R. 6 were a reported bill, such a provision might subject the bill to a section 303 point of order.

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

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

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

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

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

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

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

Mr. GORDON. Mr. Chairman, I ask unanimous consent to take back the balance of my time for the purpose of yielding time to the gentlewoman from Texas (Ms. JACKSON-LEE).

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

There was no objection.

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

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

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

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

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

□ 1600

But we will have a number of debates dealing with the price of gasoline.

This is not a ''get-you'' time in America. This should not be, We get the industry or we get the consumer. This needs to be a time when we sit down and reconcile over these very frightening issues.

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

This bill today will allow us to debate these questions.

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

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

Mr. Chairman, I speak today with mixed emotions. While I realize the importance of having a comprehensive energy bill, I am concerned that the bill does not do enough. Please do not misunderstand me, there are good aspects to the bill. For example, the bill provides for much needed advances in Energy Efficiency, Renewable Energy, and Nuclear. However, there is still much work to be done. To this end, I plan to offer an amendment and work with Members, and industry with hopes of improving upon some key aspects of the bill.

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

According to the Energy Information Administration, EIA prices in 2005 are projected to remain high, at an expected average of $2.28

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

In the United States, additional changes in gasoline specifications and tight refinery capacity can be expected to increase operating costs slightly and limit supply flexibility, adding further pressure on pump prices. Despite high prices, demand is expected to continue to rise due to the increasing number of drivers and vehicles and increasing per-capita vehicle miles traveled.

While these may be the facts, it does not sit well with my constituents back in Texas, and for that matter with all Americans. Thus, as the bill moves along the legislative process, I will be working with Members and industry to establish a sense of the Congress that the Secretary of Energy, acting through the Administrator of the Energy Information Administration, should commence an immediate investigation on the causes of high gasoline prices in the United States and, in collaboration with the petroleum industry and the Congress, develop a solution to such prices. At the rate we are going, the average American will not be able to afford to drive.

It is important for me to mention that I will also work with Members of Congress to encourage the Secretary of the Interior, in consultation with other appropriate Federal agencies, every 2 years, to transmit a report to the Congress assessing the contents of natural gas and oil deposits at existing drilling sites off the coasts of Louisiana and Texas. It is important that we do our best to become an energy independent Nation. This can only be done through the full utilization of energy sources within our Nation's geographic influence. Currently, most if not all, of the nations we import oil from are either directly or indirectly hostile towards the U.S. Many of these nations provide funding to terrorist groups who oppose the U.S. and at any time could decide not to sell oil to us. Where would that leave us? It is important that we know what we have right hear at home. The aforementioned two-year assessment would allow an inventory of existing oil and gas supplies and an evaluation of techniques or processes that may exist in keeping those wells protected.

Needless to say, I represent residents and businesses that call the 18th Congressional District of Texas their home. Energy and energy related companies and dozens of other exploration companies are the backbone of the Houston economy. For this reason, the 18th Congressional District can claim well-established energy producing companies and suppliers as well as those engaged in renewable energy exploration and development.

I believe that the effects of rising energy prices have had and will continue to have a chilling effect on our Nation's economy. Everything we as consumers eat, touch or use in our day-to-day lives have energy costs added into the price we pay. Today, our society is in the midst of major sociological and technical revolutions, which will forever change the way we live and work. We are moving from a predominantly industrial economy to an information-centered economy. While or society has an increasingly older and longer living population the world has become increasingly smaller, integrated and interdependent.

As with all change, current national and international transformations present both dangers and opportunities, which must be recognized and seized upon. Thus, the question arises, how do we manage these changes to protect the disadvantaged, disenfranchised and disavowed while improving their situation and destroying barriers to job creation, small business, and new markets?

One way to address this issue is to ensure that this Nation becomes energy independent through the full utilization of energy sources within our Nation's geographic influence. Before concluding, let me say that as legislators, we must boldly define, address and find solutions to future energy problems. We know that the geological supply of fossil fuel in not infinite, but finite. We know that our Nation's best reserves of fuel sources are in the forms of coal and natural gas, among others.

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

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

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

Mr. GIBBONS. Madam Chairman, I rise in strong support of H.R. 6.

For too many years, Madam Chairman, our domestic energy policy has languished, driving investment overseas and increasing our reliance on foreign energy resources. Yet, we continue the cycle of tolerating irresponsible energy policies, continuing to discourage investment in domestic energy production and, subsequently, becoming more dependent on foreign sources of energy.

Relying on foreign and, sometimes, hostile nations for energy and minerals jeopardizes our national security, Madam Chairman. And for the safety and security of our homeland, I want the United States to be reasonably self-sufficient in meeting the demands of our current energy consumption.

H.R. 6 makes strides in ensuring our domestic security by streamlining the permitting process for renewable and traditional sources of energy, while protecting the integrity of the environmental review process. H.R. 6 also contains provisions to spur production of renewable energies such as geothermal so we can reduce our reliance on traditional sources.

Through this important legislation, we will have increased ability to utilize the vast renewable energy resources on our public lands in an environmentally responsible manner.

I urge all of my colleagues to support the passage of this legislation that will allow us to capitalize on our Nation's energy exploration and development technology, commitment to environmental quality and conservation, and work ethic to develop our domestic energy resources.

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

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

I rise in opposition to the pending legislation, surprise, because it will do absolutely nothing to lower the price of motor fuel and reduce America's dependence on foreign oil.

This legislation is antitaxpayer, anticonsumer, and antienvironmental. It is social security for the oil industry. We have before us a bill that squanders what could have been a bold stroke for American energy independence. It could have been visionary, and it could have been daring in developing new energy technologies and fuel sources.

Instead, we have before us a bill which contains a litany of various tax breaks and polluter protections for energy producers who are already experiencing record profits at the expense of the American public.

The bill contains $8 billion in tax breaks, largely for well-heeled oil and gas conglomerates who are already milking our constituents at the pump. In the Resources title alone, CBO says there is nearly a half a billion dollars of direct spending to subsidize the oil and gas industry over the next 10 years. To put it bluntly, if the taxpayer is feeling the pain of an energy crisis, it is coming from the derrick sticking out of his back pocket, and this measure does nothing to ease it.

Even President Bush recently stated, ''I will tell you, with $55 oil, we don't need incentives to oil and gas companies to explore. There are plenty of incentives.'' These are President Bush's own words.

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

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

And, to add insult to injury, the single substantive coal provision in this bill favors Western Federal coal, primarily in the Powder River Basin of

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

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

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

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

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

I urge a no vote on the bill.

Madam Chairman, I reserve the balance of my time.

Mr. POMBO. Madam Chairman, I yield 1½ minutes to the gentleman from New Mexico (Mr. PEARCE), the subcommittee vice chairman.

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

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

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

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

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

Madam Chairman, it is time for us to pass an energy bill. The consumers in this Nation depend on it, and they are depending on Republicans because our friends on the other side of the aisle refuse to help.

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

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

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

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

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

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

Rather than placing too much of our emphasis on new oil supplies, we would build a national energy policy that is based upon the strength of our country, rather than its weaknesses. Those strengths are the marketplace, innovation, technology, and capital. If these economic forces were truly unleashed to provide a national energy policy, the role of coal and oil would be greatly diminished and would still be important, but diminished.

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

Such a policy demands a synergy of most parts of national energy policy. To date, these ideas have been treated as a stepchild, as they are in this bill. To do so, the Congress would have to stop thinking about energy policy as an extension of the past. They would have to think about it as going out to embrace the future, with American technology, American ingenuity, American talent, American capital, and the American marketplace. America should go out and embrace the future, rather than dumping billions and billions of dollars into trying to bring the past a little bit further forward, to bring the fossil fuels a little bit further forward.

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

In fact, it harms the consumer at the pump by increasing the price of gasoline. That is why it is such a bad deal for the taxpayer, because the taxes are used for old production, for old ideas, not for innovation, not for the future, and not for a sustainable energy policy. That is why it is so bad for the environment, because they use tax policy to drive environmental decisions that otherwise would not be made and, of course, that is why it is bad for the economy, because it continues our dependence. In fact, it drives us deeper into the dependence on the most unstable countries in the world, into the hands of those countries that simply cannot provide stable environments for the production of those energy resources.

That is why a different policy would be about a sustainable energy policy, not trying to achieve oil independence, or foreign oil independence as this bill does. It is unfortunate, because what we do is we miss the opportunity to bring about what the best and the brightest prospects of America have always offered, and that is new innovation, new technologies, new discoveries, new capital formation, and a new economy. But this bill does not do it.

This bill resides in the past century. This bill resides with the old industries. This bill resides with the old ideas, and it certainly resides with the old and tired subsidies that milk the taxpayers, to turn around and give them to now the most profitable companies in the American economy at this time.

It is very unfortunate, and it should be rejected.

□ 1615

Mr. POMBO. Madam Chairman, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Madam Chairman, I think I am on a different bill than I just heard described here. I applaud the energy efficiency and conservation in this bill. I applaud the increasing of renewable technologies in this bill. I applaud the hydrogen fuel cell program in this bill. I applaud the next-generation nuclear in this bill. I applaud the clean coal technology.

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

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

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

Just to compare, we are 40 percent higher on natural gas than Europe. We are 50 percent higher than Japan. We are 600 percent higher than South America. We are 800 percent higher than Russia. We heat our homes, our schools, our hospitals, and our businesses with natural gas.

It is the bridge to hydrogen. All hydrogen today generally is made from natural gas; it is the easiest way to make it. It can assist us in transportation, with our buses, taxi cabs, delivery trucks, by using natural gas rather than oil. We need, in the final bill, to have a much stronger chapter with natural gas; it is the one area that I think we need stronger in this bill.

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

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

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

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

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

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

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

Mr. POMBO. Madam Chairman, I yield 2½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN), the full committee vice chairwoman.

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

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

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

Wyoming cannot support subways or mass transit when we do not have masses in the first place. This spike in gas prices has real consequences for people in Wyoming whose drives to work are measured not by the length of the country and western song on the radio, but by the entire country and western album.

When our country was threatened by terror attacks on 9/11, Congress acted. Now Congress is called upon to act again. To keep our economy sound in Wyoming, we must pass this energy plan.

This bill will cut our reliance on foreign energy and put our focus where it belongs, on domestic production. Would you rather get the oil we need from the Middle East or from midwest Wyoming? I know where I stand, and I have a number of bills within this package that address domestic energy production.

It seems I have spent most of my congressional lifetime helping to develop this package, so I know a little bit about it. It will strengthen America's standing as the Nation with the most strict environmental laws on Earth. It will streamline the process to safely explore for new energy sources and put us on the road to energy self-sufficiency.

The opponents of this bill urge a "no" vote because it is not a quick fix at the pump. Madam Chairman, since when does a quick fix actually fix anything? When does a "no" vote without an alternative actually fix anything? What America needs and what we have needed for a long time, for more than a generation, is a comprehensive energy plan.

I urge my colleagues to support the plan before us today.

Mr. POMBO. Madam Chairman, may I inquire as to how much time is remaining.

The CHAIRMAN. The gentleman from California (Mr. POMBO) has 3¼ minutes remaining.

Mr. POMBO. Madam Chairman, I yield the balance of my time to myself.

I guess here we go again. You know, we have had the opportunity in the House four or five times to debate the energy bill. And I look at the history of energy policy in this country and the efforts of Congress to try to deal with the very real energy demands that we have today in this country.

We are not providing enough energy to meet the demands that we have. You know, you go back 30 years ago, and the United States was dependent on foreign energy about 30 percent. About 30 percent of our oil came from foreign sources.

We did very little to deal with that. There was a pledge made by then-President Carter that we were going to become independent. The President and succeeding Presidents have talked about becoming independent from foreign oil. But we did not adopt the kind of policies that we had to to increase the amount of domestic production so that we were not so dependent on foreign oil.

I look at it today and nearly two-thirds of the energy that we consume in this country comes from foreign countries. And that is a direct result of the failure on the part of Congress to pass a national energy policy. We have not addressed that. I look at what we are doing wrong in terms of producing additional energy in this country. And I think if you listen to the debate from some of my colleagues, you know what we are doing wrong. Yeah, you know, we did not have a lot of dinosaurs die under Yosemite or Yellowstone, you are right; but we had a whole heck a lot of them die in the Arctic plains.

There is oil and gas in Alaska. It is there. We all know it is there. And yet we still have the same people year after year after year coming down, whether gas is $20 a barrel or $60 a barrel they are still opposed to doing it. We have the same people come down here year after year after year that opposed putting a pipeline to move that gas from Alaska to the lower 48 States.

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

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

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

You know, when the bill moved through the committee, we had 20 or 25 amendments. Not a single one of those amendments was a partisan vote, a party-line vote. Every single one of them we had members of the minority and majority that joined together to either pass or defeat the amendment. There was so much support for this bill coming out of the Resources Committee, it passed on a voice vote.

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

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

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

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

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

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

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

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

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

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

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

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

Madam Chairman, I retain the balance of my time.

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

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

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

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

□ 1630

It delays protecting our children who suffer more and more from asthma as this bill delays enactment of stricter smog regulations. It delays protecting our shorelines from oil and gas development. It delays cleaner air and lower gas prices by mandating an agricultural welfare program called ethanol. It delays the end of corporate welfare for the likes of Enron and Home Depot. It delays the ability of States to enact tougher energy efficiency laws.

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

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

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

Rather than considering this legislation, we should be considering why ''delay'' continues to rule the House of Representatives.

Madam Chairman, I reserve the balance of my time.

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

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

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

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

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

The bill also addresses our aging electric transmission system. Many of our transmission system lines were built 30 to 50 years ago, and it is estimated by 2015 electricity consumption will increase by 28 percent. We need to repair and rebuild the 160,000 miles of electrical transmission lines. This bill will reduce the time for depreciation recovery and improve the opportunity for those companies to update those lines, helping in efficiency, helping in opportunity to have cheaper energy.

It is important also that we encourage new kinds of fuel. Especially important are fuel cells and, in fact, providing new jobs and better technology. Fuel cell technology in the United States is growing. The use of it is growing and, in fact, jobs in that field are growing. I think it is important that this bill provide a 15 percent tax credit for business installation of fuel cell power plants and residential fuel cell investments.

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

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

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

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

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

Mr. MCDERMOTT. Madam Chairman, Friday is Earth Day, but that will not stop the Republicans from passing legislation that will make the Earth dirtier, more polluted and warmer.

The Republican legislation favors corporate America over Main Street in America. It will neither ask nor answer any of the energy issues that threaten our environment, our economy and future generations. Instead, the Republicans will answer the greatest challenge of our time by telling Americans to dig deeper into their pockets for big oil.

At a time when America needs energy vision, Republicans have provided us with their corporate donor lists. Despite soaring prices, despite dangers to our economy and security for our dependence on oil, the administration puts forward the deal of the century for big oil, gas and coal. It rewards its friends and encourages America's addiction to oil.

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

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

The oil and gas industry is sitting atop a mountain of cash looking down on Americans who are held hostage by runaway gas prices that grow the mountain of oil prices even higher. And we are giving them $7 billion more today. They do not need it. Across the country gasoline prices are 20 percent higher than they were a year ago. Neither wages nor economic opportunities come close to bridging that kind of deficit for the American family.

The only choice for more Americans is to pay more, save less, use consumer debt. Oh, yeah, remember the bankruptcy bill? And give up something to make the frayed ends meet, while ExxonMobil's CEO pockets $38 million.

With the price of crude oil sky high, you would think we would be declaring a 12-alarm economic fire that endangers the lives of every American family and the economic health of our economy.

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

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

We are going to drill our way to oblivion if we follow this pattern.

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

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

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

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

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

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

Purchasing a solar energy system is like buying a car and prepaying for all the gas it would ever need. This makes consumers understandably hesitant despite the environmental and other gains associated with solar energy. National polls consistently find that over 85 percent of Americans want greater support for solar power, and solar power can play a role in our energy mix from coast to coast.

It is my belief that the residential solar tax credit will help advance this important form of renewable energy. And in stark contrast to the protestations of my friends on the left, we are willing to embrace these technologies. It is proven by this solar energy tax credit. I thank the chairman for its inclusion.

I urge support of the legislation.

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

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

When the same collection of fossil fuel dinosaurs and tax loophole lobbyists come here and order Congress to ''fill 'er up,'' with special favors, they seldom go away on ''empty.''

National security demands a balanced energy policy that encourages more new energy technology and renewable alternatives. But in this bill, security is sacrificed at the altar of whichever lobbyist had the biggest limousine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. STARK. Madam Chairman, I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

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

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

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

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

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

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

Mr. THOMAS. And the other side?

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

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

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

Mr. THOMAS. We have one speaker remaining.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Democrats have better ideas. I particularly want to commend the gentleman from New York (Mr. BISHOP) and the gentleman from Massachusetts (Mr. MARKEY) for their amendment to lower gas prices, promote energy efficiency, advance emerging technologies for energy efficiency and conservation and to improve consumer protection.

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

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

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

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

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

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

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

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

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

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

I urge my colleagues to vote ''yes'' on the Democratic amendments for an energy policy for the future, and I urge my colleagues to ''just say no'' to the gentleman from Texas' (Mr. DELAY) disgraceful MTBE giveaway and his outdated boondoggle of an energy bill.

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

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

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

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

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

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

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

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

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

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

Unfortunately, we have seen the vacancy of the debate today, the fact that we are not seeing an alternative being offered by the other side. We have heard about new ideas from them, but all we have been offered is warmed-over rhetoric, and there is no technology available to us that could ever make good use of that.

Please pass this legislation. It is long overdue. The time has come for us to put in place a national energy policy.

Mr. BLUNT. Madam Chairman, when George W. Bush was running for president six years ago, he said that our country had been without a comprehensive energy policy for a decade. We are now going on sixteen years with no energy plan for America, and it is not for lack of trying.

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

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

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

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

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

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

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

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

Mr. LEVIN. Madam Chairman, if ever there was a time when this country needed a smart, forward-looking energy strategy, this is it. Energy prices throughout the country are close to record highs. Consumers in my State are struggling with soaring gasoline costs. The price of gasoline in Michigan today is 36 cents a gallon higher than it was just 1 year ago.

Steep increases in the price of natural gas have resulted in skyrocketing increases in consumers' home heating bills over the past few winters.

So what is the response of the House of Representatives? The Leadership of the House has brought a bill to the Floor that will do little or nothing to reign in energy prices. This is virtually the same bill that the Senate rejected 2 years ago. According to the Bush administration's own Energy Information Administration, the policies contained in this legislation will have a negligible effect on energy production, consumption, imports and prices.

Instead of bringing us a comprehensive energy bill that brings down gas prices and encourages greater U.S. energy independence, the bill before the House is little more than a grab-bag of special interest giveaways. For example, the tax title of this legislation contains just over $8 billion worth of tax incentives. Only about 6 percent of these go to energy efficiency, renewable energy or conservation. Nearly all of the $8 billion goes to the oil, gas and nuclear industries, as well as electric utilities.

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

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

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

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

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

Mr. FILNER. Madam Chairman, this legislation takes our nation in the wrong direction and fails to meet our energy needs. This is a missed opportunity. We could have boosted our nation's commitment to renewable and efficient energy, thereby curbing our reliance on foreign oil, creating 21st century jobs, protecting the environment and providing affordable and reliable energy for America's families. We could have taken on the oil companies that are gouging all our constituents at the gas pumps. We could have fought for more hybrid vehicles, higher fuel economy standards and other 21st century technologies.

But, instead, the Republican energy bill doles out favors to the oil, gas and coal companies, keeping our nation stuck in the 20th century. This bill allows the oil companies to rip up the Arctic National Wildlife Refuge. This bill protects companies that have polluted our water with MTBE. We now know that GOP means gas, oil and petroleum!

The Rules Committee blocked two amendments I would have offered to this bill. The first would have simply extended the tax credit for geothermal energy, giving energy companies the time they need to build geothermal facilities and actually use the incentive this Congress already approved. My amendment would have promoted the development of geothermal energy in Imperial Valley, California, and around the nation, creating good jobs and a source of clean, domestically-produced, environmentally friendly, reliable energy. Yet the Republicans on the Rules Committee shot down this common sense amendment, preventing us from even taking a vote on it.

They also blocked my amendment to address another very serious issue we are facing in Imperial Valley—air pollution from power plants across the border in Mexico. In the 21st century, U.S. companies should not be able to skirt their environmental obligations by moving a few miles across the border! My amendment would have simply required power plants in the border region to meet our environmental standards if they wish to transmit electricity into the United States. In exchange for transmission permits from the Department of Energy, power plants in Mexicali, Mexico would have been forced to pay for projects in Imperial Valley to off-set the air pollution they are sending across the border into our communities. With the highest child asthma rate in California, Imperial County certainly needs the help, but the Republicans on the Rules Committee once again turned their backs on us.

We will continue fighting for a better approach to energy in this Nation. We will fight for an investigation of the oil companies to determine if any wrongdoing has contributed to the sky-high gas prices. We will fight for a commitment to geothermal energy and other clean and renewable energy sources. And we will continue fighting for an energy policy that reduces pollution in the border region and around the country.

Mr. GREEN of Wisconsin. Madam Chairman, I want to express my deep disappointment that the Rules Committee did not accept a bipartisan amendment authored by Mr. STUPAK, myself, and other Great Lakes area members last night. This important amendment would have permanently banned oil and gas drilling in and under the Great Lakes. The current ban is set to expire in 2007.

I am proud to say that I have long been a proponent of banning oil and gas drilling on the Great Lakes and have voted to do so at every possible opportunity. The Great Lakes are home to the world's largest supply of fresh water. In fact, the Great Lakes make up 95 percent of the United States' fresh surface water.

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

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

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

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

MARCH 4, 2005.

Hon. SAMUEL BODMAN,
U.S. Department of Energy,
Washington DC.

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

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

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

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

I recently learned that federal Judge Nielsen, on March 30, 2004, rejected the motion of DuPont and General Electric that they be dismissed from the case because they contracted with the government to run Hanford. In underwriting such a motion with taxpayer funds the Department violated the intent of Congress in passing the Price Anderson Act. The fact that the PAA reimburses the companies when people are injured from a nuclear incident precluded the necessity for a "contractor immunity" defense as Judge Neilsen held. I have now learned that you intend to financially support an appeal of that Order. Any further attempts to evade the intent of the PAA by the DOE we believe to be a serious concern for the Congress.

Your letter notes that the DOE does not "disagree with the proposition that low doses of radiation can cause some forms of cancer." In addition, there are government studies that show exposure to radiation contributed to the onset of the claimants' illnesses. Yet the DOE continues to defend the contractors. It would appear that contrary to the fact that workers can be compensated for thyroid cancer, non workers who were exposed to more Iodine 131 than many workers would be denied similar treatment. I do not understand this logic. What policy consideration drives this inconsistent behavior?

I also learned that the motions of DuPont and General Electric to have all cases dismissed as being filed too late based upon the Statute of Limitations has been dismissed. More than $60 million of taxpayer funds have been spent by DuPont and General Electric for 15 years of loosing motions and adverse rulings. Again, I do not understand why the Department of Energy continues to spend millions of dollars paying lawyers to attempt to defeat claims that the Congress of the United States determined should be compensated.

I further note that the Hanford plaintiffs were just successful in filing a motion declaring that the operations at Hanford were an "ultra hazardous activity." This holding is consistent with Congress' findings regarding the operations of nuclear facilities. We note again that the Department of Energy spent thousands upon thousands of dollars defending this untenable defense (Energy Employees Occupational Illness Compensation Act of 2000, 42 U.S.C. §7384 et seq).

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

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

All of the defenses you have previously supported have been rejected by a federal court. Has the Department of Energy authorized any amount of money for settlement of this case? It would appear that more money may well be spent to thwart the intent of the Price Anderson Act than would be spent in victims' compensation.

Please provide me with a detailed justification for any continued payment by the Department of Energy for the defense of this litigation, including specific justifications for any motions currently or intending to be filed or appealed seeking to dismiss most or all of the cases and why such action does not violate Congress' intent in enacting the PAA.

Sincerely,

PETER DEFAZIO,
Member of Congress.

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

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

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

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

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

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

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

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

Madam Chairman, gas prices, gas prices, gas prices and more gas prices. It's the most asked question I hear in my district and rightly so with prices in my home town of more than $3 a gallon and a national average price at a record level of $2.24 a gallon—more than 50 percent higher than average gas prices in 2002.

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

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

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

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

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

H.R. 6 weakens California's rights under the CZMA to object to a FERC-approved coastal pipeline or energy facility project when the project is inconsistent with the State's federally-approved coastal management program. Currently when there is a disagreement about a project, the Secretary of Commerce, through an administrative appeals process, determines whether and under what conditions the project can go forward. States can present new evidence supporting their arguments to the Secretary.

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

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

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

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

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

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

The bill does not give federal regulators the tools they need to prevent and punish bad actors like Enron who manipulate power markets. Instead H.R. 6 offers cosmetic reforms.

Moreover, the bill does nothing to provide refunds to my constituents and West Coast consumers who paid unjust and unreasonable electricity prices during 2000–2001.

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

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

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

As a founding co-chair of the House Ag Energy Users Caucus, I am concerned that the Corn Belt is being held hostage to high gas, diesel and natural gas prices. Farmers utilize diesel and gasoline to operate their equipment and transport their product. Farmers have had to tighten their belts as prices have increased. Therefore, I am in strong support of this energy bill that allows for exploration in the Arctic National Wildlife Reserve (ANWR), which will allow for more domestic supply of oil.

Nothing has caused more concern for agriculture than the price of natural gas. Natural gas is the primary feedstock for anhydrous ammonia and other fertilizers and accounts for 90 percent of the cost of making nitrogen fertilizer. The surge in natural gas prices over the last 4 years has been a key reason why nitrogen fertilizer costs have jumped by nearly 50 percent at the farm level. This rise in prices has contributed to the growing reliance on imported fertilizer. For that reason, I am in strong support of the natural gas provisions in this bill and would urge Members to oppose amendments that would weaken any natural gas provisions in the bill.

Finally Madam Chairman, most of my colleagues know that Iowa is not only a consumer of energy, but a producer of energy. The Fifth District of Iowa is an energy export center, exporting ethanol and biodiesel all across this nation. This bill includes a 5 billion gallon Renewable Fuels Standard that will be good for our energy independence while securing rural economies. However, I want to see the bill come back from conference with an 8 billion gallon standard.

I urge my colleagues to vote in favor of the Energy Policy Act.

Ms. SCHWARTZ of Pennsylvania. Madam Chairman, I rise today in strong opposition to the Energy Policy Act of 2005.

Madam Chairman, this bill represents a lost opportunity. Now, more than ever, we need an energy bill that will wean the Nation off of foreign oil. We need to do this so hard-working Americans are no longer subjected to the ever-rising costs of gasoline and we have to do this for the safety and security of our Nation.

In my home district, the average price for a gallon of regular unleaded is $2.22 compared to $1.76 just one year ago. Yet, the bill before us will do nothing to relieve Americans from the skyrocketing costs of gas. My colleagues, even the Bush Administration recognizes this; with the Energy Information Administration saying that the bill would actually increase gas prices rather than reduce them.

What's worse is that while the bill does nothing to relieve Americans of their burden at the gas pump, it also takes an additional $7.5 billion out of their pockets as a tax giveaway to oil, gas, coal and nuclear industries—industries that are earning record profits—without setting a course towards energy independence. The President himself said, just last week, "With $55 oil we don't need incentives for oil and gas companies to explore. There are plenty of incentives."

This Congress needs to establish an energy policy that sets America free from its dependence on imported oil. Yet, only seven percent of the tax incentives in this bill will go towards renewable energy and energy efficiency—leaving us to be reliant on the same old energy sources.

H.R. 6 is, unfortunately, par for the course for the Republican Leadership, which has turned a blind eye to scientific discovery—be it medical, physical, or otherwise. America cannot continue to be a world leader with regard to scientific discovery unless we invest and provide incentives, including for energy sources of the future.

In addition to its misdirected energy priorities, the bill contains several dirty little footnotes. It will pollute our air and water and exploit our federal lands. It exempts MTBE manufacturers from cleaning up the groundwater they polluted—violating our Nation's longstanding polluter pay policy. It will let oil and gas companies off the hook from the Safe Water Drinking Act—allowing them to skirt water standards.

Mr. Speaker, we cannot continue to go down the same worn out path. We must set the Nation on a course to energy independence which means promoting cleaner, less expensive energy that we control. That requires a balanced energy policy that aids domestic production but, more importantly, sends us in a new direction by investing in renewable and energy efficient technologies. Unfortunately, H.R. 6 does not meet this goal, leaving our Senate colleagues to find a better way. Hopefully, they will be able to craft a bill that achieves a better balance than this legislation.

I urge a "no" vote on H.R. 6.

□ 1700

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered read for amendment under the 5-minute rule.

The text of H.R. 6 is as follows:

H.R. 6

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

SEC. 101. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act (42

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

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

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

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

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

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

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

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

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

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

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

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

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

"(2) energy management and conservation projects; and

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

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is amended by adding at the end of the items relating to part 3 of title V the following new item:

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

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

(d) ENERGY INFRASTRUCTURE.—The Architect of the Capitol, building on the Master Plan Study completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capital Complex to determine how the infrastructure could be augmented to become more energy efficient, using unconventional and renewable energy resources, in a way that would enable the Complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

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

SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—

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

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

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

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

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

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

"(i) compliance with those requirements would be impracticable;

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

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

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

"(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

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

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

(d) REVIEW BY SECRETARY.—Section 543(c)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(2)) is amended—

(1) by striking "impracticability standards" and inserting "standards for exclusion";

(2) by striking "a finding of impracticability" and inserting "the exclusion"; and

(3) by striking "energy consumption requirements" and inserting "requirements of subsections (a) and (b)(1)".

(e) CRITERIA.—Section 543(c) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)) is further amended by adding at the end the following:

"(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).".

(f) RETENTION OF ENERGY AND WATER SAVINGS.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended by adding at the end the following new subsection:

"(e) RETENTION OF ENERGY AND WATER SAVINGS.—An agency may retain any funds appropriated to that agency for energy expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of section 543(a) and (b), that are not made because of energy savings or water savings. Except as otherwise provided by law, such funds may be used only for energy efficiency, water conservation, or unconventional and renewable energy resources projects.".

(g) REPORTS.—Section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258(b)) is amended—

(1) in the subsection heading, by inserting "THE PRESIDENT AND" before "CONGRESS"; and

(2) by inserting "President and" before "Congress".

(h) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking "the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a))." and inserting "each of the energy reduction goals established under section 543(a).".

SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:

"(e) METERING OF ENERGY USE.—

"(1) DEADLINE.—By October 1, 2012, in accordance with guidelines established by the Secretary under paragraph (2), all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered. Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy managers.

"(2) GUIDELINES.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, energy efficiency advocacy organizations, national laboratories, universities, and Federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).

"(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—

"(i) take into consideration—

"(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;

"(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and

''(III) the measurement and verification protocols of the Department of Energy;

''(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

''(iii) establish priorities for types and locations of buildings to be metered and submetered based on cost-effectiveness and a schedule of 1 or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and

''(iv) establish exclusions from the requirements specified in paragraph (1) based on the de minimis quantity of energy use of a Federal building, industrial process, or structure.

''(3) PLAN.—Not later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (A) how the agency will designate personnel primarily responsible for achieving the requirements and (B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.''.

SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), as amended by section 101, is amended by adding at the end the following:

''SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' has the meaning given that term in section 7902(a) of title 5, United States Code.

''(2) ENERGY STAR PRODUCT.—The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

''(3) ENERGY STAR PROGRAM.—The term 'Energy Star program' means the program established by section 324A of the Energy Policy and Conservation Act.

''(4) FEMP DESIGNATED PRODUCT.—The term 'FEMP designated product' means a product that is designated under the Federal Energy Management Program of the Department of Energy as being among the highest 25 percent of equivalent products for energy efficiency.

''(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—

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

''(A) an Energy Star product; or

''(B) a FEMP designated product.

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

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

''(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the agency.

''(3) PROCUREMENT PLANNING.—The head of an agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, including guide specifications, project specifications, and construction, renovation, and services contracts that include provision of energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.

''(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star products and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency. The General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program, except in cases where the agency ordering a product specifies in writing that no Energy Star product or FEMP designated product is available to meet the buyer's functional requirements, or that no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product, taking energy cost savings into account.

''(d) SPECIFIC PRODUCTS.—(1) In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard not later than 120 days after the date of the enactment of this section, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.

''(2) All Federal agencies are encouraged to take actions to maximize the efficiency of air conditioning and refrigeration equipment, including appropriate cleaning and maintenance, including the use of any system treatment or additive that will reduce the electricity consumed by air conditioning and refrigeration equipment. Any such treatment or additive must be—

''(A) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on air conditioning performance (including cooling capacity) or equipment useful life;

''(B) determined by the Administrator of the Environmental Protection Agency to be environmentally safe; and

''(C) shown to increase seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) when tested by the National Institute of Standards and Technology according to Department of Energy test procedures without causing any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

Results of testing described in subparagraph (C) shall be published in the Federal Register for public review and comment. For purposes of this section, a hardware device or primary refrigerant shall not be considered an additive.

''(e) REGULATIONS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall issue guidelines to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is further amended by inserting after the item relating to section 552 the following new item:

''Sec. 553. Federal procurement of energy efficient products.''.

SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) LIMITATIONS.—

(1) IN GENERAL.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following subparagraph:

''(E) All Federal agencies combined may not, after the date of enactment of the Energy Policy Act of 2005, enter into more than a total of 100 contracts under this title. Payments made by the Federal Government under all contracts permitted by this subparagraph combined shall not exceed a total of $500,000,000. Each Federal agency shall appoint a coordinator for Energy Savings Performance Contracts with the responsibility to monitor the number of such contracts for that Federal agency and the investment value of each contract. The coordinators for each Federal agency shall meet monthly to ensure that the limits specified in this subparagraph on the number of contracts and the payments made for the contracts are not exceeded.''.

(2) DEFINITION.—Section 804(1) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(1)) is amended to read as follows:

''(1) The term 'Federal agency' means the Department of Defense, the Department of Veterans Affairs, and the Department of Energy. ''.

(3) VALIDITY OF CONTRACTS.—The amendments made by this subsection shall not affect the validity of contracts entered into under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.) before the date of enactment of this Act, or of contracts described in subsection (h).

(b) PERMANENT EXTENSION.—Effective October 1, 2006, section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.

(c) PAYMENT OF COSTS.—Section 802 of the National Energy Conservation Policy Act (42 U.S.C. 8287a) is amended by inserting '', water, or wastewater treatment'' after ''payment of energy''.

(d) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means a reduction in the cost of energy, water, or wastewater treatment, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—

''(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(C) the increased efficient use of existing water sources in either interior or exterior applications.''.

(e) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract that provides for the performance of services for the design, acquisition, installation, testing, and, where appropriate, operation, maintenance, and repair, of an identified energy or water conservation measure or series of measures at 1 or more locations. Such contracts shall, with respect to an agency facility that is a public building (as such term is defined in section 3301 of title 40, United States Code), be in compliance with the prospectus requirements and procedures of section 3307 of title 40, United States Code.''.

(f) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy

Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:

''(4) The term 'energy or water conservation measure' means—

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

''(B) a water conservation measure that improves the efficiency of water use, is life-cycle cost-effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities, or other related activities, not at a Federal hydroelectric facility.''.

(g) REVIEW.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, including the identification of additional qualified contractors, and energy efficiency services covered. The Secretary shall report these findings to Congress and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.

(h) EXTENSION OF AUTHORITY.—Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2006, and before the date of enactment of this Act, shall be deemed to have been entered into pursuant to such section 801 as amended by subsection (a) of this section.

SEC. 107. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) VOLUNTARY AGREEMENTS.—The Secretary of Energy is authorized to enter into voluntary agreements with 1 or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities by a significant amount relative to improvements in each sector in recent years.

(b) RECOGNITION.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and other appropriate Federal agencies, shall recognize and publicize the achievements of participants in voluntary agreements under this section.

(c) DEFINITION.—In this section, the term ''energy intensity'' means the primary energy consumed per unit of physical output in an industrial process.

SEC. 108. ADVANCED BUILDING EFFICIENCY TESTBED.

(a) ESTABLISHMENT.—The Secretary of Energy, in consultation with the Administrator of General Services, shall establish an Advanced Building Efficiency Testbed program for the development, testing, and demonstration of advanced engineering systems, components, and materials to enable innovations in building technologies. The program shall evaluate efficiency concepts for government and industry buildings, and demonstrate the ability of next generation buildings to support individual and organizational productivity and health (including by improving indoor air quality) as well as flexibility and technological change to improve environmental sustainability. Such program shall complement and not duplicate existing national programs.

(b) PARTICIPANTS.—The program established under subsection (a) shall be led by a university with the ability to combine the expertise from numerous academic fields including, at a minimum, intelligent workplaces and advanced building systems and engineering, electrical and computer engineering, computer science, architecture, urban design, and environmental and mechanical engineering. Such university shall partner with other universities and entities who have established programs and the capability of advancing innovative building efficiency technologies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $6,000,000 for each of the fiscal years 2006 through 2008, to remain available until expended. For any fiscal year in which funds are expended under this section, the Secretary shall provide ⅓ of the total amount to the lead university described in subsection (b), and provide the remaining ⅔ to the other participants referred to in subsection (b) on an equal basis.

SEC. 109. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking ''CABO Model Energy Code, 1992'' and inserting ''the 2003 International Energy Conservation Code''; and

(2) by adding at the end the following:

''(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

''(i) if life-cycle cost-effective, for new Federal buildings—

''(I) such buildings be designed so as to achieve energy consumption levels at least 30 percent below those of the version current as of the date of enactment of this paragraph of the ASHRAE Standard or the International Energy Conservation Code, as appropriate; and

''(II) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings; and

''(ii) where water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent they are life-cycle cost effective.

''(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.

''(C) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

''(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

''(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph.''.

SEC. 111. DAYLIGHT SAVINGS.

(a) REPEAL.—Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended—

(1) by striking ''April'' and inserting ''March''; and

(2) by striking ''October'' and inserting ''November''.

(b) REPORT TO CONGRESS.—Not later than 9 months after the date of enactment of this Act, the Secretary of Energy shall report to Congress on the impact this section on energy consumption in the United States.

Subtitle B—Energy Assistance and State Programs

SEC. 121. LOW INCOME HOME ENERGY ASSISTANCE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking ''and $2,000,000,000 for each of fiscal years 2002 through 2004'' and inserting ''and $5,100,000,000 for each of fiscal years 2005 through 2007''.

(b) RENEWABLE FUELS.—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) is amended by adding at the end the following new section:

''RENEWABLE FUELS

''SEC. 2612. In providing assistance pursuant to this title, a State, or any other person with which the State makes arrangements to carry out the purposes of this title, may purchase renewable fuels, including biomass.''.

(c) REPORT TO CONGRESS.—The Secretary of Energy shall report to Congress on the use of renewable fuels in providing assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 122. WEATHERIZATION ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$500,000,000 for fiscal year 2006, $600,000,000 for fiscal year 2007, and $700,000,000 for fiscal year 2008''.

(b) ELIGIBILITY.—Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking ''125 percent'' both places it appears and inserting ''150 percent''.

SEC. 123. STATE ENERGY PROGRAMS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

''(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

''STATE ENERGY EFFICIENCY GOALS

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

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$100,000,000 for each of the fiscal years

2006 and 2007 and $125,000,000 for fiscal year 2008''.

SEC. 124. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

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

(2) ENERGY STAR PROGRAM.—The term ''Energy Star program'' means the program established by section 324A of the Energy Policy and Conservation Act.

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(5) STATE ENERGY OFFICE.—The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(6) STATE PROGRAM.—The term ''State program'' means a State energy efficient appliance rebate program described in subsection (b)(1).

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

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying the amount made available under subsection (f) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—

(1) the amount of the allocation to the State energy office under subsection (c);

(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to, the residential Energy Star product.

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

SEC. 125. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary of Energy may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities—

(1) through construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in the most recent version of the International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) through renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline energy use in such buildings prior to renovation, assuming a 3-year, weather-normalized average for calculating such baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

(1) maintain such records and evidence of compliance as the Secretary may require; and

(2) develop and distribute information and materials and conduct programs to provide technical services and assistance to encourage planning, financing, and design of energy efficient public buildings by units of local government.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $30,000,000 for each of fiscal years 2006 through 2010. Not more than 10 percent of appropriated funds shall be used for administration.

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

(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency; identify and develop alternative, renewable, and distributed energy supplies; and increase energy conservation in low income rural and urban communities.

(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—

(1) investments that develop alternative, renewable, and distributed energy supplies;

(2) energy efficiency projects and energy conservation programs;

(3) studies and other activities that improve energy efficiency in low income rural and urban communities;

(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and

(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.

(c) DEFINITION.—For purposes of this section, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy $20,000,000 for each of fiscal years 2006 through 2008.

Subtitle C—Energy Efficient Products

SEC. 131. ENERGY STAR PROGRAM.

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

''SEC. 324A. ENERGY STAR PROGRAM.

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

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

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

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

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

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

''(6) provide appropriate lead time (which shall be 9 months, unless the Agency or Department determines otherwise) prior to the effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.''.

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

''Sec. 324A. Energy Star program.''.

SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

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

''(c) HVAC MAINTENANCE.—For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems. The Secretary shall carry out the program in a cost-shared manner in cooperation with the Administrator of the Environmental Protection Agency and such other entities as the Secretary considers appropriate, including industry trade associations, industry members, and energy efficiency organizations.

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

SEC. 133. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

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

(1) in paragraph (30)(S), by striking the period and adding at the end the following: ''but does not include any lamp specifically designed to be used for special purpose applications and that is unlikely to be used in general purpose applications such as those described in subparagraph (D), and also does not include any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is designed for special applications and is unlikely to be used in general purpose applications.''; and

(2) by adding at the end the following:

''(32) The term 'battery charger' means a device that charges batteries for consumer products and includes battery chargers embedded in other consumer products.

''(33) The term 'commercial refrigerators, freezers, and refrigerator-freezers' means refrigerators, freezers, or refrigerator-freezers that—

''(A) are not consumer products regulated under this Act; and

''(B) incorporate most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.

''(34) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.

''(35) The term 'illuminated exit sign' means a sign that—

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

''(B) consists of an electrically powered integral light source that illuminates the legend 'EXIT' and any directional indicators and provides contrast between the legend, any directional indicators, and the background.

''(36)(A) Except as provided in subparagraph (B), the term 'distribution transformer' means a transformer that—

''(i) has an input voltage of 34.5 kilovolts or less;

''(ii) has an output voltage of 600 volts or less; and

''(iii) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'distribution transformer' does not include—

''(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;

''(ii) transformers, such as those commonly known as drive transformers, rectifier transformers, auto-transformers, Uninterruptible Power System transformers, impedance transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers, that are designed to be used in a special purpose application and are unlikely to be used in general purpose applications; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because—

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

''(II) the transformer is unlikely to be used in general purpose applications; and

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

''(37) The term 'low-voltage dry-type distribution transformer' means a distribution transformer that—

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

''(B) is air-cooled; and

''(C) does not use oil as a coolant.

''(38) The term 'standby mode' means the lowest power consumption mode that—

''(A) cannot be switched off or influenced by the user; and

''(B) may persist for an indefinite time when an appliance is connected to the main electricity supply and used in accordance with the manufacturer's instructions,

as defined on an individual product basis by the Secretary.

''(39) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.

''(40) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.

''(41) The term 'transformer' means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

''(42) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space, except that such term does not include a warm air furnace.

''(43) The term 'ceiling fan' means a nonportable device that is suspended from a ceiling for circulating air via the rotation of fan blades.

''(44) The term 'ceiling fan light kit' means equipment designed to provide light from a ceiling fan which can be—

''(A) integral, such that the equipment is attached to the ceiling fan prior to the time of retail sale; or

''(B) attachable, such that at the time of retail sale the equipment is not physically attached to the ceiling fan, but may be included inside the ceiling fan package at the time of sale or sold separately for subsequent attachment to the fan.''.

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

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

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

''(10) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). The Secretary may review and revise this test procedure. For purposes of section 346(a), this test procedure shall be deemed to be testing requirements prescribed by the Secretary under section 346(a)(1) for distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

''(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

''(12) Test procedures for medium base compact fluorescent lamps shall be based on the test methods used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and Department of Energy for compact fluorescent lamps. Covered products shall meet all test requirements for regulated parameters in section 325(bb). However, covered products may be marketed prior to completion of lamp life and lumen maintenance at 40 percent of rated life testing provided manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp life time.

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

(2) by adding at the end the following:

''(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall, not later than 24 months after the date of enactment of this subsection, prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers, and refrigerator-freezers. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.''.

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

''(u) BATTERY CHARGER AND EXTERNAL POWER SUPPLY ELECTRIC ENERGY CONSUMPTION.—

''(1) INITIAL RULEMAKING.—(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions and test procedures for the power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing definitions and test procedures used for measuring energy consumption in standby mode and other modes and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards.

Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for these products.

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

''(i) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

''(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

''(2) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to this section should be revised, the Secretary shall consider, for covered products that are major sources of standby mode energy consumption, whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, standby mode power consumption compared to overall product energy consumption.

''(3) RULEMAKING.—The Secretary shall not propose a standard under this section unless the Secretary has issued applicable test procedures for each product pursuant to section 323.

''(4) EFFECTIVE DATE.—Any standard issued under this subsection shall be applicable to products manufactured or imported 3 years after the date of issuance.

''(5) VOLUNTARY PROGRAMS.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A (relating to Energy Star Programs) and other voluntary industry agreements or codes of conduct, that are designed to reduce standby mode energy use.

''(v) SUSPENDED CEILING FANS, VENDING MACHINES, AND COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—The Secretary shall not later than 36 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, and commercial refrigerators, freezers, and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (o) and (p). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

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

''(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2006—

''(1) shall consume not more than 190 watts of power; and

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

''(y) LOW VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS.—The efficiency of low voltage dry-type distribution transformers manufactured on or after January 1, 2006, shall be the Class I Efficiency Levels for distribution transformers specified in Table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP–1–2002).

''(z) TRAFFIC SIGNAL MODULES.—Traffic signal modules manufactured on or after January 1, 2006, shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this subsection, and shall be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

''(aa) UNIT HEATERS.—Unit heaters manufactured on or after the date that is 3 years after the date of enactment of this subsection shall be equipped with an intermittent ignition device and shall have either power venting or an automatic flue damper.

''(bb) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—Bare lamp and covered lamp (no reflector) medium base compact fluorescent lamps manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy: minimum initial efficacy; lumen maintenance at 1000 hours; lumen maintenance at 40 percent of rated life; rapid cycle stress test; and lamp life. The Secretary may, by rule, establish requirements for color quality (CRI); power factor; operating frequency; and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps. The Secretary may, by rule, revise these requirements or establish other requirements considering energy savings, cost effectiveness, and consumer satisfaction.

''(cc) EFFECTIVE DATE.—Section 327 shall apply—

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

''(2) to products for which standards are established under subsections (w) through (bb) on the date of enactment of those subsections, except that any State or local standards prescribed or enacted prior to the date of enactment of those subsections shall not be preempted until the standards established under subsections (w) through (bb) take effect.

''(dd) CEILING FANS.—

''(1) FEATURES.—All ceiling fans manufactured on or after January 1, 2006, shall have the following features:

''(A) Lighting controls operate independently from fan speed controls.

''(B) Adjustable speed controls (either more than 1 speed or variable speed).

''(C) The capability of reversible fan action, except for fans sold for industrial applications, outdoor applications, and where safety standards would be violated by the use of the reversible mode. The Secretary may promulgate regulations to define in greater detail the exceptions provided under this subparagraph but may not substantively expand the exceptions.

''(2) REVISED STANDARDS.—

''(A) IN GENERAL.—Notwithstanding any provision of this Act, if the requirements of subsections (o) and (p) are met, the Secretary may consider and prescribe energy efficiency or energy use standards for electricity used by ceiling fans to circulate air in a room.

''(B) SPECIAL CONSIDERATION.—If the Secretary sets such standards, the Secretary shall consider—

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

''(ii) establishing separate exempted product classes for highly decorative fans for which air movement performance is a secondary design feature.

''(C) APPLICATION.—Any air movement standard prescribed under this subsection shall apply to products manufactured on or after the date that is 3 years after the date of publication of a final rule establishing the standard.''.

(d) RESIDENTIAL FURNACE FANS.—Section 325(f)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)(3)) is amended by adding the following new subparagraph at the end:

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

SEC. 134. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

''(F) Not later than 3 months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed not later than 2 years after the date of enactment of this subparagraph.

''(G)(i) Not later than 18 months after date of enactment of this subparagraph, the Commission shall prescribe by rule, pursuant to this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

''(ii) The rule prescribed under clause (i) shall apply to products manufactured after the later of—

''(I) January 1, 2009; or

''(II) the date that is 60 days after the final rule is prescribed.''.

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding at the end the following:

''(5) The Secretary or the Commission, as appropriate, may, for covered products referred to in subsections (u) through (aa) of section 325, prescribe, by rule, pursuant to this section, labeling requirements for such products after a test procedure has been set pursuant to section 323. In the case of products to which TP–1 standards under section 325(y) apply, labeling requirements shall be based on the 'Standard for the Labeling of Distribution Transformer Efficiency' prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect upon the date of enactment of this paragraph.''.

SEC. 135. PREEMPTION.

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

''(h) CEILING FANS.—Effective on January 1, 2006, this section shall apply to and supersede all State and local standards prescribed or enacted for ceiling fans and ceiling fan light kits.''.

SEC. 136. STATE CONSUMER PRODUCT ENERGY EFFICIENCY STANDARDS.

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

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

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

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

Subtitle D—Public Housing

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

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

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

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

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

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

(1) by inserting ''or efficiency'' after ''energy conservation'';

(2) by striking '', and except that'' and inserting ''; except that''; and

(3) by inserting before the semicolon at the end the following: ''; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency''.

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

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(ii)(IV) (relating to solar energy systems), by striking ''20 percent'' and inserting ''30 percent''.

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the last undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking ''20 percent'' and inserting ''30 percent''.

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii)(IV) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)(IV)) is amended—

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

(2) by striking ''20 per centum'' and inserting ''30 percent''.

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—Section 231(c)(2)(C) of the National Housing Act (12 U.S.C. 1715v(c)(2)(C)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

SEC. 144. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking ''and'' at the end;

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

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

''(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

''(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and

(2) in subsection (e)(2)(C)—

(A) by striking ''The'' and inserting the following:

''(i) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident-paid utilities, and adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

''(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including windows, heating system replacements, wall insulation, site-based generation, advanced energy savings technologies, including renewable energy generation, and other such retrofits.''.

SEC. 145. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking ''financed with loans'' and inserting ''assisted'';

(2) by inserting after ''1959,'' the following: ''which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note)) and are subject to mortgage restructuring and rental assistance sufficiency plans under such Act,''; and

(3) by inserting after the period at the end of the first sentence the following new sentence: ''Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation.''.

SEC. 147. ENERGY-EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP-designated products, as such terms are defined in section 553 of the National Energy Conservation Policy Act (as amended by this title), unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 148. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2006'';

(ii) in subparagraph (A), by striking ''and'' at the end;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development.''; and

(B) in paragraph (2), by striking ''Council of American'' and all that follows through ''90.1–1989')'' and inserting ''2003 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''within 1 year after the date of the enactment of the Energy Policy Act of 1992'' and inserting ''by September 30, 2006''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2003 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''MODEL ENERGY CODE'' and inserting ''THE INTERNATIONAL ENERGY CONSERVATION CODE''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2003 International Energy Conservation Code''.

SEC. 149. ENERGY STRATEGY FOR HUD.

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

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

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

(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this Act, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—

(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources; and

(2) such other information as the Secretary believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2006 through 2010.

SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking ''and which satisfies'' and all that follows through ''Secretary shall establish.'' and inserting ''. If there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities in any given year, the Secretary shall assign 60 percent of appropriated funds for that year to facilities that use solar, wind, geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity, and assign the remaining 40 percent to other projects. The Secretary may, after transmitting to Congress an explanation of the reasons therefor, alter the percentage requirements of the preceding sentence.''.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking ''a State or any political'' and all that follows through ''nonprofit electrical cooperative'' and inserting ''a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof,''; and

(2) by inserting ''landfill gas, livestock methane, ocean (tidal, wave, current, and thermal),'' after ''wind, biomass,''.

(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking ''during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section'' and inserting ''after October 1, 2005, and before October 1, 2015''.

(d) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting ''landfill gas, livestock methane, ocean (tidal, wave, current, and thermal),'' after ''wind, biomass,''.

(e) SUNSET.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking ''the expiration of'' and all that follows through ''of this section'' and inserting ''September 30, 2025''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 1212(g) of the Energy Policy Act of 1992 (42 U.S.C. 13317(g)) is amended to read as follows:

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2005 through 2025.

''(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.''.

SEC. 203. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—The President, acting through the Secretary of Energy, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in fiscal years 2007 through 2009.

(2) Not less than 5 percent in fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

(b) DEFINITIONS.—In this section:

(1) BIOMASS.—The term ''biomass'' means any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, or nonmerchantable material;

(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled;

(C) agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues, and livestock waste nutrients; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) RENEWABLE ENERGY.—The term ''renewable energy'' means electric energy generated from solar, wind, biomass, landfill gas, ocean (tidal, wave, current, and thermal), geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

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

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

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

(3) the renewable energy is produced on Indian land as defined in title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) and used at a Federal facility.

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

SEC. 204. INSULAR AREAS ENERGY SECURITY.

Section 604 of the Act entitled ''An Act to authorize appropriations for certain insular areas of the United States, and for other purposes'', approved December 24, 1980 (48 U.S.C. 1492), is amended—

(1) in subsection (a)(4) by striking the period and inserting a semicolon;

(2) by adding at the end of subsection (a) the following new paragraphs:

''(5) electric power transmission and distribution lines in insular areas are inadequate to withstand damage caused by the hurricanes and typhoons which frequently occur in insular areas and such damage often costs millions of dollars to repair; and

''(6) the refinement of renewable energy technologies since the publication of the 1982 Territorial Energy Assessment prepared pursuant to subsection (c) reveals the need to reassess the state of energy production, consumption, infrastructure, reliance on imported energy, opportunities for energy conservation and increased energy efficiency, and indigenous sources in regard to the insular areas.'';

(3) by amending subsection (e) to read as follows:

''(e)(1) The Secretary of the Interior, in consultation with the Secretary of Energy and the head of government of each insular area, shall update the plans required under subsection (c) by—

''(A) updating the contents required by subsection (c);

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

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

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

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

''(4) POWER LINE GRANTS FOR INSULAR AREAS.—

''(A) IN GENERAL.—The Secretary of the Interior is authorized to make grants to governments of insular areas of the United States to carry out eligible projects to protect electric power transmission and distribution lines in such insular areas from damage caused by hurricanes and typhoons.

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

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

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

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

''(iv) The project is not likely to cost more than the value of the reduction in direct damage and other negative impacts that the project is designed to prevent or mitigate. The cost benefit analysis required by this criterion shall be computed on a net present value basis.

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

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

''(vii) The applicant has demonstrated to the Secretary that the matching funds required by subparagraph (D) are available.

''(C) PRIORITY.—When making grants under this paragraph, the Secretary shall give priority to grants for projects which are likely to—

''(i) have the greatest impact on reducing future disaster losses; and

''(ii) best conform with plans that have been approved by the Federal Government or the government of the insular area where the project is to be carried out for development or hazard mitigation for that insular area.

''(D) MATCHING REQUIREMENT.—The Federal share of the cost for a project for which a grant is provided under this paragraph shall not exceed 75 percent of the total cost of that project. The non-Federal share of the cost may be provided in the form of cash or services.

''(E) TREATMENT OF FUNDS FOR CERTAIN PURPOSES.—Grants provided under this paragraph shall not be considered as income, a resource, or a duplicative program when determining eligibility or benefit levels for Federal major disaster and emergency assistance.

''(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $5,000,000 for each fiscal year beginning after the date of the enactment of this paragraph.''.

SEC. 205. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS.

(a) IN GENERAL.—Part 4 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8271 et seq.) is amended by adding at the end the following:

''SEC. 570. USE OF PHOTOVOLTAIC ENERGY IN PUBLIC BUILDINGS.

''(a) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—

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

''(2) PURPOSES.—The purposes of the program shall be to accomplish the following:

''(A) To accelerate the growth of a commercially viable photovoltaic industry to make this energy system available to the general public as an option which can reduce the national consumption of fossil fuel.

''(B) To reduce the fossil fuel consumption and costs of the Federal Government.

''(C) To attain the goal of installing solar energy systems in 20,000 Federal buildings by 2010, as contained in the Federal Government's Million Solar Roof Initiative of 1997.

''(D) To stimulate the general use within the Federal Government of life-cycle costing and innovative procurement methods.

''(E) To develop program performance data to support policy decisions on future incentive programs with respect to energy.

''(3) ACQUISITION OF PHOTOVOLTAIC SOLAR ELECTRIC SYSTEMS.—

''(A) IN GENERAL.—The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability for use in public buildings.

''(B) ACQUISITION LEVELS.—The acquisition of photovoltaic electric systems shall be at a level substantial enough to allow use of low-cost production techniques with at least 150 megawatts (peak) cumulative acquired during the 5 years of the program.

''(4) ADMINISTRATION.—The Secretary shall administer the program and shall—

''(A) issue such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic solar electric systems installed pursuant to this subsection;

''(B) develop innovative procurement strategies for the acquisition of such systems; and

''(C) transmit to Congress an annual report on the results of the program.

''(b) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Secretary shall establish a photovoltaic solar energy systems evaluation program to evaluate such photovoltaic solar energy systems as are required in public buildings.

''(2) PROGRAM REQUIREMENT.—In evaluating photovoltaic solar energy systems under the program, the Secretary shall ensure that such systems reflect the most advanced technology.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

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

''(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There are authorized to be appropriated to carry out subsection (b) $10,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The table of sections for the National Energy Conservation Policy Act is amended by inserting after the item relating to section 569 the following:

''Sec. 570. Use of photovoltaic energy in public buildings.''.

SEC. 206. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, PETROLEUM-BASED PRODUCT SUBSTITUTES, AND OTHER COMMERCIAL PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest fuel loads continues to increase as a result of disease, insect infestations, and drought, further raising the risk of fire each year.

(2) In addition, more than 70,000,000 acres across all land ownerships are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease result in increased fire risk, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and decreased timber values.

(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and protecting early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest land, woodland, and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest health by creating a mosaic of species-mix and age distribution. Such prevention treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, disease, and fire.

(4) The byproducts of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest lands, woodlands and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. There are currently few markets for the extraordinary volumes of byproducts being generated as a result of the necessary large-scale preventive treatment activities.

(5) The United States should—

(A) promote economic and entrepreneurial opportunities in using byproducts removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for byproducts of preventive treatment activities.

(b) DEFINITIONS.—In this section:

(1) BIOMASS.—The term ''biomass'' means trees and woody plants, including limbs, tops, needles, and other woody parts, and byproducts of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels; or

(B) to reduce the risk of or to contain disease or insect infestation.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) PERSON.—The term ''person'' includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(4) PREFERRED COMMUNITY.—The term ''preferred community'' means—

(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(B) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(5) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture with respect to National Forest System lands; and

(B) the Secretary of the Interior with respect to Federal lands under the jurisdiction of the Secretary of the Interior and Indian lands.

(c) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products to offset the costs incurred to purchase biomass for use by such facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(d) IMPROVED BIOMASS USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy, opportunities for the creation or expansion of small businesses and micro-businesses, and the potential for new job creation.

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

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2016 to carry out this section.

(f) REPORT.—Not later than October 1, 2012, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives a report describing the results of the grant programs authorized by this section. The report shall include the following:

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

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

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

SEC. 207. BIOBASED PRODUCTS.

Section 9002(c)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(c)(1)) is amended by inserting ‘‘or such items that comply with the regulations issued under section 103 of Public Law 100–556 (42 U.S.C. 6914b–1)’’ after ‘‘practicable’’.

SEC. 208. RENEWABLE ENERGY SECURITY.

(a) WEATHERIZATION ASSISTANCE.—Section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking ‘‘in paragraph (3)’’ and inserting ‘‘in paragraphs (3) and (4)’’;

(2) in paragraph (3), by striking ‘‘$2,500 per dwelling unit average provided in paragraph (1)’’ and inserting ‘‘dwelling unit averages provided in paragraphs (1) and (4)’’; and

(3) by adding at the end the following new paragraphs:

‘‘(4) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters for a renewable energy system shall not exceed an average of $3,000 per dwelling unit.

‘‘(5)(A) The Secretary shall by regulations—

‘‘(i) establish the criteria which are to be used in prescribing performance and quality standards under paragraph (6)(A)(ii) or in specifying any form of renewable energy under paragraph (6)(A)(i)(I); and

‘‘(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this paragraph, as a renewable energy system.

‘‘(B) The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

‘‘(C) Each month the Secretary shall publish a report of any request under subparagraph (A)(ii) which has been denied during the preceding month and the reasons for the denial.

‘‘(D) The Secretary shall not specify any form of renewable energy under paragraph (6)(A)(i)(I) unless the Secretary determines that—

‘‘(i) there will be a reduction in oil or natural gas consumption as a result of such specification;

‘‘(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety; and

‘‘(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

‘‘(6) In this subsection—

‘‘(A) the term ‘renewable energy system’ means a system which—

‘‘(i) when installed in connection with a dwelling, transmits or uses—

‘‘(I) solar energy, energy derived from the geothermal deposits, energy derived from biomass, or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or

‘‘(II) wind energy for nonbusiness residential purposes;

‘‘(ii) meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations;

‘‘(iii) in the case of a combustion rated system, has a thermal efficiency rating of at least 75 percent; and

‘‘(iv) in the case of a solar system, has a thermal efficiency rating of at least 15 percent; and

‘‘(B) the term ‘biomass’ means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.’’.

(b) DISTRICT HEATING AND COOLING PROGRAMS.—Section 172 of the Energy Policy Act of 1992 (42 U.S.C. 13451 note) is amended—

(1) in subsection (a)—

(A) by striking ‘‘and’’ at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting ‘‘; and’’; and

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

‘‘(5) evaluate the use of renewable energy systems (as such term is defined in section 415(c) of the Energy Conservation and Production Act (42 U.S.C. 6865(c))) in residential buildings.’’; and

(2) in subsection (b), by striking ‘‘this Act’’ and inserting ‘‘the Energy Policy Act of 2005’’.

(c) DEFINITION OF BIOMASS.—Section 203(2) of the Biomass Energy and Alcohol Fuels Act of 1980 (42 U.S.C. 8802(2)) is amended to read as follows:

‘‘(2) The term ‘biomass’ means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.’’.

(d) REBATE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary of Energy shall establish a program providing rebates for consumers for expenditures made for the installation of a renewable energy system in connection with a dwelling unit or small business.

(2) AMOUNT OF REBATE.—Rebates provided under the program established under paragraph (1) shall be in an amount not to exceed the lesser of—

(A) 25 percent of the expenditures described in paragraph (1) made by the consumer; or

(B) $3,000.

(3) DEFINITION.—For purposes of this subsection, the term ‘‘renewable energy system’’ has the meaning given that term in section 415(c)(6)(A) of the Energy Conservation and Production Act (42 U.S.C. 6865(c)(6)(A)), as added by subsection (a)(3) of this section.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this subsection, to remain available until expended—

(A) $150,000,000 for fiscal year 2006;

(B) $150,000,000 for fiscal year 2007;

(C) $200,000,000 for fiscal year 2008;

(D) $250,000,000 for fiscal year 2009; and

(E) $250,000,000 for fiscal year 2010.

(e) RENEWABLE FUEL INVENTORY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report containing—

(1) an inventory of renewable fuels available for consumers; and

(2) a projection of future inventories of renewable fuels based on the incentives provided in this section

Subtitle C—Hydroelectric

PART I—ALTERNATIVE CONDITIONS

SEC. 231. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after ‘‘adequate protection and utilization of such reservation.’’ at the end of the first proviso the following: ‘‘The license applicant shall be entitled to a determination on the record, after opportunity for an expedited agency trial-type hearing of any disputed issues of material fact, with respect to such conditions. Such hearing may be conducted in accordance with procedures established by agency regulation in consultation with the Federal Energy Regulatory Commission.’’.

(b) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after ‘‘and such fishways as may be prescribed by the Secretary of Commerce.’’ the following: ‘‘The license applicant shall be entitled to a determination on the record, after opportunity for an expedited agency trial-type hearing of any disputed issues of material fact, with respect to such fishways. Such hearing may be conducted in accordance with procedures established by agency regulation in consultation with the Federal Energy Regulatory Commission.’’.

(c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

‘‘SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

‘‘(a) ALTERNATIVE CONDITIONS.—(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as ‘the Secretary’) deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant may propose an alternative condition.

‘‘(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant or otherwise available to the Secretary, that such alternative condition—

''(A) provides for the adequate protection and utilization of the reservation; and

''(B) will either—

''(i) cost less to implement; or

''(ii) result in improved operation of the project works for electricity production,

as compared to the condition initially deemed necessary by the Secretary.

''(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) Nothing in this section shall prohibit other interested parties from proposing alternative conditions.

''(5) If the Secretary does not accept an applicant's alternative condition under this section, and the Commission finds that the Secretary's condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not provide for the adequate protection and utilization of the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

''(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

''(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee or otherwise available to the Secretary, that such alternative—

''(A) will be no less protective than the fishway initially prescribed by the Secretary; and

''(B) will either—

''(i) cost less to implement; or

''(ii) result in improved operation of the project works for electricity production,

as compared to the fishway initially deemed necessary by the Secretary.

''(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) Nothing in this section shall prohibit other interested parties from proposing alternative prescriptions.

''(5) If the Secretary concerned does not accept an applicant's alternative prescription under this section, and the Commission finds that the Secretary's prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will be less protective than the fishway initially prescribed by the Secretary. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.''.

PART II—ADDITIONAL HYDROPOWER

SEC. 241. HYDROELECTRIC PRODUCTION INCENTIVES.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified hydroelectric facility during the incentive period, the Secretary of Energy (referred to in this section as the ''Secretary'') shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e) of this section. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

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

(1) QUALIFIED HYDROELECTRIC FACILITY.—The term ''qualified hydroelectric facility'' means a turbine or other generating device owned or solely operated by a non-Federal entity which generates hydroelectric energy for sale and which is added to an existing dam or conduit.

(2) EXISTING DAM OR CONDUIT.—The term ''existing dam or conduit'' means any dam or conduit the construction of which was completed before the date of the enactment of this section and which does not require any construction or enlargement of impoundment or diversion structures (other than repair or reconstruction) in connection with the installation of a turbine or other generating device.

(3) CONDUIT.—The term ''conduit'' has the same meaning as when used in section 30(a)(2) of the Federal Power Act (16 U.S.C. 823a(a)(2)).

The terms defined in this subsection shall apply without regard to the hydroelectric kilowatt capacity of the facility concerned, without regard to whether the facility uses a dam owned by a governmental or nongovernmental entity, and without regard to whether the facility begins operation on or after the date of the enactment of this section.

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electric energy generated from a qualified hydroelectric facility which begins operation during the period of 10 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle.

(d) INCENTIVE PERIOD.—A qualified hydroelectric facility may receive payments under this section for a period of 10 fiscal years (referred to in this section as the ''incentive period''). Such period shall begin with the fiscal year in which electric energy generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Payments made by the Secretary under this section to the owner or operator of a qualified hydroelectric facility shall be based on the number of kilowatt hours of hydroelectric energy generated by the facility during the incentive period. For any such facility, the amount of such payment shall be 1.8 cents per kilowatt hour (adjusted as provided in paragraph (2)), subject to the availability of appropriations under subsection (g), except that no facility may receive more than $750,000 in 1 calendar year.

(2) ADJUSTMENTS.—The amount of the payment made to any person under this section as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 2005 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 2005 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any qualified hydroelectric facility after the expiration of the period of 20 fiscal years beginning with the first full fiscal year occurring after the date of enactment of this subtitle, and no payment may be made under this section to any such facility after a payment has been made with respect to such facility for a period of 10 fiscal years.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section $10,000,000 for each of the fiscal years 2006 through 2015.

SEC. 242. HYDROELECTRIC EFFICIENCY IMPROVEMENT.

(a) INCENTIVE PAYMENTS.—The Secretary of Energy shall make incentive payments to the owners or operators of hydroelectric facilities at existing dams to be used to make capital improvements in the facilities that are directly related to improving the efficiency of such facilities by at least 3 percent.

(b) LIMITATIONS.—Incentive payments under this section shall not exceed 10 percent of the costs of the capital improvement concerned and not more than 1 payment may be made with respect to improvements at a single facility. No payment in excess of $750,000 may be made with respect to improvements at a single facility.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $10,000,000 for each of the fiscal years 2006 through 2015.

SEC. 243. SMALL HYDROELECTRIC POWER PROJECTS.

Section 408(a)(6) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C.

2708(a)(6)) is amended by striking ''April 20, 1977'' and inserting ''March 4, 2003''.

SEC. 244. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior and the Secretary of Energy, in consultation with the Secretary of the Army, shall jointly conduct a study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretaries shall submit to the Committees on Energy and Commerce, Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 245. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities, including recreational releases.

TITLE III—OIL AND GAS—COMMERCE

Subtitle A—Petroleum Reserve and Home Heating Oil

SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting the following:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part and part D, to remain available until expended.'';

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by inserting before section 273 (42 U.S.C. 6283) the following:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS'';

(2) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration of summer fill and fuel budgeting programs); and

(3) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of the Act).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

''PART D—NORTHEAST HOME HEATING OIL RESERVE

''Sec. 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast Home Heating Oil Reserve Account.
''Sec. 185. Exemptions.'';

(2) by amending the items relating to part C of title II to read as follows:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

''Sec. 273. Summer fill and fuel budgeting programs.''

; and

(3) by striking the items relating to part D of title II.

(d) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250(b)(1)) is amended by striking all after ''increases'' through to ''mid-October through March'' and inserting ''by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)''.

(e) FILL STRATEGIC PETROLEUM RESERVE TO CAPACITY.—The Secretary of Energy shall, as expeditiously as practicable, acquire petroleum in amounts sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000 barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), consistent with the provisions of sections 159 and 160 of such Act (42 U.S.C. 6239, 6240).

SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.

Section 713 of the Energy Act of 2000 (42 U.S.C. 6201 note) is amended by striking ''4'' and inserting ''9''.

SEC. 303. SITE SELECTION.

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall complete a proceeding to select, from sites that the Secretary has previously studied, sites necessary to enable acquisition by the Secretary of the full authorized volume of the Strategic Petroleum Reserve.

SEC. 304. SUSPENSION OF STRATEGIC PETROLEUM RESERVE DELIVERIES.

The Secretary of Energy shall suspend deliveries of royalty-in-kind oil to the Strategic Petroleum Reserve until the price of oil falls below $40 per barrel for 2 consecutive weeks on the New York Mercantile Exchange.

Subtitle B—Production Incentives

SEC. 320. LIQUEFACTION OR GASIFICATION NATURAL GAS TERMINALS.

(a) SCOPE OF NATURAL GAS ACT.—Section 1(b) of the Natural Gas Act (15 U.S.C. 717(b)) is amended by inserting ''and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation,'' after ''such transportation or sale,''.

(b) DEFINITION.—Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by adding at the end the following new paragraph:

''(11) 'Liquefaction or gasification natural gas terminal' includes all facilities located onshore or in State waters that are used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas that is imported to the United States from a foreign country, exported to a foreign country from the United States, or transported in interstate commerce by waterborne tanker, but does not include—

''(A) waterborne tankers used to deliver natural gas to or from any such facility; or

''(B) any pipeline or storage facility subject to the jurisdiction of the Commission under section 7.''.

(c) AUTHORIZATION FOR CONSTRUCTION, EXPANSION, OR OPERATION OF LIQUEFACTION OR GASIFICATION NATURAL GAS TERMINALS.—(1) The title for section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting ''; LIQUEFACTION OR GASIFICATION NATURAL GAS TERMINALS'' after ''EXPORTATION OR IMPORTATION OF NATURAL GAS''.

(2) Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

''(d) AUTHORIZATION FOR CONSTRUCTION, EXPANSION, OR OPERATION OF LIQUEFACTION OR GASIFICATION NATURAL GAS TERMINALS.—

''(1) COMMISSION AUTHORIZATION REQUIRED.—No person shall construct, expand, or operate a liquefaction or gasification natural gas terminal without an order from the Commission authorizing such person to do so.

''(2) AUTHORIZATION PROCEDURES.—

''(A) NOTICE AND HEARING.—Upon the filing of any application to construct, expand, or operate a liquefaction or gasification natural gas terminal, the Commission shall—

''(i) set the matter for hearing;

''(ii) give reasonable notice of the hearing to all interested persons, including the State commission of the State in which the liquefaction or gasification natural gas terminal is located;

''(iii) decide the matter in accordance with this subsection; and

''(iv) issue or deny the appropriate order accordingly.

''(B) DESIGNATION AS LEAD AGENCY.—

''(i) IN GENERAL.—The Commission shall act as the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4312 et seq.) for a liquefaction or gasification natural gas terminal.

''(ii) OTHER AGENCIES.—Each Federal agency considering an aspect of the construction, expansion, or operation of a liquefaction or gasification natural gas terminal shall cooperate with the Commission and comply with the deadlines established by the Commission.

''(C) SCHEDULE.—

''(i) COMMISSION AUTHORITY TO SET SCHEDULE.—The Commission shall establish a schedule for all Federal and State administrative proceedings required under authority of Federal law to construct, expand, or operate a liquefaction or gasification natural gas terminal. In establishing the schedule, the Commission shall—

''(I) ensure expeditious completion of all such proceedings; and

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

''(ii) FAILURE TO MEET SCHEDULE.—If a Federal or State administrative agency does not complete a proceeding for an approval that is required before a person may construct, expand, or operate the liquefaction or gasification natural gas terminal, in accordance with the schedule established by the Commission under this subparagraph, and if—

''(I) a determination has been made by the Court pursuant to section 19(d) that such delay is unreasonable; and

''(II) the agency has failed to act on any remand by the Court within the deadline set by the Court,

that approval may be conclusively presumed by the Commission.

''(D) EXCLUSIVE 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 the construction, expansion, or operation of a liquefaction or gasification natural gas terminal. Such record shall be the exclusive record for any Federal administrative proceeding that is an appeal or review of any such decision made or action taken.

''(E) STATE AND LOCAL SAFETY CONSIDERATIONS.—

''(i) IN GENERAL.—The Commission shall consult with the State commission of the State in which the liquefaction or gasification natural gas terminal is located regarding State and local safety considerations prior to issuing an order pursuant to this subsection and consistent with the schedule established under subparagraph (C).

''(ii) STATE SAFETY INSPECTIONS.—The State commission of the State in which a liquefaction or gasification natural gas terminal is located may, after the terminal is operational, conduct safety inspections with respect to the liquefaction or gasification natural gas terminal if—

''(I) the State commission provides written notice to the Commission of its intention to do so; and

''(II) the inspections will be carried out in conformance with Federal regulations and guidelines.

Enforcement of any safety violation discovered by a State commission pursuant to this clause shall be carried out by Federal officials. The Commission shall take appropriate action in response to a report of a violation not later that 90 days after receiving such report.

''(iii) STATE AND LOCAL SAFETY CONSIDERATIONS.—For the purposes of this subparagraph, State and local safety considerations include—

''(I) the kind and use of the facility;

''(II) the existing and projected population and demographic characteristics of the location;

''(III) the existing and proposed land use near the location;

''(IV) the natural and physical aspects of the location;

''(V) the medical, law enforcement, and fire prevention capabilities near the location that can respond at the facility; and

''(VI) the feasibility of remote siting.

''(F) LIMITATION.—Subparagraph (C)(ii) shall not apply to any approval required to protect navigation, maritime safety, or maritime security.

''(3) ISSUANCE OF COMMISSION ORDER.—

''(A) IN GENERAL.—The Commission shall issue an order authorizing, in whole or in part, the construction, expansion, or operation covered by the application to any qualified applicant—

''(i) unless the Commission finds such actions or operations will not be consistent with the public interest; and

''(ii) if the Commission has found that the applicant is—

''(I) able and willing to carry out the actions and operations proposed; and

''(II) willing to conform to the provisions of this Act and any requirements, rules, and regulations of the Commission set forth under this Act.

''(B) TERMS AND CONDITIONS.—The Commission may by its order grant an application, in whole or in part, with such modification and upon such terms and conditions as the Commission may find necessary or appropriate.

''(C) LIMITATIONS ON TERMS AND CONDITIONS TO COMMISSION ORDER.—

''(i) IN GENERAL.—Any Commission order issued pursuant to this subsection before January 1, 2011, shall not be conditioned on—

''(I) a requirement that the liquefaction or gasification natural gas terminal offer service to persons other than the person, or any affiliate thereof, securing the order; or

''(II) any regulation of the liquefaction or gasification natural gas terminal's rates, charges, terms, or conditions of service.

''(ii) INAPPLICABLE TO TERMINAL EXIT PIPELINE.—Clause (i) shall not apply to any pipeline subject to the jurisdiction of the Commission under section 7 exiting a liquefaction or gasification natural gas terminal.

''(iii) EXPANSION OF REGULATED TERMINAL.—An order issued under this paragraph that relates to an expansion of an existing liquefaction or gasification natural gas terminal, where any portion of the existing terminal continues to be subject to Commission regulation of rates, charges, terms, or conditions of service, may not result in—

''(I) subsidization of the expansion by regulated terminal users;

''(II) degradation of service to the regulated terminal users; or

''(III) undue discrimination against the regulated terminal users.

''(iv) EXPIRATION.—This subparagraph shall cease to have effect on January 1, 2021.

''(4) DEFINITION.—For the purposes of this subsection, the term 'Federal authorization' means any authorization required under Federal law in order to construct, expand, or operate a liquefaction or gasification natural gas terminal, including such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal or State agency.''.

(d) JUDICIAL REVIEW.—Section 19 of the Natural Gas Act (15 U.S.C. 717r) is amended by adding at the end the following:

''(d) JUDICIAL REVIEW.—

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

''(A) for review of any order, action, or failure to act of any Federal or State administrative agency to issue, condition, or deny any permit, license, concurrence, or approval required under Federal law for the construction, expansion, or operation of a liquefaction or gasification natural gas terminal;

''(B) alleging unreasonable delay, in meeting a schedule established under section 3(d)(2)(C) or otherwise, by any Federal or State administrative agency in entering an order or taking other action described in subparagraph (A); or

''(C) challenging any decision made or action taken by the Commission under section 3(d).

''(2) COMMISSION ACTION.—For any action described in this subsection, the Commission shall file with the Court the consolidated record maintained under section 3(d)(2)(D).

''(3) COURT ACTION.—If the Court finds under paragraph (1)(A) or (B) that an order, action, failure to act, or delay is inconsistent with applicable Federal law, and would prevent the construction, expansion, or operation of a liquefaction or gasification natural gas terminal, the order or action shall be deemed to have been issued or taken, subject to any conditions established by the Federal or State administrative agency upon remand from the Court, such conditions to be consistent with the order of the Court. If the Court remands the order or action to the Federal or State agency, the Court shall set a reasonable deadline for the agency to act on remand.

''(4) UNREASONABLE DELAY.—For the purposes of paragraph (1)(B), the failure of an agency to issue a permit, license, concurrence, or approval within the later of—

''(A) 1 year after the date of filing of an application for the permit, license, concurrence, or approval; or

''(B) 60 days after the date of issuance of the order under section 3(d),

shall be considered unreasonable delay unless the Court, for good cause shown, determines otherwise.

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

SEC. 327. HYDRAULIC FRACTURING.

Paragraph (1) of section 1421(d) of the Safe Drinking Water Act (42 U.S.C. 300h(d)) is amended to read as follows:

''(1) UNDERGROUND INJECTION.—The term 'underground injection'—

''(A) means the subsurface emplacement of fluids by well injection; and

''(B) excludes—

''(i) the underground injection of natural gas for purposes of storage; and

''(ii) the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations related to oil or gas production activities.''.

SEC. 328. OIL AND GAS EXPLORATION AND PRODUCTION DEFINED.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

''(24) OIL AND GAS EXPLORATION AND PRODUCTION.—The term 'oil and gas exploration, production, processing, or treatment operations or transmission facilities' means all field activities or operations associated with exploration, production, processing, or treatment operations, or transmission facilities, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such field activities or operations may be considered to be construction activities.''.

SEC. 329. OUTER CONTINENTAL SHELF PROVISIONS.

(a) STORAGE ON THE OUTER CONTINENTAL SHELF.—Section 5(a)(5) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(5)) is amended by inserting ''from any source'' after ''oil and gas''.

(b) DEEPWATER PROJECTS.—Section 6 of the Deepwater Port Act of 1974 (33 U.S.C. 1505) is amended by adding at the end the following:

''(d) RELIANCE ON ACTIVITIES OF OTHER AGENCIES.—In fulfilling the requirements of section 5(f)—

''(1) to the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may use the information derived from those activities in lieu of directly conducting such activities; and

''(2) the Secretary may use information obtained from any State or local government or from any person.''.

(c) NATURAL GAS DEFINED.—Section 3(13) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(13)) is amended to read as follows:

''(13) natural gas means—

''(A) natural gas unmixed; or

''(B) any mixture of natural or artificial gas, including compressed or liquefied natural gas, natural gas liquids, liquefied petroleum gas, and condensate recovered from natural gas;''.

SEC. 330. APPEALS RELATING TO PIPELINE CONSTRUCTION OR OFFSHORE MINERAL DEVELOPMENT PROJECTS.

(a) AGENCY OF RECORD, PIPELINE CONSTRUCTION PROJECTS.—Any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to Federal authority for an interstate natural gas pipeline construction project, including construction of natural gas storage and liquefied natural gas facilities, shall use as its exclusive record for all purposes the record compiled by the Federal Energy Regulatory Commission pursuant to the Commission's proceeding under sections 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f).

(b) SENSE OF CONGRESS.—It is the sense of Congress that all Federal and State agencies with jurisdiction over interstate natural gas pipeline construction activities should coordinate their proceedings within the timeframes established by the Federal Energy Regulatory Commission when the Commission is acting under sections 3 and 7 of the Natural Gas Act (15 U.S.C. 717b, 717f) to determine whether a certificate of public convenience and necessity should be issued for a proposed interstate natural gas pipeline.

(c) AGENCY OF RECORD, OFFSHORE MINERAL DEVELOPMENT PROJECTS.—Any Federal administrative agency proceeding that is an appeal or review under section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465), as amended by this Act, related to Federal authority for the permitting, approval, or other authorization of energy projects, including projects to explore, develop, or produce mineral resources in or underlying the outer Continental Shelf shall use as its exclusive record for all purposes (except for the filing of pleadings) the record compiled by the relevant Federal permitting agency.

SEC. 333. NATURAL GAS MARKET TRANSPARENCY.

The Natural Gas Act (15 U.S.C 717 et seq.) is amended—

(1) by redesignating section 24 as section 25; and

(2) by inserting after section 23 the following:

''SEC. 24. NATURAL GAS MARKET TRANSPARENCY.

''(a) AUTHORIZATION.—(1) Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, the Federal Energy Regulatory Commission shall issue rules directing all entities subject to the Commission's jurisdiction as provided under this Act to timely report information about the availability and prices of natural gas sold at wholesale in interstate commerce to the Commission and price publishers.

''(2) The Commission shall evaluate the data for adequate price transparency and accuracy.

''(3) Rules issued under this subsection requiring the reporting of information to the Commission that may become publicly available shall be limited to aggregate data and transaction-specific data that are otherwise required by the Commission to be made public.

''(4) In exercising its authority under this section, the Commission shall not—

''(A) compete with, or displace from the market place, any price publisher; or

''(B) regulate price publishers or impose any requirements on the publication of information.

''(b) TIMELY ENFORCEMENT.—No person shall be subject to any penalty under this section with respect to a violation occurring more than 3 years before the date on which the Federal Energy Regulatory Commission seeks to assess a penalty.

''(c) LIMITATION ON COMMISSION AUTHORITY.—(1) The Commission shall not condition access to interstate pipeline transportation upon the reporting requirements authorized under this section.

''(2) Natural gas sales by a producer that are attributable to volumes of natural gas produced by such producer shall not be subject to the rules issued pursuant to this section.

''(3) The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to participate in the reporting requirements provided in this section.''.

Subtitle C—Access to Federal Land

SEC. 344. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public lands under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System lands under the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of oil and gas lease applications, surface use plans of operation, and applications for permits to drill, including steps for processing surface use plans and applications for permits to drill consistent with the timelines established by the amendment made by section 348;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts; and

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied.

(c) DATA RETRIEVAL SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture.

(2) RESOURCE MAPPING.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint Geographic Information System mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 346. COMPLIANCE WITH EXECUTIVE ORDER 13211; ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE.

(a) REQUIREMENT.—The head of each Federal agency shall require that before the Federal agency takes any action that could have a significant adverse effect on the supply of domestic energy resources from Federal public land, the Federal agency taking the action shall comply with Executive Order No. 13211 (42 U.S.C. 13201 note).

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish guidance for purposes of this section describing what constitutes a significant adverse effect on the supply of domestic energy resources under Executive Order No. 13211 (42 U.S.C. 13201 note).

(c) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior and the Secretary of Agriculture shall include in the memorandum of understanding under section 344 provisions for implementing subsection (a) of this section.

SEC. 355. ENCOURAGING GREAT LAKES OIL AND GAS DRILLING BAN.

Congress encourages no Federal or State permit or lease to be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

SEC. 358. FEDERAL COALBED METHANE REGULATION.

Any State currently on the list of Affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13368(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act, the State takes, or prior to the date of enactment has taken, any of the actions required for removal from the list under such section 1339(b).

Subtitle D—Refining Revitalization

SEC. 371. SHORT TITLE.

This subtitle may be cited as the ''United States Refinery Revitalization Act of 2005''.

SEC. 372. FINDINGS.

Congress finds the following:

(1) It serves the national interest to increase petroleum refining capacity for gasoline, heating oil, diesel fuel, jet fuel, kerosene, and petrochemical feedstocks wherever located within the United States, to bring more supply to the markets for use by the American people. Nearly 50 percent of the petroleum in the United States is used for the production of gasoline. Refined petroleum products have a significant impact on interstate commerce.

(2) United States demand for refined petroleum products currently exceeds the country's petroleum refining capacity to produce such products. By 2025, United States gasoline consumption is projected to rise from 8,900,000 barrels per day to 12,900,000 barrels

per day. Diesel fuel and home heating oil are becoming larger components of an increasing demand for refined petroleum supply. With the increase in air travel, jet fuel consumption is projected to be 789,000 barrels per day higher in 2025 than today.

(3) The petroleum refining industry is operating at 95 percent of capacity. The United States is currently importing 5 percent of its refined petroleum products and because of the stringent United States gasoline and diesel fuel specifications, few foreign refiners can produce the clean fuels required in the United States and the number of foreign suppliers that can produce United States quality gasoline is decreasing.

(4) 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.

(5) No new refinery has been built in the United States since 1976 and many smaller domestic refineries have become idle since the removal of the Domestic Crude Oil Allocation Program and because of regulatory uncertainty and generally low returns on capital employed. Today, the United States has 149 refineries, down from 324 in 1981. Restoration of recently idled refineries alone would amount to 483,570 barrels a day in additional capacity, or approximately 3.3 percent of the total operating capacity.

(6) Refiners have met growing demand by increasing the use of existing equipment and increasing the efficiency and capacity of existing plants. But refining capacity has begun to lag behind peak summer demand.

(7) Heavy industry and manufacturing jobs have closed or relocated due to barriers to investment, burdensome regulation, and high costs of operation, among other reasons.

(8) Because the production and disruption in supply of refined petroleum products has a significant impact on interstate commerce, it serves the national interest to increase the domestic refining operating capacity.

(10) More regulatory certainty for refinery owners is needed to stimulate investment in increased refinery capacity and required procedures for Federal, State, and local regulatory approvals need to be streamlined to ensure that increased refinery capacity can be developed and operated in a safe, timely, and cost-effective manner.

(11) The proposed Yuma Arizona Refinery, a grassroots refinery facility, which only recently received its Federal air quality permit after 5 years under the current regulatory process, and is just now beginning its environmental impact statement and local permitting process, serves as an example of the obstacles a refiner would have to overcome to reopen an idle refinery.

SEC. 373. PURPOSE.

The purpose of this subtitle is to encourage the expansion of the United States refining capacity by providing an accelerated review and approval process of all regulatory approvals for certain idle refineries and lending corresponding legal and technical assistance to States with resources that may be inadequate to meet such permit review demands.

SEC. 374. DESIGNATION OF REFINERY REVITALIZATION ZONES.

Not later than 90 days after the date of enactment of this Act, the Secretary shall designate as a Refinery Revitalization Zone any area—

(1) that—

(A) has experienced mass layoffs at manufacturing facilities, as determined by the Secretary of Labor; or

(B) contains an idle refinery; and

(2) that has an unemployment rate that exceeds the national average by at least 10 percent of the national average, as set by the Department of Labor, Bureau of Labor Statistics, at the time of the designation as a Refinery Revitalization Zone.

SEC. 375. MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding with the Administrator for the purposes of this subtitle. The Secretary and the Administrator shall each designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the purposes of this subtitle and any regulations enacted pursuant to this subtitle.

(b) ADDITIONAL SIGNATORIES.—The Governor of any State, and the appropriate representative of any Indian Tribe, with jurisdiction over a Refinery Revitalization Zone, as designated by the Secretary pursuant to section 374, may be signatories to the memorandum of understanding under this section.

SEC. 376. STATE ENVIRONMENTAL PERMITTING ASSISTANCE.

Not later than 30 days after a Revitalization Program Qualifying State becomes a signatory to the memorandum of understanding under section 375(b)—

(1) the Secretary shall designate one or more employees of the Department with expertise relating to the siting and operation of refineries to provide legal and technical assistance to that Revitalization Program Qualifying State; and

(2) the Administrator shall designate, to provide legal and technical assistance for that Revitalization Program Qualifying State, one or more employees of the Environmental Protection Agency with expertise on regulatory issues, relating to the siting and operation of refineries, with respect to each of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(C) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(D) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(E) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(F) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(G) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(H) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 377. COORDINATION AND EXPEDITIOUS REVIEW OF PERMITTING PROCESS.

(a) DEPARTMENT OF ENERGY AS LEAD AGENCY.—Upon written request of a prospective applicant for Federal authorization for a refinery facility in a Refinery Revitalization Zone, the Department shall act as the lead Federal agency for the purposes of coordinating all applicable Federal authorizations and environmental reviews of the refining facility. To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate this Federal authorization and review process with any Indian Tribes and State and local agencies responsible for conducting any separate permitting and environmental reviews of the refining facility.

(b) SCHEDULE.—

(1) IN GENERAL.—The Secretary, in coordination with the agencies with authority over Federal authorizations and, as appropriate, with Indian Tribes and State and local agencies that are willing to coordinate their separate permitting and environmental reviews with the Federal authorizations and environmental reviews, shall establish a schedule with prompt and binding intermediate and ultimate deadlines for the review of, and Federal authorization decisions relating to, refinery facility siting and operation.

(2) PREAPPLICATION PROCESS.—Prior to establishing the schedule, the Secretary shall provide an expeditious preapplication mechanism for applicants to confer with the agencies involved and to have each agency communicate to the prospective applicant within 60 days concerning—

(A) the likelihood of approval for a potential refinery facility; and

(B) key issues of concern to the agencies and local community.

(3) SCHEDULE.—The Secretary shall consider the preapplication findings under paragraph (2) in setting the schedule and shall ensure that once an application has been submitted with such information as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 6 months or, where circumstances require otherwise, as soon as thereafter practicable.

(c) CONSOLIDATED ENVIRONMENTAL REVIEW.—

(1) LEAD AGENCY.—In carrying out its role as the lead Federal agency for environmental review, the Department shall coordinate all applicable Federal actions for complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and shall be responsible for preparing any environmental impact statement required by section 102(2)(C) of that Act (42 U.S.C. 4332(2)(C)) or such other form of environmental review as is required.

(2) CONSOLIDATION OF STATEMENTS.—In carrying out paragraph (1), if the Department determines an environmental impact statement is required, the Department shall prepare a single environmental impact statement, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project covered by the environmental impact statement.

(d) OTHER AGENCIES.—Each Federal agency considering an aspect of the siting or operation of a refinery facility in a Refinery Revitalization Zone shall cooperate with the Department and comply with the deadlines established by the Department in the preparation of any environmental impact statement or such other form of review as is required.

(e) EXCLUSIVE RECORD.—The Department shall, with the cooperation of Federal and State administrative agencies and officials, maintain a complete consolidated record of all decisions made or actions taken by the Department or by a Federal administrative agency or officer (or State administrative agency or officer acting under delegated Federal authority) with respect to the siting or operation of a refinery facility in a Refinery Revitalization Zone. Such record shall be the exclusive record for any Federal administrative proceeding that is an appeal or review of any such decision made or action taken.

(f) APPEALS.—In the event any agency has denied a Federal authorization required for a refinery facility in a Refinery Revitalization Zone, or has failed to act by a deadline established by the Secretary pursuant to subsection (b) for deciding whether to issue the Federal authorization, the applicant or any State in which the refinery facility would be located may file an appeal with the Secretary. Based on the record maintained under subsection (e), and in consultation with the affected agency, the Secretary may then either issue the necessary Federal authorization with appropriate conditions, or deny the appeal. The Secretary shall issue a decision within 60 days after the filing of the appeal. In making a decision under this subsection, the Secretary shall comply with applicable requirements of Federal law, including each of the laws referred to in section 376(2)(A) through (H). Any judicial appeal of the Secretary's decision shall be to the United States Court of Appeals for the District of Columbia.

(g) CONFORMING REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue any regulations necessary to implement this subtitle.

SEC. 378. COMPLIANCE WITH ALL ENVIRONMENTAL REGULATIONS REQUIRED.

Nothing in this subtitle shall be construed to waive the applicability of environmental laws and regulations to any refinery facility.

SEC. 379. DEFINITIONS.

For the purposes of this subtitle, the term—

(1) ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) ''Department'' means the Department of Energy;

(3) ''Federal authorization'' means any authorization required under Federal law (including the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Solid Waste Disposal Act, the Toxic Substances Control Act, the National Historic Preservation Act, and the National Environmental Policy Act of 1969) in order to site, construct, upgrade, or operate a refinery facility within a Refinery Revitalization Zone, including such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal, State, or local agency;

(4) ''idle refinery'' means any real property site that has been used at any time for a refinery facility since December 31, 1979, that has not been in operation after April 1, 2005;

(5) ''refinery facility'' means any facility designed and operated to receive, unload, store, process and refine raw crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof;

(6) ''Revitalization Program Qualifying State'' means a State or Indian Tribe that—

(A) has entered into the memorandum of understanding pursuant to section 375(b); and

(B) has established a refining infrastructure coordination office that the Secretary finds will facilitate Federal-State cooperation for the purposes of this subtitle; and

(7) ''Secretary'' means the Secretary of Energy.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) CLEAN COAL POWER INITIATIVE.—There are authorized to be appropriated to the Secretary of Energy (referred to in this title as the ''Secretary'') to carry out the activities authorized by this subtitle $200,000,000 for each of fiscal years 2006 through 2014, to remain available until expended.

(b) REPORT.—The Secretary shall submit to Congress the report required by this subsection not later than March 31, 2007. The report shall include, with respect to subsection (a), a 10-year plan containing—

(1) a detailed assessment of whether the aggregate funding levels provided under subsection (a) are the appropriate funding levels for that program;

(2) a detailed description of how proposals will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued; and

(4) a detailed description of how the program will avoid problems enumerated in General Accounting Office reports on the Clean Coal Technology Program, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

SEC. 402. PROJECT CRITERIA.

(a) IN GENERAL.—The Secretary shall not provide funding under this subtitle for any project that does not advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In allocating the funds made available under section 401(a), the Secretary shall ensure that at least 60 percent of the funds are used only for projects on coal-based gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction, and hybrid gasification/combustion.

(B) TECHNICAL MILESTONES.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve. The technical milestones shall become more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2020 coal gasification projects able—

(i) to remove 99 percent of sulfur dioxide;

(ii) to emit not more than .05 lbs of NO_x per million Btu;

(iii) to achieve substantial reductions in mercury emissions; and

(iv) to achieve a thermal efficiency of—

(I) 60 percent for coal of more than 9,000 Btu;

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

(III) 50 percent for coal of less than 7,000 Btu.

(2) OTHER PROJECTS.—The Secretary shall periodically set technical milestones and ensure that up to 40 percent of the funds appropriated pursuant to section 401(a) are used for projects not described in paragraph (1). The milestones shall specify the emission and thermal efficiency levels that projects funded under this paragraph shall be designed to and reasonably expected to achieve. The technical milestones shall become more restrictive during the life of the program. The Secretary shall set the periodic milestones so as to achieve by 2010 projects able—

(A) to remove 97 percent of sulfur dioxide;

(B) to emit no more than .08 lbs of NO_x per million Btu;

(C) to achieve substantial reductions in mercury emissions; and

(D) to achieve a thermal efficiency of—

(i) 45 percent for coal of more than 9,000 Btu;

(ii) 44 percent for coal of 7,000 to 9,000 Btu; and

(iii) 40 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2), the Secretary shall consult with the Administrator of the Environmental Protection Agency and interested entities, including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers.

(4) EXISTING UNITS.—In the case of projects at units in existence on the date of enactment of this Act, in lieu of the thermal efficiency requirements set forth in paragraph (1)(B)(iv) and (2)(D), the milestones shall be designed to achieve an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(5) PERMITTED USES.—In carrying out this subtitle, the Secretary may fund projects that include, as part of the project, the separation and capture of carbon dioxide. The thermal efficiency goals of paragraphs (1), (2), and (4) shall not apply for projects that separate and capture at least 50 percent of the facility's potential emissions of carbon dioxide.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide a funding award under this subtitle unless the recipient documents to the satisfaction of the Secretary that—

(1) the award recipient is financially viable without the receipt of additional Federal funding;

(2) the recipient will provide sufficient information to the Secretary to enable the Secretary to ensure that the award funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that meet the requirements of subsections (a), (b), and (c) and are likely to—

(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy;

(2) improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(3) demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of the date of enactment of this Act.

(e) FEDERAL SHARE.—The Federal share of the cost of a coal or related technology project funded by the Secretary under this subtitle shall not exceed 50 percent.

(f) APPLICABILITY.—No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of that Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by 1 or more facilities receiving assistance under this subtitle.

SEC. 403. REPORT.

Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2014, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1) the technical milestones set forth in section 402 and how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2) of section 402; and

(2) the status of projects funded under this subtitle.

SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.

As part of the program authorized in section 401, the Secretary shall award competitive, merit-based grants to universities for the establishment of Centers of Excellence for Energy Systems of the Future. The Secretary shall provide grants to universities that show the greatest potential for advancing new clean coal technologies.

Subtitle B—Clean Power Projects

SEC. 411. COAL TECHNOLOGY LOAN.

There are authorized to be appropriated to the Secretary $125,000,000 to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE-FC-22–91PC90544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.

SEC. 412. COAL GASIFICATION.

The Secretary is authorized to provide loan guarantees for a project to produce energy from a plant using integrated gasification combined cycle technology of at least 400 megawatts in capacity that produces power at competitive rates in deregulated energy generation markets and that does not receive any subsidy (direct or indirect) from ratepayers.

SEC. 414. PETROLEUM COKE GASIFICATION.

The Secretary is authorized to provide loan guarantees for at least 5 petroleum coke gasification projects.

SEC. 416. ELECTRON SCRUBBING DEMONSTRATION.

The Secretary shall use $5,000,000 from amounts appropriated to initiate, through the Chicago Operations Office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

Subtitle D—Coal and Related Programs

SEC. 441. CLEAN AIR COAL PROGRAM.

(a) AMENDMENT.—The Energy Policy Act of 1992 is amended by adding the following new title at the end thereof:

''TITLE XXXI—CLEAN AIR COAL PROGRAM

''SEC. 3101. FINDINGS; PURPOSES; DEFINITIONS.

''(a) FINDINGS.—The Congress finds that—

''(1) new environmental regulations present additional challenges for coal-fired electrical generation in the private marketplace; and

''(2) the Department of Energy, in cooperation with industry, has already fully developed and commercialized several new clean-coal technologies that will allow the clean use of coal.

''(b) PURPOSES.—The purposes of this title are to—

''(1) promote national energy policy and energy security, diversity, and economic competitiveness benefits that result from the increased use of coal;

''(2) mitigate financial risks, reduce the cost, and increase the marketplace acceptance of the new clean coal technologies; and

''(3) advance the deployment of pollution control equipment to meet the current and future obligations of coal-fired generation units regulated under the Clean Air Act (42 U.S.C. 7402 and following).

''SEC. 3102. AUTHORIZATION OF PROGRAM.

''The Secretary shall carry out a program to facilitate production and generation of coal-based power and the installation of pollution control equipment.

''SEC. 3103. AUTHORIZATION OF APPROPRIATIONS.

''(a) POLLUTION CONTROL PROJECTS.—There are authorized to be appropriated to the Secretary $300,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, $40,000,000 for fiscal year 2008, $30,000,000 for fiscal year 2009, and $30,000,000 for fiscal year 2010, to remain available until expended, for carrying out the program for pollution control projects, which may include—

''(1) pollution control equipment and processes for the control of mercury air emissions;

''(2) pollution control equipment and processes for the control of nitrogen dioxide air emissions or sulfur dioxide emissions;

''(3) pollution control equipment and processes for the mitigation or collection of more than one pollutant;

''(4) advanced combustion technology for the control of at least two pollutants, including mercury, particulate matter, nitrogen oxides, and sulfur dioxide, which may also be designed to improve the energy efficiency of the unit; and

''(5) advanced pollution control equipment and processes designed to allow use of the waste byproducts or other byproducts of the equipment or an electrical generation unit designed to allow the use of byproducts.

Funds appropriated under this subsection which are not awarded before fiscal year 2012 may be applied to projects under subsection (b), in addition to amounts authorized under subsection (b).

''(b) GENERATION PROJECTS.—There are authorized to be appropriated to the Secretary $250,000,000 for fiscal year 2007, $350,000,000 for fiscal year 2008, $400,000,000 for fiscal year 2009, $400,000,000 for fiscal year 2010, $400,000,000 for fiscal year 2011, $400,000,000 for fiscal year 2012, and $300,000,000 for fiscal year 2013, to remain available until expended, for generation projects and air pollution control projects. Such projects may include—

''(1) coal-based electrical generation equipment and processes, including gasification combined cycle or other coal-based generation equipment and processes;

''(2) associated environmental control equipment, that will be cost-effective and that is designed to meet anticipated regulatory requirements;

''(3) coal-based electrical generation equipment and processes, including gasification fuel cells, gasification coproduction, and hybrid gasification/combustion projects; and

''(4) advanced coal-based electrical generation equipment and processes, including oxidation combustion techniques, ultra-supercritical boilers, and chemical looping, which the Secretary determines will be cost-effective and could substantially contribute to meeting anticipated environmental or energy needs.

''(c) LIMITATION.—Funds placed at risk during any fiscal year for Federal loans or loan guarantees pursuant to this title may not exceed 30 percent of the total funds obligated under this title.

''SEC. 3104. AIR POLLUTION CONTROL PROJECT CRITERIA.

''The Secretary shall pursuant to authorizations contained in section 3103 provide funding for air pollution control projects designed to facilitate compliance with Federal and State environmental regulations, including any regulation that may be established with respect to mercury.

''SEC. 3105. CRITERIA FOR GENERATION PROJECTS.

''(a) CRITERIA.—The Secretary shall establish criteria on which selection of individual projects described in section 3103(b) should be based. The Secretary may modify the criteria as appropriate to reflect improvements in equipment, except that the criteria shall not be modified to be less stringent. These selection criteria shall include—

''(1) prioritization of projects whose installation is likely to result in significant air quality improvements in nonattainment air quality areas;

''(2) prioritization of projects that result in the repowering or replacement of older, less efficient units;

''(3) documented broad interest in the procurement of the equipment and utilization of the processes used in the projects by electrical generator owners or operators;

''(4) equipment and processes beginning in 2006 through 2011 that are projected to achieve an thermal efficiency of—

''(A) 40 percent for coal of more than 9,000 Btu per pound based on higher heating values;

''(B) 38 percent for coal of 7,000 to 9,000 Btu per pound based on higher heating values; and

''(C) 36 percent for coal of less than 7,000 Btu per pound based on higher heating values,

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph; and

''(5) equipment and processes beginning in 2012 and 2013 that are projected to achieve an thermal efficiency of—

''(A) 45 percent for coal of more than 9,000 Btu per pound based on higher heating values;

''(B) 44 percent for coal of 7,000 to 9,000 Btu per pound based on higher heating values; and

''(C) 40 percent for coal of less than 7,000 Btu per pound based on higher heating values,

except that energy used for coproduction or cogeneration shall not be counted in calculating the thermal efficiency under this paragraph.

''(b) SELECTION.—(1) In selecting the projects, up to 25 percent of the projects selected may be either coproduction or cogeneration or other gasification projects, but at least 25 percent of the projects shall be for the sole purpose of electrical generation, and priority should be given to equipment and projects less than 600 MW to foster and promote standard designs.

''(2) The Secretary shall give priority to projects that have been developed and demonstrated that are not yet cost competitive, and for coal energy generation projects that advance efficiency, environmental performance, or cost competitiveness significantly beyond the level of pollution control equipment that is in operation on a full scale.

''SEC. 3106. FINANCIAL CRITERIA.

''(a) IN GENERAL.—The Secretary shall only provide financial assistance to projects that meet the requirements of sections 3103 and 3104 and are likely to—

''(1) achieve overall cost reductions in the utilization of coal to generate useful forms of energy; and

''(2) improve the competitiveness of coal in order to maintain a diversity of domestic fuel choices in the United States to meet electricity generation requirements.

''(b) CONDITIONS.—The Secretary shall not provide a funding award under this title unless—

''(1) the award recipient is financially viable without the receipt of additional Federal funding; and

''(2) the recipient provides sufficient information to the Secretary for the Secretary to ensure that the award funds are spent efficiently and effectively.

''(c) EQUAL ACCESS.—The Secretary shall, to the extent practical, utilize cooperative agreement, loan guarantee, and direct Federal loan mechanisms designed to ensure that all electrical generation owners have equal access to these technology deployment incentives. The Secretary shall develop and direct a competitive solicitation process for the selection of technologies and projects under this title.

"SEC. 3107. FEDERAL SHARE.

''The Federal share of the cost of a coal or related technology project funded by the Secretary under this title shall not exceed 50 percent. For purposes of this title, Federal funding includes only appropriated funds.

"SEC. 3108. APPLICABILITY.

''No technology, or level of emission reduction, shall be treated as adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411), achievable for purposes of section 169 of the Clean Air Act (42 U.S.C. 7479), or achievable in practice for purposes of section 171 of the Clean Air Act (42 U.S.C. 7501) solely by reason of the use of such technology, or the achievement of such emission reduction, by one or more facilities receiving assistance under this title.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by adding at the end the following:

''TITLE XXXI—CLEAN AIR COAL PROGRAM

''Sec. 3101. Findings; purposes; definitions.
''Sec. 3102. Authorization of program.
''Sec. 3103. Authorization of appropriations.
''Sec. 3104. Air pollution control project criteria.
''Sec. 3105. Criteria for generation projects.
''Sec. 3106. Financial criteria.
''Sec. 3107. Federal share.
''Sec. 3108. Applicability.''.

TITLE V—INDIAN ENERGY

SEC. 501. SHORT TITLE.

This title may be cited as the ''Indian Tribal Energy Development and Self-Determination Act of 2005''.

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) IN GENERAL.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

''SEC. 217.

''(a) ESTABLISHMENT.—There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the 'Office'). The Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) DUTIES OF DIRECTOR.—The Director, in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote Indian tribal energy development, efficiency, and use;

''(2) reduce or stabilize energy costs;

''(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and

''(4) bring electrical power and service to Indian land and the homes of tribal members located on Indian lands or acquired, constructed, or improved (in whole or in part) with Federal funds.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking ''Section'' and inserting ''Sec.''; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

''Sec. 213. Establishment of policy for National Nuclear Security Administration.
''Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
''Sec. 215. Office of Counterintelligence.
''Sec. 216. Office of Intelligence.
''Sec. 217. Office of Indian Energy Policy and Programs.''.

(2) Section 5315 of title 5, United States Code, is amended by inserting after the item related to the Inspector General, Department of Energy the following new item:

''Director, Office of Indian Energy Policy and Programs, Department of Energy.''.

SEC. 503. INDIAN ENERGY.

(a) IN GENERAL.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

"TITLE XXVI—INDIAN ENERGY RESOURCES

"SEC. 2601. DEFINITIONS.

''For purposes of this title:

''(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

''(2) The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria; and

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

''(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

''(iii) by a dependent Indian community.

''(3) The term 'Indian reservation' includes—

''(A) an Indian reservation in existence in any State or States as of the date of enactment of this paragraph;

''(B) a public domain Indian allotment; and

''(C) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(4) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), except that the term 'Indian tribe', for the purpose of paragraph (11) and sections 2603(b)(3) and 2604, shall not include any Native Corporation.

''(5) The term 'integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

''(6) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(7) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

''(8) The term 'Program' means the Indian energy resource development program established under section 2602(a).

''(9) The term 'Secretary' means the Secretary of the Interior.

''(10) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance authorized by section 2602.

''(11) The term 'tribal land' means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States or which is subject to a restriction against alienation under laws of the United States.

"SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

''(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

''(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist consenting Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

''(2) In carrying out the Program, the Secretary shall—

''(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

''(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

''(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources.

''(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

''(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM.—

''(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.

''(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

''(A) energy, energy efficiency, and energy conservation programs;

''(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities;

''(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

''(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

''(3)(A) The Director may develop, in consultation with Indian tribes, a formula for providing grants under this subsection.

''(B) In providing a grant under this subsection, the Director shall give priority to an application received from an Indian tribe with inadequate electric service (as determined by the Director).

''(4) The Secretary of Energy may issue such regulations as necessary to carry out this subsection.

''(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

''(c) DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM.—

''(1) Subject to paragraph (3), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development.

''(2) A loan guarantee under this subsection shall be made by—

''(A) a financial institution subject to examination by the Secretary of Energy; or

''(B) an Indian tribe, from funds of the Indian tribe.

''(3) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

''(4) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

''(5) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

''(6) Not later than 1 year from the date of enactment of this section, the Secretary of Energy shall report to Congress on the financing requirements of Indian tribes for energy development on Indian land.

''(d) FEDERAL AGENCIES-INDIAN ENERGY PREFERENCE.—

''(1) In purchasing electricity or any other energy product or by-product, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

''(2) In carrying out this subsection, a Federal agency or department shall not—

''(A) pay more than the prevailing market price for an energy product or by-product; or

''(B) obtain less than prevailing market terms and conditions.

''SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

''(a) GRANTS.—The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

''(b) USE OF FUNDS.—Funds from a grant provided under this section may be used—

''(1) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

''(2) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

''(3) by an Indian tribe (other than an Indian Tribe in Alaska except the Metlakatla Indian Community) for the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development and the development of technical infrastructure to protect the environment under applicable law;

''(4) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure related to energy development and environmental protection under applicable law; and

''(5) by an Indian tribe for the training of employees that—

''(A) are engaged in the development of energy resources on Indian land; or

''(B) are responsible for protecting the environment.

''(c) OTHER ASSISTANCE.—In carrying out the obligations of the United States under this title, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that upon the request of an Indian tribe, the Indian tribe shall have available scientific and technical information and expertise, for use in the Indian tribe's regulation, development, and management of energy resources on Indian land. The Secretary may fulfill this responsibility either directly, through the use of Federal officials, or indirectly, by providing financial assistance to the Indian tribe to secure independent assistance.

''SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

''(a) LEASES AND BUSINESS AGREEMENTS.—Subject to the provisions of this section—

''(1) an Indian tribe may, at its discretion, enter into a lease or business agreement for the purpose of energy resource development on tribal land, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of the Indian tribe's energy mineral resources located on tribal land; and

''(B) construction or operation of an electric generation, transmission, or distribution facility located on tribal land or a facility to process or refine energy resources developed on tribal land; and

''(2) such lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) or any other provision of law, if—

''(A) the lease or business agreement is executed pursuant to a tribal energy resource agreement approved by the Secretary under subsection (e);

''(B) the term of the lease or business agreement does not exceed—

''(i) 30 years; or

''(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

''(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to the provisions required by subsection (e)(2)(D)(i)).

''(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without approval by the Secretary if—

''(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(2) the term of the right-of-way does not exceed 30 years;

''(3) the pipeline or electric transmission or distribution line serves—

''(A) an electric generation, transmission, or distribution facility located on tribal land; or

''(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

''(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the Indian tribe's activities under such agreement described in subparagraphs (D) and (E) of subsection (e)(2)).

''(c) RENEWALS.—A lease or business agreement entered into or a right-of-way granted by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

''(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources pursuant to the provisions of this section shall be valid unless the lease, business agreement, or right-of-way is authorized by the provisions of a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

''(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

''(1) On issuance of regulations under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

''(2)(A) Not later than 180 days after the date on which the Secretary receives a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), or not later than 60 days after the Secretary receives a revised tribal energy resource agreement submitted by an Indian tribe under paragraph (4)(C), (or such later date as may be agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

''(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

''(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe;

''(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

''(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

''(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

''(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

''(III) address amendments and renewals;

''(IV) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

''(V) address technical or other relevant requirements;

''(VI) establish requirements for environmental review in accordance with subparagraph (C);

''(VII) ensure compliance with all applicable environmental laws;

''(VIII) identify final approval authority;

''(IX) provide for public notification of final approvals;

''(X) establish a process for consultation with any affected States concerning off-reservation impacts, if any, identified pursuant to the provisions required under subparagraph (C)(i);

''(XI) describe the remedies for breach of the lease, business agreement, or right-of-way;

''(XII) require each lease, business agreement, and right-of-way to include a statement that, in the event that any of its provisions violates an express term or requirement set forth in the tribal energy resource agreement pursuant to which it was executed—

''(aa) such provision shall be null and void; and

''(bb) if the Secretary determines such provision to be material, the Secretary shall have the authority to suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe;

''(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the executed lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations adopted pursuant to this subsection; and

''(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal remedies that must be exhausted before a petition may be submitted to the Secretary pursuant to paragraph (7)(B).

''(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for—

''(i) the identification and evaluation of all significant environmental impacts (as compared with a no-action alternative), including effects on cultural resources;

''(ii) the identification of proposed mitigation;

''(iii) a process for ensuring that the public is informed of and has an opportunity to comment on the environmental impacts of the proposed action before tribal approval of the lease, business agreement, or right-of-way; and

''(iv) sufficient administrative support and technical capability to carry out the environmental review process.

''(D) A tribal energy resource agreement negotiated between the Secretary and an Indian tribe in accordance with this subsection shall include—

''(i) provisions requiring the Secretary to conduct a periodic review and evaluation to monitor the performance of the Indian tribe's activities associated with the development of energy resources under the tribal energy resource agreement; and

''(ii) when such review and evaluation result in a finding by the Secretary of imminent jeopardy to a physical trust asset arising from a violation of the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take appropriate actions determined by the Secretary to be necessary to protect such asset, which actions may include reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and conditions that gave rise to such jeopardy have been corrected.

''(E) The periodic review and evaluation described in subparagraph (D) shall be conducted on an annual basis, except that, after the third such annual review and evaluation, the Secretary and the Indian tribe may mutually agree to amend the tribal energy resource agreement to authorize the review and evaluation required by subparagraph (D) to be conducted once every 2 years.

''(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted for approval under paragraph (1). The Secretary's review of a tribal energy resource agreement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be limited to the direct effects of that approval.

''(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date of disapproval—

''(A) notify the Indian tribe in writing of the basis for the disapproval;

''(B) identify what changes or other actions are required to address the concerns of the Secretary; and

''(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

''(5) If an Indian tribe executes a lease or business agreement or grants a right-of-way in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements set forth in the Secretary's regulations adopted pursuant to paragraph (8), provide to the Secretary—

''(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

''(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to enforce the terms of, and protect the Indian tribe's rights under, the lease, business agreement, or right-of-way.

''(6)(A) For purposes of the activities to be undertaken by the Secretary pursuant to this section, the Secretary shall—

''(i) carry out such activities in a manner consistent with the trust responsibility of the United States relating to mineral and other trust resources; and

''(ii) act in good faith and in the best interests of the Indian tribes.

''(B) Subject to the provisions of subsections (a)(2), (b), and (c) waiving the requirement of Secretarial approval of leases, business agreements, and rights-of-way executed pursuant to tribal energy resource agreements approved under this section, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship or from any treaties, statutes, and other laws of the United States, Executive Orders, or agreements between the United States and any Indian tribe.

''(C) The Secretary shall continue to have a trust obligation to ensure that the rights and interests of an Indian tribe are protected in the event that—

''(i) any other party to any such lease, business agreement, or right-of-way violates any applicable provision of Federal law or the terms of any lease, business agreement, or right-of-way under this section; or

''(ii) any provision in such lease, business agreement, or right-of-way violates any express provision or requirement set forth in the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed.

''(D) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any of the negotiated terms of, or any losses resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved by the Secretary under paragraph (2). For the purpose of this subparagraph, the term 'negotiated terms' means any terms or provisions that are negotiated by an Indian tribe and any other party or parties to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

''(7)(A) In this paragraph, the term 'interested party' means any person or entity the interests of which have sustained or will sustain a significant adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

''(B) After exhaustion of tribal remedies, and in accordance with the process and requirements set forth in regulations adopted by the Secretary pursuant to paragraph (8), an interested party may submit to the Secretary a petition to review compliance of an Indian tribe with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

''(C)(i) Not later than 120 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall determine whether the Indian tribe is not in compliance with the tribal energy resource agreement, as alleged in the petition.

''(ii) The Secretary may adopt procedures under paragraph (8) authorizing an extension of time, not to exceed 120 days, for making the determination under clause (i) in any case in which the Secretary determines that additional time is necessary to evaluate the allegations of the petition.

''(iii) Subject to subparagraph (D), if the Secretary determines that the Indian tribe is not in compliance with the tribal energy resource agreement as alleged in the petition, the Secretary shall take such action as is necessary to ensure compliance with the provisions of the tribal energy resource agreement, which action may include—

''(I) temporarily suspending some or all activities under a lease, business agreement, or right-of-way under this section until the Indian tribe or such activities are in compliance with the provisions of the approved tribal energy resource agreement; or

''(II) rescinding approval of all or part of the tribal energy resource agreement, and if all of such agreement is rescinded, reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsections (a) and (b).

''(D) Prior to seeking to ensure compliance with the provisions of the tribal energy resource agreement of an Indian tribe under subparagraph (C)(iii), the Secretary shall—

''(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

''(ii) provide the Indian tribe with a written notice of the violations together with the written determination; and

''(iii) before taking any action described in subparagraph (C)(iii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

''(E) An Indian tribe described in subparagraph (D) shall retain all rights to appeal as provided in regulations issued by the Secretary.

''(8) Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2005, the Secretary shall issue regulations that implement the provisions of this subsection, including—

''(A) criteria to be used in determining the capacity of an Indian tribe described in paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe;

''(B) a process and requirements in accordance with which an Indian tribe may—

''(i) voluntarily rescind a tribal energy resource agreement approved by the Secretary under this subsection; and

''(ii) return to the Secretary the responsibility to approve any future leases, business agreements, and rights-of-way described in this subsection;

''(C) provisions setting forth the scope of, and procedures for, the periodic review and evaluation described in subparagraphs (D) and (E) of paragraph (2), including provisions for review of transactions, reports, site inspections, and any other review activities the Secretary determines to be appropriate; and

''(D) provisions defining final agency actions after exhaustion of administrative appeals from determinations of the Secretary under paragraph (7).

''(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

''(1) any Federal environment law;

''(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

''(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2006 through 2016 to implement the provisions of this section and to make grants or provide other appropriate assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal energy resource agreements in accordance with the provisions of this section.

''SEC. 2605. INDIAN MINERAL DEVELOPMENT REVIEW.

''(a) IN GENERAL.—The Secretary shall conduct a review of all activities being conducted under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.) as of that date.

''(b) REPORT.—Not later than 1 year after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2005, the Secretary shall submit to Congress a report that includes—

''(1) the results of the review;

''(2) recommendations to ensure that Indian tribes have the opportunity to develop Indian energy resources; and

''(3) an analysis of the barriers to the development of energy resources on Indian land (including legal, fiscal, market, and other barriers), along with recommendations for the removal of those barriers.

''SEC. 2606. FEDERAL POWER MARKETING ADMINISTRATIONS.

''(a) DEFINITIONS.—In this section:

''(1) The term 'Administrator' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

''(2) The term 'power marketing administration' means—

''(A) the Bonneville Power Administration;

''(B) the Western Area Power Administration; and

''(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

''(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as are appropriate, including administration of programs of the Bonneville Power Administration and the Western Area Power Administration, in accordance with this section.

''(c) ACTION BY THE ADMINISTRATOR.—In carrying out this section, and in accordance with existing law—

''(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

''(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

''(3) the Administrator of the Western Area Power Administration may purchase non-federally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

''(4) each Administrator shall not pay more than the prevailing market price for an energy product nor obtain less than prevailing market terms and conditions.

''(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

''(2) The costs of technical assistance provided under paragraph (1) shall be funded by the Secretary of Energy using nonreimbursable funds appropriated for that purpose, or by the applicable Indian tribes.

''(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Indian Tribal Energy Development and Self-Determination Act of 2005, the Secretary of Energy shall submit to Congress a report that—

''(1) describes the use by Indian tribes of Federal power allocations of the Western Area Power Administration (or power sold by the Southwestern Power Administration) and the Bonneville Power Administration to or for the benefit of Indian tribes in service areas of those administrations; and

''(2) identifies—

''(A) the quantity of power allocated to, or used for the benefit of, Indian tribes by the Western Area Power Administration;

''(B) the quantity of power sold to Indian tribes by other power marketing administrations; and

''(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to deliver Federal power.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, which shall remain available until expended and shall not be reimbursable.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 1992 is amended by striking the items relating to title XXVI (other than the title heading) and inserting the following:

''Sec. 2601. Definitions.
''Sec. 2602. Indian tribal energy resource development.
''Sec. 2603. Indian tribal energy resource regulation.
''Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.
''Sec. 2605. Indian mineral development review.
''Sec. 2606. Federal Power Marketing Administrations.''.

SEC. 504. CONSULTATION WITH INDIAN TRIBES.

In carrying out this title and the amendments made by this title, the Secretary of Energy and the Secretary shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes.

SEC. 505. FOUR CORNERS TRANSMISSION LINE PROJECT.

The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance as authorized by section 217 of the Department of Energy Organization Act, as added by section 502 of this title, and section 2602 of the Energy Policy Act of 1992, as amended by this title, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 601. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2005'' .

SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''December 31, 2003'' each place it appears and inserting ''December 31, 2025''.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking ''December 31, 2006'' and inserting ''December 31, 2025''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''December 31, 2025''.

SEC. 603. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking ''$63,000,000'' and inserting ''$95,800,000''; and

(B) by striking ''$10,000,000 in any 1 year'' and inserting ''$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)''; and

(2) in subsection t.(1)—

(A) by inserting ''total and annual'' after ''amount of the maximum'';

(B) by striking ''the date of the enactment of the Price-Anderson Amendments Act of 1988'' and inserting ''August 20, 2003''; and

(C) in subparagraph (A), by striking ''such date of enactment'' and inserting ''August 20, 2003''.

SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:

''(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and

''(B) shall indemnify the persons indemnified against such liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.), in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following—

''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.

(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) by striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 606. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''December 31, 2021''.

SEC. 607. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) that date, in the case of the first adjustment under this paragraph; or

''(B) the previous adjustment under this paragraph.''.

SEC. 608. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:

''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

''(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.

SEC. 609. APPLICABILITY.

The amendments made by sections 603, 604, and 605 do not apply to a nuclear incident that occurs before the date of the enactment of this Act.

SEC. 610. PROHIBITION ON ASSUMPTION BY UNITED STATES GOVERNMENT OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

''u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR CERTAIN FOREIGN INCIDENTS.—Notwithstanding this section or any other provision of law, no officer of the United States or of any department, agency, or instrumentality of the United States Government may enter into any contract or other arrangement, or into any amendment or modification of a contract or other arrangement, the purpose or effect of which would be to directly or indirectly impose liability on the United States Government, or any department, agency, or instrumentality of the United States Government, or to otherwise directly or indirectly require an indemnity by the United States Government, for nuclear incidents occurring in connection with the design, construction, or operation of a production facility or utilization facility in any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which, as of September 11, 2001, had been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism). This subsection shall not apply to nuclear incidents occurring as a result of missions, carried out under the direction of the Secretary of Energy, the Secretary of Defense, or the Secretary of State, that are necessary to safely secure, store, transport, or remove nuclear materials for nuclear safety or nonproliferation purposes.''.

SEC. 611. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:

''d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

''(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under a contract entered into before the date of enactment of this section.

SEC. 612. FINANCIAL ACCOUNTABILITY.

(a) AMENDMENT.—Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

''v. FINANCIAL ACCOUNTABILITY.—(1) Notwithstanding subsection d., the Attorney General may bring an action in the appropriate United States district court to recover from a contractor of the Secretary (or subcontractor or supplier of such contractor) amounts paid by the Federal Government under an agreement of indemnification under subsection d. for public liability resulting from conduct which constitutes intentional misconduct of any corporate officer, manager, or superintendent of such contractor (or subcontractor or supplier of such contractor).

''(2) The Attorney General may recover under paragraph (1) an amount not to exceed the amount of the profit derived by the defendant from the contract.

''(3) No amount recovered from any contractor (or subcontractor or supplier of such contractor) under paragraph (1) may be reimbursed directly or indirectly by the Department of Energy.

''(4) Paragraph (1) shall not apply to any nonprofit entity conducting activities under contract for the Secretary.

''(5) No waiver of a defense required under this section shall prevent a defendant from asserting such defense in an action brought under this subsection.

''(6) The Secretary shall, by rule, define the terms 'profit' and 'nonprofit entity' for purposes of this subsection. Such rulemaking shall be completed not later than 180 days after the date of the enactment of this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall not apply to any agreement of indemnification entered into under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) before the date of the enactment of this Act.

Subtitle B—General Nuclear Matters

SEC. 621. LICENSES.

Section 103 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by inserting ''from the authorization to commence operations'' after ''forty years''.

SEC. 622. NRC TRAINING PROGRAM.

(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Nuclear Regulatory Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical nuclear safety regulatory skills.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Nuclear Regulatory Commission to carry out this section $1,000,000 for each of fiscal years 2005 through 2009.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

SEC. 623. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(1) by striking ''for or is issued'' and all that follows through ''1702'' and inserting ''to the Commission for, or is issued by the Commission, a license or certificate'';

(2) by striking ''483a'' and inserting ''9701''; and

(3) by striking '', of applicants for, or holders of, such licenses or certificates''.

SEC. 624. ELIMINATION OF PENSION OFFSET.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:

''y. Exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.''.

SEC. 625. ANTITRUST REVIEW.

Section 105 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:

''(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility or production facility under section 103 or 104 b. that is filed on or after the date of enactment of this paragraph.''.

SEC. 626. DECOMMISSIONING.

Section 161 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—

(1) by striking ''and (3)'' and inserting ''(3)''; and

(2) by inserting before the semicolon at the end the following: '', and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104 b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility''.

SEC. 627. LIMITATION ON LEGAL FEE REIMBURSEMENT.

Title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended by adding at the end the following new section:

''LIMITATION ON LEGAL FEE REIMBURSEMENT

''SEC. 212. The Department of Energy shall not, except as required under a contract entered into before the date of enactment of this section, reimburse any contractor or subcontractor of the Department for any legal fees or expenses incurred with respect to a complaint subsequent to—

''(1) an adverse determination on the merits with respect to such complaint against the contractor or subcontractor by the Director of the Department of Energy's Office of Hearings and Appeals pursuant to part 708 of title 10, Code of Federal Regulations, or by a Department of Labor Administrative Law Judge pursuant to section 211 of this Act; or

''(2) an adverse final judgment by any State or Federal court with respect to such complaint against the contractor or subcontractor for wrongful termination or retaliation due to the making of disclosures protected under chapter 12 of title 5, United States Code, section 211 of this Act, or any comparable State law,

unless the adverse determination or final judgment is reversed upon further administrative or judicial review.''.

SEC. 629. REPORT ON FEASIBILITY OF DEVELOPING COMMERCIAL NUCLEAR ENERGY GENERATION FACILITIES AT EXISTING DEPARTMENT OF ENERGY SITES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on the feasibility of developing commercial nuclear energy generation facilities at Department of Energy sites in existence on the date of enactment of this Act.

SEC. 630. URANIUM SALES.

(a) SALES, TRANSFERS, AND SERVICES.—Section 3112 of the USEC Privatization Act (42 U.S.C. 2297h–10) is amended by striking subsections (d), (e), and (f) and inserting the following:

''(3) The Secretary may transfer to the Corporation, notwithstanding subsections (b)(2) and (d), natural uranium in amounts sufficient to fulfill the Department of Energy's commitments under Article 4(B) of the Agreement between the Department and the Corporation dated June 17, 2002.

''(d) INVENTORY SALES.—(1) In addition to the transfers and sales authorized under subsections (b) and (c) and under paragraph (5) of this subsection, the United States Government may transfer or sell uranium in any form subject to paragraphs (2), (3), and (4).

''(2) Except as provided in subsections (b) and (c) and paragraph (5) of this subsection, no sale or transfer of uranium shall be made under this subsection by the United States Government unless—

''(A) the President determines that the material is not necessary for national security needs and the sale or transfer has no adverse impact on implementation of existing government-to-government agreements;

''(B) the price paid to the appropriate Federal agency, if the transaction is a sale, will not be less than the fair market value of the material; and

''(C) the sale or transfer to commercial nuclear power end users is made pursuant to a contract of at least 3 years' duration.

''(3) Except as provided in paragraph (5), the United States Government shall not make any transfer or sale of uranium in any form under this subsection that would cause the total amount of uranium transferred or sold pursuant to this subsection that is delivered for consumption by commercial nuclear power end users to exceed—

''(A) 3,000,000 pounds of U_3 O_8 equivalent in fiscal year 2005, 2006, 2007, 2008, or 2009;

''(B) 5,000,000 pounds of U_3O_8 equivalent in fiscal year 2010 or 2011;

''(C) 7,000,000 pounds of U_3O_8 equivalent in fiscal year 2012; and

''(D) 10,000,000 pounds of U_3O_8 equivalent in fiscal year 2013 or any fiscal year thereafter.

''(4) Except for sales or transfers under paragraph (5), for the purposes of this subsection, the recovery of uranium from uranium bearing materials transferred or sold by the United States Government to the domestic uranium industry shall be the preferred method of making uranium available. The recovered uranium shall be counted against the annual maximum deliveries set forth in this section, when such uranium is sold to end users.

''(5) The United States Government may make the following sales and transfers:

''(A) Sales or transfers to a Federal agency if the material is transferred for the use of the receiving agency without any resale or transfer to another entity and the material does not meet commercial specifications.

''(B) Sales or transfers to any person for national security purposes, as determined by the Secretary.

''(C) Sales or transfers to any State or local agency or nonprofit, charitable, or educational institution for use other than the generation of electricity for commercial use.

''(D) Sales or transfers to the Department of Energy research reactor sales program.

''(E) Sales or transfers, at fair market value, for emergency purposes in the event of a disruption in supply to commercial nuclear power end users in the United States.

''(F) Sales or transfers, at fair market value, for use in a commercial reactor in the United States with nonstandard fuel requirements.

''(G) Sales or transfers provided for under law for use by the Tennessee Valley Authority in relation to the Department of Energy's highly enriched uranium or tritium programs.

''(6) For purposes of this subsection, the term 'United States Government' does not include the Tennessee Valley Authority.

''(e) SAVINGS PROVISION.—Nothing in this subchapter modifies the terms of the Russian HEU Agreement.

''(f) SERVICES.—Notwithstanding any other provision of this section, if the Secretary determines that the Corporation has failed, or may fail, to perform any obligation under the Agreement between the Department of Energy and the Corporation dated June 17, 2002, and as amended thereafter, which failure could result in termination of the Agreement, the Secretary shall notify Congress, in such a manner that affords Congress an opportunity to comment, prior to a determination by the Secretary whether termination, waiver, or modification of the Agreement is required. The Secretary is authorized to take such action as he determines necessary under the Agreement to terminate, waive, or modify provisions of the Agreement to achieve its purposes.''.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary of Energy shall report to Congress on the implementation of this section. The report shall include a discussion of available excess uranium inventories; all sales or transfers made by the United States Government; the impact of such sales or transfers on the domestic uranium industry, the spot market uranium price, and the national security interests of the United States; and any steps taken to remediate any adverse impacts of such sales or transfers.

SEC. 631. COOPERATIVE RESEARCH AND DEVELOPMENT AND SPECIAL DEMONSTRATION PROJECTS FOR THE URANIUM MINING INDUSTRY.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy $10,000,000 for each of fiscal years 2006, 2007, and 2008 for—

(1) cooperative, cost-shared agreements between the Department of Energy and domestic uranium producers to identify, test, and develop improved in situ leaching mining technologies, including low-cost environmental restoration technologies that may be applied to sites after completion of in situ leaching operations; and

(2) funding for competitively selected demonstration projects with domestic uranium producers relating to—

(A) enhanced production with minimal environmental impacts;

(B) restoration of well fields; and

(C) decommissioning and decontamination activities.

(b) DOMESTIC URANIUM PRODUCER.—For purposes of this section, the term ''domestic uranium producer'' has the meaning given that term in section 1018(4) of the Energy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except that the term shall not include any producer that has not produced uranium from domestic reserves on or after July 30, 1998.

(c) LIMITATION.—No activities funded under this section may be carried out in the State of New Mexico.

SEC. 632. WHISTLEBLOWER PROTECTION.

(a) DEFINITION OF EMPLOYER.—Section 211(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and'' and

(3) by adding at the end the following:

''(E) a contractor or subcontractor of the Commission.''.

(b) DE NOVO REVIEW.—Subsection (b) of such section 211 is amended by adding at the end the following new paragraph:

''(4) If the Secretary has not issued a final decision within 540 days after the filing of a complaint under paragraph (1), and there is no showing that such delay is due to the bad faith of the person seeking relief under this paragraph, such person may bring an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.''.

SEC. 633. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

(1) in subsection a., by striking ''a. The Commission'' and inserting ''a. IN GENERAL.—Except as provided in subsection b., the Commission'';

(2) by redesignating subsection b. as subsection c.; and

(3) by inserting after subsection a. the following:

''b. MEDICAL ISOTOPE PRODUCTION.—

''(1) DEFINITIONS.—In this subsection:

''(A) HIGHLY ENRICHED URANIUM.—The term 'highly enriched uranium' means uranium enriched to include concentration of U–235 above 20 percent.

''(B) MEDICAL ISOTOPE.—The term 'medical isotope' includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

''(C) RADIOPHARMACEUTICAL.—The term 'radiopharmaceutical' means a radioactive isotope that—

''(i) contains byproduct material combined with chemical or biological material; and

''(ii) is designed to accumulate temporarily in a part of the body for therapeutic purposes or for enabling the production of a useful image for use in a diagnosis of a medical condition.

''(D) RECIPIENT COUNTRY.—The term 'recipient country' means Canada, Belgium, France, Germany, and the Netherlands.

''(2) LICENSES.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection a.), the Commission determines that—

''(A) a recipient country that supplies an assurance letter to the United States Government in connection with the consideration by the Commission of the export license application has informed the United States Government that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

''(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

''(i) uses an alternative nuclear reactor fuel; or

''(ii) is the subject of an agreement with the United States Government to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

''(3) REVIEW OF PHYSICAL PROTECTION REQUIREMENTS.—

''(A) IN GENERAL.—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

''(B) IMPOSITION OF ADDITIONAL REQUIREMENTS.—If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose such requirements as license conditions or through other appropriate means.

''(4) FIRST REPORT TO CONGRESS.—

''(A) NAS STUDY.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study to determine—

''(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

''(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

''(iii) the progress that is being made by the Department of Energy and others to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

''(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

''(B) FEASIBILITY.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

''(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

''(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

''(iii) the average anticipated total cost increase from production of medical isotopes in such facilities without use of highly enriched uranium is less than 10 percent.

''(C) REPORT BY THE SECRETARY.—Not later than 5 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that—

''(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

''(ii) discloses the existence of any commitments from commercial producers to provide domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B) not later than the date that is 4 years after the date of submission of the report.

''(5) SECOND REPORT TO CONGRESS.—If the study of the National Academy of Sciences determines under paragraph (4)(A)(i) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

''(6) CERTIFICATION.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic utilization, the Secretary shall submit to Congress a certification to that effect.

''(7) SUNSET PROVISION.—After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate its review of export license applications under this subsection.''.

SEC. 634. FERNALD BYPRODUCT MATERIAL.

Title III of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10221 et seq.) is amended by adding at the end the following new section:

''FERNALD BYPRODUCT MATERIAL

''SEC. 307. Notwithstanding any other law, the material in the concrete silos at the Fernald uranium processing facility managed on the date of enactment of this section by the Department shall be considered byproduct material (as defined by section 11 e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2))). The Department may dispose of the material in a facility regulated by the Commission or by an Agreement State. If the Department disposes of the material in such a facility, the Commission or the Agreement State shall regulate the material as byproduct material under that Act. This material shall remain subject to the jurisdiction of the Department until it is received at a commercial, Commission-licensed, or Agreement State-licensed facility, at which time the material shall be subject to the health and safety requirements of the Commission or the Agreement State with jurisdiction over the disposal site.''.

SEC. 635. SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE.

Subtitle D of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10171) is amended by adding at the end the following new section:

''SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE

''SEC. 152. (a) DESIGNATION OF RESPONSIBILITY.—The Secretary shall designate an Office within the Department to have the responsibility for activities needed to develop a new, or use an existing, facility for safely disposing of all low-level radioactive waste with concentrations of radionuclides that exceed the limits established by the Commission for Class C radioactive waste (referred to in this section as 'GTCC waste').

''(b) COMPREHENSIVE PLAN.—The Secretary shall develop a comprehensive plan for permanent disposal of GTCC waste which includes plans for a disposal facility. This plan shall be transmitted to Congress in a series of reports, including the following:

''(1) REPORT ON SHORT-TERM PLAN.—Not later than 180 days after the date of enactment of this section, the Secretary shall submit to Congress a plan describing the Secretary's operational strategy for continued recovery and storage of GTCC waste until a permanent disposal facility is available.

''(2) UPDATE OF 1987 REPORT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to Congress an update of the Secretary's February 1987 report submitted to Congress that made comprehensive recommendations for the disposal of GTCC waste.

''(B) CONTENTS.—The update under this paragraph shall contain—

''(i) a detailed description and identification of the GTCC waste that is to be disposed;

''(ii) a description of current domestic and international programs, both Federal and commercial, for management and disposition of GTCC waste;

''(iii) an identification of the Federal and private options and costs for the safe disposal of GTCC waste;

''(iv) an identification of the options for ensuring that, wherever possible, generators and users of GTCC waste bear all reasonable costs of waste disposal;

''(v) an identification of any new statutory authority required for disposal of GTCC waste; and

''(vi) in coordination with the Environmental Protection Agency and the Commission, an identification of any new regulatory guidance needed for the disposal of GTCC waste.

''(3) REPORT ON COST AND SCHEDULE FOR COMPLETION OF ENVIRONMENTAL IMPACT STATEMENT AND RECORD OF DECISION.—Not later than 180 days after the date of submission of the update required under paragraph (2), the Secretary shall submit to Congress a report containing an estimate of the cost and schedule to complete a draft and final environmental impact statement and to issue a record of decision for a permanent disposal facility, utilizing either a new or existing facility, for GTCC waste.''.

SEC. 636. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

(1) by inserting ''a.'' before ''No nuclear materials and equipment''; and

(2) by adding at the end the following new subsection:

''b.(1) Notwithstanding any other provision of law, including specifically section 121 of this Act, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. of this Act and regulated under part 810 of title 10, Code of Federal Regulations, and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations, shall be exported or reexported, or transferred or retransferred whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of these items or assistance (as defined in this paragraph) to any country whose government has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities (specifically including any country the government of which has been determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) to have repeatedly provided support for acts of international terrorism).

''(2) This subsection shall not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Nuclear Regulatory Commission, except to the extent that such technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

''(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons and—

''(A) the government of such country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

''(B) in the judgment of the President, the government of such country has provided adequate, verifiable assurances that it will cease its support for acts of international terrorism;

''(C) the waiver of that paragraph is in the vital national security interest of the United States; or

''(D) such a waiver is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.''.

(b) APPLICABILITY TO EXPORTS APPROVED FOR TRANSFER BUT NOT TRANSFERRED.—Subsection b. of section 129 of Atomic Energy Act of 1954, as added by subsection (a) of this section, shall apply with respect to exports that have been approved for transfer as of the date of the enactment of this Act but have not yet been transferred as of that date.

SEC. 638. NATIONAL URANIUM STOCKPILE.

The USEC Privatization Act (42 U.S.C. 2297h et seq.) is amended by adding at the end the following new section:

''SEC. 3118. NATIONAL URANIUM STOCKPILE.

''(a) STOCKPILE CREATION.—The Secretary of Energy may create a national low-enriched uranium stockpile with the goals to—

''(1) enhance national energy security; and

''(2) reduce global proliferation threats.

''(b) SOURCE OF MATERIAL.—The Secretary shall obtain material for the stockpile from—

''(1) material derived from blend-down of Russian highly enriched uranium derived from weapons materials; and

''(2) domestically mined and enriched uranium.

''(c) LIMITATION ON SALES OR TRANSFERS.—Sales or transfer of materials in the stockpile shall occur pursuant to section 3112.''.

SEC. 639. NUCLEAR REGULATORY COMMISSION MEETINGS.

If a quorum of the Nuclear Regulatory Commission gathers to discuss official Commission business the discussions shall be recorded, and the Commission shall notify the public of such discussions within 15 days after they occur. The Commission shall promptly make a transcript of the recording available to the public on request, except to the extent that public disclosure is exempted or prohibited by law. This section shall not apply to a meeting, within the meaning of that term under section 552b(a)(2) of title 5, United States Code.

SEC. 640. EMPLOYEE BENEFITS.

Section 3110 of the USEC Privatization Act (42 U.S.C. 2297h-8(a)) is amended by adding at the end the following new paragraph:

''(8) CONTINUITY OF BENEFITS.—Not later than 30 days after the date of enactment of this paragraph, the Secretary shall implement such actions as are necessary to ensure that any employee who—

''(A) is involved in providing infrastructure or environmental remediation services at the Portsmouth, Ohio, or the Paducah, Kentucky, Gaseous Diffusion Plant;

''(B) has been an employee of the Department of Energy's predecessor management and integrating contractor (or its first or second tier subcontractors), or of the Corporation, at the Portsmouth, Ohio, or the Paducah, Kentucky, facility; and

''(C) was eligible as of April 1, 2005, to participate in or transfer into the Multiple Employer Pension Plan or the associated multiple employer retiree health care benefit plans, as defined in those plans,

shall continue to be eligible to participate in or transfer into such pension or health care benefit plans.''.

Subtitle C—Additional Hydrogen Production Provisions

SEC. 651. HYDROGEN PRODUCTION PROGRAMS.

(a) ADVANCED REACTOR HYDROGEN COGENERATION PROJECT.—

(1) PROJECT ESTABLISHMENT.— The Secretary is directed to establish an Advanced Reactor Hydrogen Cogeneration Project.

(2) PROJECT DEFINITION.— The project shall consist of the research, development, design, construction, and operation of a hydrogen production cogeneration research facility that, relative to the current commercial reactors, enhances safety features, reduces waste production, enhances thermal efficiencies, increases proliferation resistance, and has the potential for improved economics and physical security in reactor siting. This facility shall be constructed so as to enable research and development on advanced reactors of the type selected and on alternative approaches for reactor-based production of hydrogen.

(3) PROJECT MANAGEMENT.—

(A) MANAGEMENT.—The project shall be managed within the Department by the Office of Nuclear Energy, Science, and Technology.

(B) LEAD LABORATORY.—The lead laboratory for the project, providing the site for the reactor construction, shall be the Idaho National Laboratory (in this subsection referred to as ''INL'').

(C) STEERING COMMITTEE.—The Secretary shall establish a national steering committee with membership from the national laboratories, universities, and industry to provide advice to the Secretary and the Director of the Office of Nuclear Energy, Science, and Technology on technical and program management aspects of the project.

(D) COLLABORATION.—Project activities shall be conducted at INL, other national laboratories, universities, domestic industry, and international partners.

(4) PROJECT REQUIREMENTS.—

(A) RESEARCH AND DEVELOPMENT.—

(i) IN GENERAL.—The project shall include planning, research and development, design, and construction of an advanced, next-generation, nuclear energy system suitable for enabling further research and development on advanced reactor technologies and alternative approaches for reactor-based generation of hydrogen.

(ii) REACTOR TEST CAPABILITIES AT INL.—The project shall utilize, where appropriate, extensive reactor test capabilities resident at INL.

(iii) ALTERNATIVES.—The project shall be designed to explore technical, environmental, and economic feasibility of alternative approaches for reactor-based hydrogen production.

(iv) INDUSTRIAL LEAD.—The industrial lead for the project shall be a company incorporated in the United States.

(B) INTERNATIONAL COLLABORATION.—

(i) IN GENERAL.—The Secretary shall seek international cooperation, participation, and financial contribution in this project.

(ii) ASSISTANCE FROM INTERNATIONAL PARTNERS.—The Secretary may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(iii) GENERATION IV INTERNATIONAL FORUM.—International activities shall be coordinated with the Generation IV International Forum.

(iv) GENERATION IV NUCLEAR ENERGY SYSTEMS PROGRAM.—The Secretary may combine this project with the Generation IV Nuclear Energy Systems Program.

(C) DEMONSTRATION.—The overall project, which may involve demonstration of selected project objectives in a partner nation, must demonstrate both electricity and hydrogen production and may provide flexibility, where technically and economically feasible in the design and construction, to enable tests of alternative reactor core and cooling configurations.

(D) PARTNERSHIPS.—The Secretary shall establish cost-shared partnerships with domestic industry or international participants for the research, development, design, construction, and operation of the research facility, and preference in determining the final project structure shall be given to an overall project which retains United States leadership while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

(E) TARGET DATE.—The Secretary shall select technologies and develop the project to provide initial testing of either hydrogen production or electricity generation by 2011, or provide a report to Congress explaining why this date is not feasible.

(F) WAIVER OF CONSTRUCTION TIMELINES.—The Secretary is authorized to conduct the Advanced Reactor Hydrogen Cogeneration Project without the constraints of DOE Order 413.3, relating to program and project management for the acquisition of capital assets, as necessary to meet the specified operational date.

(G) COMPETITION.—The Secretary may fund up to 2 teams for up to 1 year to develop detailed proposals for competitive evaluation and selection of a single proposal and concept for further progress. The Secretary shall define the format of the competitive evaluation of proposals.

(H) USE OF FACILITIES.—Research facilities in industry, national laboratories, or universities either within the United States or with cooperating international partners may be used to develop the enabling technologies for the research facility. Utilization of domestic university-based facilities shall be encouraged to provide educational opportunities for student development.

(I) ROLE OF NUCLEAR REGULATORY COMMISSION.—

(i) IN GENERAL.—The Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this subsection, pursuant to section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(ii) RISK-BASED CRITERIA.—The Secretary shall seek active participation of the Nuclear Regulatory Commission throughout the project to develop risk-based criteria for any future commercial development of a similar reactor architecture.

(J) REPORT.—The Secretary shall develop and transmit to Congress a comprehensive project plan not later than 3 months after the date of enactment of this Act. The project plan shall be updated annually with each annual budget submission.

(b) ADVANCED NUCLEAR REACTOR TECHNOLOGIES.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subtitle related to advanced nuclear reactor technologies and for implementing the recommendations related to advanced nuclear reactor technologies that are included in the report transmitted under subsection (d); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the commercial production of hydrogen at existing nuclear power plants, including one demonstration project at a national laboratory or institution of higher education using an advanced gas-cooled reactor.

(c) COLLOCATION WITH HYDROGEN PRODUCTION FACILITY.—Section 103 of the Atomic Energy Act of 1954 (42 U.S.C. 2011) is amended by adding at the end the following new subsection:

''g. The Commission shall give priority to the licensing of a utilization facility that is collocated with a hydrogen production facility. The Commission shall issue a final decision approving or disapproving the issuance of a license to construct and operate a utilization facility not later than the expiration of 3 years after the date of the submission of such application, if the application references a Commission-certified design and an early site permit, unless the Commission determines that the applicant has proposed material and substantial changes to the design or the site design parameters.''.

(d) REPORT.—The Secretary shall transmit to the Congress not later than 120 days after the date of enactment of this Act a report containing detailed summaries of the roadmaps prepared under subsection (b)(1), descriptions of the Secretary's progress in establishing the projects and other programs required under this section, and recommendations for promoting the availability of advanced nuclear reactor energy technologies for the production of hydrogen.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of supporting research programs related to the development of advanced nuclear reactor technologies under this section, there are authorized to be appropriated to the Secretary—

(1) $65,000,000 for fiscal year 2006;

(2) $74,750,000 for fiscal year 2007;

(3) $85,962,500 for fiscal year 2008;

(4) $98,856,875 for fiscal year 2009;

(5) $113,685,406 for fiscal year 2010;

(6) $130,738,217 for fiscal year 2011;

(7) $150,348,950 for fiscal year 2012;

(8) $172,901,292 for fiscal year 2013;

(9) $198,836,486 for fiscal year 2014; and

(10) $228,661,959 for fiscal year 2015.

SEC. 652. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''advanced nuclear reactor technologies'' means—

(A) technologies related to advanced light water reactors that may be commercially available in the near-term, including mid-sized reactors with passive safety features, for the generation of electric power from nuclear fission and the production of hydrogen; and

(B) technologies related to other nuclear reactors that may require prototype demonstration prior to availability in the mid-term or long-term, including high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of electric power from nuclear fission and the production of hydrogen;

(2) the term ''institution of higher education'' has the meaning given to that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)); and

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

Subtitle D—Nuclear Security

SEC. 661. NUCLEAR FACILITY THREATS.

(a) STUDY.—The President, in consultation with the Nuclear Regulatory Commission (referred to in this subtitle as the ''Commission'') and other appropriate Federal, State, and local agencies and private entities, shall conduct a study to identify the types of threats that pose an appreciable risk to the security of the various classes of facilities licensed by the Commission under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Such study shall take into account, but not be limited to—

(1) the events of September 11, 2001;

(2) an assessment of physical, cyber, biochemical, and other terrorist threats;

(3) the potential for attack on facilities by multiple coordinated teams of a large number of individuals;

(4) the potential for assistance in an attack from several persons employed at the facility;

(5) the potential for suicide attacks;

(6) the potential for water-based and air-based threats;

(7) the potential use of explosive devices of considerable size and other modern weaponry;

(8) the potential for attacks by persons with a sophisticated knowledge of facility operations;

(9) the potential for fires, especially fires of long duration;

(10) the potential for attacks on spent fuel shipments by multiple coordinated teams of a large number of individuals;

(11) the adequacy of planning to protect the public health and safety at and around nuclear facilities, as appropriate, in the event of a terrorist attack against a nuclear facility; and

(12) the potential for theft and diversion of nuclear materials from such facilities.

(b) SUMMARY AND CLASSIFICATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to Congress and the Commission a report—

(1) summarizing the types of threats identified under subsection (a); and

(2) classifying each type of threat identified under subsection (a), in accordance with existing laws and regulations, as either—

(A) involving attacks and destructive acts, including sabotage, directed against the facility by an enemy of the United States, whether a foreign government or other person, or otherwise falling under the responsibilities of the Federal Government; or

(B) involving the type of risks that Commission licensees should be responsible for guarding against.

(c) FEDERAL ACTION REPORT.—Not later than 90 days after the date on which a report is transmitted under subsection (b), the President shall transmit to Congress a report on actions taken, or to be taken, to address the types of threats identified under subsection (b)(2)(A), including identification of the Federal, State, and local agencies responsible for carrying out the obligations and authorities of the United States. Such report may include a classified annex, as appropriate.

(d) REGULATIONS.—Not later than 180 days after the date on which a report is transmitted under subsection (b), the Commission may revise, by rule, the design basis threats issued before the date of enactment of this section as the Commission considers appropriate based on the summary and classification report.

(e) PHYSICAL SECURITY PROGRAM.—The Commission shall establish an operational safeguards response evaluation program that ensures that the physical protection capability and operational safeguards response for sensitive nuclear facilities, as determined by the Commission consistent with the protection of public health and the common defense and security, shall be tested periodically through Commission approved or designed, observed, and evaluated force-on-force exercises to determine whether the ability to defeat the design basis threat is being maintained. For purposes of this subsection, the term ''sensitive nuclear facilities'' includes at a minimum commercial nuclear power plants and category I fuel cycle facilities.

(f) CONTROL OF INFORMATION.—Notwithstanding any other provision of law, the Commission may undertake any rulemaking under this subtitle in a manner that will fully protect safeguards and classified national security information.

(g) FEDERAL SECURITY COORDINATORS.—

(1) REGIONAL OFFICES.—Not later than 18 months after the date of enactment of this Act, the Commission shall assign a Federal security coordinator, under the employment of the Commission, to each region of the Commission.

(2) RESPONSIBILITIES.—The Federal security coordinator shall be responsible for—

(A) communicating with the Commission and other Federal, State, and local authorities concerning threats, including threats against such classes of facilities as the Commission determines to be appropriate;

(B) ensuring that such classes of facilities as the Commission determines to be appropriate maintain security consistent with the security plan in accordance with the appropriate threat level; and

(C) assisting in the coordination of security measures among the private security forces at such classes of facilities as the Commission determines to be appropriate and Federal, State, and local authorities, as appropriate.

(h) TRAINING PROGRAM.—The President shall establish a program to provide technical assistance and training to Federal agencies, the National Guard, and State and local law enforcement and emergency response agencies in responding to threats against a designated nuclear facility.

SEC. 662. FINGERPRINTING FOR CRIMINAL HISTORY RECORD CHECKS.

(a) IN GENERAL.—Subsection a. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(a)) is amended—

(1) by striking ''a. The Nuclear'' and all that follows through ''section 147.'' and inserting the following:

''a. IN GENERAL.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—The Commission shall require each individual or entity—

''(i) that is licensed or certified to engage in an activity subject to regulation by the Commission;

''(ii) that has filed an application for a license or certificate to engage in an activity subject to regulation by the Commission; or

''(iii) that has notified the Commission, in writing, of an intent to file an application for licensing, certification, permitting, or approval of a product or activity subject to regulation by the Commission,

to fingerprint each individual described in subparagraph (B) before the individual is permitted unescorted access or access, whichever is applicable, as described in subparagraph (B).

''(B) INDIVIDUALS REQUIRED TO BE FINGERPRINTED.—The Commission shall require to be fingerprinted each individual who—

''(i) is permitted unescorted access to—

''(I) a utilization facility; or

''(II) radioactive material or other property subject to regulation by the Commission that the Commission determines to be of such significance to the public health and safety or the common defense and security as to warrant fingerprinting and background checks; or

''(ii) is permitted access to safeguards information under section 147.'';

(2) by striking ''All fingerprints obtained by a licensee or applicant as required in the preceding sentence'' and inserting the following:

''(2) SUBMISSION TO THE ATTORNEY GENERAL.—All fingerprints obtained by an individual or entity as required in paragraph (1)'';

(3) by striking ''The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee or applicant.'' and inserting the following:

''(3) COSTS.—The costs of any identification and records check conducted pursuant to paragraph (1) shall be paid by the individual or entity required to conduct the fingerprinting under paragraph (1)(A).''; and

(4) by striking ''Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to licensee or applicant submitting such fingerprints.'' and inserting the following:

''(4) PROVISION TO INDIVIDUAL OR ENTITY REQUIRED TO CONDUCT FINGERPRINTING.—Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to the Commission, and, in accordance with regulations prescribed under this section, the Commission may provide such results to the individual or entity required to conduct the fingerprinting under paragraph (1)(A).''.

(b) ADMINISTRATION.—Subsection c. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(c)) is amended—

(1) by striking '', subject to public notice and comment, regulations—'' and inserting ''requirements—''; and

(2) by striking, in paragraph (2)(B), ''unescorted access to the facility of a licensee or applicant'' and inserting ''unescorted access to a utilization facility, radioactive material, or other property described in subsection a.(1)(B)''.

(c) BIOMETRIC METHODS.—Subsection d. of section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169(d)) is redesignated as subsection e., and the following is inserted after subsection c.:

''d. USE OF OTHER BIOMETRIC METHODS.—The Commission may satisfy any requirement for a person to conduct fingerprinting under this section using any other biometric method for identification approved for use by the Attorney General, after the Commission has approved the alternative method by rule.''.

SEC. 663. USE OF FIREARMS BY SECURITY PERSONNEL OF LICENSEES AND CERTIFICATE HOLDERS OF THE COMMISSION.

Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following subsection:

''(z)(1) notwithstanding section 922(o), (v), and (w) of title 18, United States Code, or any similar provision of any State law or any similar rule or regulation of a State or any political subdivision of a State prohibiting the transfer or possession of a handgun, a rifle or shotgun, a short-barreled shotgun, a short-barreled rifle, a machinegun, a semiautomatic assault weapon, ammunition for the foregoing, or a large capacity ammunition feeding device, authorize security personnel of licensees and certificate holders of the Commission (including employees of contractors of licensees and certificate holders) to receive, possess, transport, import, and use 1 or more of those weapons, ammunition, or devices, if the Commission determines that—

''(A) such authorization is necessary to the discharge of the security personnel's official duties; and

''(B) the security personnel—

''(i) are not otherwise prohibited from possessing or receiving a firearm under Federal or State laws pertaining to possession of firearms by certain categories of persons;

''(ii) have successfully completed requirements established through guidelines implementing this subsection for training in use of firearms and tactical maneuvers;

''(iii) are engaged in the protection of—

''(I) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission; or

''(II) radioactive material or other property owned or possessed by a person that is a licensee or certificate holder of the Commission, or that is being transported to or from a facility owned or operated by such a licensee or certificate holder, and that has been determined by the Commission to be of significance to the common defense and security or public health and safety; and

''(iv) are discharging their official duties.

''(2) Such receipt, possession, transportation, importation, or use shall be subject to—

''(A) chapter 44 of title 18, United States Code, except for section 922(a)(4), (o), (v), and (w);

''(B) chapter 53 of title 26, United States Code, except for section 5844; and

''(C) a background check by the Attorney General, based on fingerprints and including a check of the system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) to determine whether the person applying for the authority is prohibited from possessing or receiving a firearm under Federal or State law.

''(3) This subsection shall become effective upon the issuance of guidelines by the Commission, with the approval of the Attorney General, to govern the implementation of this subsection.

''(4) In this subsection, the terms 'handgun', 'rifle', 'shotgun', 'firearm', 'ammunition', 'machinegun', 'semiautomatic assault weapon', 'large capacity ammunition feeding device', 'short-barreled shotgun', and 'short-barreled rifle' shall have the meanings given those terms in section 921(a) of title 18, United States Code.''.

SEC. 664. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended in the first sentence by inserting ''or subject to the licensing authority of the Commission or to certification by the Commission under this Act or any other Act'' before the period at the end.

SEC. 665. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

(a) IN GENERAL.—Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended—

(1) in paragraph (2), by striking ''storage facility'' and inserting ''storage, treatment, or disposal facility'';

(2) in paragraph (3)—

(A) by striking ''such a utilization facility'' and inserting ''a utilization facility licensed under this Act''; and

(B) by striking ''or'' at the end;

(3) in paragraph (4)—

(A) by striking ''facility licensed'' and inserting '', uranium conversion, or nuclear fuel fabrication facility licensed or certified''; and

(B) by striking the comma at the end and inserting a semicolon; and

(4) by inserting after paragraph (4) the following:

''(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, uranium conversion, or nuclear fuel fabrication facility subject to licensing or certification under this Act during construction of the facility, if the destruction or damage caused or attempted to be caused could adversely affect public health and safety during the operation of the facility;

''(6) any primary facility or backup facility from which a radiological emergency preparedness alert and warning system is activated; or

''(7) any radioactive material or other property subject to regulation by the Nuclear Regulatory Commission that, before the date of the offense, the Nuclear Regulatory Commission determines, by order or regulation published in the Federal Register, is of significance to the public health and safety or to common defense and security,''.

(b) PENALTIES.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended by striking ''$10,000 or imprisoned for not more than 20 years, or both, and, if death results to any person, shall be imprisoned for any term of years or for life'' both places it appears and inserting ''$1,000,000 or imprisoned for up to life without parole''.

SEC. 666. SECURE TRANSFER OF NUCLEAR MATERIALS.

(a) AMENDMENT.—Chapter 14 of the Atomic Energy Act of 1954 (42 U.S.C. 2201–2210b) is amended by adding at the end the following new section:

"SEC. 170C. SECURE TRANSFER OF NUCLEAR MATERIALS.

"a. The Nuclear Regulatory Commission shall establish a system to ensure that materials described in subsection b., when transferred or received in the United States by any party pursuant to an import or export license issued pursuant to this Act, are accompanied by a manifest describing the type and amount of materials being transferred or received. Each individual receiving or accompanying the transfer of such materials shall be subject to a security background check conducted by appropriate Federal entities.

"b. Except as otherwise provided by the Commission by regulation, the materials referred to in subsection a. are byproduct materials, source materials, special nuclear materials, high-level radioactive waste, spent nuclear fuel, transuranic waste, and low-level radioactive waste (as defined in section 2(16) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(16)))."

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, and from time to time thereafter as it considers necessary, the Nuclear Regulatory Commission shall issue regulations identifying radioactive materials or classes of individuals that, consistent with the protection of public health and safety and the common defense and security, are appropriate exceptions to the requirements of section 170C of the Atomic Energy Act of 1954, as added by subsection (a) of this section.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the issuance of regulations under subsection (b), except that the background check requirement shall become effective on a date established by the Commission.

(d) EFFECT ON OTHER LAW.—Nothing in this section or the amendment made by this section shall waive, modify, or affect the application of chapter 51 of title 49, United States Code, part A of subtitle V of title 49, United States Code, part B of subtitle VI of title 49, United States Code, and title 23, United States Code.

(e) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 14 of the Atomic Energy Act of 1954 is amended by adding at the end the following new item:

"Sec. 170C. Secure transfer of nuclear materials.".

SEC. 667. DEPARTMENT OF HOMELAND SECURITY CONSULTATION.

Before issuing a license for a utilization facility, the Nuclear Regulatory Commission shall consult with the Department of Homeland Security concerning the potential vulnerabilities of the location of the proposed facility to terrorist attack.

SEC. 668. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle and the amendments made by this subtitle.

(b) NUCLEAR REGULATORY COMMISSION USER FEES AND ANNUAL CHARGES.—Section 6101 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214) is amended—

(1) in subsection (a)—

(A) by striking "Except as provided in paragraph (3), the" and inserting "The" in paragraph (1); and

(B) by striking paragraph (3); and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (2)(A)(i);

(B) by striking the period at the end of paragraph (2)(A)(ii) and inserting a semicolon;

(C) by adding at the end of paragraph (2)(A) the following new clauses:

"(iii) amounts appropriated to the Commission for the fiscal year for implementation of section 3116 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005; and

"(iv) amounts appropriated to the Commission for homeland security activities of the Commission for the fiscal year, except for the costs of fingerprinting and background checks required by section 149 of the Atomic Energy Act of 1954 (42 U.S.C. 2169) and the costs of conducting security inspections."; and

(D) by amending paragraph (2)(B)(v) to read as follows:

"(v) 90 percent for fiscal year 2005 and each fiscal year thereafter.".

(c) REPEAL.—Section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (42 U.S.C. 2213) is repealed.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.

Section 400AA(a)(3)(E) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended to read as follows:

"(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of such requirement for vehicles operated by the agency in a particular geographic area in which—

"(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

"(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

"(ii) The Secretary shall monitor compliance with this subparagraph by all such fleets and shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved. The report shall include information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.".

SEC. 704. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking "may" and inserting "shall".

SEC. 705. LEASE CONDENSATES.

(a) LEASE CONDENSATE FUELS.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) in paragraph (2), by inserting "mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate;" after "liquefied petroleum gas;";

(2) in paragraph (13), by striking "and" at the end;

(3) in paragraph (14)—

(A) by inserting "mixtures containing 50 percent or more by volume of lease condensate or fuels extracted from lease condensate," after "liquefied petroleum gas,"; and

(B) by striking the period and inserting "; and";

(4) by adding at the end the following:

"(15) the term 'lease condensate' means a mixture, primarily of pentanes and heavier hydrocarbons, that is recovered as a liquid from natural gas in lease separation facilities.".

(b) LEASE CONDENSATE USE CREDITS.—

(1) IN GENERAL.—Title III of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) is amended by adding at the end the following:

"SEC. 313. LEASE CONDENSATE USE CREDITS.

"(a) IN GENERAL.—Subject to subsection (d), the Secretary shall allocate 1 credit under this section to a fleet or covered person for each qualifying volume of the lease condensate component of fuel containing at least 50 percent lease condensate, or fuels extracted from lease condensate, after the date of enactment of this section for use by the fleet or covered person in vehicles owned or operated by the fleet or covered person that weigh more than 8,500 pounds gross vehicle weight rating.

"(b) REQUIREMENTS.—A credit allocated under this section—

"(1) shall be subject to the same exceptions, authority, documentation, and use of credits that are specified for qualifying volumes of biodiesel in section 312; and

"(2) shall not be considered a credit under section 508.

"(c) REGULATION.—

"(1) IN GENERAL.—Subject to subsection (d), not later than January 1, 2006, after the collection of appropriate information and data that consider usage options, uses in other industries, products, or processes, potential volume capacities, costs, air emissions, and fuel efficiencies, the Secretary shall issue a regulation establishing requirements and procedures for the implementation of this section.

"(2) QUALIFYING VOLUME.—The regulation shall include a determination of an appropriate qualifying volume for lease condensate, except that in no case shall the Secretary determine that the qualifying volume for lease condensate is less than 1,125 gallons.

"(d) APPLICABILITY.—This section applies unless the Secretary finds that the use of lease condensate as an alternative fuel would adversely affect public health or safety or ambient air quality or the environment.".

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by adding at the end of the items relating to title III the following:

"Sec. 313. Lease condensate use credits.".

(c) EMERGENCY EXEMPTION.—Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended in paragraph (9)(E) by inserting before the semicolon at the end ", including vehicles directly used in the emergency repair of transmission lines and in the restoration of electricity service following power outages, as determined by the Secretary".

SEC. 706. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of Energy shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had on—

(1) the development of alternative fueled vehicle technology;

(2) the availability of that technology in the market; and

(3) the cost of alternative fueled vehicles.

(b) TOPICS.—As part of the study under subsection (a), the Secretary shall specifically identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel actually used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this title.

(c) REPORT.—Upon completion of the study under this section, the Secretary shall submit to Congress a report that describes the results of the study and includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

SEC. 707. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLE PURCHASING REQUIREMENTS.

Section 310(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13218(b)(1)) is amended by striking ''1 year after the date of enactment of this subsection'' and inserting ''February 15, 2006''.

Subtitle B—Hybrid Vehicles, Advanced Vehicles, and Fuel Cell Buses

PART 1—HYBRID VEHICLES

SEC. 711. HYBRID VEHICLES.

The Secretary of Energy shall accelerate efforts directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

SEC. 712. HYBRID RETROFIT AND ELECTRIC CONVERSION PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of hybrid retrofit and electric conversion technologies for combustion engine vehicles.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity;

(2) to a for-profit or nonprofit corporation or other person; or

(3) to 1 or more contracting entities that service combustion engine vehicles for an entity described in paragraph (1) or (2).

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions per proposal or per vehicle; or

(B) involve the use of emissions control retrofit or conversion technology.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) combustion engine vehicles on which hybrid retrofit or conversion technology are to be demonstrated—

(A) with the retrofit or conversion technology applied will achieve low-emission standards consistent with the Voluntary National Low Emission Vehicle Program for Light-Duty Vehicles and Light-Duty Trucks (40 CFR Part 86) without model year restrictions; and

(B) will be used for a minimum of 3 years;

(2) grant funds will be used for the purchase of hybrid retrofit or conversion technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit or conversion, including the purchase of hybrid retrofit or conversion technology and all necessary labor for installation of the retrofit or conversion.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the hybrid retrofit or conversion technology to be demonstrated; and

(2) that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $20,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006;

(3) $45,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

PART 2—ADVANCED VEHICLES

SEC. 721. DEFINITIONS.

In this part:

(1) ALTERNATIVE FUELED VEHICLE.—

(A) IN GENERAL.—The term ''alternative fueled vehicle'' means a vehicle propelled solely on an alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)).

(B) EXCLUSION.—The term ''alternative fueled vehicle'' does not include a vehicle that the Secretary determines, by regulation, does not yield substantial environmental benefits over a vehicle operating solely on gasoline or diesel derived from fossil fuels.

(2) FUEL CELL VEHICLE.—The term ''fuel cell vehicle'' means a vehicle propelled by an electric motor powered by a fuel cell system that converts chemical energy into electricity by combining oxygen (from air) with hydrogen fuel that is stored on the vehicle or is produced onboard by reformation of a hydrocarbon fuel. Such fuel cell system may or may not include the use of auxiliary energy storage systems to enhance vehicle performance.

(3) HYBRID VEHICLE.—The term ''hybrid vehicle'' means a medium or heavy duty vehicle propelled by an internal combustion engine or heat engine using any combustible fuel and an onboard rechargeable energy storage device.

(4) NEIGHBORHOOD ELECTRIC VEHICLE.—The term ''neighborhood electric vehicle'' means a motor vehicle that—

(A) meets the definition of a low-speed vehicle (as defined in part 571 of title 49, Code of Federal Regulations);

(B) meets the definition of a zero-emission vehicle (as defined in section 86.1702–99 of title 40, Code of Federal Regulations);

(C) meets the requirements of Federal Motor Vehicle Safety Standard No. 500; and

(D) has a maximum speed of not greater than 25 miles per hour.

(5) PILOT PROGRAM.—The term ''pilot program'' means the competitive grant program established under section 722.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL VEHICLE.—The term ''ultra-low sulfur diesel vehicle'' means a vehicle manufactured in any of model years 2004 through 2006 powered by a heavy-duty diesel engine that—

(A) is fueled by diesel fuel that contains sulfur at not more than 15 parts per million; and

(B) emits not more than the lesser of—

(i) for vehicles manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; or

(ii) the quantity of emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best-performing technology of ultra-low sulfur diesel vehicles of the same class and application that are commercially available.

SEC. 722. PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Transportation, shall establish a competitive grant pilot program, to be administered through the Clean Cities Program of the Department of Energy, to provide not more than 15 geographically dispersed project grants to State governments, local governments, or metropolitan transportation authorities to carry out a project or projects for the purposes described in subsection (b).

(b) GRANT PURPOSES.—A grant under this section may be used for the following purposes:

(1) The acquisition of alternative fueled vehicles or fuel cell vehicles, including—

(A) passenger vehicles (including neighborhood electric vehicles); and

(B) motorized 2-wheel bicycles, scooters, or other vehicles for use by law enforcement personnel or other State or local government or metropolitan transportation authority employees.

(2) The acquisition of alternative fueled vehicles, hybrid vehicles, or fuel cell vehicles, including—

(A) buses used for public transportation or transportation to and from schools;

(B) delivery vehicles for goods or services; and

(C) ground support vehicles at public airports (including vehicles to carry baggage or push or pull airplanes toward or away from terminal gates).

(3) The acquisition of ultra-low sulfur diesel vehicles.

(4) Installation or acquisition of infrastructure necessary to directly support an alternative fueled vehicle, fuel cell vehicle, or hybrid vehicle project funded by the grant, including fueling and other support equipment.

(5) Operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(c) APPLICATIONS.—

(1) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue requirements for applying for grants under the pilot program.

(B) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require that an application for a grant—

(i) be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and a registered participant in the Clean Cities Program of the Department of Energy; and

(ii) include—

(I) a description of the project proposed in the application, including how the project meets the requirements of this part;

(II) an estimate of the ridership or degree of use of the project;

(III) an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, and a plan to collect and disseminate environmental data, related to the project to be funded under the grant, over the life of the project;

(IV) a description of how the project will be sustainable without Federal assistance after the completion of the term of the grant;

(V) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(VI) a description of which costs of the project will be supported by Federal assistance under this part; and

(VII) documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the project, and a commitment by the applicant to use such fuel in carrying out the project.

(2) PARTNERS.—An applicant under paragraph (1) may carry out a project under the pilot program in partnership with public and private entities.

(d) SELECTION CRITERIA.—In evaluating applications under the pilot program, the Secretary shall—

(1) consider each applicant's previous experience with similar projects; and

(2) give priority consideration to applications that—

(A) are most likely to maximize protection of the environment;

(B) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this part is completed; and

(C) exceed the minimum requirements of subsection (c)(1)(B)(ii).

(e) PILOT PROJECT REQUIREMENTS.—

(1) MAXIMUM AMOUNT.—The Secretary shall not provide more than $20,000,000 in Federal assistance under the pilot program to any applicant.

(2) COST SHARING.—The Secretary shall not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(3) MAXIMUM PERIOD OF GRANTS.—The Secretary shall not fund any applicant under the pilot program for more than 5 years.

(4) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(5) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(f) SCHEDULE.—

(1) PUBLICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, Commerce Business Daily, and elsewhere as appropriate, a request for applications to undertake projects under the pilot program. Applications shall be due not later than 180 days after the date of publication of the notice.

(2) SELECTION.—Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive, peer reviewed proposal, all applications for projects to be awarded a grant under the pilot program.

(g) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 nor more than 25 percent of the grant funding made available under this section for the acquisition of ultra-low sulfur diesel vehicles.

SEC. 723. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 60 days after the date on which grants are awarded under this part, the Secretary shall submit to Congress a report containing—

(1) an identification of the grant recipients and a description of the projects to be funded;

(2) an identification of other applicants that submitted applications for the pilot program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(b) EVALUATION.—Not later than 3 years after the date of enactment of this Act, and annually thereafter until the pilot program ends, the Secretary shall submit to Congress a report containing an evaluation of the effectiveness of the pilot program, including—

(1) an assessment of the benefits to the environment derived from the projects included in the pilot program; and

(2) an estimate of the potential benefits to the environment to be derived from widespread application of alternative fueled vehicles and ultra-low sulfur diesel vehicles.

SEC. 724. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this part $200,000,000, to remain available until expended.

PART 3—FUEL CELL BUSES

SEC. 731. FUEL CELL TRANSIT BUS DEMONSTRATION.

(a) IN GENERAL.—The Secretary of Energy, in consultation with the Secretary of Transportation, shall establish a transit bus demonstration program to make competitive, merit-based awards for 5-year projects to demonstrate not more than 25 fuel cell transit buses (and necessary infrastructure) in 5 geographically dispersed localities.

(b) PREFERENCE.—In selecting projects under this section, the Secretary of Energy shall give preference to projects that are most likely to mitigate congestion and improve air quality.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

Subtitle C—Clean School Buses

SEC. 741. DEFINITIONS.

In this subtitle:

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

(2) ALTERNATIVE FUEL.—The term ''alternative fuel'' means liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume.

(3) ALTERNATIVE FUEL SCHOOL BUS.—The term ''alternative fuel school bus'' means a school bus that meets all of the requirements of this subtitle and is operated solely on an alternative fuel.

(4) EMISSIONS CONTROL RETROFIT TECHNOLOGY.—The term ''emissions control retrofit technology'' means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.

(5) IDLING.—The term ''idling'' means operating an engine while remaining stationary for more than approximately 15 minutes, except that the term does not apply to routine stoppages associated with traffic movement or congestion.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term ''ultra-low sulfur diesel fuel'' means diesel fuel that contains sulfur at not more than 15 parts per million.

(8) ULTRA-LOW SULFUR DIESEL FUEL SCHOOL BUS.—The term ''ultra-low sulfur diesel fuel school bus'' means a school bus that meets all of the requirements of this subtitle and is operated solely on ultra-low sulfur diesel fuel.

SEC. 742. PROGRAM FOR REPLACEMENT OF CERTAIN SCHOOL BUSES WITH CLEAN SCHOOL BUSES.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible entities for the replacement of existing school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including instructions for the submission of grant applications and certification requirements to ensure compliance with this subtitle.

(2) APPLICATION DEADLINES.—The requirements established under paragraph (1) shall require submission of grant applications not later than—

(A) in the case of the first year of program implementation, the date that is 180 days after the publication of the requirements in the Federal Register; and

(B) in the case of each subsequent year, June 1 of the year.

(c) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to 1 or more local or State governmental entities responsible for providing school bus service to 1 or more public school systems or responsible for the purchase of school buses;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems to be served by the buses, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(d) AWARD DEADLINES.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall award a grant made to a qualified applicant for a fiscal year—

(A) in the case of the first fiscal year of program implementation, not later than the date that is 90 days after the application deadline established under subsection (b)(2); and

(B) in the case of each subsequent fiscal year, not later than August 1 of the fiscal year.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—If the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subsection (i)(1) for a fiscal year, the Administrator shall award a grant made to a qualified applicant under subsection (i)(2) not later than September 30 of the fiscal year.

(e) TYPES OF GRANTS.—

(1) IN GENERAL.—A grant under this section shall be used for the replacement of school buses manufactured before model year 1991 with alternative fuel school buses and ultra-low sulfur diesel fuel school buses.

(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant

under this section may not receive any economic benefit in connection with the receipt of the grant.

(3) PRIORITY OF GRANT APPLICATIONS.—The Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.

(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:

(1) SCHOOL BUS FLEET.—All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.

(2) USE OF FUNDS.—Funds provided under the grant may only be used—

(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses, including State taxes and contract fees associated with the acquisition of such buses; and

(B) to provide—

(i) up to 20 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and

(ii) up to 25 percent of the price of the alternative fuel school buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.

(3) GRANT RECIPIENT FUNDS.—The grant recipient shall be required to provide at least—

(A) in the case of a grant recipient described in paragraph (1) or (3) of subsection (c), the lesser of—

(i) an amount equal to 15 percent of the total cost of each bus received; or

(ii) $15,000 per bus; and

(B) in the case of a grant recipient described in subsection (c)(2), the lesser of—

(i) an amount equal to 20 percent of the total cost of each bus received; or

(ii) $20,000 per bus.

(4) ULTRA-LOW SULFUR DIESEL FUEL.—In the case of a grant recipient receiving a grant for ultra-low sulfur diesel fuel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Administrator that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.

(5) TIMING.—All alternative fuel school buses, ultra-low sulfur diesel fuel school buses, or alternative fuel infrastructure acquired under a grant awarded under this section shall be purchased and placed in service as soon as practicable.

(g) BUSES.—

(1) IN GENERAL.—Except as provided in paragraph (2), funding under a grant made under this section for the acquisition of new alternative fuel school buses or ultra-low sulfur diesel fuel school buses shall only be used to acquire school buses—

(A) with a gross vehicle weight of greater than 14,000 pounds;

(B) that are powered by a heavy duty engine;

(C) in the case of alternative fuel school buses manufactured in model years 2004 through 2006, that emit not more than 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and

(D) in the case of ultra-low sulfur diesel fuel school buses manufactured in model years 2004 through 2006, that emit not more than 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.

(2) LIMITATIONS.—A bus shall not be acquired under this section that emits nonmethane hydrocarbons, oxides of nitrogen, or particulate matter at a rate greater than the best performing technology of the same class of ultra-low sulfur diesel fuel school buses commercially available at the time the grant is made.

(h) DEPLOYMENT AND DISTRIBUTION.—The Administrator shall—

(1) seek, to the maximum extent practicable, to achieve nationwide deployment of alternative fuel school buses and ultra-low sulfur diesel fuel school buses through the program under this section; and

(2) ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.

(i) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), of the amount of grant funding made available to carry out this section for any fiscal year, the Administrator shall use—

(A) 70 percent for the acquisition of alternative fuel school buses or supporting infrastructure; and

(B) 30 percent for the acquisition of ultra-low sulfur diesel fuel school buses.

(2) INSUFFICIENT NUMBER OF QUALIFIED GRANT APPLICATIONS.—After the first fiscal year in which this program is in effect, if the Administrator does not receive a sufficient number of qualified grant applications to meet the requirements of subparagraph (A) or (B) of paragraph (1) for a fiscal year, effective beginning on August 1 of the fiscal year, the Administrator shall make the remaining funds available to other qualified grant applicants under this section.

(j) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy, consistent with the health, safety, and welfare of students and the proper operation and maintenance of school buses, to reduce the incidence of unnecessary school bus idling at schools when picking up and unloading students.

(k) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Administrator shall transmit to Congress a report evaluating implementation of the programs under this section and section 743.

(2) COMPONENTS.—The reports shall include a description of—

(A) the total number of grant applications received;

(B) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;

(C) grants awarded and the criteria used to select the grant recipients;

(D) certified engine emission levels of all buses purchased or retrofitted under the programs under this section and section 743;

(E) an evaluation of the in-use emission level of buses purchased or retrofitted under the programs under this section and section 743; and

(F) any other information the Administrator considers appropriate.

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $45,000,000 for fiscal year 2005;

(2) $65,000,000 for fiscal year 2006;

(3) $90,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 743. DIESEL RETROFIT PROGRAM.

(a) ESTABLISHMENT.—The Administrator, in consultation with the Secretary, shall establish a program for awarding grants on a competitive basis to entities for the installation of retrofit technologies for diesel school buses.

(b) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—

(1) to a local or State governmental entity responsible for providing school bus service to 1 or more public school systems;

(2) to 1 or more contracting entities that provide school bus service to 1 or more public school systems, if the grant application is submitted jointly with the 1 or more school systems that the buses will serve, except that the application may provide that buses purchased using funds awarded shall be owned, operated, and maintained exclusively by the 1 or more contracting entities; or

(3) to a nonprofit school transportation association representing private contracting entities, if the association has notified and received approval from the 1 or more school systems to be served by the buses.

(c) AWARDS.—

(1) IN GENERAL.—The Administrator shall seek, to the maximum extent practicable, to ensure a broad geographic distribution of grants under this section.

(2) PREFERENCES.—In making awards of grants under this section, the Administrator shall give preference to proposals that—

(A) will achieve the greatest reductions in emissions of nonmethane hydrocarbons, oxides of nitrogen, or particulate matter per proposal or per bus; or

(B) involve the use of emissions control retrofit technology on diesel school buses that operate solely on ultra-low sulfur diesel fuel.

(d) CONDITIONS OF GRANT.—A grant shall be provided under this section on the conditions that—

(1) buses on which retrofit emissions-control technology are to be demonstrated—

(A) will operate on ultra-low sulfur diesel fuel where such fuel is reasonably available or required for sale by State or local law or regulation;

(B) were manufactured in model year 1991 or later; and

(C) will be used for the transportation of school children to and from school for a minimum of 5 years;

(2) grant funds will be used for the purchase of emission control retrofit technology, including State taxes and contract fees; and

(3) grant recipients will provide at least 15 percent of the total cost of the retrofit, including the purchase of emission control retrofit technology and all necessary labor for installation of the retrofit.

(e) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register procedures to verify—

(1) the retrofit emissions-control technology to be demonstrated;

(2) that buses powered by ultra-low sulfur diesel fuel on which retrofit emissions-control technology are to be demonstrated will operate on diesel fuel containing not more than 15 parts per million of sulfur; and

(3) that grants are administered in accordance with this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—

(1) $20,000,000 for fiscal year 2005;

(2) $35,000,000 for fiscal year 2006;

(3) $45,000,000 for fiscal year 2007; and

(4) such sums as are necessary for each of fiscal years 2008 and 2009.

SEC. 744. FUEL CELL SCHOOL BUSES.

(a) ESTABLISHMENT.—The Secretary shall establish a program for entering into cooperative agreements—

(1) with private sector fuel cell bus developers for the development of fuel cell-powered school buses; and

(2) subsequently, with not less than 2 units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.

(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—

(1) 20 percent for fuel infrastructure development activities; and

(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).

(c) REPORTS TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and

(2) assesses the results of the development and demonstration program under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $25,000,000 for the period of fiscal years 2005 through 2007.

Subtitle D—Miscellaneous

SEC. 751. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary of Energy shall, in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy to carry out this section—

(1) $25,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007; and

(3) $50,000,000 for fiscal year 2008.

SEC. 752. MOBILE EMISSION REDUCTIONS TRADING AND CREDITING.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to Congress a report on the experience of the Administrator with the trading of mobile source emission reduction credits for use by owners and operators of stationary source emission sources to meet emission offset requirements within a nonattainment area.

(b) CONTENTS.—The report shall describe—

(1) projects approved by the Administrator that include the trading of mobile source emission reduction credits for use by stationary sources in complying with offset requirements, including a description of—

(A) project and stationary sources location;

(B) volumes of emissions offset and traded;

(C) the sources of mobile emission reduction credits; and

(D) if available, the cost of the credits;

(2) the significant issues identified by the Administrator in consideration and approval of trading in the projects;

(3) the requirements for monitoring and assessing the air quality benefits of any approved project;

(4) the statutory authority on which the Administrator has based approval of the projects;

(5) an evaluation of how the resolution of issues in approved projects could be used in other projects; and

(6) any other issues that the Administrator considers relevant to the trading and generation of mobile source emission reduction credits for use by stationary sources or for other purposes.

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas; and

(2) ways to promote fuel conservation measures for aviation to—

(A) enhance fuel efficiency; and

(B) reduce emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of the emissions on human health.

SEC. 754. DIESEL FUELED VEHICLES.

(a) DEFINITION OF TIER 2 EMISSION STANDARDS.—In this section, the term ''tier 2 emission standards'' means the motor vehicle emission standards that apply to passenger cars, light trucks, and larger passenger vehicles manufactured after the 2003 model year, as issued on February 10, 2000, by the Administrator of the Environmental Protection Agency under sections 202 and 211 of the Clean Air Act (42 U.S.C. 7521, 7545).

(b) DIESEL COMBUSTION AND AFTER-TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate efforts to improve diesel combustion and after-treatment technologies for use in diesel fueled motor vehicles.

(c) GOALS.—The Secretary shall carry out subsection (b) with a view toward achieving the following goals:

(1) Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) Tier 2 emission standards.

(B) The heavy-duty emissions standards of 2007 that are applicable to heavy-duty vehicles under regulations issued by the Administrator of the Environmental Protection Agency as of the date of enactment of this Act.

(2) Developing the next generation of low-emission, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

SEC. 756. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

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

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term ''advanced truck stop electrification system'' means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term ''auxiliary power unit'' means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term ''heavy-duty vehicle'' means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term ''idle reduction technology'' means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term ''long-duration idling'' means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term ''long-duration idling'' does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of

paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology.

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction technology based on beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) $19,500,000 for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008.

(ii) COST SHARING.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iii) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

''(12) HEAVY DUTY VEHICLES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

''(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

''(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

''(i) the idle reduction technology is fully functional at all times; and

''(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).''.

SEC. 757. BIODIESEL ENGINE TESTING PROGRAM.

(a) IN GENERAL.—Not later that 180 days after the date of enactment of this Act, the Secretary shall initiate a partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers, to include biodiesel testing in advanced diesel engine and fuel system technology.

(b) SCOPE.—The program shall provide for testing to determine the impact of biodiesel from different sources on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and antitampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the options for optimizing these technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in these fueling systems and engines when used as a blend with 2006 Environmental Protection Agency-mandated diesel fuel containing a maximum of 15-parts-per-million sulfur content.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide an interim report to Congress on the findings of the program, including a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies, and recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2006 through 2010 to carry out this section.

(e) DEFINITION.—For purposes of this section, the term ''biodiesel'' means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) and that meets the American Society for Testing and Materials D6751–02a Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

SEC. 758. HIGH OCCUPANCY VEHICLE EXCEPTION.

Notwithstanding section 102(a) of title 23, United States Code, a State may permit a vehicle with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicle—

(1) is a dedicated vehicle (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S. 13211)); or

(2) is a hybrid vehicle (as defined by the State for the purpose of this section).

SEC. 759. ULTRA-EFFICIENT ENGINE TECHNOLOGY FOR AIRCRAFT.

(a) ULTRA-EFFICIENT ENGINE TECHNOLOGY PARTNERSHIP.—The Secretary of Energy shall enter into a cooperative agreement with the National Aeronautics and Space Administration for the development of ultra-efficient engine technology for aircraft.

(b) PERFORMANCE OBJECTIVE.—The Secretary of Energy shall establish the following performance objectives for the program set forth in subsection (a):

(1) A fuel efficiency increase of 10 percent.

(2) A reduction in the impact of landing and takeoff nitrogen oxides emissions on local air quality of 70 percent.

(c) AUTHORIZATION OF APPROPRIATIONS .—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $45,000,000 for each of the fiscal years 2006, 2007, 2008, 2009, and 2010.

Subtitle E—Automobile Efficiency

SEC. 771. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.

In addition to any other funds authorized by law, there are authorized to be appropriated to the National Highway Traffic Safety Administration to carry out its obligations with respect to average fuel economy standards $2,000,000 for each of fiscal years 2006 through 2010.

SEC. 772. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

Section 32902(f) of title 49, United States Code, is amended to read as follows:

''(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

''(1) Technological feasibility.

''(2) Economic practicability.

''(3) The effect of other motor vehicle standards of the Government on fuel economy.

''(4) The need of the United States to conserve energy.

''(5) The effects of fuel economy standards on passenger automobiles, nonpassenger automobiles, and occupant safety.

''(6) The effects of compliance with average fuel economy standards on levels of automobile industry employment in the United States.''.

SEC. 773. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

(1) in each of subsections (b) and (d), by striking ''1993–2004'' and inserting ''1993–2010'';

(2) in subsection (f), by striking ''2001'' and inserting ''2007''; and

(3) in subsection (f)(1), by striking ''2004'' and inserting ''2010''.

(b) MAXIMUM FUEL ECONOMY INCREASE.—Subsection (a)(1) of section 32906 of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking ''the model years 1993–2004'' and inserting ''model years 1993–2010''; and

(2) in subparagraph (B), by striking ''the model years 2005–2008'' and inserting ''model years 2011–2014''.

SEC. 774. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall initiate a study of the feasibility and effects of reducing by model year 2014, by a significant percentage, the amount of fuel consumed by automobiles.

(b) SUBJECTS OF STUDY.—The study under this section shall include—

(1) examination of, and recommendation of alternatives to, the policy under current Federal law of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles it manufactures;

(2) examination of how automobile manufacturers could contribute toward achieving the reduction referred to in subsection (a);

(3) examination of the potential of fuel cell technology in motor vehicles in order to determine the extent to which such technology may contribute to achieving the reduction referred to in subsection (a); and

(4) examination of the effects of the reduction referred to in subsection (a) on—

(A) gasoline supplies;

(B) the automobile industry, including sales of automobiles manufactured in the United States;

(C) motor vehicle safety; and

(D) air quality.

(c) REPORT.—The Administrator shall submit to Congress a report on the findings, conclusion, and recommendations of the study under this section by not later than 1 year after the date of the enactment of this Act.

TITLE VIII—HYDROGEN

SEC. 801. DEFINITIONS.

In this title:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Hydrogen Technical and Fuel Cell Advisory Committee established under section 805.

(2) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(3) FUEL CELL.—The term ''fuel cell'' means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by an electrochemical process taking place at separate electrodes in the device.

(4) INFRASTRUCTURE.—The term ''infrastructure'' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen.

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

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

SEC. 802. PLAN.

Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a coordinated plan for the programs described in this title and any other programs of the Department that are directly related to fuel cells or hydrogen. The plan shall describe, at a minimum—

(1) the agenda for the next 5 years for the programs authorized under this title, including the agenda for each activity enumerated in section 803(a);

(2) the types of entities that will carry out the activities under this title and what role each entity is expected to play;

(3) the milestones that will be used to evaluate the programs for the next 5 years;

(4) the most significant technical and nontechnical hurdles that stand in the way of achieving the goals described in section 803(b), and how the programs will address those hurdles; and

(5) the policy assumptions that are implicit in the plan, including any assumptions that would affect the sources of hydrogen or the marketability of hydrogen-related products.

SEC. 803. PROGRAMS.

(a) ACTIVITIES.—The Secretary, in partnership with the private sector, shall conduct programs to address—

(1) production of hydrogen from diverse energy sources, including—

(A) fossil fuels, which may include carbon capture and sequestration;

(B) hydrogen-carrier fuels (including ethanol and methanol);

(C) renewable energy resources, including biomass; and

(D) nuclear energy;

(2) use of hydrogen for commercial, industrial, and residential electric power generation;

(3) safe delivery of hydrogen or hydrogen-carrier fuels, including—

(A) transmission by pipeline and other distribution methods; and

(B) convenient and economic refueling of vehicles either at central refueling stations or through distributed on-site generation;

(4) advanced vehicle technologies, including—

(A) engine and emission control systems;

(B) energy storage, electric propulsion, and hybrid systems;

(C) automotive materials; and

(D) other advanced vehicle technologies;

(5) storage of hydrogen or hydrogen-carrier fuels, including development of materials for safe and economic storage in gaseous, liquid, or solid form at refueling facilities and onboard vehicles;

(6) development of safe, durable, affordable, and efficient fuel cells, including fuel-flexible fuel cell power systems, improved manufacturing processes, high-temperature membranes, cost-effective fuel processing for natural gas, fuel cell stack and system reliability, low temperature operation, and cold start capability;

(7) development, after consultation with the private sector, of necessary codes and standards (including international codes and standards and voluntary consensus standards adopted in accordance with OMB Circular A–119) and safety practices for the production, distribution, storage, and use of hydrogen, hydrogen-carrier fuels, and related products;

(8) a public education program to develop improved knowledge and acceptability of hydrogen-based systems; and

(9) the ability of domestic automobile manufacturers to manufacture commercially available competitive hybrid vehicle technologies in the United States.

(b) PROGRAM GOALS.—

(1) VEHICLES.—For vehicles, the goals of the program are—

(A) to enable a commitment by automakers no later than year 2015 to offer safe, affordable, and technically viable hydrogen fuel cell vehicles in the mass consumer market; and

(B) to enable production, delivery, and acceptance by consumers of model year 2020 hydrogen fuel cell and other hydrogen-powered vehicles that will have—

(i) a range of at least 300 miles;

(ii) improved performance and ease of driving;

(iii) safety and performance comparable to vehicle technologies in the market; and

(iv) when compared to light duty vehicles in model year 2003—

(I) fuel economy that is substantially higher;

(II) substantially lower emissions of air pollutants; and

(III) equivalent or improved vehicle fuel system crash integrity and occupant protection.

(2) HYDROGEN ENERGY AND ENERGY INFRASTRUCTURE.—For hydrogen energy and energy infrastructure, the goals of the program are to enable a commitment not later than 2015 that will lead to infrastructure by 2020 that will provide—

(A) safe and convenient refueling;

(B) improved overall efficiency;

(C) widespread availability of hydrogen from domestic energy sources through—

(i) production, with consideration of emissions levels;

(ii) delivery, including transmission by pipeline and other distribution methods for hydrogen; and

(iii) storage, including storage in surface transportation vehicles;

(D) hydrogen for fuel cells, internal combustion engines, and other energy conversion devices for portable, stationary, and transportation applications; and

(E) other technologies consistent with the Department's plan.

(3) FUEL CELLS.—The goals for fuel cells and their portable, stationary, and transportation applications are to enable—

(A) safe, economical, and environmentally sound hydrogen fuel cells;

(B) fuel cells for light duty and other vehicles; and

(C) other technologies consistent with the Department's plan.

(c) DEMONSTRATION.—In carrying out the programs under this section, the Secretary shall fund a limited number of demonstration projects, consistent with a determination of the maturity, cost-effectiveness, and environmental impacts of technologies supporting each project. In selecting projects under this subsection, the Secretary shall, to the extent practicable and in the public interest, select projects that—

(1) involve using hydrogen and related products at existing facilities or installations, such as existing office buildings, military bases, vehicle fleet centers, transit bus authorities, or units of the National Park System;

(2) depend on reliable power from hydrogen to carry out essential activities;

(3) lead to the replication of hydrogen technologies and draw such technologies into the marketplace;

(4) include vehicle, portable, and stationary demonstrations of fuel cell and hydrogen-based energy technologies;

(5) address the interdependency of demand for hydrogen fuel cell applications and hydrogen fuel infrastructure;

(6) raise awareness of hydrogen technology among the public;

(7) facilitate identification of an optimum technology among competing alternatives;

(8) address distributed generation using renewable sources; and

(9) address applications specific to rural or remote locations, including isolated villages and islands, the National Park System, and tribal entities.

The Secretary shall give preference to projects which address multiple elements contained in paragraphs (1) through (9).

(d) DEPLOYMENT.—In carrying out the programs under this section, the Secretary shall, in partnership with the private sector, conduct activities to facilitate the deployment of hydrogen energy and energy infrastructure, fuel cells, and advanced vehicle technologies.

(e) FUNDING.—

(1) IN GENERAL.—The Secretary shall carry out the programs under this section using a competitive, merit-based review process and consistent with the generally applicable Federal laws and regulations governing awards of financial assistance, contracts, or other agreements.

(2) RESEARCH CENTERS.—Activities under this section may be carried out by funding nationally recognized university-based or Federal laboratory research centers.

(f) COST SHARING.—

(1) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for research and development programs carried out under this title the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this paragraph if the Secretary determines that the research and development is of a basic or fundamental nature or involves technical analyses or educational activities.

(2) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this title, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this title to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this paragraph if

the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(3) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary may include personnel, services, equipment, and other resources.

(4) SIZE OF NON-FEDERAL SHARE.—The Secretary may consider the size of the non-Federal share in selecting projects.

(g) DISCLOSURE.—Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) relating to the protection of information shall apply to projects carried out through grants, cooperative agreements, or contracts under this title.

SEC. 804. INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the President shall establish an interagency task force chaired by the Secretary with representatives from each of the following:

(1) The Office of Science and Technology Policy within the Executive Office of the President.

(2) The Department of Transportation.

(3) The Department of Defense.

(4) The Department of Commerce (including the National Institute of Standards and Technology).

(5) The Department of State.

(6) The Environmental Protection Agency.

(7) The National Aeronautics and Space Administration.

(8) Other Federal agencies as the Secretary determines appropriate.

(b) DUTIES.—

(1) PLANNING.—The interagency task force shall work toward—

(A) a safe, economical, and environmentally sound fuel infrastructure for hydrogen and hydrogen-carrier fuels, including an infrastructure that supports buses and other fleet transportation;

(B) fuel cells in government and other applications, including portable, stationary, and transportation applications;

(C) distributed power generation, including the generation of combined heat, power, and clean fuels including hydrogen;

(D) uniform hydrogen codes, standards, and safety protocols; and

(E) vehicle hydrogen fuel system integrity safety performance.

(2) ACTIVITIES.—The interagency task force may organize workshops and conferences, may issue publications, and may create databases to carry out its duties. The interagency task force shall—

(A) foster the exchange of generic, nonproprietary information and technology among industry, academia, and government;

(B) develop and maintain an inventory and assessment of hydrogen, fuel cells, and other advanced technologies, including the commercial capability of each technology for the economic and environmentally safe production, distribution, delivery, storage, and use of hydrogen;

(C) integrate technical and other information made available as a result of the programs and activities under this title;

(D) promote the marketplace introduction of infrastructure for hydrogen fuel vehicles; and

(E) conduct an education program to provide hydrogen and fuel cell information to potential end-users.

(c) AGENCY COOPERATION.—The heads of all agencies, including those whose agencies are not represented on the interagency task force, shall cooperate with and furnish information to the interagency task force, the Advisory Committee, and the Department.

SEC. 805. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Hydrogen Technical and Fuel Cell Advisory Committee is established to advise the Secretary on the programs and activities under this title.

(b) MEMBERSHIP.—

(1) MEMBERS.—The Advisory Committee shall be comprised of not fewer than 12 nor more than 25 members. The members shall be appointed by the Secretary to represent domestic industry, academia, professional societies, government agencies, Federal laboratories, previous advisory panels, and financial, environmental, and other appropriate organizations based on the Department's assessment of the technical and other qualifications of committee members and the needs of the Advisory Committee.

(2) TERMS.—The term of a member of the Advisory Committee shall not be more than 3 years. The Secretary may appoint members of the Advisory Committee in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the Advisory Committee. A member of the Advisory Committee whose term is expiring may be reappointed.

(3) CHAIRPERSON.—The Advisory Committee shall have a chairperson, who is elected by the members from among their number.

(c) REVIEW.—The Advisory Committee shall review and make recommendations to the Secretary on—

(1) the implementation of programs and activities under this title;

(2) the safety, economical, and environmental consequences of technologies for the production, distribution, delivery, storage, or use of hydrogen energy and fuel cells; and

(3) the plan under section 802.

(d) RESPONSE.—

(1) CONSIDERATION OF RECOMMENDATIONS.—The Secretary shall consider, but need not adopt, any recommendations of the Advisory Committee under subsection (c).

(2) BIENNIAL REPORT.—The Secretary shall transmit a biennial report to Congress describing any recommendations made by the Advisory Committee since the previous report. The report shall include a description of how the Secretary has implemented or plans to implement the recommendations, or an explanation of the reasons that a recommendation will not be implemented. The report shall be transmitted along with the President's budget proposal.

(e) SUPPORT.—The Secretary shall provide resources necessary in the judgment of the Secretary for the Advisory Committee to carry out its responsibilities under this title.

SEC. 806. EXTERNAL REVIEW.

(a) PLAN.—The Secretary shall enter into an arrangement with the National Academy of Sciences to review the plan prepared under section 802, which shall be completed not later than 6 months after the Academy receives the plan. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation of the reasons that a recommendation will not be implemented.

(b) ADDITIONAL REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy will review the programs under section 803 during the fourth year following the date of enactment of this Act. The Academy's review shall include the research priorities and technical milestones, and evaluate the progress toward achieving them. The review shall be completed not later than 5 years after the date of enactment of this Act. Not later than 45 days after receiving the review, the Secretary shall transmit the review to Congress along with a plan to implement the review's recommendations or an explanation for the reasons that a recommendation will not be implemented.

SEC. 807. MISCELLANEOUS PROVISIONS.

(a) REPRESENTATION.—The Secretary may represent the United States interests with respect to activities and programs under this title, in coordination with the Department of Transportation, the National Institute of Standards and Technology, and other relevant Federal agencies, before governments and nongovernmental organizations including—

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

(2) industry and its representatives, including members of the energy and transportation industries; and

(3) in consultation with the Department of State, foreign governments and their representatives including international organizations.

(b) REGULATORY AUTHORITY.—Nothing in this title shall be construed to alter the regulatory authority of the Department.

SEC. 808. SAVINGS CLAUSE.

Nothing in this title shall be construed to affect the authority of the Secretary of Transportation that may exist prior to the date of enactment of this Act with respect to—

(1) research into, and regulation of, hydrogen-powered vehicles fuel systems integrity, standards, and safety under subtitle VI of title 49, United States Code;

(2) regulation of hazardous materials transportation under chapter 51 of title 49, United States Code;

(3) regulation of pipeline safety under chapter 601 of title 49, United States Code;

(4) encouragement and promotion of research, development, and deployment activities relating to advanced vehicle technologies under section 5506 of title 49, United States Code;

(5) regulation of motor vehicle safety under chapter 301 of title 49, United States Code;

(6) automobile fuel economy under chapter 329 of title 49, United States Code; or

(7) representation of the interests of the United States with respect to the activities and programs under the authority of title 49, United States Code.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this title, in addition to any amounts made available for these purposes under other Acts—

(1) $546,000,000 for fiscal year 2006;

(2) $750,000,000 for fiscal year 2007;

(3) $850,000,000 for fiscal year 2008;

(4) $900,000,000 for fiscal year 2009; and

(5) $1,000,000,000 for fiscal year 2010.

SEC. 810. SOLAR AND WIND TECHNOLOGIES.

(a) SOLAR ENERGY TECHNOLOGIES.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subtitle related to solar energy technologies and for implementing the recommendations related to solar energy technologies that are included in the report transmitted under subsection (c);

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at solar energy facilities, including one demonstration project at a national laboratory or institution of higher education;

(3) establish a research and development program—

(A) to develop optimized concentrating solar power devices that may be used for the production of both electricity and hydrogen; and

(B) to evaluate the use of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power devices;

(4) coordinate with activities sponsored by the Department of Energy's Office of Nuclear Energy, Science, and Technology on high-temperature materials, thermochemical cycles, and economic issues related to solar energy;

(5) provide for the construction and operation of new concentrating solar power devices or solar power cogeneration facilities that produce hydrogen either concurrently with, or independently of, the production of electricity;

(6) support existing facilities and research programs dedicated to the development and advancement of concentrating solar power devices; and

(7) establish a program—

(A) to research and develop methods that use electricity from photovoltaic devices for the onsite production of hydrogen, such that no intermediate transmission or distribution infrastructure is required or used and future demand growth may be accommodated;

(B) to evaluate the economics of small-scale electrolysis for hydrogen production; and

(C) to research the potential of modular photovoltaic devices for the development of a hydrogen infrastructure, the security implications of a hydrogen infrastructure, and the benefits potentially derived from a hydrogen infrastructure.

(b) WIND ENERGY TECHNOLOGIES.—The Secretary shall—

(1) prepare a detailed roadmap for carrying out the provisions in this subtitle related to wind energy technologies and for implementing the recommendations related to wind energy technologies that are included in the report transmitted under subsection (c); and

(2) provide for the establishment of 5 projects in geographic areas that are regionally and climatically diverse to demonstrate the production of hydrogen at existing wind energy facilities, including one demonstration project at a national laboratory or institution of higher education.

(c) PROGRAM SUPPORT.—The Secretary shall support research programs at institutions of higher education for the development of solar energy technologies and wind energy technologies for the production of hydrogen. The research programs supported under this subsection shall—

(1) enhance fellowship and faculty assistance programs;

(2) provide support for fundamental research;

(3) encourage collaborative research among industry, national laboratories, and institutions of higher education;

(4) support communication and outreach; and

(5) to the greatest extent possible—

(A) be located in geographic areas that are regionally and climatically diverse; and

(B) be located at part B institutions, minority institutions, and institutions of higher education located in States participating in the Experimental Program to Stimulate Competitive Research of the Department of Energy.

(d) INSTITUTIONS OF HIGHER EDUCATION AND NATIONAL LABORATORY INTERACTIONS.—In conjunction with the programs supported under this section, the Secretary shall develop sabbatical, fellowship, and visiting scientist programs to encourage national laboratories and institutions of higher education to share and exchange personnel.

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

(1) the term ''concentrating solar power devices'' means devices that concentrate the power of the sun by reflection or refraction to improve the efficiency of a photovoltaic or thermal generation process;

(2) the term ''institution of higher education'' has the meaning given to that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a));

(3) the term ''minority institution'' has the meaning given to that term in section 365 of the Higher Education Act of 1965 (20 U.S.C. 1067k);

(4) the term ''part B institution'' has the meaning given to that term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061); and

(5) the term ''photovoltaic devices'' means devices that convert light directly into electricity through a solid-state, semiconductor process.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 900. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the ''Energy Research, Development, Demonstration, and Commercial Application Act of 2005''.

(b) DEFINITIONS.—For purposes of this title:

(1) APPLIED PROGRAMS.—The term ''applied programs'' means the research, development, demonstration, and commercial application programs of the Department concerning energy efficiency, renewable energy, nuclear energy, fossil energy, and electricity transmission and distribution.

(2) BIOMASS.—The term ''biomass'' means—

(A) any organic material grown for the purpose of being converted to energy;

(B) any organic byproduct of agriculture (including wastes from food production and processing) that can be converted into energy; or

(C) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from—

(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, brush, or otherwise non-merchantable material; or

(ii) wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of municipal solid waste, or paper that is commonly recycled.

(3) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(4) DEPARTMENTAL MISSION.—The term ''departmental mission'' means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(5) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(6) NATIONAL LABORATORY.—The term ''National Laboratory'' means any of the following laboratories owned by the Department:

(A) Ames Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Accelerator Laboratory.

(E) Idaho National Laboratory.

(F) Lawrence Berkeley National Laboratory.

(G) Lawrence Livermore National Laboratory.

(H) Los Alamos National Laboratory.

(I) National Energy Technology Laboratory.

(J) National Renewable Energy Laboratory.

(K) Oak Ridge National Laboratory.

(L) Pacific Northwest National Laboratory.

(M) Princeton Plasma Physics Laboratory.

(N) Sandia National Laboratories.

(O) Savannah River National Laboratory.

(P) Stanford Linear Accelerator Center.

(Q) Thomas Jefferson National Accelerator Facility.

(7) RENEWABLE ENERGY.—The term ''renewable energy'' means energy from wind, sunlight, the flow of water, heat from the Earth, or biomass that can be converted into a usable form such as process heat, electricity, fuel, or space heat.

(8) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(9) STATE.—The term ''State'' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

(10) UNIVERSITY.—The term ''university'' has the meaning given the term ''institution of higher education'' in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(11) USER FACILITY.—The term ''user facility'' means a research and development facility supported, in whole or in part, by Departmental funds that is open, at a minimum, to all qualified United States researchers.

Subtitle A—Science Programs

SEC. 901. OFFICE OF SCIENCE PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct, through the Office of Science, programs of research, development, demonstration, and commercial application in high energy physics, nuclear physics, biological and environmental research, basic energy sciences, advanced scientific computing research, and fusion energy sciences, including activities described in this subtitle. The programs shall include support for facilities and infrastructure, education, outreach, information, analysis, and coordination activities.

(b) RARE ISOTOPE ACCELERATOR.—

(1) ESTABLISHMENT.—The Secretary shall construct and operate a Rare Isotope Accelerator. The Secretary shall commence construction no later than September 30, 2008.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection. The Secretary shall not spend more than $1,100,000,000 in Federal funds for all activities associated with the Rare Isotope Accelerator prior to operation.

SEC. 902. SYSTEMS BIOLOGY PROGRAM.

(a) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a research, development, and demonstration program in genetics, protein science, and computational biology to support the energy, national security, and environmental missions of the Department.

(2) GRANTS.—The program shall support individual researchers and multidisciplinary teams of researchers through competitive, merit-reviewed grants.

(3) CONSULTATION.—In carrying out the program, the Secretary shall consult with other Federal agencies that conduct genetic and protein research.

(b) GOALS.—The program shall have the goal of developing technologies and methods based on the biological functions of genomes, microbes, and plants that—

(1) can facilitate the production of fuels, including hydrogen;

(2) convert carbon dioxide to organic carbon;

(3) detoxify soils and water, including at Departmental facilities, contaminated with heavy metals and radiological materials; and

(4) address other Department missions as identified by the Secretary.

(c) PLAN.—

(1) DEVELOPMENT OF PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and transmit to Congress a research plan describing how the program authorized pursuant to this section will be undertaken to accomplish the program goals established in subsection (b).

(2) REVIEW OF PLAN.—The Secretary shall contract with the National Academy of Sciences to review the research plan developed under this subsection. The Secretary shall transmit the review to Congress not later than 18 months after transmittal of the research plan under paragraph (1), along with the Secretary's response to the recommendations contained in the review.

(d) USER FACILITIES AND ANCILLARY EQUIPMENT.—Within the funds authorized to be appropriated pursuant to this subtitle, the amounts specified under section 910(b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) shall be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities, including user facilities, for researchers conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(e) PROHIBITION ON BIOMEDICAL AND HUMAN CELL AND HUMAN SUBJECT RESEARCH.—

(1) NO BIOMEDICAL RESEARCH.—In carrying out the program under this section, the Secretary shall not conduct biomedical research.

(2) LIMITATIONS.—Nothing in this section shall authorize the Secretary to conduct any research or demonstrations—

(A) on human cells or human subjects; or

(B) designed to have direct application with respect to human cells or human subjects.

SEC. 903. CATALYSIS RESEARCH AND DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall conduct a program of research and development in catalysis science, including efforts to—

(1) enable molecular-level catalyst design by coupling experimental and computational approaches;

(2) enable nanoscale, high-throughput synthesis, assay, and characterization; and

(3) synthesize catalysts with specific site architectures.

(b) PROGRAM ACTIVITIES.—In carrying out the program under this section, the Secretary shall—

(1) support both individual researchers and multidisciplinary teams of researchers to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, or operate special equipment or facilities, including user facilities;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other Federal agencies.

SEC. 904. HYDROGEN.

The Secretary shall conduct a program of fundamental research and development in support of programs authorized in titleVIII.

SEC. 905. ADVANCED SCIENTIFIC COMPUTING RESEARCH.

The Secretary shall conduct an advanced scientific computing research and development program, including in applied mathematics and the activities authorized by the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.). The Secretary shall carry out this program with the goal of supporting departmental missions and providing the high-performance computational, networking, and workforce resources that are required for world leadership in science.

SEC. 906. FUSION ENERGY SCIENCES PROGRAM.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial application to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other nations in providing fusion energy for its own needs and the needs of other nations, including by demonstrating electric power or hydrogen production for the United States energy grid utilizing fusion energy at the earliest date possible.

(b) PLANNING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to Congress a plan, with proposed cost estimates, budgets, and lists of potential international partners, for the implementation of the policy described in subsection (a). The plan shall ensure that—

(A) existing fusion research facilities are more fully utilized;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation, cost effectiveness, and their potential to advance the goal of practical fusion energy at the earliest date possible, and those that are selected are funded at a cost-effective rate;

(D) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(E) inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development; and

(F) attractive alternative inertial and magnetic fusion energy approaches are more fully explored.

(2) COSTS AND SCHEDULES.—Such plan shall also address the status of and, to the degree possible, costs and schedules for—

(A) the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

(c) UNITED STATES PARTICIPATION IN ITER.—

(1) IN GENERAL.—The United States may participate in ITER only in accordance with this subsection.

(2) AGREEMENT.—

(A) IN GENERAL.—The Secretary is authorized to negotiate an agreement for United States participation in ITER.

(B) CONTENTS.—Any agreement for United States participation in ITER shall, at a minimum—

(i) clearly define the United States financial contribution to construction and operating costs, as well as any other costs associated with the project;

(ii) ensure that the share of ITER's high-technology components manufactured in the United States is at least proportionate to the United States financial contribution to ITER;

(iii) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(iv) guarantee the United States full access to all data generated by ITER;

(v) enable United States researchers to propose and carry out an equitable share of the experiments at ITER;

(vi) provide the United States with a role in all collective decisionmaking related to ITER; and

(vii) describe the process for discontinuing or decommissioning ITER and any United States role in that process.

(3) PLAN.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in ITER that shall include the United States research agenda for ITER, methods to evaluate whether ITER is promoting progress toward making fusion a reliable and affordable source of power, and a description of how work at ITER will relate to other elements of the United States fusion program. The Secretary shall request a review of the plan by the National Academy of Sciences.

(4) LIMITATION.—No Federal funds shall be expended for the construction of ITER until the Secretary has transmitted to Congress—

(A) the agreement negotiated pursuant to paragraph (2) and 120 days have elapsed since that transmission;

(B) a report describing the management structure of ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of ITER, and 120 days have elapsed since that transmission;

(C) a report describing how United States participation in ITER will be funded without reducing funding for other programs in the Office of Science, including other fusion programs, and 60 days have elapsed since that transmission; and

(D) the plan required by paragraph (3) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that transmission.

(5) ALTERNATIVE TO ITER.—If at any time during the negotiations on ITER, the Secretary determines that construction and operation of ITER is unlikely or infeasible, the Secretary shall send to Congress, as part of the budget request for the following year, a plan for implementing a domestic burning plasma experiment including costs and schedules for such a plan. The Secretary shall refine such plan in full consultation with the Fusion Energy Sciences Advisory Committee and shall also transmit such plan to the National Academy of Sciences for review.

(6) DEFINITIONS.—In this subsection:

(A) CONSTRUCTION.— The term "construction" means the physical construction of the ITER facility, and the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility, but does not mean the design of the facility, equipment, or components.

(B) ITER.—The term "ITER" means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003, or any similar international project.

SEC. 907. SCIENCE AND TECHNOLOGY SCHOLARSHIP PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to establish a Science and Technology Scholarship Program to award scholarships to individuals that is designed to recruit and prepare students for careers in the Department.

(2) COMPETITIVE PROCESS.—Individuals shall be selected to receive scholarships under this section through a competitive process primarily on the basis of academic merit, with consideration given to financial need and the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) SERVICE AGREEMENTS.—To carry out the Program the Secretary shall enter into contractual agreements with individuals selected under paragraph (2) under which the individuals agree to serve as full-time employees of the Department, for the period described in subsection (f)(1), in positions needed by the Department and for which the individuals are qualified, in exchange for receiving a scholarship.

(b) SCHOLARSHIP ELIGIBILITY.—In order to be eligible to participate in the Program, an individual must—

(1) be enrolled or accepted for enrollment as a full-time graduate student at an institution of higher education in an academic program or field of study described in the list made available under subsection (d);

(2) be a United States citizen; and

(3) at the time of the initial scholarship award, not be a Federal employee as defined in section 2105 of title 5 of the United States Code.

(c) APPLICATION REQUIRED.—An individual seeking a scholarship under this section shall submit an application to the Secretary at such time, in such manner, and containing such information, agreements, or assurances as the Secretary may require.

(d) ELIGIBLE ACADEMIC PROGRAMS.—The Secretary shall make publicly available a list of academic programs and fields of study for which scholarships under the Program may be utilized, and shall update the list as necessary.

(e) SCHOLARSHIP REQUIREMENT.—

(1) IN GENERAL.—The Secretary may provide a scholarship under the Program for an academic year if the individual applying for the scholarship has submitted to the Secretary, as part of the application required under subsection (c), a proposed academic program leading to a degree in a program or field of study on the list made available under subsection (d).

(2) DURATION OF ELIGIBILITY.—An individual may not receive a scholarship under this section for more than 4 academic years, unless the Secretary grants a waiver.

(3) SCHOLARSHIP AMOUNT.—The dollar amount of a scholarship under this section for an academic year shall be determined under regulations issued by the Secretary, but shall in no case exceed the cost of attendance.

(4) AUTHORIZED USES.—A scholarship provided under this section may be expended for tuition, fees, and other authorized expenses as established by the Secretary by regulation.

(5) CONTRACTS REGARDING DIRECT PAYMENTS TO INSTITUTIONS.—The Secretary may enter into a contractual agreement with an institution of higher education under which the amounts provided for a scholarship under this section for tuition, fees, and other authorized expenses are paid directly to the institution with respect to which the scholarship is provided.

(f) PERIOD OF OBLIGATED SERVICE.—

(1) DURATION OF SERVICE.—The period of service for which an individual shall be obligated to serve as an employee of the Department is, except as provided in subsection (h)(2), 24 months for each academic year for which a scholarship under this section is provided.

(2) SCHEDULE FOR SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), obligated service under paragraph (1) shall begin not later than 60 days after the individual obtains the educational degree for which the scholarship was provided.

(B) DEFERRAL.—The Secretary may defer the obligation of an individual to provide a period of service under paragraph (1) if the Secretary determines that such a deferral is appropriate. The Secretary shall prescribe the terms and conditions under which a service obligation may be deferred through regulation.

(g) PENALTIES FOR BREACH OF SCHOLARSHIP AGREEMENT.—

(1) FAILURE TO COMPLETE ACADEMIC TRAINING.—Scholarship recipients who fail to maintain a high level of academic standing, as defined by the Secretary by regulation, who are dismissed from their educational institutions for disciplinary reasons, or who voluntarily terminate academic training before graduation from the educational program for which the scholarship was awarded, shall be in breach of their contractual agreement and, in lieu of any service obligation arising under such agreement, shall be liable to the United States for repayment not later than 1 year after the date of default of all scholarship funds paid to them and to the institution of higher education on their behalf under the agreement, except as provided in subsection (h)(2). The repayment period may be extended by the Secretary when determined to be necessary, as established by regulation.

(2) FAILURE TO BEGIN OR COMPLETE THE SERVICE OBLIGATION OR MEET THE TERMS AND CONDITIONS OF DEFERMENT.—A scholarship recipient who, for any reason, fails to begin or complete a service obligation under this section after completion of academic training, or fails to comply with the terms and conditions of deferment established by the Secretary pursuant to subsection (f)(2)(B), shall be in breach of the contractual agreement. When a recipient breaches an agreement for the reasons stated in the preceding sentence, the recipient shall be liable to the United States for an amount equal to—

(A) the total amount of scholarships received by such individual under this section; plus

(B) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 3.

(h) WAIVER OR SUSPENSION OF OBLIGATION.—

(1) DEATH OF INDIVIDUAL.—Any obligation of an individual incurred under the Program (or a contractual agreement thereunder) for service or payment shall be canceled upon the death of the individual.

(2) IMPOSSIBILITY OR EXTREME HARDSHIP.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment incurred by an individual under the Program (or a contractual agreement thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be contrary to the best interests of the Government.

(i) DEFINITIONS.—In this section the following definitions apply:

(1) COST OF ATTENDANCE.—The term ''cost of attendance'' has the meaning given that term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*).

(2) PROGRAM.—The term ''Program'' means the Science and Technology Scholarship Program established under this section.

SEC. 908. OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.

The Secretary shall maintain within the Department the Office of Scientific and Technical Information.

SEC. 909. SCIENCE AND ENGINEERING PILOT PROGRAM.

(a) ESTABLISHMENT OF CONSORTIUM.—Notwithstanding section 913, the Secretary shall award a grant to Oak Ridge Associated Universities to establish a university consortium to carry out a regional pilot program for enhancing scientific, technological, engineering, and mathematical literacy, creativity, and decisionmaking. The consortium shall include leading research universities, one or more universities that train substantial numbers of elementary and secondary school teachers, and, where appropriate, National Laboratories.

(b) PROGRAM ELEMENTS.—The program shall include—

(1) expanding strategic, formal partnerships among universities with strength in research, universities that train substantial numbers of elementary and secondary school teachers, and the private sector;

(2) combining Department expertise with one or more National Aeronautics and Space Administration Educator Resource Centers;

(3) developing programs to permit current and future teachers to participate in ongoing research projects at National Laboratories and research universities and to adapt lessons learned to the classroom;

(4) designing and implementing course work;

(5) designing and implementing a strategy for measuring and assessing progress under the program; and

(6) developing models for transferring knowledge gained under the pilot program to other institutions and areas of the country.

(c) REPORT.—Not later than 2 years after appropriations are first available for the program, the Secretary shall transmit to Congress a report outlining lessons learned and containing a plan for expanding the program nationwide. The Secretary may begin implementation of such plan for expansion of the program on October 1, 2008. The expansion of the program shall be subject to section 913.

SEC. 910. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts authorized to be appropriated under the 21st Century Nanotechnology Research and Development Act (15 U.S.C. 7501 et seq.) and the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.), the following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this subtitle:

(1) For fiscal year 2006, $3,785,000,000.

(2) For fiscal year 2007, $4,153,000,000.

(3) For fiscal year 2008, $4,628,000,000.

(4) For fiscal year 2009, $5,300,000,000.

(5) For fiscal year 2010, $5,800,000,000.

(b) 2006 ALLOCATIONS.—From amounts authorized under subsection (a)(1), the following sums are authorized for fiscal year 2006:

(1) SYSTEMS BIOLOGY.—For activities under section 902, $100,000,000.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $252,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $335,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $800,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $7,000,000.

(6) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(c) 2007 ALLOCATIONS.—From amounts authorized under subsection (a)(2), the following sums are authorized for fiscal year 2007:

(1) SYSTEMS BIOLOGY.—For activities under section 902, such sums as may be necessary.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $270,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $349,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $1,600,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $7,500,000.

(6) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(d) 2008 ALLOCATIONS.—From amounts authorized under subsection (a)(3), the following sums are authorized for fiscal year 2008:

(1) SYSTEMS BIOLOGY.—For activities under section 902, such sums as may be necessary.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $350,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $362,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $2,000,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $8,000,000.

(6) PILOT PROGRAM.—For activities under section 909, $4,000,000.

(e) 2009 ALLOCATIONS.—From amounts authorized under subsection (a)(4), the following sums are authorized for fiscal year 2009:

(1) SYSTEMS BIOLOGY.—For activities under section 902, such sums as may be necessary.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $375,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $377,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $2,000,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $8,000,000.

(6) PILOT PROGRAM.—For activities under section 909, $8,000,000.

(f) 2010 ALLOCATIONS.—From amounts authorized under subsection (a)(5), the following sums are authorized for fiscal year 2010:

(1) SYSTEMS BIOLOGY.—For activities under section 902, such sums as may be necessary.

(2) SCIENTIFIC COMPUTING.—For activities under section 905, $400,000,000.

(3) FUSION ENERGY SCIENCES.—For activities under section 906, excluding activities under subsection (c) of that section, $393,000,000.

(4) SCHOLARSHIP.—For the scholarship program described in section 907, $2,000,000.

(5) OFFICE OF SCIENTIFIC AND TECHNICAL INFORMATION.—For activities under section 908, $8,500,000.

(6) PILOT PROGRAM.—For activities under section 909, $8,000,000.

(g) ITER CONSTRUCTION.—From amounts authorized under subsection (a) and in addition to amounts authorized under subsections (b)(3), (c)(3), (d)(3), (e)(3), and (f)(3), there are authorized to be appropriated to the Secretary such sums as may be necessary for ITER construction, consistent with the limitations of section 906(c).

Subtitle B—Research Administration and Operations

SEC. 911. COST SHARING.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this title, for research and development programs carried out under this title, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this title, the Secretary shall require at least 50 percent of the costs related to any demonstration or commercial application activities under this title to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this title.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary may include personnel, services, equipment, and other resources.

(d) SIZE OF NON-FEDERAL SHARE.—The Secretary may consider the amount of the non-Federal share in selecting projects under this title.

SEC. 912. REPROGRAMMING.

(a) DISTRIBUTION REPORT.—Not later than 60 days after the date of enactment of an Act appropriating amounts authorized under this title, the Secretary shall transmit to Congress a report explaining how such amounts will be distributed among the activities authorized by this title.

(b) REPROGRAMMING LETTER.—No amount authorized by this title shall be obligated or expended for a purpose inconsistent with the appropriations Act appropriating such amount, the report accompanying such appropriations Act, or a distribution report transmitted under subsection (a) if such obligation or expenditure would change an individual amount, as represented in such an Act, report, or distribution report, by more than 2 percent or $2,000,000, whichever is smaller, unless the Secretary has transmitted to Congress a letter of explanation and a period of 30 days has elapsed after Congress receives the letter.

(c) COMPUTATION.—The computation of the 30-day period described in subsection (b) shall exclude any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

SEC. 913. MERIT-BASED COMPETITION.

(a) COMPETITIVE MERIT REVIEW.—Awardees of funds authorized under this title shall be selected through open competitions. Funds shall be competitively awarded only after an impartial review of the scientific and technical merit of the proposals for such awards has been carried out by or for the Department on the basis of criteria outlined by the Secretary in the solicitation of proposals.

(b) COMPETITION.—Competitive awards under this title shall involve competitions open to all qualified entities within one or more of the following categories:

(1) Institutions of higher education.

(2) National Laboratories.

(3) Nonprofit and for-profit private entities.

(4) State and local governments.

(5) Consortia of entities described in paragraphs (1) through (4).

(c) CONGRESSIONAL NOTIFICATION.—The Secretary shall notify Congress within 30 days after awarding more than $500,000 through a competition described in subsection (b) that is limited to 1 of the categories described in paragraphs (1) through (4) of subsection (b).

(d) WAIVERS.—The Secretary may waive the requirement under subsection (a) requiring competition if the Secretary considers it necessary to more quickly advance research, development, demonstration, or commercial application activities. The Secretary shall notify Congress within 30 days when a waiver is granted under this subsection. The Secretary may not delegate the waiver authority under this subsection for awards over $500,000.

SEC. 914. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL APPLIED ENERGY RESEARCH AND DEVELOPMENT ADVISORY COMMITTEES.—

(1) IN GENERAL.—The Secretary shall establish one or more advisory committees to review and advise the Department's applied programs in the following areas:

(A) Energy efficiency.

(B) Renewable energy.

(C) Nuclear energy.

(D) Fossil energy.

(2) EXISTING ADVISORY COMMITTEES.—The Secretary may designate an existing advisory committee within the Department to fulfill the responsibilities of an advisory committee under this subsection.

(b) OFFICE OF SCIENCE ADVISORY COMMITTEES.—

(1) USE OF EXISTING COMMITTEES.—Except as otherwise provided under the Federal Advisory Committee Act, the Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.

(2) REPORT.—Before the Department issues any new guidance regarding the membership for Office of Science scientific program advisory committees, the Secretary shall transmit a report to the Congress outlining the reasons for the proposed changes, and 60 days must have elapsed after transmittal of the report before the Department may implement those changes.

(3) SCIENCE ADVISORY COMMITTEE.—

(A) ESTABLISHMENT.—There shall be a Science Advisory Committee for the Office of Science that includes the chairs of each of the advisory committees described in paragraph (1).

(B) RESPONSIBILITIES.—The Science Advisory Committee shall—

(i) advise the Director of the Office of Science on science issues;

(ii) advise the Director of the Office of Science with respect to the well-being and management of the National Laboratories and Department research facilities;

(iii) advise the Director of the Office of Science with respect to education and workforce training activities required for effective short-term and long-term basic and applied research activities of the Office of Science; and

(iv) advise the Director of the Office of Science with respect to the well-being of the university research programs supported by the Office of Science.

(c) MEMBERSHIP.—Each member of an advisory committee appointed under this section shall have significant scientific, technical, or other appropriate expertise. The membership of each committee shall represent a wide range of expertise, including, to the extent practicable, members with expertise from outside the disciplines covered by the program, and a diverse set of interests.

(d) MEETINGS AND PURPOSES.—Each advisory committee under this section shall meet at least semiannually to review and advise on the progress made by the respective research, development, demonstration, and commercial application program or programs. The advisory committee shall also review the measurable cost and performance-based goals for the applied programs, and the progress on meeting such goals.

(e) REVIEW AND ASSESSMENT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into arrangements with the National Academy of Sciences to conduct reviews and assessments of the programs authorized by this title, the measurable cost and performance-based goals for the applied programs, and the progress in meeting such goals. Such reviews and assessments shall be completed and reports containing the results of all such reviews and assessments transmitted to the Congress not later than 2 years after the date of enactment of this Act.

SEC. 915. COMPETITIVE AWARD OF MANAGEMENT CONTRACTS.

None of the funds authorized to be appropriated to the Secretary by this title may be used to award a management and operating contract for a National Laboratory (excluding those named in subparagraphs (G), (H), (N), (O) of section 900(b)(6)), unless such contract is competitively awarded, or the Secretary grants, on a case-by-case basis, a waiver. The Secretary may not delegate the authority to grant such a waiver and shall submit to the Congress a report notifying it of the waiver, and setting forth the reasons for the waiver, at least 60 days prior to the date of the award of such contract.

SEC. 916. NATIONAL LABORATORY DESIGNATION.

After the date of enactment of this Act the Secretary shall not designate a facility that is not referred to in section 900(b)(6) as a National Laboratory.

SEC. 917. REPORT ON EQUAL EMPLOYMENT OPPORTUNITY PRACTICES.

Not later than 12 months after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the equal employment opportunity practices at National Laboratories. Such report shall include—

(1) a thorough review of each laboratory contractor's equal employment opportunity policies, including promotion to management and professional positions and pay raises;

(2) a statistical report on complaints and their disposition in the laboratories;

(3) a description of how equal employment opportunity practices at the laboratories are treated in the contract and in calculating award fees for each contractor;

(4) a summary of disciplinary actions and their disposition by either the Department or the relevant contractors for each laboratory;

(5) a summary of outreach efforts to attract women and minorities to the laboratories;

(6) a summary of efforts to retain women and minorities in the laboratories; and

(7) a summary of collaboration efforts with the Office of Federal Contract Compliance Programs to improve equal employment opportunity practices at the laboratories.

SEC. 918. USER FACILITY BEST PRACTICES PLAN.

The Secretary shall not allow any Department facility to begin functioning as a user facility after the date of enactment of this Act until the Secretary, for that facility—

(1) develops a plan to ensure that the facility will—

(A) have a skilled staff to support a wide range of users;

(B) have a fair method for allocating time to users that provides for input from facility management, user representatives, and outside experts; and

(C) be operated in a safe and fiscally prudent manner; and

(2) transmits such plan to Congress and 60 days have elapsed.

SEC. 919. SUPPORT FOR SCIENCE AND ENERGY INFRASTRUCTURE AND FACILITIES.

(a) STRATEGY.—The Secretary shall develop and implement a strategy for infrastructure and facilities supported primarily from the Office of Science and the applied programs at each National Laboratory and Department research facility. Such strategy shall provide cost-effective means for—

(1) maintaining existing facilities and infrastructure, as needed;

(2) closing unneeded facilities;

(3) making facility modifications; and

(4) building new facilities.

(b) REPORT.—

(1) REQUIREMENT.—The Secretary shall prepare and transmit to the Congress not later than June 1, 2007, a report summarizing the strategies developed under subsection (a).

(2) CONTENTS.—For each National Laboratory and Department research facility, for the facilities primarily used for science and energy research, such report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 920. COORDINATION PLAN.

(a) IN GENERAL.—The Secretary shall develop a coordination plan to improve coordination and collaboration in research, development, demonstration, and commercial application activities across Department organizational boundaries.

(b) PLAN CONTENTS.—The plan shall describe—

(1) how the Secretary will ensure that the applied programs are coordinating their activities, including a description of specific research questions that cross organizational boundaries and of how the relevant applied programs are coordinating their efforts to answer those questions, and how such cross-cutting research questions will be identified in the future;

(2) how the Secretary will ensure that research that has been supported by the Office of Science is being or will be used by the applied programs, including a description of specific Office of Science-supported research that is relevant to the applied programs and of how the applied programs have used or will use that research; and

(3) a description of how the Secretary will ensure that the research agenda of the Office of Science includes research questions of concern to the applied programs, including a description of specific research questions that the Office of Science will address to assist the applied programs.

(c) PLAN TRANSMITTAL.—The Secretary shall transmit the coordination plan to Congress not later than 9 months after the date of enactment of this Act, and every 2 years thereafter shall transmit a revised coordination plan.

(d) CONFERENCE.—Not less than 6 months after the date of enactment of this Act, the Secretary shall convene a conference of program managers from the Office of Science and the applied programs to review ideas and explore possibilities for effective cross-program collaboration. The Secretary also shall invite participation relevant Federal agencies and other programs in the Federal Government conducting relevant research, and other stakeholders as appropriate.

SEC. 921. AVAILABILITY OF FUNDS.

Funds appropriated to the Secretary for activities authorized under this title shall remain available for three years. Funds that are not obligated at the end of three years shall be returned to the Treasury.

Subtitle C—Energy Efficiency

CHAPTER 1—VEHICLES, BUILDINGS, AND INDUSTRIES

SEC. 922. PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct programs of energy efficiency research, development, demonstration, and commercial application, including activities described in this chapter. Such programs shall be focused on the following objectives:

(1) Increasing the energy efficiency of vehicles, buildings, and industrial processes.

(2) Reducing the Nation's demand for energy, especially energy from foreign sources.

(3) Reducing the cost of energy and making the economy more efficient and competitive.

(4) Improving the Nation's energy security.

(5) Reducing the environmental impact of energy-related activities.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify energy efficiency performance goals, with quantifiable 5-year cost and energy savings target levels, for vehicles, buildings, and industries, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) PUBLIC INPUT.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

SEC. 923. VEHICLES.

(a) ADVANCED, COST-EFFECTIVE TECHNOLOGIES.— The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced, cost-effective technologies to improve the energy efficiency and environmental performance of light-duty and heavy-duty vehicles, including—

(1) hybrid and electric propulsion systems, including plug-in hybrid systems;

(2) advanced engines, including combustion engines;

(3) advanced materials, including high strength, lightweight materials, such as nanostructured materials, composites, multimaterial parts, carbon fibers, and materials with high thermal conductivity;

(4) technologies for reduced drag and rolling resistance;

(5) whole-vehicle design optimization to reduce the weight of component parts and thus increase the fuel economy of the vehicle, including fiber optics to replace traditional wiring;

(6) thermoelectric devices that capture waste heat and convert thermal energy into electricity; and

(7) advanced drivetrains.

(b) LOW-COST HYDROGEN PROPULSION AND INFRASTRUCTURE.—The Secretary of Energy shall—

(1) establish a research, development, and demonstration program to determine the feasibility of using hydrogen propulsion in light-weight vehicles and the integration of the associated hydrogen production infrastructure using off-the-shelf components; and

(2) identify universities and institutions that—

(A) have expertise in researching and testing vehicles fueled by hydrogen, methane, and other fuels;

(B) have expertise in integrating off-the-shelf components to minimize cost; and

(C) within two years can test a vehicle based on an existing commercially available platform with a curb weight of not less than 2,000 pounds before modifications, that—

(i) operates solely on hydrogen gas;

(ii) can travel a minimum of 300 miles under normal road conditions; and

(iii) uses hydrogen produced from water using only solar energy.

SEC. 924. BUILDINGS.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of cost-effective technologies, for new construction and retrofit, to improve the energy efficiency and environmental performance of commercial, industrial, institutional, and residential buildings. The program shall use a whole-buildings approach, integrating work on elements including—

(1) advanced controls, including occupancy sensors, daylighting controls, wireless technologies, automated responses to changes in the internal and external environment, and real time delivery of information on building system and component performance;

(2) building envelope, including windows, roofing systems and materials, and building-integrated photovoltaics;

(3) building systems components, including—

(A) lighting;

(B) appliances, including advanced technologies, such as stand-by load technologies, for office equipment, food service equipment, and laundry equipment; and

(C) heating, ventilation, and cooling systems, including ground-source heat pumps and radiant heating; and

(4) onsite renewable energy generation.

(b) ENERGY EFFICIENT BUILDING PILOT GRANT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish a pilot program to award grants to businesses and organizations for new construction of energy efficient buildings, or major renovations of buildings that will result in energy efficient buildings, to demonstrate innovative energy efficiency technologies, especially those sponsored by the Department.

(2) AWARDS.—The Secretary shall award grants under this subsection competitively to those applicants whose proposals—

(A) best demonstrate—

(i) likelihood to meet or exceed the design standards referred to in paragraph (7);

(ii) likelihood to maximize cost-effective energy efficiency opportunities; and

(iii) advanced energy efficiency technologies; and

(B) are least likely to be realized without Federal assistance.

(3) AMOUNT OF GRANTS.—Grants under this subsection shall be for up to 50 percent of design and energy modeling costs, not to exceed $50,000 per building. No single grantee may be eligible for more than 3 grants per year under this program.

(4) GRANT PAYMENTS.—

(A) INITIAL PAYMENT.—The Secretary shall pay 50 percent of the total amount of the grant to grant recipients upon selection.

(B) REMAINDER OF PAYMENT.—The Secretary shall pay the remaining 50 percent of the grant only after independent certification of operational buildings for compliance with the standards for energy efficient buildings described in paragraph (7).

(C) FAILURE TO COMPLY.—The Secretary shall not provide the remainder of the payment unless the building is certified within 6 months after operation of the completed building to meet the requirements described in subparagraph (B), or in the case of major renovations the building is certified within 6 months of the completion of the renovations.

(5) REPORT TO CONGRESS.—Not later than 3 years after awarding the first grant under this subsection, the Secretary shall transmit to Congress a report containing—

(A) the total number and dollar amount of grants awarded under this subsection; and

(B) an estimate of aggregate cost and energy savings enabled by the pilot program under this subsection.

(6) ADMINISTRATIVE EXPENSES.—Administrative expenses for the program under this subsection shall not exceed 10 percent of appropriated funds.

(7) DEFINITION OF ENERGY EFFICIENT BUILDING.—For purposes of this subsection, the term ''energy efficient building'' means a building that is independently certified—

(A) to meet or exceed the applicable United States Green Building Council's Leadership in Energy and Environmental Design standards for a silver, gold, or platinum rating; and

(B) to achieve a reduction in energy consumption of—

(i) at least 25 percent for new construction, compared to the energy standards set by the Federal Building Code (10 CFR part 434); and

(ii) at least 20 percent for major renovations, compared to energy consumption before renovations are begun.

(c) STANDARDIZATION REPORT AND PROGRAM.—

(1) REPORT.—The Secretary shall enter into an arrangement with the National Institute of Building Sciences to—

(A) conduct a comprehensive assessment of how well current voluntary consensus standards related to buildings match state-of-the-art knowledge on the design, construction, operation, repair, and renovation of high-performance buildings; and

(B) recommend steps for the Secretary to take to accelerate the development and promulgation of voluntary consensus standards for high-performance buildings that would address all major high-performance building attributes, including energy efficiency, sustainability, safety and security, life-cycle cost, and productivity.

(2) PROGRAM.—After receiving the report under paragraph (1), the Secretary shall establish a program of technical assistance and grants to support standards development organizations in—

(A) the revision of existing standards, to reflect current knowledge of high-performance buildings; and

(B) the development and promulgation of new standards in areas important to high-performance buildings where there is no existing standard or where an existing standard cannot easily be modified.

SEC. 925. INDUSTRIES.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced technologies to improve the energy efficiency, environmental performance, and process efficiency of energy-intensive and waste-intensive industries. Such program shall be focused on industries whose total annual energy consumption amounts to more than 1.0 percent of the total nationwide annual energy consumption, according to the most recent data available to the Department. Research and development efforts under this section shall give a higher priority to broad-benefit efficiency technologies that have practical application across industry sectors.

(b) ELECTRIC MOTOR CONTROL TECHNOLOGY.—The program conducted under subsection (a) shall include research on, and development, demonstration, and commercial application of, advanced control devices to improve the energy efficiency of electric motors, including those used in industrial processes, heating, ventilation, and cooling.

SEC. 926. DEMONSTRATION AND COMMERCIAL APPLICATION.

(a) APPLIANCES AND TESTING.—The Secretary shall conduct research and analysis to determine whether, given Department-sponsored and other advances in energy efficiency technologies, demonstration and commercial application of innovative, cost-effective energy savings and pollution reducing technologies could be used to improve appliances and test procedures used to measure appliance efficiency.

(b) BUILDING ENERGY CODES.—The Secretary shall, in coordination with government, nongovernment, and commercial partners, conduct research and analyses of the best cost-effective practices in the development and updating of building energy codes, including for manufactured housing. Analyses shall focus on how to encourage energy efficiency and adoption of newly developed energy production and use equipment.

(c) ADVANCED ENERGY TECHNOLOGY TRANSFER CENTERS.—

(1) GRANTS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall make grants to nonprofit institutions, State and local governments, or universities (or consortia thereof), to establish a geographically dispersed network of Advanced Energy Technology Transfer Centers, to be located in areas the Secretary determines have the greatest need of the services of such Centers.

(2) ACTIVITIES.—

(A) IN GENERAL.—Each Center shall operate a program to encourage demonstration and commercial application of advanced energy methods and technologies through education and outreach to building and industrial professionals, and to other individuals and organizations with an interest in efficient energy use.

(B) ADVISORY PANEL.—Each Center shall establish an advisory panel to advise the Center on how best to accomplish the activities under subparagraph (A).

(3) APPLICATION.—A person seeking a grant under this subsection shall submit to the Secretary an application in such form and containing such information as the Secretary may require. The Secretary may award a grant under this subsection to an entity already in existence if the entity is otherwise eligible under this subsection.

(4) SELECTION CRITERIA.—The Secretary shall award grants under this subsection on the basis of the following criteria, at a minimum:

(A) The ability of the applicant to carry out the activities in paragraph (2).

(B) The extent to which the applicant will coordinate the activities of the Center with other entities, such as State and local governments, utilities, and educational and research institutions.

(5) MATCHING FUNDS.—The Secretary shall require a non-Federal matching requirement of at least 50 percent of the costs of establishing and operating each Center.

(6) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to advise the Secretary on the establishment of Centers under this subsection. The advisory committee shall be composed of individuals with expertise in the area of advanced energy methods and technologies, including at least 1 representative from—

(A) State or local energy offices;

(B) energy professionals;

(C) trade or professional associations;

(D) architects, engineers, or construction professionals;

(E) manufacturers;

(F) the research community; and

(G) nonprofit energy or environmental organizations.

(7) DEFINITIONS.—For purposes of this subsection:

(A) ADVANCED ENERGY METHODS AND TECHNOLOGIES.—The term ''advanced energy methods and technologies'' means all methods and technologies that promote energy efficiency and conservation, including distributed generation technologies, and life-cycle analysis of energy use.

(B) CENTER.—The term ''Center'' means an Advanced Energy Technology Transfer Center established pursuant to this subsection.

(C) DISTRIBUTED GENERATION.—The term ''distributed generation'' means an electric power generation facility that is designed to serve retail electric consumers at or near the facility site.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, and once every 3 years thereafter, the Secretary shall transmit to Congress a report on the results of research and analysis under this section. In calculating cost-effectiveness for purposes of such reports, the Secretary shall include, at a minimum, the avoided cost of additional energy production, savings to the economy from lower peak energy prices and reduced price volatility, and the public and private benefits of reduced pollution.

SEC. 927. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) DEFINITIONS.—For purposes of this section:

(1) ASSOCIATED EQUIPMENT.—The term ''associated equipment'' means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(2) BATTERY.—The term ''battery'' means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(b) PROGRAM.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries if the Secretary finds that there are sufficient numbers of such batteries to support the program. The program shall be—

(1) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(2) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(3) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) SOLICITATION.—Not later than 180 days after the date of enactment of this Act, if the Secretary finds under subsection (b) that there are sufficient numbers of batteries to support the program, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

(d) SELECTION OF PROPOSALS.—

(1) IN GENERAL.—The Secretary shall, not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), select up to 5 proposals which may receive financial assistance under this section, subject to the availability of appropriations.

(2) DIVERSITY; ENVIRONMENTAL EFFECT.—In selecting proposals, the Secretary shall consider diversity of battery type, geographic and climatic diversity, and life-cycle environmental effects of the approaches.

(3) LIMITATION.—No 1 project selected under this section shall receive more than 25 percent of the funds authorized for the program under this section.

(4) OPTIMIZATION OF FEDERAL RESOURCES.—The Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) OTHER CRITERIA.—The Secretary may consider such other criteria as the Secretary considers appropriate.

(e) CONDITIONS.—The Secretary shall require that—

(1) relevant information be provided to the Department, the users of the batteries, the proposers, and the battery manufacturers;

(2) the proposer provide at least 50 percent of the costs associated with the proposal; and

(3) the proposer provide to the Secretary such information regarding the disposal of the batteries as the Secretary may require to ensure that the proposer disposes of the batteries in accordance with applicable law.

SEC. 928. NEXT GENERATION LIGHTING INITIATIVE.

(a) IN GENERAL.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(b) OBJECTIVES.—The objectives of the initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting; more energy-efficient; and cost-competitive, and have less environmental impact.

(c) INDUSTRY ALLIANCE.—The Secretary shall, not later than 3 months after the date of enactment of this section, competitively select an Industry Alliance to represent participants that are private, for-profit firms which, as a group, are broadly representative of United States solid state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(d) RESEARCH.—

(1) IN GENERAL.—The Secretary shall carry out the research activities of the Next Generation Lighting Initiative through competitively awarded grants to researchers, including Industry Alliance participants, National Laboratories, and institutions of higher education.

(2) ASSISTANCE FROM THE INDUSTRY ALLIANCE.—The Secretary shall annually solicit from the Industry Alliance—

(A) comments to identify solid-state lighting technology needs;

(B) assessment of the progress of the Initiative's research activities; and

(C) assistance in annually updating solid-state lighting technology roadmaps.

(3) AVAILABILITY OF INFORMATION AND ROADMAPS.—The information and roadmaps under paragraph (2) shall be available to the public and public response shall be solicited by the Secretary.

(e) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—The Secretary shall carry out a development, demonstration, and commercial application program for the Next Generation Lighting Initiative through competitively selected awards. The Secretary may give preference to participants of the Industry Alliance selected pursuant to subsection (c).

(f) INTELLECTUAL PROPERTY.—The Secretary may require, in accordance with the authorities provided in section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908), that—

(1) for any new invention resulting from activities under subsection (d)—

(A) the Industry Alliance members that are active participants in research, development, and demonstration activities related to the advanced solid-state lighting technologies that are the subject of this section shall be granted first option to negotiate with the invention owner nonexclusive licenses and royalties for uses of the invention related to solid-state lighting on terms that are reasonable under the circumstances; and

(B)(i) for 1 year after a United States patent is issued for the invention, the patent holder shall not negotiate any license or royalty with any entity that is not a participant in the Industry Alliance described in subparagraph (A); and

(ii) during the year described in clause (i), the invention owner shall negotiate nonexclusive licenses and royalties in good faith with any interested participant in the Industry Alliance described in subparagraph (A); and

(2) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(g) NATIONAL ACADEMY REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Next Generation Lighting Initiative. The Academy shall review the research priorities, technical milestones, and plans for technology transfer and progress towards achieving them. The Secretary shall consider the results of such reviews in evaluating the information obtained under subsection (d)(2).

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

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

(2) RESEARCH.—The term ''research'' includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(3) INDUSTRY ALLIANCE.—The term ''Industry Alliance'' means an entity selected by the Secretary under subsection (c).

(4) WHITE LIGHT EMITTING DIODE.—The term ''white light emitting diode'' means a semiconducting package, utilizing either organic or inorganic materials, that produces white light using externally applied voltage.

SEC. 929. DEFINITIONS.

For the purposes of this chapter—

(1) the term ''cost-effective'' means resulting in a simple payback of costs in 10 years or less; and

(2) the term ''whole-buildings approach'' includes, on a life-cycle basis, the energy use, cost of operations, and ease of repair or upgrade of a building.

SEC. 930. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) For fiscal year 2006, $620,000,000, including—

(A) $200,000,000 for carrying out the vehicles program under section 923;

(B) $100,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $100,000,000 for carrying out the industries program under section 925(a);

(D) $2,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $4,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $20,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(2) For fiscal year 2007, $700,000,000, including—

(A) $240,000,000 for carrying out the vehicles program under section 923;

(B) $130,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $115,000,000 for carrying out the industries program under section 925(a);

(D) $2,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $30,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(3) For fiscal year 2008, $800,000,000, including—

(A) $270,000,000 for carrying out the vehicles program under section 923;

(B) $160,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $140,000,000 for carrying out the industries program under section 925(a);

(D) $2,000,000 for carrying out the electric motor control technology program under section 925(b);

(E) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(F) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(G) $50,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(4) For fiscal year 2009, $925,000,000, including—

(A) $310,000,000 for carrying out the vehicles program under section 923;

(B) $200,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $170,000,000 for carrying out the industries program under section 925(a);

(D) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(E) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(F) $50,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

(5) For fiscal year 2010, $1,000,000,000, including—

(A) $340,000,000 for carrying out the vehicles program under section 923;

(B) $240,000,000 for carrying out the buildings program under section 924, of which $10,000,000 shall be for the grant program under section 924(b);

(C) $190,000,000 for carrying out the industries program under section 925(a);

(D) $10,000,000 for carrying out demonstration and commercial applications activities under section 926;

(E) $7,000,000 for carrying out the secondary electric vehicle battery use program under section 927; and

(F) $50,000,000 for carrying out the Next Generation Lighting Initiative under section 928.

SEC. 931. LIMITATION ON USE OF FUNDS.

None of the funds authorized to be appropriated under this chapter may be used for—

(1) the issuance and implementation of energy efficiency regulations;

(2) the Weatherization Assistance Program under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(3) the State Energy Program under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(4) the Federal Energy Management Program under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.).

CHAPTER 2—DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS

SEC. 932. DISTRIBUTED ENERGY.

(a) IN GENERAL.—The Secretary shall conduct programs of distributed energy resources and systems reliability and efficiency research, development, demonstration, and commercial application to improve the reliability and efficiency of distributed energy resources and systems, including activities described in this chapter. The programs shall address advanced energy technologies and systems and advanced grid reliability technologies. The programs shall include the integration of—

(1) renewable energy resources;

(2) fuel cells;

(3) combined heat and power systems;

(4) microturbines;

(5) advanced natural gas turbines;

(6) advanced internal combustion engine generators;

(7) energy storage devices;

(8) interconnection standards, protocols, and equipment;

(9) ancillary equipment for dispatch and control; and

(10) any other energy technologies, as appropriate.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology. The consortia shall explore—

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

(2) the use of excess power to operate other appliances within the residence and supply excess generated power to the power grid.

(c) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify performance goals, with quantifiable 5-year cost and energy savings target levels, for distributed energy resources and systems, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

SEC. 933. ELECTRICITY TRANSMISSION AND DISTRIBUTION AND ENERGY ASSURANCE.

(a) PROGRAM.—The Secretary shall conduct a research, development, demonstration, and commercial application program on advanced control devices to improve the energy efficiency and reliability of the electric transmission and distribution systems and to protect the Nation against severe energy supply disruptions. This program shall address, at a minimum—

(1) advanced energy delivery and storage technologies, materials, and systems, including new transmission technologies, such as flexible alternating current transmission systems, composite conductor materials, and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small-scale, distributed, and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify performance goals, with quantifiable 5-year cost and energy savings target levels, for electricity transmission and distribution and energy assurance, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) HIGH VOLTAGE TRANSMISSION LINES.—As part of the program described in subsection (a), the Secretary shall award a grant to a university research program to design and test, in consultation with the Tennessee Valley Authority, state-of-the-art optimization techniques for power flow through existing high voltage transmission lines.

SEC. 933A. ADVANCED PORTABLE POWER DEVICES.

(a) PROGRAM.—The Secretary shall—

(1) establish a research, development, and demonstration program to develop working models of small scale portable power devices; and

(2) to the fullest extent practicable, identify and utilize the resources of universities that have shown expertise with respect to advanced portable power devices for either civilian or military use.

(b) ORGANIZATION.—The universities identified and utilized under subsection (a)(2) are authorized to establish an organization to promote small scale portable power devices.

(c) DEFINITION.—For purposes of this section, the term ''small scale portable power device'' means a field deployable portable mechanical or electromechanical device that can be used for applications such as communications, computation, mobility enhancement, weapons systems, optical devices, cooling, sensors, medical devices and active biological agent detection systems.

SEC. 934. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) For fiscal year 2006, $220,000,000.

(2) For fiscal year 2007, $240,000,000.

(3) For fiscal year 2008, $250,000,000.

(4) For fiscal year 2009, $265,000,000.

(5) For fiscal year 2010, $275,000,000.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From the amounts authorized under subsection (a), $20,000,000 for each of fiscal years 2006 and 2007 are authorized for activities under section 932(b).

(c) ELECTRICITY TRANSMISSION AND DISTRIBUTION AND ENERGY ASSURANCE.—From the amounts authorized under subsection (a), the following sums are authorized for activities under section 933:

(1) For fiscal year 2006, $130,000,000, of which $2,000,000 shall be for the program under section 933(c).

(2) For fiscal year 2007, $140,000,000.

(3) For fiscal year 2008, $150,000,000.

(4) For fiscal year 2009, $160,000,000.

(5) For fiscal year 2010, $165,000,000.

Subtitle D—Renewable Energy

SEC. 935. FINDINGS.

Congress makes the following findings:

(1) Renewable energy is a growth industry around the world. However, the United States has not been investing as heavily as other countries, and is losing market share.

(2) Since 1996, the United States has lost significant market share in the solar industry, dropping from 44 percent of the world market to 13 percent in 2003.

(3) In 2003, Japan spent more than $200,000,000 on solar research, development, demonstration, and commercial application and other incentives, and Germany provided more than $750,000,000 in low cost financing for solar photovoltaic projects. This compares to United States Government spending of $139,000,000 in 2003 for research, development, demonstration, and commercial application and other incentives.

(4) Germany and Japan each had domestic photovoltaic industries that employed more than 10,000 people in 2003, while in the same year the United States photovoltaics industry employed only 2,000 people.

(5) The United States is becoming increasingly dependent on imported energy.

(6) The high cost of fossil fuels is hurting the United States economy.

(7) Small reductions in peak demand can result in very large reductions in price, according to energy market experts.

(8) Although the United States has only 2 percent of the world's oil reserves and 3 percent of the world's natural gas reserves, our Nation's renewable energy resources are vast and largely untapped.

(9) Renewable energy can reduce the demand for imported energy, reducing costs and decreasing the variability of energy prices.

(10) By using domestic renewable energy resources, the United States can reduce the amount of money sent into unstable regions of the world and keep it in the United States.

(11) By supporting renewable energy research and development, and funding demonstration and commercial application programs for renewable energy, the United States can create an export industry and improve the balance of trade.

(12) Renewable energy can significantly reduce the environmental impacts of energy production.

SEC. 936. DEFINITIONS.

For purposes of this subtitle:

(1) BIOBASED PRODUCT.—The term ''biobased product'' means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is—

(A) composed, in whole or in significant part, of—

(i) biological products;

(ii) renewable domestic agricultural materials (including plant, animal, and marine materials); or

(iii) forestry materials; and

(B) produced in connection with the conversion of biomass to energy or fuel.

(2) CELLULOSIC BIOMASS.—The term ''cellulosic biomass'' means a crop containing lignocellulose or hemicellulose, including barley grain, grapeseed, forest thinnings, rice bran, rice hulls, rice straw, soybean matter, sugarcane bagasse, and any crop grown specifically for the purpose of producing cellulosic feedstocks.

SEC. 937. PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct programs of renewable energy research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall be focused on the following objectives:

(1) Increasing the conversion efficiency of all forms of renewable energy through improved technologies.

(2) Decreasing the cost of renewable energy generation and delivery.

(3) Promoting the diversity of the energy supply.

(4) Decreasing the Nation's dependence on foreign energy supplies.

(5) Improving United States energy security.

(6) Decreasing the environmental impact of energy-related activities.

(7) Increasing the export of renewable generation equipment from the United States.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify renewable energy performance goals, with quantifiable 5-year cost and energy savings target levels, for wind power, photovoltaics, solar thermal systems (including concentrating and solar hot water), geothermal energy, biomass-based systems, biofuels, and hydropower, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) PUBLIC INPUT.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

SEC. 938. SOLAR.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for solar energy, including—

(1) photovoltaics;

(2) solar hot water and solar space heating; and

(3) concentrating solar power.

(b) BUILDING INTEGRATION.—For photovoltaics, solar hot water, and space heating, the Secretary shall conduct research, development, demonstration, and commercial application to support the development of products that can be easily integrated into new and existing buildings.

(c) MANUFACTURE.—The Secretary shall conduct research, development, demonstration, and commercial application of manufacturing techniques that can produce low-cost, high-quality solar systems.

SEC. 939. BIOENERGY PROGRAMS.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for cellulosic biomass, including—

(1) biomass conversion to heat and electricity;

(2) biomass conversion to liquid fuels;

(3) biobased products;

(4) integrated biorefineries that may produce heat, electricity, liquid fuels, and biobased products;

(5) cross-cutting activities on feedstocks and enzymes; and

(6) life-cycle economic analysis.

(b) BIOFUELS AND BIOBASED PRODUCTS.—The objectives of the biofuels and biobased products programs under paragraphs (2), (3), and (4) of subsection (a), and of the biorefinery demonstration program under subsection (c), shall be to develop, in partnership with industry—

(1) advanced biochemical and thermochemical conversion technologies capable of making high-value biobased chemical feedstocks and products, to substitute for petroleum-based feedstocks and products, biofuels that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles, and biobased products from a variety of feedstocks, including grains, cellulosic biomass, and agricultural byproducts; and

(2) advanced biotechnology processes capable of making biofuels and biobased products, with emphasis on development of biorefinery technologies, including enzyme-based processing technologies.

(c) BIOMASS INTEGRATED REFINERY DEMONSTRATION.—

(1) IN GENERAL.—The Secretary shall conduct a program to demonstrate the commercial application of at least 5 integrated biorefineries. The Secretary shall ensure geographical distribution of biorefinery demonstrations under this subsection. The Secretary shall not provide more than $100,000,000 under this subsection for any single biorefinery demonstration. The Secretary shall award the biorefinery demonstrations so as to encourage—

(A) the demonstration of a wide variety of cellulosic biomass feedstocks;

(B) the commercial application of biomass technologies for a variety of uses, including—

(i) liquid transportation fuels;

(ii) high-value biobased chemicals;

(iii) substitutes for petroleum-based feedstocks and products; and

(iv) energy in the form of electricity or useful heat; and

(C) the demonstration of the collection and treatment of a variety of biomass feedstocks.

(2) PROPOSALS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall solicit proposals for demonstration of advanced biorefineries. The Secretary shall select only proposals that—

(A) demonstrate that the project will be able to operate profitably without direct Federal subsidy after initial construction costs are paid; and

(B) enable the biorefinery to be easily replicated.

(d) UNIVERSITY BIODIESEL PROGRAM.—The Secretary shall establish a demonstraton program to determine the feasibility of the operation of diesel electric power generators, using biodiesel fuels, with ratings as high as B100 at a university electric generation facility. The program shall examine—

(1) heat rates of diesel fuels with large quantities of cellulosic content;

(2) the reliability of operation of various fuel blends;

(3) performance in cold or freezing weather;

(4) stability of fuel after extended storage; and

(5) other criteria, as determined by the Secretary.

(e) GRANTS.—Of the funds authorized to be appropriated for activities authorized under this section, not less than $5,000,000 for each fiscal year shall be made available for grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic-Serving Institutions.

SEC. 940. WIND.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for wind energy, including—

(1) low speed wind energy;

(2) offshore wind energy;

(3) testing and verification; and

(4) distributed wind energy generation.

(b) FACILITY.—The Secretary shall construct and operate a research and testing facility capable of testing the largest wind turbines that are expected to be manufactured in the next 15 years. The Secretary shall consider the need for testing offshore turbine designs in siting the facility. All private users of the facility shall be required to pay the Department all costs associated with their use of the facility, including capital costs prorated at normal business amortization rates.

(c) REGIONAL FIELD VERIFICATION PROGRAM.—Of the funds authorized to be appropriated for activities authorized under this section, not less than $4,000,000 for each fiscal year shall be made available for the Regional Field Verification Program of the Department.

SEC. 941. GEOTHERMAL.

The Secretary shall conduct a program of research, development, demonstration, and commercial application for geothermal energy. The program shall focus on developing improved technologies for reducing the costs of geothermal energy installations, including technologies for—

(1) improving detection of geothermal resources;

(2) decreasing drilling costs;

(3) decreasing maintenance costs through improved materials;

(4) increasing the potential for other revenue sources, such as mineral production; and

(5) increasing the understanding of reservoir life cycle and management.

SEC. 942. PHOTOVOLTAIC DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a program of grants to States to demonstrate advanced photovoltaic technology.

(b) REQUIREMENTS.—(1) To receive funding under the program under this section, a State must submit a proposal that demonstrates, to the satisfaction of the Secretary, that the State will meet the requirements of subsection (f).

(2) If a State has received funding under this section for the preceding year, the State must demonstrate, to the satisfaction of the Secretary, that it complied with the requirements of subsection (f) in carrying out the program during that preceding year, and that it will do so in the future.

(3) Except as provided in subsection (c), each State submitting a qualifying proposal shall receive funding under the program based on the proportion of United States population in the State according to the 2000 census. In each fiscal year, the portion of funds attributable under this paragraph to States that have not submitted qualifying proposals in the time and manner specified by the Secretary shall be distributed pro rata to the States that have submitted qualifying proposals in the specified time and manner.

(c) COMPETITION.—If more than $80,000,000 is available for the program under this section for any fiscal year, the Secretary shall allocate 75 percent of the funds available according to subsection (b), and shall award the remaining 25 percent on a competitive basis to the States with the proposals the Secretary considers most likely to encourage the widespread adoption of photovoltaic technologies.

(d) PROPOSALS.—Not later than 6 months after the date of enactment of this Act, and in each subsequent fiscal year for the life of the program, the Secretary shall solicit proposals from the States to participate in the program under this section.

(e) COMPETITIVE CRITERIA.—In awarding funds in a competitive allocation under subsection (c), the Secretary shall consider—

(1) the likelihood of a proposal to encourage the demonstration of, or lower the costs of, advanced photovoltaic technologies; and

(2) the extent to which a proposal is likely to—

(A) maximize the amount of photovoltaics demonstrated;

(B) maximize the proportion of non-Federal cost share; and

(C) limit State administrative costs.

(f) STATE PROGRAM.—A program operated by a State with funding under this section shall provide competitive awards for the demonstration of advanced photovoltaic technologies. Each State program shall—

(1) require a contribution of at least 60 percent per award from non-Federal sources, which may include any combination of State, local, and private funds, except that at least 10 percent of the funding must be supplied by the State;

(2) limit awards for any single project to a maximum of $1,000,000;

(3) prohibit any nongovernmental recipient from receiving more than $1,000,000 per year;

(4) endeavor to fund recipients in the commercial, industrial, institutional, governmental, and residential sectors;

(5) limit State administrative costs to no more than 10 percent of the grant;

(6) report annually to the Department on—

(A) the amount of funds disbursed;

(B) the amount of photovoltaics purchased; and

(C) the results of the monitoring under paragraph (7);

(7) provide for measurement and verification of the output of a representative sample of the photovoltaics systems demonstrated throughout the average working life of the systems, or at least 20 years; and

(8) require that applicant buildings must have received an independent energy efficiency audit during the 6-month period preceding the filing of the application.

(g) UNEXPENDED FUNDS.—If a State fails to expend any funds received under subsection (b) or (c) within 3 years of receipt, such remaining funds shall be returned to the Treasury.

(h) REPORTS.—The Secretary shall report to Congress 5 years after funds are first distributed to the States under this section—

(1) the amount of photovoltaics demonstrated;

(2) the number of projects undertaken;

(3) the administrative costs of the program;

(4) the amount of funds that each State has not received because of a failure to submit a qualifying proposal, as described in subsection (b)(3);

(5) the results of the monitoring under subsection (f)(7); and

(6) the total amount of funds distributed, including a breakdown by State.

SEC. 943. ADDITIONAL PROGRAMS.

(a) IN GENERAL.—The Secretary may conduct research, development, demonstration, and commercial application programs of—

(1) ocean energy, including wave energy;

(2) kinetic hydro turbines; and

(3) the combined use of renewable energy technologies with one another and with other energy technologies.

(b) MARINE RENEWABLE ENERGY STUDY.—

(1) STUDY.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a study on—

(A) the feasibility of various methods of renewable generation of energy from the ocean, including energy from waves, tides, currents, and thermal gradients; and

(B) the research, development, demonstration, and commercial application activities required to make marine renewable energy generation competitive with other forms of electricity generation.

(2) TRANSMITTAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit the study to Congress along with the Secretary's recommendations for implementing the results of the study.

(c) RENEWABLE ENERGY IN PUBLIC BUILDINGS.—

(1) DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM.—The Secretary shall establish a program for the demonstration of innovative technologies for solar and other renewable energy sources in buildings owned or operated by a State or local government, and for the dissemination of information resulting from such demonstration to interested parties.

(2) LIMIT ON FEDERAL FUNDING.—The Secretary shall provide under this subsection no more than 40 percent of the incremental costs of the solar or other renewable energy source project funded.

(3) REQUIREMENT.—As part of the application for awards under this subsection, the Secretary shall require all applicants—

(A) to demonstrate a continuing commitment to the use of solar and other renewable energy sources in buildings they own or operate; and

(B) to state how they expect any award to further their transition to the significant use of renewable energy.

SEC. 944. ANALYSIS AND EVALUATION.

(a) IN GENERAL.—The Secretary shall conduct analysis and evaluation in support of the renewable energy programs under this subtitle. These activities shall be used to guide budget and program decisions, and shall include—

(1) economic and technical analysis of renewable energy potential, including resource assessment;

(2) analysis of past program performance, both in terms of technical advances and in market introduction of renewable energy; and

(3) any other analysis or evaluation that the Secretary considers appropriate.

(b) FUNDING.—The Secretary may designate up to 1 percent of the funds appropriated for carrying out this subtitle for analysis and evaluation activities under this section.

SEC. 945. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this subtitle:

(1) For fiscal year 2006, $465,000,000, of which—

(A) $100,000,000 shall be for carrying out the solar program under section 938;

(B) $200,000,000 shall be for carrying out the bioenergy program under section 939, including $100,000,000 for the biorefinery demonstration program under section 939(c);

(C) $55,000,000 shall be for carrying out the wind program under section 940, including $10,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $50,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

(2) For fiscal year 2007, $605,000,000, of which—

(A) $140,000,000 shall be for carrying out the solar program under section 938;

(B) $245,000,000 shall be for carrying out the bioenergy program under section 939, including $125,000,000 for the biorefinery demonstration program under section 939(c);

(C) $60,000,000 shall be for carrying out the wind program under section 940, including $15,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $100,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

(3) For fiscal year 2008, $775,000,000, of which—

(A) $200,000,000 shall be for carrying out the solar program under section 938;

(B) $310,000,000 shall be for carrying out the bioenergy program under section 939, including $150,000,000 for the biorefinery demonstration program under section 939(c);

(C) $65,000,000 shall be for carrying out the wind program under section 940, including $10,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $150,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

(4) For fiscal year 2009, $940,000,000, of which—

(A) $250,000,000 shall be for carrying out the solar program under section 938;

(B) $355,000,000 shall be for carrying out the bioenergy program under section 939, including $175,000,000 for the biorefinery demonstration program under section 939(c);

(C) $65,000,000 shall be for carrying out the wind program under section 940, including $5,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $200,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

(5) For fiscal year 2010, $1,125,000,000, of which—

(A) $300,000,000 shall be for carrying out the solar program under section 938;

(B) $400,000,000 shall be for carrying out the bioenergy program under section 939, including $200,000,000 for the biorefinery demonstration program under section 939(c);

(C) $65,000,000 shall be for carrying out the wind program under section 940, including $1,000,000 for the facility described in section 940(b);

(D) $30,000,000 shall be for carrying out the geothermal program under section 941; and

(E) $300,000,000 shall be for carrying out the photovoltaic demonstration program under section 942.

Subtitle E—Nuclear Energy Programs

SEC. 946. DEFINITION.

In this subtitle, the term ''junior faculty'' means a faculty member who was awarded a doctorate less than 10 years before receipt of an award from the grant program described in section 949(b)(2).

SEC. 947. PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct programs of civilian nuclear energy research, development, demonstration, and commercial application, including activities described in this subtitle. Programs under this subtitle shall be focused on—

(1) enhancing nuclear power's viability as part of the United States energy portfolio;

(2) providing the technical means to reduce the likelihood of nuclear proliferation;

(3) maintaining a cadre of nuclear scientists and engineers;

(4) maintaining National Laboratory and university nuclear programs, including their infrastructure;

(5) supporting both individual researchers and multidisciplinary teams of researchers to pioneer new approaches in nuclear energy, science, and technology;

(6) developing, planning, constructing, acquiring, and operating special equipment and facilities for the use of researchers;

(7) supporting technology transfer and other appropriate activities to assist the nuclear energy industry, and other users of nuclear science and engineering, including activities addressing reliability, availability, productivity, component aging, safety, and security of nuclear power plants; and

(8) reducing the environmental impact of nuclear energy-related activities.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify performance goals, with quantifiable 5-year cost improvement and reliability, availability, productivity, and component aging target levels for a wide range of nuclear energy technologies, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) PUBLIC INPUT.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

CHAPTER 1—NUCLEAR ENERGY RESEARCH PROGRAMS

SEC. 948. ADVANCED FUEL RECYCLING PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct an advanced fuel recycling technology research, development, demonstration, and commercial application program to evaluate fuel recycling or transmutation technologies which are proliferation-resistant and minimize environmental and public health and safety impacts, as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act, in support of evaluation of alternative national strategies for spent nuclear fuel and advanced reactor concepts. The program shall be subject to annual review by the Secretary's Nuclear Energy Research Advisory Committee or other independent entity, as appropriate.

(b) INTERNATIONAL COOPERATION.—The Secretary shall seek opportunities to engage international partners with expertise in advanced fuel recycling technologies where such partnerships may help achieve program goals.

SEC. 949. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.

(a) IN GENERAL.—The Secretary shall conduct a program to invest in human resources and infrastructure in the nuclear sciences and related fields, including health physics, nuclear engineering, and radiochemistry, consistent with Departmental missions related to civilian nuclear research, development, demonstration, and commercial application.

(b) REQUIREMENTS.—In carrying out the program under this section, the Secretary shall—

(1) conduct a graduate and undergraduate fellowship program to attract new and talented students, which may include fellowships for students to spend time at National Laboratories in the areas of nuclear science, engineering, and health physics with a member of the National Laboratory staff acting as a mentor;

(2) conduct a junior faculty research initiation grant program to assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering by awarding grants to junior faculty for research on issues related to nuclear energy engineering and science;

(3) support fundamental nuclear sciences, engineering, and health physics research through a nuclear engineering education and research program;

(4) encourage collaborative nuclear research among industry, National Laboratories, and universities; and

(5) support communication and outreach related to nuclear science, engineering, and health physics.

(c) STRENGTHENING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—In carrying out the program under this section, the Secretary may support—

(1) converting research reactors from high-enrichment fuels to low-enrichment fuels and upgrading operational instrumentation;

(2) consortia of universities to broaden access to university research reactors;

(3) student training programs, in collaboration with the United States nuclear industry, in relicensing and upgrading reactors, including through the provision of technical assistance; and

(4) reactor improvements as part of a focused effort that emphasizes research, training, and education, including through the Innovations in Nuclear Infrastructure and Education Program or any similar program.

(d) OPERATIONS AND MAINTENANCE.—Funding for a project provided under this section may be used for a portion of the operating and maintenance costs of a research reactor at a university used in the project.

SEC. 950. UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.

The Secretary shall conduct—

(1) a fellowship program for professors at universities to spend sabbaticals at National Laboratories in the areas of nuclear science and technology; and

(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments.

SEC. 951. NUCLEAR POWER 2010 PROGRAM.

The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations in the October 2001 report entitled ''A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010'' issued by the Nuclear Energy Research Advisory Committee of the Department. The Program shall include—

(1) the expertise and capabilities of industry, universities, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(2) a variety of reactor designs suitable for both developed and developing nations;

(3) participation of international collaborators in research, development, and design efforts as appropriate; and

(4) university and industry participation.

SEC. 952. GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.

The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan and to support research, development, demonstration, and commercial application necessary to make an informed technical decision about the most promising candidates for the eventual commercial application of advanced fission reactor technology for the generation of electricity. The Initiative shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(1) are economically competitive with other electric power generation plants;

(2) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(3) use fuels that are proliferation-resistant and have substantially reduced production of high-level waste per unit of output; and

(4) use improved instrumentation.

SEC. 953. CIVILIAN INFRASTRUCTURE AND FACILITIES.

The Secretary shall operate and maintain infrastructure and facilities to support the nuclear energy research, development, demonstration, and commercial application programs, including radiological facilities management, isotope production, and facilities management.

SEC. 954. NUCLEAR ENERGY RESEARCH AND DEVELOPMENT INFRASTRUCTURE PLAN.

In carrying out section 919, the Secretary shall—

(1) develop an inventory of nuclear science and engineering facilities, equipment, expertise, and other assets at all of the National Laboratories;

(2) develop a prioritized list of nuclear science and engineering plant and equipment improvements needed at each of the National Laboratories;

(3) consider the available facilities and expertise at all National Laboratories and emphasize investments which complement rather than duplicate capabilities; and

(4) develop a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment,

with the goal of ensuring that Department programs under this subtitle will be generally recognized to be among the best in the world.

SEC. 955. IDAHO NATIONAL LABORATORY FACILITIES PLAN.

(a) PLAN.—The Secretary shall develop a comprehensive plan for the facilities at the Idaho National Laboratory, especially taking into account the resources available at other National Laboratories. In developing the plan, the Secretary shall—

(1) evaluate the facilities planning processes utilized by other physical science and engineering research and development institutions, both in the United States and abroad, that are generally recognized as being among the best in the world, and consider how those processes might be adapted toward developing such facilities plan;

(2) avoid duplicating, moving, or transferring nuclear science and engineering facilities, equipment, expertise, and other assets that currently exist at other National Laboratories;

(3) consider the establishment of a national transuranic analytic chemistry laboratory as a user facility at the Idaho National Laboratory;

(4) include a plan to develop, if feasible, the Advanced Test Reactor and Test Reactor Area into a user facility that is more readily accessible to academic and industrial researchers;

(5) consider the establishment of a fast neutron source as a user facility;

(6) consider the establishment of new ''hot cells'' and the configuration of ''hot cells'' most likely to advance research, development, demonstration, and commercial application in nuclear science and engineering, especially in the context of the condition and availability of these facilities elsewhere in the National Laboratories; and

(7) include a timeline and a proposed budget for the completion of deferred maintenance on plant and equipment.

(b) TRANSMITTAL TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Secretary shall transmit such plan to Congress.

SEC. 956. AUTHORIZATION OF APPROPRIATIONS.

(a) PROGRAM AUTHORIZATION.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) $407,000,000 for fiscal year 2006.

(2) $427,000,000 for fiscal year 2007.

(3) $449,000,000 for fiscal year 2008.

(4) $471,000,000 for fiscal year 2009.

(5) $495,000,000 for fiscal year 2010.

(b) UNIVERSITY SUPPORT.—Of the funds authorized under subsection (a), the following sums are authorized to be appropriated to carry out section 949:

(1) $35,200,000 for fiscal year 2006.

(2) $44,350,000 for fiscal year 2007.

(3) $49,200,000 for fiscal year 2008.

(4) $55,000,000 for fiscal year 2009.

(5) $60,000,000 for fiscal year 2010.

CHAPTER 2—NEXT GENERATION NUCLEAR PLANT PROGRAM

SEC. 957. DEFINITIONS.

For purposes of this chapter:

(1) CONSTRUCTION.—The term ''construction'' means the physical construction of the demonstration plant, and the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the demonstration plant, but does not mean the design of the facility, equipment, or components.

(2) DEMONSTRATION PLANT.—The term ''demonstration plant'' means an advanced fission reactor power plant constructed and operated in accordance with this chapter.

(3) OPERATION.—The term ''operation'' means the operation of the demonstration plant, including general maintenance and provision of power, heating and cooling, and other building services that are specifically for the demonstration plant, but does not mean operations that support other activities colocated with the demonstration plant.

SEC. 958. NEXT GENERATION NUCLEAR POWER PLANT.

(a) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of advanced nuclear fission reactor technology. The objective of this program shall be to demonstrate the technical and economic feasibility of an advanced nuclear fission reactor power plant design for the commercial production of electricity.

(b) RESEARCH AND DEVELOPMENT.—The program shall include research, development, design, planning, and all other necessary activities to support the construction and operation of the demonstration plant.

(c) SUBSYSTEM DEMONSTRATIONS.—The Secretary shall support demonstration of enabling technologies and subsystems and other research, development, demonstration, and commercial application activities necessary to support the activities in this chapter.

(d) CONSTRUCTION AND OPERATION.—The program shall culminate in the construction and operation of the demonstration plant based on a design selected by the Secretary in accordance with procedures described in the plan required by section 960(c). The demonstration plant shall be located and constructed within the United States and shall be operational, and capable of demonstrating the commercial production of electricity, by December 31, 2015.

(e) LIMITATION.—No funds shall be expended for the construction or operation of the demonstration plant until 90 days have elapsed after the transmission of the plan described in section 960(c).

SEC. 959. ADVISORY COMMITTEE.

The Secretary shall appoint a Next Generation Nuclear Power Plant Subcommittee of the Nuclear Energy Research Advisory Council to provide advice to the Secretary on technical matters and program management for the duration of the program and construction project under this chapter.

SEC. 960. PROGRAM REQUIREMENTS.

(a) PARTNERSHIPS.—In carrying out the program under this chapter, the Secretary shall make use of partnerships with industry for the research, development, design, construction, and operation of the demonstration plant. In establishing such partnerships, the Secretary shall give preference to companies for which the principal base of operations is located in the United States.

(b) INTERNATIONAL COLLABORATION.—(1) The Secretary shall seek international cooperation, participation, and financial contribution in this program, including assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners where such specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(2) International activities shall be carried out in consultation with the Generation IV International Forum.

(3) The program may include demonstration of selected program objectives in a partner nation.

(c) PROGRAM PLAN.—Not later than one year after the date of enactment of this Act, the Secretary shall transmit to Congress a comprehensive program plan. The program plan shall—

(1) describe the plan for development, selection, management, ownership, operation, and decommissioning of the demonstration plant;

(2) identify program milestones and a timeline for achieving these milestones;

(3) provide for development of risk-based criteria for any future commercial development of a reactor architecture based on that of the demonstration plant;

(4) include a projected budget required to meet the milestones; and

(5) include an explanation of any major program decisions that deviate from program advice given to the Secretary by the advisory committee established under section 959.

SEC. 961. AUTHORIZATION OF APPROPRIATIONS.

(a) RESEARCH, DEVELOPMENT, AND DESIGN PROGRAMS.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter except for the demonstration plant activities described in subsection (b):

(1) For fiscal year 2006, $150,000,000.

(2) For fiscal year 2007, $150,000,000.

(3) For fiscal year 2008, $150,000,000.

(4) For fiscal year 2009, $150,000,000.

(5) For fiscal year 2010, $150,000,000.

(b) REACTOR CONSTRUCTION.—There are authorized to be appropriated to the Secretary such sums as may be necessary for operation and construction of the demonstration plant under this chapter. The Secretary shall not spend more than $500,000,000 for demonstration plant reactor construction activities under this chapter.

Subtitle F—Fossil Energy

CHAPTER 1—RESEARCH PROGRAMS

SEC. 962. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—The Secretary shall, in conjunction with industry, conduct fossil energy research, development, demonstration, and commercial applications programs, including activities under this chapter, with the goal of improving the efficiency, effectiveness, and environmental performance of fossil energy production, upgrading, conversion, and consumption. Such programs shall be focused on—

(1) increasing the conversion efficiency of all forms of fossil energy through improved technologies;

(2) decreasing the cost of all fossil energy production, generation, and delivery;

(3) promoting diversity of energy supply;

(4) decreasing the Nation's dependence on foreign energy supplies;

(5) improving United States energy security;

(6) decreasing the environmental impact of energy-related activities; and

(7) increasing the export of fossil energy-related equipment, technology, and services from the United States.

(b) GOALS.—

(1) INITIAL GOALS.—In accordance with the performance plan and report requirements in section 4 of the Government Performance Results Act of 1993, the Secretary shall transmit to the Congress, along with the President's annual budget request for fiscal year 2007, a report containing outcome measures with explicitly stated cost and performance baselines. The measures shall specify production or efficiency performance goals, with quantifiable 5-year cost and energy savings target levels, for fossil energy, and any other such goals the Secretary considers appropriate.

(2) SUBSEQUENT TRANSMITTALS.—The Secretary shall transmit to the Congress, along with the President's annual budget request for each fiscal year after 2007, a report containing—

(A) a description, including quantitative analysis, of progress in achieving performance goals transmitted under paragraph (1), as compared to the baselines transmitted under paragraph (1); and

(B) any amendments to such goals.

(c) COVERED ACTIVITIES.—The Secretary shall ensure that the goals stated in subsection (b) are illustrative of the outcomes necessary to promote acceptance of the programs' efforts in the marketplace, but at a minimum shall encompass the following areas:

(1) Coal gasifiers.

(2) Turbine generators, including both natural gas and syngas fueled.

(3) Oxygen separation devices, hydrogen separation devices, and carbon dioxide separation technologies.

(4) Coal gas and post-combustion emission cleanup and disposal equipment, including carbon dioxide capture and disposal equipment.

(5) Average per-foot drilling costs for oil and gas, segregated by appropriate drilling regimes, including onshore versus offshore and depth categories.

(6) Production of liquid fuels from nontraditional feedstocks, including syngas, biomass, methane, and combinations thereof.

(7) Environmental discharge per barrel of oil or oil-equivalent production, including reinjected waste.

(8) Surface disturbance on both a per-well and per-barrel of oil or oil-equivalent production basis.

(d) PUBLIC INPUT.—The Secretary shall consider advice from industry, universities, and other interested parties through seeking comments in the Federal Register and other means before transmitting each report under subsection (b).

SEC. 963. FOSSIL RESEARCH AND DEVELOPMENT.

(a) OBJECTIVES.—The Secretary shall conduct a program of fossil research, development, demonstration, and commercial application, whose objective shall be to reduce emissions from fossil fuel use by developing technologies, including precombustion technologies, by 2015 with the capability of—

(1) dramatically increasing electricity generating efficiencies of coal and natural gas;

(2) improving combined heat and power thermal efficiencies;

(3) improving fuels utilization efficiency of production of liquid transportation fuels from coal;

(4) achieving near-zero emissions of mercury and of emissions that form fine particles, smog, and acid rain;

(5) reducing carbon dioxide emissions by at least 40 percent through efficiency improvements and by 100 percent with sequestration; and

(6) improved reliability, efficiency, reductions of air pollutant emissions, and reductions in solid waste disposal requirements.

(b) COAL-BASED PROJECTS.—The coal-based projects authorized under this section shall be consistent with the objective stated in subsection (a). The program shall emphasize carbon capture and sequestration technologies and gasification technologies, including gasification combined cycle, gasification fuel cells, gasification coproduction, hybrid gasification/combustion, or other technologies with the potential to address the capabilities described in paragraphs (4) and (5) of subsection (a).

SEC. 964. OIL AND GAS RESEARCH AND DEVELOPMENT.

The Secretary shall conduct a program of oil and gas research, development, demonstration, and commercial application, whose objective shall be to advance the science and technology available to domestic petroleum producers, particularly independent operators, to minimize the economic dislocation caused by the decline of domestic supplies of oil and natural gas resources by focusing research on—

(1) assisting small domestic producers of oil and gas to develop new and improved technologies to discover and extract additional supplies;

(2) developing technologies to extract methane hydrates in an environmentally sound manner;

(3) improving the ability of the domestic industry to extract hydrocarbons from known reservoirs and classes of reservoirs; and

(4) reducing the cost, and improving the efficiency and environmental performance, of oil and gas exploration and extraction activities, focusing especially on unconventional sources such as tar sands, heavy oil, and shale oil.

SEC. 965. TRANSPORTATION FUELS.

The Secretary shall conduct a program of transportation fuels research, development, demonstration, and commercial application, whose objective shall be to increase the price elasticity of oil supply and demand by focusing research on—

(1) reducing the cost of producing transportation fuels from coal and natural gas; and

(2) indirect liquefaction of coal and biomass.

SEC. 966. FUEL CELLS.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(b) DEMONSTRATION.—The program under this section shall include demonstration of fuel cell proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, utilizing improved manufacturing production and processes.

SEC. 967. CARBON DIOXIDE CAPTURE RESEARCH AND DEVELOPMENT.

(a) PROGRAM.—The Secretary of Energy shall support a 10-year program of research and development aimed at developing carbon dioxide capture technologies for pulverized coal combustion units. The program shall focus on—

(1) developing add-on carbon dioxide capture technologies, such as adsorption and absorption techniques and chemical processes, to remove carbon dioxide from flue gas, producing concentrated streams of carbon dioxide potentially amenable to sequestration;

(2) combustion technologies that would directly produce concentrated streams of carbon dioxide potentially amenable to sequestration; and

(3) increasing the efficiency of the overall combustion system in order to reduce the amount of carbon dioxide emissions released from the system per megawatt generated.

(b) CARBON SEQUESTRATION.—In conjunction with the program under subsection (a), the Secretary shall continue pursuing a robust carbon sequestration program with the private sector, through regional carbon sequestration partnerships.

SEC. 968. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated to the Secretary for the purposes of carrying out this chapter:

(1) For fiscal year 2006, $583,000,000.

(2) For fiscal year 2007, $611,000,000.

(3) For fiscal year 2008, $626,000,000.

(4) For fiscal year 2009, $641,000,000.

(5) For fiscal year 2010, $657,000,000.

(b) ALLOCATION.—From amounts authorized under subsection (a), there are authorized to be appropriated for carrying out the program under section 967—

(1) $20,000,000 for fiscal year 2006;

(2) $25,000,000 for fiscal year 2007;

(3) $30,000,000 for fiscal year 2008;

(4) $35,000,000 for fiscal year 2009; and

(5) $40,000,000 for fiscal year 2010.

CHAPTER 2—ULTRA-DEEPWATER AND UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES

SEC. 969. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall carry out a program under this chapter of research, development, demonstration, and commercial application of technologies for ultra-deepwater and unconventional natural gas and other petroleum resource exploration and production, including addressing the technology challenges for small producers, safe operations, and environmental mitigation (including reduction of greenhouse gas emissions and sequestration of carbon).

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

(1) Ultra-deepwater architecture and technology, including drilling to formations in the Outer Continental Shelf to depths greater than 15,000 feet.

(2) Unconventional natural gas and other petroleum resource exploration and production technology.

(3) The technology challenges of small producers.

(4) Complementary research performed by the National Energy Technology Laboratory for the United States Department of Energy.

(c) LIMITATION ON LOCATION OF FIELD ACTIVITIES.—Field activities under the program under this chapter shall be carried out only—

(1) in—

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

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

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

(2) with the approval of the appropriate Federal or State land management agency or private land owner.

(d) ACTIVITIES AT THE NATIONAL ENERGY TECHNOLOGY LABORATORY.—The Secretary, through the National Energy Technology Laboratory, shall carry out a program of research and other activities complementary to and supportive of the research programs under subsection (b).

(e) CONSULTATION WITH SECRETARY OF THE INTERIOR.—In carrying out this part, the Secretary shall consult regularly with the Secretary of the Interior.

SEC. 970. ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out the activities under section 969, to maximize the value of natural gas and other petroleum resources of the United States, by increasing the supply of such resources, through reducing the cost and increasing the efficiency of exploration for and production of such resources, while improving safety and minimizing environmental impacts.

(b) ROLE OF THE SECRETARY.—The Secretary shall have ultimate responsibility for, and oversight of, all aspects of the program under this section.

(c) ROLE OF THE PROGRAM CONSORTIUM.—

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

(A) manage awards pursuant to subsection (f)(3);

(B) issue project solicitations upon approval of the Secretary;

(C) make project awards upon approval of the Secretary;

(D) disburse funds awarded under subsection (f) as directed by the Secretary in accordance with the annual plan under subsection (e); and

(E) carry out other activities assigned to the program consortium by this section.

(2) LIMITATION.—The Secretary may not assign any activities to the program consortium except as specifically authorized under this section.

(3) CONFLICT OF INTEREST.—

(A) PROCEDURES.—The Secretary shall establish procedures—

(i) to ensure that each board member, officer, or employee of the program consortium who is in a decisionmaking capacity under subsection (f)(3) shall disclose to the Secretary any financial interests in, or financial relationships with, applicants for or recipients of awards under this section, including those of his or her spouse or minor child, unless such relationships or interests would be considered to be remote or inconsequential; and

(ii) to require any board member, officer, or employee with a financial relationship or interest disclosed under clause (i) to recuse himself or herself from any oversight under subsection (f)(4) with respect to such applicant or recipient.

(B) FAILURE TO COMPLY.—The Secretary may disqualify an application or revoke an award under this section if a board member, officer, or employee has failed to comply with procedures required under subparagraph (A)(ii).

(d) SELECTION OF THE PROGRAM CONSORTIUM.—

(1) IN GENERAL.—The Secretary shall select the program consortium through an open, competitive process.

(2) MEMBERS.—The program consortium may include corporations, trade associations, institutions of higher education, National Laboratories, or other research institutions. After submitting a proposal under paragraph (4), the program consortium may not add members without the consent of the Secretary.

(3) TAX STATUS.—The program consortium shall be an entity that is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986 on the date of enactment of this Act.

(4) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall solicit proposals from eligible consortia to perform the duties in subsection (c)(1), which shall be submitted not later than 180 days after the date of enactment of this Act. The Secretary shall select the program consortium not later than 270 days after such date of enactment.

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

(A) list all members of the consortium;

(B) fully describe the structure of the consortium, including any provisions relating to intellectual property; and

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

(6) ELIGIBILITY.—To be eligible to be selected as the program consortium, an applicant must be an entity whose members have collectively demonstrated capabilities and experience in planning and managing research, development, demonstration, and commercial application programs for ultra-deepwater and unconventional natural gas or other petroleum exploration or production.

(7) FOCUS AREAS FOR AWARDS.—

(A) ULTRA-DEEPWATER RESOURCES.—Awards from allocations under section 976(d)(1) shall focus on the development and demonstration of individual exploration and production technologies as well as integrated systems technologies including new architectures for production in ultra-deepwater.

(B) UNCONVENTIONAL RESOURCES.—Awards from allocations under section 976(d)(2) shall focus on areas including advanced coalbed methane, deep drilling, natural gas production from tight sands, natural gas production from gas shales, stranded gas, innovative exploration and production techniques, enhanced recovery techniques, and environmental mitigation of unconventional natural gas and other petroleum resources exploration and production.

(C) SMALL PRODUCERS.—Awards from allocations under section 976(d)(3) shall be made to consortia consisting of small producers or organized primarily for the benefit of small producers, and shall focus on areas including complex geology involving rapid changes in the type and quality of the oil and gas reservoirs across the reservoir; low reservoir pressure; unconventional natural gas reservoirs in coalbeds, deep reservoirs, tight sands, or shales; and unconventional oil reservoirs in tar sands and oil shales.

(8) CRITERION.—The Secretary shall consider the amount of the fee an applicant proposes to receive under subsection (g) in selecting a consortium under this section.

(e) ANNUAL PLAN.—

(1) IN GENERAL.—The program under this section shall be carried out pursuant to an annual plan prepared by the Secretary in accordance with paragraph (2).

(2) DEVELOPMENT.—

(A) SOLICITATION OF RECOMMENDATIONS.—Before drafting an annual plan under this subsection, the Secretary shall solicit specific written recommendations from the program consortium for each element to be addressed in the plan, including those described in paragraph (4). The program consortium shall submit its recommendations in the form of a draft annual plan.

(B) SUBMISSION OF RECOMMENDATIONS; OTHER COMMENT.—The Secretary shall submit the recommendations of the program consortium under subparagraph (A) to the Ultra-Deepwater Advisory Committee established under section 972(a) and to the Unconventional Resources Technology Advisory Committee established under section 972(b), and such Advisory Committees shall provide to the Secretary written comments by a date determined by the Secretary. The Secretary may also solicit comments from any other experts.

(C) CONSULTATION.—The Secretary shall consult regularly with the program consortium throughout the preparation of the annual plan.

(3) PUBLICATION.—The Secretary shall transmit to Congress and publish in the Federal Register the annual plan, along with any written comments received under paragraph (2)(A) and (B).

(4) CONTENTS.—The annual plan shall describe the ongoing and prospective activities of the program under this section and shall include—

(A) a list of any solicitations for awards to carry out research, development, demonstration, or commercial application activities, including the topics for such work, who would be eligible to apply, selection criteria, and the duration of awards; and

(B) a description of the activities expected of the program consortium to carry out subsection (f)(3).

(5) ESTIMATES OF INCREASED ROYALTY RECEIPTS.—The Secretary, in consultation with the Secretary of the Interior, shall provide an annual report to Congress with the President's budget on the estimated cumulative increase in Federal royalty receipts (if any) resulting from the implementation of this part. The initial report under this paragraph shall be submitted in the first President's budget following the completion of the first annual plan required under this subsection.

(f) AWARDS.—

(1) IN GENERAL.—Upon approval of the Secretary the program consortium shall make awards to carry out research, development, demonstration, and commercial application activities under the program under this section. The program consortium shall not be eligible to receive such awards, but members of the program consortium may receive such awards.

(2) PROPOSALS.—Upon approval of the Secretary the program consortium shall solicit proposals for awards under this subsection in such manner and at such time as the Secretary may prescribe, in consultation with the program consortium.

(3) OVERSIGHT.—

(A) IN GENERAL.—The program consortium shall oversee the implementation of awards under this subsection, consistent with the annual plan under subsection (e), including disbursing funds and monitoring activities carried out under such awards for compliance with the terms and conditions of the awards.

(B) EFFECT.—Nothing in subparagraph (A) shall limit the authority or responsibility of the Secretary to oversee awards, or limit the authority of the Secretary to review or revoke awards.

(g) ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—To compensate the program consortium for carrying out its activities under this section, the Secretary shall provide to the program consortium funds sufficient to administer the program. This compensation may include a management fee consistent with Department of Energy contracting practices and procedures.

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

(h) AUDIT.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds provided to the program consortium, and funds provided under awards made under subsection (f), have been expended in a manner consistent with the purposes and requirements of this part. The auditor shall transmit a report annually to the Secretary, who shall transmit the report to Congress, along with a plan to remedy any deficiencies cited in the report.

(i) ACTIVITIES BY THE UNITED STATES GEOLOGICAL SURVEY.—The Secretary of the Interior, through the United States Geological Survey, shall, where appropriate, carry out programs of long-term research to complement the programs under this section.

SEC. 971. ADDITIONAL REQUIREMENTS FOR AWARDS.

(a) DEMONSTRATION PROJECTS.—An application for an award under this chapter for a demonstration project shall describe with specificity the intended commercial use of the technology to be demonstrated.

(b) FLEXIBILITY IN LOCATING DEMONSTRATION PROJECTS.—Subject to the limitation in section 969(c), a demonstration project under this chapter relating to an ultra-deepwater technology or an ultra-deepwater architecture may be conducted in deepwater depths.

(c) INTELLECTUAL PROPERTY AGREEMENTS.—If an award under this chapter is made to a consortium (other than the program consortium), the consortium shall provide to the Secretary a signed contract agreed to by all members of the consortium describing the rights of each member to intellectual property used or developed under the award.

(d) TECHNOLOGY TRANSFER.—2.5 percent of the amount of each award made under this chapter shall be designated for technology transfer and outreach activities under this chapter.

(e) COST SHARING REDUCTION FOR INDEPENDENT PRODUCERS.—In applying the cost sharing requirements under section 911 to an award under this chapter the Secretary may reduce or eliminate the non-Federal requirement if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project.

SEC. 972. ADVISORY COMMITTEES.

(a) ULTRA-DEEPWATER ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Ultra-Deepwater Advisory Committee.

(2) MEMBERSHIP.—The advisory committee under this subsection shall be composed of members appointed by the Secretary including—

(A) individuals with extensive research experience or operational knowledge of offshore natural gas and other petroleum exploration and production;

(B) individuals broadly representative of the affected interests in ultra-deepwater natural gas and other petroleum production, including interests in environmental protection and safe operations;

(C) no individuals who are Federal employees; and

(D) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The advisory committee under this subsection shall—

(A) advise the Secretary on the development and implementation of programs under this chapter related to ultra-deepwater natural gas and other petroleum resources; and

(B) carry out section 970(e)(2)(B).

(4) COMPENSATION.—A member of the advisory committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(b) UNCONVENTIONAL RESOURCES TECHNOLOGY ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 270 days after the date of enactment of this Act, the Secretary shall establish an advisory committee to be known as the Unconventional Resources Technology Advisory Committee.

(2) MEMBERSHIP.—The advisory committee under this subsection shall be composed of members appointed by the Secretary including—

(A) a majority of members who are employees or representatives of independent producers of natural gas and other petroleum, including small producers;

(B) individuals with extensive research experience or operational knowledge of unconventional natural gas and other petroleum resource exploration and production;

(C) individuals broadly representative of the affected interests in unconventional natural gas and other petroleum resource exploration and production, including interests in environmental protection and safe operations;

(D) no individuals who are Federal employees; and

(E) no individuals who are board members, officers, or employees of the program consortium.

(3) DUTIES.—The advisory committee under this subsection shall—

(A) advise the Secretary on the development and implementation of activities under this chapter related to unconventional natural gas and other petroleum resources; and

(B) carry out section 970(e)(2)(B).

(4) COMPENSATION.—A member of the advisory committee under this subsection shall serve without compensation but shall receive travel expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(c) PROHIBITION.—No advisory committee established under this section shall make recommendations on funding awards to particular consortia or other entities, or for specific projects.

SEC. 973. LIMITS ON PARTICIPATION.

An entity shall be eligible to receive an award under this chapter only if the Secretary finds—

(1) that the entity's participation in the program under this chapter would be in the economic interest of the United States; and

(2) that either—

(A) the entity is a United States-owned entity organized under the laws of the United States; or

(B) the entity is organized under the laws of the United States and has a parent entity organized under the laws of a country that affords—

(i) to United States-owned entities opportunities, comparable to those afforded to any other entity, to participate in any cooperative research venture similar to those authorized under this part;

(ii) to United States-owned entities local investment opportunities comparable to those afforded to any other entity; and

(iii) adequate and effective protection for the intellectual property rights of United States-owned entities.

SEC. 974. SUNSET.

The authority provided by this chapter shall terminate on September 30, 2014.

SEC. 975. DEFINITIONS.

In this part:

(1) DEEPWATER.—The term ''deepwater'' means a water depth that is greater than 200 but less than 1,500 meters.

(2) INDEPENDENT PRODUCER OF OIL OR GAS.—

(A) IN GENERAL.—The term ''independent producer of oil or gas'' means any person that produces oil or gas other than a person to whom subsection (c) of section 613A of the Internal Revenue Code of 1986 does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d) of such Code.

(B) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of subparagraph (A), paragraphs (2) and (4) of section 613A(d) of the Internal Revenue Code of 1986 shall be applied by substituting ''calendar year'' for ''taxable year'' each place it appears in such paragraphs.

(3) PROGRAM CONSORTIUM.—The term ''program consortium'' means the consortium selected under section 970(d).

(4) REMOTE OR INCONSEQUENTIAL.—The term ''remote or inconsequential'' has the meaning given that term in regulations issued by the Office of Government Ethics under section 208(b)(2) of title 18, United States Code.

(5) SMALL PRODUCER.—The term ''small producer'' means an entity organized under the laws of the United States with production levels of less than 1,000 barrels per day of oil equivalent.

(6) ULTRA-DEEPWATER.—The term ''ultra-deepwater'' means a water depth that is equal to or greater than 1,500 meters.

(7) ULTRA-DEEPWATER ARCHITECTURE.—The term ''ultra-deepwater architecture'' means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(8) ULTRA-DEEPWATER TECHNOLOGY.—The term ''ultra-deepwater technology'' means a discrete technology that is specially suited to address 1 or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at ultra-deepwater depths.

(9) UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCE.—The term ''unconventional natural gas and other petroleum resource'' means natural gas and other petroleum resource located onshore in an economically inaccessible geological formation, including resources of small producers.

SEC. 976. FUNDING.

(a) IN GENERAL.—

(1) OIL AND GAS LEASE INCOME.—For each of fiscal years 2005 through 2014, from any excess Federal royalties derived from Federal onshore and offshore oil and gas leases issued under the Outer Continental Shelf Lands Act and the Mineral Leasing Act which are deposited in the Treasury, and after prior distributions as described in subsection (c) have been made, all excess Federal royalties up to $200,000,000 shall be deposited into the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund (in this section referred to as the Fund).

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) excess Federal royalty receipts are the amount calculated on the basis of the difference between the prevailing market prices upon which the royalty payment was made and 110 percent of the projected market prices for that fiscal year, as contained in the economic assumptions underlying the Concurrent Resolution on the Budget, under section 301 of the Congressional Budget and Impoundment Control Act or 1974; and

(B) the term ''royalties'' excludes proceeds from the sale of royalty production taken in kind and royalty production that is transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)).

(b) OBLIGATIONAL AUTHORITY.—Monies in the Fund shall be available to the Secretary for obligation under this chapter without fiscal year limitation, to remain available until expended.

(c) PRIOR DISTRIBUTIONS.—The distributions described in subsection (a) are those required by law—

(1) to States and to the Reclamation Fund under the Mineral Leasing Act (30 U.S.C. 191(a)); and

(2) to other funds receiving monies from Federal oil and gas leasing programs, including—

(A) any recipients pursuant to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g));

(B) the Land and Water Conservation Fund, pursuant to section 2(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5(c));

(C) the Historic Preservation Fund, pursuant to section 108 of the National Historic Preservation Act (16 U.S.C. 470h); and

(D) the Secure Energy Reinvestment Fund.

(d) ALLOCATION.—Amounts obligated from the Fund under subsection (a)(1) in each fiscal year shall be allocated as follows:

(1) 35 percent shall be for activities under section 969(b)(1).

(2) 32.5 percent shall be for activities under section 969(b)(2).

(3) 7.5 percent shall be for activities under section 969(b)(3).

(4) 25 percent shall be for complementary research under section 969(b)(4) and other activities under section 969(b) to include program direction funds, overall program oversight, contract management, and the establishment and operation of a technical committee to ensure that in-house research activities funded under subsection 969(b)(4) are technically complementary to, and not duplicative of, research conducted under section 969(b)(1), (2), and (3).

(e) FUND.—There is hereby established in the Treasury of the United States a separate fund to be known as the ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund''.

Subtitle G—Improved Coordination and Management of Civilian Science and Technology Programs

SEC. 978. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—Section 209 of the Department of Energy Organization Act (42 U.S.C. 7139) is amended to read as follows:

''OFFICE OF SCIENCE

''SEC. 209. (a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary of Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Assistant Secretary of Science shall be in addition to the Assistant Secretaries provided for under section 203 of this Act.

''(c) It shall be the duty and responsibility of the Assistant Secretary of Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary.''.

(b) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking ''There shall be in the Department six Assistant Secretaries'' and inserting ''Except as provided in section 209, there shall be in the Department seven Assistant Secretaries''.

(2) It is the sense of the Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 5315 of title 5, United States Code, is amended by—

(A) striking ''Director, Office of Science, Department of Energy.''; and

(B) striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (8)''.

(2) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—

(A) by striking ''Section 209'' and inserting ''Sec. 209'';

(B) by striking ''213.'' and inserting ''Sec. 213.'';

(C) by striking ''214.'' and inserting ''Sec. 214.'';

(D) by striking ''215.'' and inserting ''Sec. 215.''; and

(E) by striking ''216.'' and inserting ''Sec. 216.''.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

SEC. 1002. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

''(g)(1) In addition to other authorities granted to the Secretary under law, the Secretary may exercise the same authority (subject to the same restrictions and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code, except for subsections (b) and (f) of such section 2371. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) or section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182).

''(2)(A) The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note), including that, to the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a) of that section and that the period of authority to carry out projects under such subsection (a) terminates as provided in subsection (g) of that section.

''(B) In applying the requirements and conditions of section 845 of the National Defense Authorization Act for Fiscal Year 1994 under this subsection—

''(i) subsection (c) of that section shall apply with respect to prototype projects carried out under this paragraph; and

''(ii) the Director of the Office of Management and Budget shall perform the functions of the Secretary of Defense under subsection (d) of that section.

''(C) The Secretary may exercise authority under this subsection for a project only if authorized by the Director of the Office of Management and Budget to use the authority for such project.

''(D) The annual report of the head of an executive agency that is required under subsection (h) of section 2371 of title 10, United States Code, as applied to the head of the executive agency by subsection (a), shall be submitted to Congress.

''(3) Not later than 90 days after the date of enactment of this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall prescribe guidelines for using other transactions authorized by paragraph (1). Such guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.

''(4) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate and may not be delegated to any other person.

''(5)(A) Not later than September 31, 2006, the Comptroller General of the United States shall report to Congress on the Department's use of the authorities granted under this section, including the ability to attract nontraditional government contractors and whether additional safeguards are needed with respect to the use of such authorities.

''(B) In this section, the term 'nontraditional Government contractor' has the same meaning as the term 'nontraditional defense contractor' as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).''.

SEC. 1003. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to the Congress a report that examines the feasibility of promoting collaborations between major universities and other colleges and universities in grants, contracts, and cooperative agreements made by the Secretary for energy projects. For purposes of this section, major universities are schools listed by the Carnegie Foundation as Doctoral Research Extensive Universities. The Secretary shall also consider providing incentives to increase the inclusion of small institutions of higher education, including minority-serving institutions, in energy grants, contracts, and cooperative agreements.

SEC. 1004. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the Secretary of Energy should develop and implement more stringent procurement and inventory controls, including controls on the purchase card program, to prevent waste, fraud, and abuse of taxpayer funds by employees and contractors of the Department of Energy; and

(2) the Department's Inspector General should continue to closely review purchase card purchases and other procurement and inventory practices at the Department.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Electric Reliability Act of 2005''.

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY.

''(a) DEFINITIONS.—For purposes of this section:

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

''(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

''(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(8) The term 'cybersecurity incident' means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

''(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

''(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

''(2) has established rules that—

''(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

''(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

''(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

''(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

''(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

The total amount of all dues, fees, and other charges collected by the ERO in each of the fiscal years 2006 through 2015 and allocated under subparagraph (B) shall not exceed $50,000,000.

''(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

''(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

''(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

''(A) the Commission finds a conflict exists between a reliability standard and any such provision;

''(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

''(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

''(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice and the record of the proceeding with the Commission.

''(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

''(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

''(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

''(A) the regional entity is governed by—

''(i) an independent board;

''(ii) a balanced stakeholder board; or

''(iii) a combination independent and balanced stakeholder board.

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

''(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

''(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

''(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

''(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

''(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards.

''(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

''(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

''(k) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.''.

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) LIMITATION ON ANNUAL APPROPRIATIONS.—There is authorized to be appropriated not more than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) AMENDMENT OF FEDERAL POWER ACT.—Part II of the Federal Power Act is amended by adding at the end the following:

''SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

''(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDORS.—

''(1) TRANSMISSION CONGESTION STUDY.—Within 1 year after the enactment of this section, and every 3 years thereafter, the Secretary of Energy, in consultation with affected States, shall conduct a study of electric transmission congestion. After considering alternatives and recommendations from interested parties, including an opportunity for comment from affected States, the Secretary shall issue a report, based on such study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor. The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referenced in section 215 of this Act.

''(2) CONSIDERATIONS.—In determining whether to designate a national interest electric transmission corridor referred to in paragraph (1) under this section, the Secretary may consider whether—

''(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

''(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

''(ii) a diversification of supply is warranted;

''(C) the energy independence of the United States would be served by the designation;

''(D) the designation would be in the interest of national energy policy; and

''(E) the designation would enhance national defense and homeland security.

''(b) CONSTRUCTION PERMIT.—Except as provided in subsection (i), the Commission is authorized, after notice and an opportunity for hearing, to issue a permit or permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

''(1)(A) a State in which the transmission facilities are to be constructed or modified is without authority to—

''(i) approve the siting of the facilities; or

''(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

''(B) the applicant for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

''(C) a State commission or other entity that has authority to approve the siting of the facilities has—

''(i) withheld approval for more than 1 year after the filing of an application pursuant to applicable law seeking approval or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

''(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

''(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

''(3) the proposed construction or modification is consistent with the public interest;

''(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers; and

''(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence.

''(c) PERMIT APPLICATIONS.—Permit applications under subsection (b) shall be made in writing to the Commission. The Commission shall issue rules setting forth the form of the application, the information to be contained in the application, and the manner of service of notice of the permit application upon interested persons.

''(d) COMMENTS.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

''(e) RIGHTS-OF-WAY.—In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify such transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated.

''(f) STATE LAW.—Nothing in this section shall preclude any person from constructing or modifying any transmission facility pursuant to State law.

''(g) COMPENSATION.—Any exercise of eminent domain authority pursuant to this section shall be considered a taking of private property for which just compensation is due. Just compensation shall be an amount equal to the full fair market value of the property taken on the date of the exercise of eminent domain authority, except that the compensation shall exceed fair market value if necessary to make the landowner whole for decreases in the value of any portion of the land not subject to eminent domain. Any parcel of land acquired by eminent domain under this subsection shall be transferred back to the owner from whom it was acquired (or his heirs or assigns) if the land is not used for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition. Other than construction, modification, operation, or maintenance of electric transmission facilities and related facilities, property acquired under subsection (e) may not be used for any purpose (including use for any heritage area, recreational trail, or park) without the consent of the owner of the parcel from whom the property was acquired (or the owner's heirs or assigns).

''(h) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION AND DISTRIBUTION FACILITIES.—

''(1) LEAD AGENCY.—If an applicant, or prospective applicant, for a Federal authorization related to an electric transmission or distribution facility so requests, the Department of Energy (DOE) shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility. For purposes of this subsection, the term 'Federal authorization' means any authorization required under Federal law in order to site a transmission or distribution facility, including but not limited to such permits, special use authorizations, certifications, opinions, or other approvals as may be required, whether issued by a Federal or a State agency. To the maximum extent practicable under applicable Federal law, the Secretary of Energy shall coordinate this Federal authorization and review process with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

''(2) AUTHORITY TO SET DEADLINES.—As lead agency, the Department of Energy, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multi-State entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility. The Secretary of Energy shall ensure that once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 1 year or, if a requirement of another provision of Federal law makes this impossible, as soon thereafter as is practicable. The Secretary of Energy also shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant within 60 days of when the prospective applicant submits a request for such information concerning—

''(A) the likelihood of approval for a potential facility; and

''(B) key issues of concern to the agencies and public.

''(3) CONSOLIDATED ENVIRONMENTAL REVIEW AND RECORD OF DECISION.—As lead agency head, the Secretary of Energy, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law. The document may be an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 if warranted, or such other form of analysis as may be warranted. The Secretary of Energy and the heads of other agencies shall streamline the review and permitting of transmission and distribution facilities within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors. Such document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable laws.

''(4) APPEALS.—In the event that any agency has denied a Federal authorization required for a transmission or distribution facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the Secretary, who shall, in consultation with the affected agency, review the denial or take action on the pending application. Based on the overall record and in consultation with the affected agency, the Secretary may then either issue the necessary authorization with any appropriate conditions, or deny the application. The Secretary shall issue a decision within 90 days of the filing of the appeal. In making a decision under this paragraph, the Secretary shall comply with applicable requirements of Federal law, including any requirements of the Endangered Species Act, the Clean Water Act, the National Forest Management Act, the National Environmental Policy Act of 1969, and the Federal Land Policy and Management Act.

''(5) CONFORMING REGULATIONS AND MEMORANDA OF UNDERSTANDING.—Not later than 18 months after the date of enactment of this section, the Secretary of Energy shall issue any regulations necessary to implement this subsection. Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into Memoranda of Understanding to ensure the timely and coordinated review and permitting of electricity transmission and distribution facilities. The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the DOE regulations and any Memoranda. Interested Indian tribes, multi-State entities, and State agencies may enter such Memoranda of Understanding.

''(6) DURATION AND RENEWAL.—Each Federal land use authorization for an electricity transmission or distribution facility shall be issued—

''(A) for a duration, as determined by the Secretary of Energy, commensurate with the anticipated use of the facility, and

''(B) with appropriate authority to manage the right-of-way for reliability and environmental protection.

Upon the expiration of any such authorization (including an authorization issued prior to enactment of this section), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing its importance for public health, safety and economic welfare and as a legitimate use of Federal lands.

''(7) MAINTAINING AND ENHANCING THE TRANSMISSION INFRASTRUCTURE.—In exercising the responsibilities under this section, the Secretary of Energy shall consult regularly with the Federal Energy Regulatory Commission (FERC), FERC-approved electric reliability organizations (including related regional entities), and FERC-approved Regional Transmission Organizations and Independent System Operators.

''(i) INTERSTATE COMPACTS.—The consent of Congress is hereby given for 3 or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to facilitate siting of future electric energy transmission facilities within such States and to carry out the electric energy transmission siting responsibilities of such States. The Secretary of Energy may provide technical assistance to regional transmission siting agencies established under this subsection. Such regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States). The Commission shall have no authority to issue a permit for the construction or modification of electric transmission facilities within a State that is a party to a compact, unless the members of a compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

''(j) SAVINGS CLAUSE.—Nothing in this section shall be construed to affect any requirement of the environmental laws of the United States, including, but not limited to, the National Environmental Policy Act of 1969. Subsection (h)(4) of this section shall not apply to any Congressionally-designated components of the National Wilderness Preservation System, the National Wild and Scenic Rivers System, or the National Park system (including National Monuments therein).

''(k) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).''.

(b) REPORTS TO CONGRESS ON CORRIDORS AND RIGHTS OF WAY ON FEDERAL LANDS.—The Secretary of the Interior, the Secretary of Energy, the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall, within 90 days of the date of enactment of this subsection, submit a joint report to Congress identifying each of the following:

(1) All existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations under Title V of the Federal Land Policy and Management Act (43 U.S.C. 1761 et seq.), the schedule for completing such work, any impediments to completing the work, and steps that Congress could take to expedite the process.

(2) The number of pending applications to locate transmission and distribution facilities on Federal lands, key information relating to each such facility, how long each application has been pending, the schedule for issuing a timely decision as to each facility, and progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or their equivalent.

(3) The number of existing transmission and distribution rights-of-way on Federal lands that will come up for renewal within the following 5, 10, and 15 year periods, and a description of how the Secretaries plan to manage such renewals.

SEC. 1222. THIRD-PARTY FINANCE.

(a) EXISTING FACILITIES.—The Secretary of Energy (hereinafter in this section referred to as the ''Secretary''), acting through the Administrator of the Western Area Power Administration (hereinafter in this section referred to as ''WAPA''), or through the Administrator of the Southwestern Power Administration (hereinafter in this section referred to as ''SWPA''), or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, an electric power transmission facility and related facilities (''Project'') needed to upgrade existing transmission facilities owned by SWPA or WAPA if the Secretary of Energy, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Regional Transmission Organization or Independent System Operator (as defined in the Federal Power Act), if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid; and

(3) would be operated in conformance with prudent utility practice.

(b) NEW FACILITIES.—The Secretary, acting through WAPA or SWPA, or both, may design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, a new electric power transmission facility and related facilities (''Project'') located within any State in which WAPA or SWPA operates if the Secretary, in consultation with the applicable Administrator, determines that the proposed Project—

(1)(A) is located in an area designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Regional Transmission Organization or Independent System Operator, if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate (A) Regional Transmission Organization or Independent System Operator, if any, or (B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities which are the subject of ongoing or approved siting and related permitting proceedings.

(c) OTHER FUNDS.—

(1) IN GENERAL.—In carrying out a Project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the Project.

(2) AVAILABILITY.—The contributed funds shall be available for expenditure for the purpose of carrying out the Project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for that Project.

(3) ALLOCATION OF COSTS.—In carrying out a Project under subsection (a) or (b), any costs of the Project not paid for by contributions from another entity shall be collected through rates charged to customers using the new transmission capability provided by the Project and allocated equitably among these project beneficiaries using the new transmission capability.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any existing authorizing statutes.

(e) SAVINGS CLAUSE.—Nothing in this section shall constrain or restrict an Administrator in the utilization of other authority delegated to the Administrator of WAPA or SWPA.

(f) SECRETARIAL DETERMINATIONS.—Any determination made pursuant to subsections (a) or (b) shall be based on findings by the Secretary using the best available data.

(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than $100,000,000 under subsection (c)(1) for the period encompassing fiscal years 2006 through 2015.

SEC. 1223. TRANSMISSION SYSTEM MONITORING.

Within 6 months after the date of enactment of this Act, the Secretary of Energy and the Federal Energy Regulatory Commission shall study and report to Congress on the steps which must be taken to establish a system to make available to all transmission system owners and Regional Transmission Organizations (as defined in the Federal Power Act) within the Eastern and Western Interconnections real-time information on the functional status of all transmission lines within such Interconnections. In such study, the Commission shall assess technical means for implementing such transmission information system and identify the steps the Commission or Congress must take to require the implementation of such system.

SEC. 1224. ADVANCED TRANSMISSION TECHNOLOGIES.

(a) AUTHORITY.—The Federal Energy Regulatory Commission, in the exercise of its authorities under the Federal Power Act and the Public Utility Regulatory Policies Act of 1978, shall encourage the deployment of advanced transmission technologies.

(b) DEFINITION.—For the purposes of this section, the term ''advanced transmission technologies'' means technologies that increase the capacity, efficiency, or reliability of existing or new transmission facilities, including, but not limited to—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;

(8) ultra-high voltage lines;

(9) high-voltage DC technology;

(10) flexible AC transmission systems;

(11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels, and batteries);

(12) controllable load;

(13) distributed generation (including PV, fuel cells, microturbines);

(14) enhanced power device monitoring;

(15) direct system state sensors;

(16) fiber optic technologies;

(17) power electronics and related software (including real time monitoring and analytical software); and

(18) any other technologies the Commission considers appropriate.

(c) OBSOLETE OR IMPRACTICABLE TECHNOLOGIES.—The Commission is authorized to cease encouraging the deployment of any technology described in this section on a finding that such technology has been rendered obsolete or otherwise impracticable to deploy.

SEC. 1225. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAM.—The Secretary of Energy (hereinafter in this section referred to as the ''Secretary'') acting through the Director of the Office of Electric Transmission and Distribution shall establish a comprehensive research, development, demonstration and commercial application program to promote improved reliability and efficiency of electrical transmission and distribution systems. This program shall include—

(1) advanced energy delivery and storage technologies, materials, and systems, including new transmission technologies, such as flexible alternating current transmission systems, composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) PROGRAM PLAN.—Not later than 1 year after the date of the enactment of this legislation, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. In preparing the program plan, the Secretary may consult with utilities, energy services providers, manufacturers, institutions of higher education, other appropriate State and local agencies, environmental organizations, professional and technical societies, and any other persons the Secretary considers appropriate.

(c) IMPLEMENTATION.—The Secretary shall consider implementing this program using a consortium of industry, university and national laboratory participants.

(d) REPORT.—Not later than 2 years after the transmittal of the plan under subsection (b), the Secretary shall transmit a report to Congress describing the progress made under this section and identifying any additional resources needed to continue the development and commercial application of transmission and distribution infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, demonstration, and commercial application initiative specifically focused on power delivery utilizing components incorporating high temperature superconductivity.

(2) GOALS.—The goals of this initiative shall be to—

(A) establish facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) provide technical leadership for establishing reliability for high temperature superconductivity power applications including suitable modeling and analysis;

(C) facilitate commercial transition toward direct current power transmission, storage, and use for high power systems utilizing high temperature superconductivity; and

(D) facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control and reliability.

(3) REQUIREMENTS.—The initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current and controllable alternating current transmission systems;

(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and

(C) testbeds developed in cooperation with national laboratories, industries, and universities to demonstrate these technologies, prepare the technologies for commercial introduction, and address cost or performance roadblocks to successful commercial use.

(4) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this subsection, there are authorized to be appropriated—

(A) for fiscal year 2006, $15,000,000;

(B) for fiscal year 2007, $20,000,000;

(C) for fiscal year 2008, $30,000,000;

(D) for fiscal year 2009, $35,000,000; and

(E) for fiscal year 2010, $40,000,000.

SEC. 1226. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.

(a) PROGRAM.—The Secretary of Energy is authorized to establish an Advanced Power System Technology Incentive Program to support the deployment of certain advanced power system technologies and to improve and protect certain critical governmental, industrial, and commercial processes. Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application establishing an applicant as either—

(1) a qualifying advanced power system technology facility; or

(2) a qualifying security and assured power facility.

(b) INCENTIVES.—Subject to availability of funds, a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) ELIGIBILITY.—For purposes of this section:

(1) QUALIFYING ADVANCED POWER SYSTEM TECHNOLOGY FACILITY.—The term ''qualifying advanced power system technology facility'' means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) QUALIFYING SECURITY AND ASSURED POWER FACILITY.—The term ''qualifying security and assured power facility'' means a qualifying advanced power system technology facility determined by the Secretary of Energy, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Energy for the purposes of this section, $10,000,000 for each of the fiscal years 2006 through 2012.

SEC. 1227. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

(a) CREATION OF AN OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) (as amended by section 502(a) of this Act) is amended by inserting the following after section 217, as added by title V of this Act:

''SEC. 218. OFFICE OF ELECTRIC TRANSMISSION AND DISTRIBUTION.

''(a) ESTABLISHMENT.—There is established within the Department an Office of Electric Transmission and Distribution. This Office shall be headed by a Director, subject to the authority of the Secretary. The Director shall be appointed by the Secretary. The Director shall be compensated at the annual rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) DIRECTOR.—The Director shall—

''(1) coordinate and develop a comprehensive, multi-year strategy to improve the Nation's electricity transmission and distribution;

''(2) implement or, where appropriate, coordinate the implementation of, the recommendations made in the Secretary's May 2002 National Transmission Grid Study;

''(3) oversee research, development, and demonstration to support Federal energy policy related to electricity transmission and distribution;

''(4) grant authorizations for electricity import and export pursuant to section 202(c), (d), (e), and (f) of the Federal Power Act (16 U.S.C. 824a);

''(5) perform other functions, assigned by the Secretary, related to electricity transmission and distribution; and

''(6) develop programs for workforce training in power and transmission engineering.''.

(b) CONFORMING AMENDMENTS.—(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended by inserting after the item relating to section 217 the following new item:

''Sec. 218. Office of Electric Transmission and Distribution.''.

(2) Section 5315 of title 5, United States Code, is amended by inserting after the item relating to ''Inspector General, Department of Energy.'' the following:

''Director, Office of Electric Transmission and Distribution, Department of Energy.''.

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

''SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

''(a) TRANSMISSION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

''(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

''(b) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

''(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

''(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

''(3) meets other criteria the Commission determines to be in the public interest.

''(c) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

''(d) EXEMPTION TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

''(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(f) REMAND.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

''(g) OTHER REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

''(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

''(j) DEFINITION.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

''(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

''(2) is an entity described in section 201(f).''.

SEC. 1232. SENSE OF CONGRESS ON REGIONAL TRANSMISSION ORGANIZATIONS.

It is the sense of Congress that, in order to promote fair, open access to electric transmission service, benefit retail consumers, facilitate wholesale competition, improve efficiencies in transmission grid management, promote grid reliability, remove opportunities for unduly discriminatory or preferential transmission practices, and provide for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets, all transmitting utilities in interstate commerce should voluntarily become members of Regional Transmission Organizations as defined in section 3 of the Federal Power Act.

SEC. 1233. REGIONAL TRANSMISSION ORGANIZATION APPLICATIONS PROGRESS REPORT.

Not later than 120 days after the date of enactment of this section, the Federal Energy Regulatory Commission shall submit to Congress a report containing each of the following:

(1) A list of all regional transmission organization applications filed at the Commission pursuant to subpart F of part 35 of title 18, Code of Federal Regulations (in this section referred to as ''Order No. 2000''), including an identification of each public utility and other entity included within the proposed membership of the regional transmission organization.

(2) A brief description of the status of each pending regional transmission organization application, including a precise explanation of how each fails to comply with the minimal requirements of Order No. 2000 and what steps need to be taken to bring each application into such compliance.

(3) For any application that has not been finally approved by the Commission, a detailed description of every aspect of the application that the Commission has determined does not conform to the requirements of Order No. 2000.

(4) For any application that has not been finally approved by the Commission, an explanation by the Commission of why the items described pursuant to paragraph (3) constitute material noncompliance with the requirements of the Commission's Order No. 2000 sufficient to justify denial of approval by the Commission.

(5) For all regional transmission organization applications filed pursuant to the Commission's Order No. 2000, whether finally approved or not—

(A) a discussion of that regional transmission organization's efforts to minimize rate seams between itself and—

(i) other regional transmission organizations; and

(ii) entities not participating in a regional transmission organization;

(B) a discussion of the impact of such seams on consumers and wholesale competition; and

(C) a discussion of minimizing cost-shifting on consumers.

SEC. 1234. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

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

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term ''appropriate Federal regulatory authority'' means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL UTILITY.—The term ''Federal utility'' means a Federal power marketing agency or the Tennessee Valley Authority.

(3) TRANSMISSION SYSTEM.—The term ''transmission system'' means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) OTHER OBLIGATIONS.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) REPEAL.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106–377, section 1(a)(2); 114 Stat. 1441, 1441A–80; 16 U.S.C. 824n) is repealed.

SEC. 1235. STANDARD MARKET DESIGN.

(a) REMAND.—The Commission's proposed rulemaking entitled ''Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design'' (Docket No. RM01–12–000) (''SMD NOPR'') is remanded to the Commission for reconsideration. No final rule mandating a standard electricity market design pursuant to the proposed rulemaking, including any rule or order of general applicability within the scope of the proposed rulemaking, may be issued before October 31, 2006, or take effect before December 31, 2006. Any final rule issued by the Commission pursuant to the proposed rulemaking shall be preceded by a second notice of proposed rulemaking issued after the date of enactment of this Act and an opportunity for public comment.

(b) SAVINGS CLAUSE.—This section shall not be construed to modify or diminish any authority or obligation the Commission has under this Act, the Federal Power Act, or other applicable law, including, but not limited to, any authority to—

(1) issue any rule or order (of general or particular applicability) pursuant to any such authority or obligation; or

(2) act on a filing or filings by 1 or more transmitting utilities for the voluntary formation of a Regional Transmission Organization or Independent System Operator (as defined in the Federal Power Act) (and related market structures or rules) or voluntary modification of an existing Regional Transmission Organization or Independent System Operator (and related market structures or rules).

SEC. 1236. NATIVE LOAD SERVICE OBLIGATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 217. NATIVE LOAD SERVICE OBLIGATION.

''(a) MEETING SERVICE OBLIGATIONS.—(1) Any load-serving entity that, as of the date of enactment of this section—

''(A) owns generation facilities, markets the output of Federal generation facilities, or holds rights under 1 or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation, and

''(B) by reason of ownership of transmission facilities, or 1 or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation,

is entitled to use such firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to the extent required to meet its service obligation.

''(2) To the extent that all or a portion of the service obligation covered by such firm transmission rights or equivalent tradable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradable or financial transmission rights associated with the transferred service obligation. Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

''(3) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long term basis for long term power supply arrangements made, or planned, to meet such needs.

''(b) ALLOCATION OF TRANSMISSION RIGHTS.—Nothing in subsections (a)(1) and (a) (2) of this section shall affect any existing or future methodology employed by an RTO or ISO for allocating or auctioning transmission rights if such RTO or ISO was authorized by the Commission to allocate or auction financial transmission rights on its system as of January 1, 2005, and the Commission determines that any future allocation or auction is just, reasonable and not unduly discriminatory or preferential, provided, however, that if such an RTO or ISO never allocated financial transmission rights on its system that pertained to a period before January 1, 2005, with respect to any application by such RTO or ISO that would change its methodology the Commission shall exercise its authority in a manner consistent with the Act and the policies expressed in subsections (a)(1) and (a)(2) as applied to firm transmission rights held by a load serving entity as of January 1, 2005, to the extent the associated generation ownership or power purchase arrangements remain in effect.

''(c) CERTAIN TRANSMISSION RIGHTS.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (a) available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

''(d) OBLIGATION TO BUILD.—Nothing in this Act shall relieve a load-serving entity from any obligation under State or local law to build transmission or distribution facilities adequate to meet its service obligations.

''(e) CONTRACTS.—Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection. If an ISO in the Western Interconnection had allocated financial transmission rights prior to the date of enactment of this section but had not done so with respect to one or more load-serving entities' firm transmission rights held under contracts to which the preceding sentence applies (or held by reason of ownership of transmission facilities), such load-serving entities may not be required, without their consent, to convert such firm transmission rights to tradable or financial rights, except where the load-serving entity has voluntarily joined the ISO as a participating transmission owner (or its successor) in accordance with the ISO tariff.

''(f) WATER PUMPING FACILITIES.—The Commission shall ensure that any entity described in section 201(f) that owns transmission facilities used predominately to support its own water pumping facilities shall have, with respect to such facilities, protections for transmission service comparable to those provided to load-serving entities pursuant to this section.

''(g) FERC RULEMAKING ON LONG-TERM TRANSMISSION RIGHTS IN ORGANIZED MARKETS.—Within one year after the date of enactment of this section and after notice and an opportunity for comment, the Commission shall by rule or order implement subsection (a)(3) in Commission-approved RTOs and ISOs with organized electricity markets.

''(h) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

''(i) JURISDICTION.—This section does not authorize the Commission to take any action not otherwise within its jurisdiction.

''(j) EFFECT OF EXERCISING RIGHTS.—An entity that lawfully exercises rights granted under subsection (a) shall not be considered by such action as engaging in undue discrimination or preference under this Act.

''(k) TVA AREA.—For purposes of subsection (a)(1)(B), a load-serving entity that is located within the service area of the Tennessee Valley Authority and that has a firm wholesale power supply contract with the Tennessee Valley Authority shall be deemed to hold firm transmission rights for the transmission of such power.

''(l) DEFINITIONS.—For purposes of this section:

''(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through 1 or more additional State utilities or electric cooperatives, provides electric service to end-users.

''(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

''(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

''(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any 1 or more of the foregoing, or a corporation which is wholly owned, directly or indirectly, by any 1 or more of the foregoing, competent to carry on the business of developing, transmitting, utilizing or distributing power''.

SEC. 1237. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) STUDY.—The Secretary of Energy, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each state if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) DEFINITION.—The term ''economic dispatch'' when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) REPORT TO CONGRESS AND THE STATES.—Not later than 90 days after the date of enactment of this Act, and on a yearly basis following, the Secretary of Energy shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

Subtitle D—Transmission Rate Reform

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 218. TRANSMISSION INFRASTRUCTURE INVESTMENT.

"(a) RULEMAKING REQUIREMENT.—Within 1 year after the enactment of this section, the Commission shall establish, by rule, incentive-based (including, but not limited to performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion. Such rule shall—

"(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance and operation of facilities for the transmission of electric energy in interstate commerce;

"(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

"(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of such facilities; and

"(4) allow recovery of all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215 of this Act.

The Commission may, from time to time, revise such rule.

"(b) ADDITIONAL INCENTIVES FOR RTO PARTICIPATION.—In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Regional Transmission Organization or Independent System Operator. Incentives provided by the Commission pursuant to such rule shall include—

"(1) recovery of all prudently incurred costs to develop and participate in any proposed or approved RTO, ISO, or independent transmission company;

"(2) recovery of all costs previously approved by a State commission which exercised jurisdiction over the transmission facilities prior to the utility's participation in the RTO or ISO, including costs necessary to honor preexisting transmission service contracts, in a manner which does not reduce the revenues the utility receives for transmission services for a reasonable transition period after the utility joins the RTO or ISO;

"(3) recovery as an expense in rates of the costs prudently incurred to conduct transmission planning and reliability activities, including the costs of participating in RTO, ISO and other regional planning activities and design, study and other precertification costs involved in seeking permits and approvals for proposed transmission facilities;

"(4) a current return in rates for construction work in progress for transmission facilities and full recovery of prudently incurred costs for constructing transmission facilities;

"(5) formula transmission rates; and

"(6) a maximum 15 year accelerated depreciation on new transmission facilities for rate treatment purposes.

The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the RTO or ISO that provides transmission service to such utility.

"(c) JUST AND REASONABLE RATES.—All rates approved under the rules adopted pursuant to this section, including any revisions to such rules, are subject to the requirement of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.".

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible onsite generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.".

(b) COMPLIANCE.—

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

"(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

"(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

(3) PRIOR STATE ACTIONS.—

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

"(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

SEC. 1252. SMART METERING.

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

"(14) TIME-BASED METERING AND COMMUNICATIONS.—

"(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

"(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

''(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).''.

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

(1) By inserting in subsection (b) after the phrase ''the standard for time-of-day rates established by section 111(d)(3)'' the following: ''and the standard for time-based metering and communications established by section 111(d)(14)''.

(2) By inserting in subsection (b) after the phrase ''are likely to exceed the metering'' the following: ''and communications''.

(3) By adding the at the end the following:

''(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.''.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting ''; and'', and by adding the following at the end thereof:

''(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.''.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

''(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

''(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

''(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

''(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.''.

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

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

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

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

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

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

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

(C) the annual resource contribution of demand resources;

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

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improved customer participation in demand response, peak reduction and critical period pricing programs.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

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

''(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

''(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).''.

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

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

''(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.''.

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

SEC. 1253. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

''(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

''(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

''(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

''(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.—(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

''(B) For the purposes of this paragraph, the term 'existing qualifying cogeneration facility' means a facility that—

''(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

''(ii) had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

''(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

''(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

''(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

''(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

''(B) the electric utility is not required by State law to sell electric energy in its service territory.

''(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

''(7) RECOVERY OF COSTS.—(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

''(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

''(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure—

''(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

''(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws applicable to sales of electric energy from a qualifying facility to its host facility; and

''(iii) continuing progress in the development of efficient electric energy generating technology.

''(B) The rule issued pursuant to paragraph (1)(A) of this subsection shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in subsection (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

''(2) Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

''(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

''(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).''.

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) QUALIFYING SMALL POWER PRODUCTION FACILITY.—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

''(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;''.

(2) QUALIFYING COGENERATION FACILITY.—Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

''(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;''.

SEC. 1254. INTERCONNECTION.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621 (d)) is amended by adding at the end the following:

''(16) INTERCONNECTION.—Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'interconnection service' means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.''.

(b) COMPLIANCE.—

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

''(3)(A) Not later than one year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (16) of section 111(d).

''(B) Not later than two years after the date of the enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraph (16) of section 111(d).''.

(2) FAILURE TO COMPLY.—Section 112 (d) f the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622 (c)) is amended by adding at the end the following: ''In the case of the standard established by paragraph (16), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of paragraph (16).''.

(3) PRIOR STATE ACTIONS.—

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

''(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (16) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.''.

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of each standard established by paragraph (16) of section 111(d), the reference contained in this subsection to the date of enactment of the Act shall be deemed to be a reference to the date of enactment of paragraph (16).''.

Subtitle F—Repeal of PUHCA

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the ''Public Utility Holding Company Act of 2005''.

SEC. 1262. DEFINITIONS.

For purposes of this subtitle:

(1) AFFILIATE.—The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with 1 or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates accepted or established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term ''person'' means an individual or company.

(13) PUBLIC UTILITY.—The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC-UTILITY COMPANY.—The term ''public-utility company'' means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with 1 or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1263. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 1264. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1265. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of 1 or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1266. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall issue a final rule to exempt from the requirements of section 1264 (relating to Federal access to books and records) any person that is a holding company, solely with respect to 1 or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 1264 (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of

any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 1267. AFFILIATE TRANSACTIONS.

(a) COMMISSION AUTHORITY UNAFFECTED.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company from an associate company.

SEC. 1268. APPLICABILITY.

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

SEC. 1269. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1270. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1271. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms (other than an expiration date or termination date) of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

SEC. 1272. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this subtitle, the Commission shall—

(1) issue such regulations as may be necessary or appropriate to implement this subtitle (other than section 1265, relating to State access to books and records); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1273. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 1274. EFFECTIVE DATE.

(a) IN GENERAL.—Except for section 1272 (relating to implementation), this subtitle shall take effect 12 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking modifying the standards of conduct governing entities that own, operate, or control facilities for transmission of electricity in interstate commerce or transportation of natural gas in interstate commerce prior to the effective date of this subtitle, any action taken by a public-utility company or utility holding company to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.).

SEC. 1275. SERVICE ALLOCATION.

(a) FERC REVIEW.—In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company in order to assure that each allocation is appropriate for the protection of investors and consumers of such public utility.

(b) COST ALLOCATION.—Nothing in this section shall preclude the Commission or a State commission from exercising its jurisdiction under other applicable law with respect to the review or authorization of any costs allocated to a public utility in a holding company system located in the affected State as a result of the acquisition of non-power goods or administrative and management services by such public utility from an associate company organized specifically for that purpose.

(c) RULES.—Not later than 6 months after the date of enactment of this Act, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this subtitle) to exempt from the requirements of this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

(d) PUBLIC UTILITY.—As used in this section, the term ''public utility'' has the meaning given that term in section 201(e) of the Federal Power Act.

SEC. 1276. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.

SEC. 1277. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

(b) DEFINITIONS.—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824(g)(5)) is amended by striking ''1935'' and inserting ''2005''.

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking ''1935'' and inserting ''2005''.

Subtitle G—Market Transparency, Enforcement, and Consumer Protection

SEC. 1281. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 220. MARKET TRANSPARENCY RULES.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction under this Act. Such systems shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis. The Commission shall have authority to obtain such information from any electric utility or transmitting utility, including any entity described in section 201(f).

''(b) EXEMPTIONS.—The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security. This section shall not apply to transactions for the purchase or sale of wholesale electric energy or transmission services within the area described in section 212(k)(2)(A). In determining the information to be made available under this section and time to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anti-competitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

''(c) COMMODITY FUTURES TRADING COMMISSION.—This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

''(d) SAVINGS PROVISION.—In exercising its authority under this section, the Commission shall not—

''(1) compete with, or displace from the market place, any price publisher; or

''(2) regulate price publishers or impose any requirements on the publication of information.''.

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

''No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

''SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

''(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

''(b) DEFINITION.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

''(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.''.

SEC. 1283. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting ''electric utility,'' after ''Any person,''.

(2) By inserting '', transmitting utility,'' after ''licensee'' each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''person,'' in the first 2 places it appears and by striking ''any person unless such person'' and inserting ''any entity unless such entity''.

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting '', electric utility, transmitting utility, or other entity'' after ''person'' each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: ''or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.''.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''5 years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended as follows:

(1) In subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''.

(2) In subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

SEC. 1284. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended as follows:

(1) By striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint''.

(2) By striking ''60 days after'' in the third sentence and inserting ''of''.

(3) By striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''.

(4) By striking the fifth sentence and inserting the following: ''If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.''.

SEC. 1285. REFUND AUTHORITY.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding the following new subsection at the end thereof:

''(e)(1) Except as provided in paragraph (2), if an entity described in section 201(f) voluntarily makes a short-term sale of electric energy and the sale violates Commission rules in effect at the time of the sale, such entity shall be subject to the Commission's refund authority under this section with respect to such violation.

''(2) This section shall not apply to—

''(A) any entity that sells less than 8,000,000 megawatt hours of electricity per year; or

''(B) any electric cooperative.

''(3) For purposes of this subsection, the term 'short-term sale' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 31 days or less (excluding monthly contracts subject to automatic renewal).

''(4) The Commission shall have refund authority under subsection (e)(1) with respect to a voluntary short-term sale of electric energy by the Bonneville Power Administration (in this section 'Bonneville') only if the sale is at an unjust and unreasonable rate and, in that event, may order a refund only for short-term sales made by Bonneville at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by Bonneville.

''(5) With respect to any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or powers under subsection (e)(1) other than the ordering of refunds to achieve a just and reasonable rate.''.

SEC. 1286. SANCTITY OF CONTRACT.

(a) IN GENERAL.—The Federal Energy Regulatory Commission (in this section, ''the Commission'') shall have no authority to abrogate or modify any provision of an executed contract or executed contract amendment described in subsection (b) that has been entered into or taken effect, except upon a finding that failure to take such action would be contrary to the public interest.

(b) LIMITATION.—Except as provided in subsection (c), this section shall apply only to a contract or contract amendment—

(1) executed on or after the date of enactment of this Act; and

(2) entered into—

(A) for the purchase or sale of electric energy under section 205 of the Federal Power Act (16 U.S.C. 824d) where the seller has been authorized by the Commission to charge market-based rates; or

(B) under section 4 of the Natural Gas Act (15 U.S.C. 717c) where the natural gas company has been authorized by the Commission to charge market-based rates for the service described in the contract.

(c) EXCLUSION.—This section shall not apply to an executed contract or executed contract amendment that expressly provides for a standard of review other than the public interest standard.

(d) SAVINGS PROVISION.—With respect to contracts to which this section does not apply, nothing in this section alters existing law regarding the applicable standard of review for a contract subject to the jurisdiction of the Commission.

SEC. 1287. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CRAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term ''State regulatory authority'' has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms ''electric consumer'' and ''electric utility'' have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

Subtitle H—Merger Reform

SEC. 1291. MERGER REVIEW REFORM AND ACCOUNTABILITY.

(a) MERGER REVIEW REFORM.—Within 180 days after the date of enactment of this Act, the Secretary of Energy, in consultation with the Federal Energy Regulatory Commission and the Attorney General of the United States, shall prepare, and transmit to Congress each of the following:

(1) A study of the extent to which the authorities vested in the Federal Energy Regulatory Commission under section 203 of the Federal Power Act are duplicative of authorities vested in—

(A) other agencies of Federal and State Government; and

(B) the Federal Energy Regulatory Commission, including under sections 205 and 206 of the Federal Power Act.

(2) Recommendations on reforms to the Federal Power Act that would eliminate any unnecessary duplication in the exercise of regulatory authority or unnecessary delays in the approval (or disapproval) of applications for the sale, lease, or other disposition of public utility facilities.

(b) MERGER REVIEW ACCOUNTABILITY.—Not later than 1 year after the date of enactment of this Act and annually thereafter, with respect to all orders issued within the preceding year that impose a condition on a sale, lease, or other disposition of public utility facilities under section 203(b) of the Federal Power Act, the Federal Energy Regulatory Commission shall transmit a report to Congress explaining each of the following:

(1) The condition imposed.

(2) Whether the Commission could have imposed such condition by exercising its authority under any provision of the Federal Power Act other than under section 203(b).

(3) If the Commission could not have imposed such condition other than under section 203(b), why the Commission determined that such condition was consistent with the public interest.

SEC. 1292. ELECTRIC UTILITY MERGERS.

(a) AMENDMENT.—Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended to read as follows:

''(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

''(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000;

''(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other person, by any means whatsoever; or

''(C) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility.

''(2) No holding company in a holding company system that includes a public utility shall purchase, acquire, or take any security with a value in excess of $10,000,000 of, or, by any means whatsoever, directly or indirectly, merge or consolidate with, a public utility or a holding company in a holding company system that includes a public utility with a value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

''(3) Upon receipt of an application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

''(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction will be consistent with the public interest. In evaluating whether a transaction will be consistent with the public interest, the Commission shall consider whether the proposed transaction—

''(A) will adequately protect consumer interests;

''(B) will be consistent with competitive wholesale markets;

''(C) will impair the financial integrity of any public utility that is a party to the transaction or an associate company of any party to the transaction; and

''(D) satisfies such other criteria as the Commission considers consistent with the public interest.

''(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction not later than 180 days after the application is filed. If the Commission does not act within 180 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues an order tolling the time for acting on the application for not more than 180 days, at the end of which additional period the Commission shall grant or deny the application.

''(6) For purposes of this subsection, the terms 'associate company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2005.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 12 months after the date of enactment of this section.

Subtitle I—Definitions

SEC. 1295. DEFINITIONS.

(a) ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:

''(22) ELECTRIC UTILITY.—The term 'electric utility' means any person or Federal or State agency (including any entity described in section 201(f)) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing administration.''.

(b) TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:

''(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means an entity, including any entity described in section 201(f), that owns, operates, or controls facilities used for the transmission of electric energy—

''(A) in interstate commerce; or

''(B) for the sale of electric energy at wholesale.''.

(c) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by adding at the end the following:

''(26) ELECTRIC COOPERATIVE.—The term 'electric cooperative' means a cooperatively owned electric utility.

''(27) RTO.—The term 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure nondiscriminatory access to such facilities.

''(28) ISO.—The term 'Independent System Operator' or 'ISO' means an entity approved by the Commission to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce and to ensure nondiscriminatory access to such facilities.''.

(d) COMMISSION.—For the purposes of this title, the term ''Commission'' means the Federal Energy Regulatory Commission.

(e) APPLICABILITY.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by adding after ''political subdivision of a state,'' the following: ''an electric cooperative that has financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year,''.

Subtitle J—Technical and Conforming Amendments

SEC. 1297. CONFORMING AMENDMENTS.

The Federal Power Act is amended as follows:

(1) Section 201(b)(2) of such Act (16 U.S.C. 824(b)(2)) is amended as follows:

(A) In the first sentence by striking ''210, 211, and 212'' and inserting ''203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222''.

(B) In the second sentence by striking ''210 or 211'' and inserting ''203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222''.

(C) Section 201(b)(2) of such Act is amended by striking ''The'' in the first place it appears and inserting ''Notwithstanding section 201(f), the'' and in the second sentence after ''any order'' by inserting ''or rule''.

(2) Section 201(e) of such Act is amended by striking ''210, 211, or 212'' and inserting ''206(e), 206(f), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, and 222''.

(3) Section 206 of such Act (16 U.S.C. 824e) is amended as follows:

(A) In subsection (b), in the seventh sentence, by striking ''the public utility to make''.

(B) In the first sentence of subsection (a), by striking ''hearing had'' and inserting ''hearing held''.

(4) Section 211(c) of such Act (16 U.S.C. 824j(c)) is amended by—

(A) striking ''(2)'';

(B) striking ''(A)'' and inserting ''(1)''

(C) striking ''(B)'' and inserting ''(2)''; and

(D) striking ''termination of modification'' and inserting ''termination or modification''.

(5) Section 211(d)(1) of such Act (16 U.S.C. 824j(d)(1)) is amended by striking ''electric utility'' the second time it appears and inserting ''transmitting utility''.

(6) Section 315 (c) of such Act (16 U.S.C. 825n(c)) is amended by striking ''subsection'' and inserting ''section''.

Subtitle K—Economic Dispatch

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 223. JOINT BOARD ON ECONOMIC DISPATCH.

''(a) IN GENERAL.—The Commission shall convene a joint board pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for a market region.

''(b) MEMBERSHIP.—The Commission shall request each State to nominate a representative for such joint board.

''(c) POWERS.—The board's sole authority shall be to consider issues relevant to what constitutes 'security constrained economic dispatch' and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers.

''(d) REPORT TO THE CONGRESS.—The board shall issue a report on these matters within one year of enactment of this section, including any consensus recommendations for statutory or regulatory reform.''.

TITLE XIII—ENERGY TAX INCENTIVES

SEC. 1300. SHORT TITLE; ETC.

(a) SHORT TITLE.—This title may be cited as the ''Enhanced Energy Infrastructure and Technology Tax Act of 2005''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Infrastructure Tax Incentives

SEC. 1301. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 is amended by inserting after paragraph (16) the following new paragraph:

''(17) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, and

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline for which a certificate as an interstate transmission pipeline has been issued by the Federal Energy Regulatory Commission,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(iii) the following:

''(C) (iv) .... 14''.

(d) ALTERNATIVE MINIMUM TAX EXCEPTION.—Subparagraph (B) of section 56(a)(1) is amended by inserting before the period the following: '', or in section 168(e)(3)(C)(iv)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

SEC. 1302. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (v), by striking the period at the end of clause (vi) and inserting '', and'', and by adding at the end the following new clause:

''(vii) any natural gas distribution line.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(vi) the following:

''(E) (vii) .... 35''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

SEC. 1303. ELECTRIC TRANSMISSION PROPERTY TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property), as amended by section 1302 of this title, is amended by striking ''and'' at the end of clause (vi), by striking the period at the end of clause (vii) and inserting '', and'', and by adding at the end the following new clause:

''(viii) any section 1245 property (as defined in section 1245(a)(3)) used in the transmission at 69 or more kilovolts of electricity for sale and the original use of which commences with the taxpayer after April 11, 2005.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(vii) the following:

''(E) (viii) .... 30''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after April 11, 2005.

SEC. 1304. EXPANSION OF AMORTIZATION FOR CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES IN CONNECTION WITH PLANTS FIRST PLACED IN SERVICE AFTER 1975.

(a) ELIGIBILITY OF POST-1975 POLLUTION CONTROL FACILITIES.—Subsection (d) of section 169 (relating to definitions) is amended by adding at the end the following:

''(5) SPECIAL RULE RELATING TO CERTAIN ATMOSPHERIC POLLUTION CONTROL FACILITIES.—In the case of any atmospheric pollution control facility which is placed in service after April 11, 2005, and used in connection with an electric generation plant or other property which is primarily coal fired, paragraph (1) shall be applied without regard to the phrase 'in operation before January 1, 1976'.''.

(b) TREATMENT AS NEW IDENTIFIABLE TREATMENT FACILITY.—Subparagraph (B) of section 169(d)(4) is amended to read as follows:

''(B) CERTAIN FACILITIES PLACED IN OPERATION AFTER APRIL 11, 2005.—In the case of any facility described in paragraph (1) solely by reason of paragraph (5), subparagraph (A) shall be applied by substituting 'April 11, 2005' for 'December 31, 1968' each place it appears therein.''.

(c) TECHNICAL AMENDMENT.—Section 169(d)(3) is amended by striking ''Health, Education, and Welfare'' and inserting ''Health and Human Services''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after April 11, 2005.

SEC. 1305. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) TREATMENT AS BUSINESS CREDIT.—

(1) CREDIT MOVED TO SUBPART RELATING TO BUSINESS RELATED CREDITS.—The Internal Revenue Code of 1986 is amended by redesignating section 29 as section 45J and by moving section 45J (as so redesignated) from subpart B of part IV of subchapter A of chapter 1 to the end of subpart D of part IV of subchapter A of chapter 1.

(2) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following:

''(20) the nonconventional source production credit determined under section 45J(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 30(b)(3)(A) is amended by striking ''sections 27 and 29'' and inserting ''section 27''.

(B) Sections 43(b)(2), 45I(b)(2)(C)(i), and 613A(c)(6)(C) are each amended by striking ''section 29(d)(2)(C)'' and inserting ''section 45J(d)(2)(C)''.

(C) Section 45(e)(9) is amended—

(i) by striking ''section 29'' and inserting ''section 45J'', and

(ii) by inserting ''(or under section 29, as in effect on the day before the date of enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, for any prior taxable year)'' before the period at the end thereof.

(D) Section 45I is amended—

(i) in subsection (c)(2)(A) by striking ''section 29(d)(5))'' and inserting ''section 45J(d)(5))'', and

(ii) in subsection (d)(3) by striking ''section 29'' both places it appears and inserting ''section 45J''.

(E) Section 45J(a), as redesignated by paragraph (1), is amended by striking ''There shall be allowed as a credit against the tax imposed by this chapter for the taxable year'' and inserting ''For purposes of section 38, if the taxpayer elects to have this section apply, the nonconventional source production credit determined under this section for the taxable year is''.

(F) Section 45J(b), as so redesignated, is amended by striking paragraph (6).

(G) Section 53(d)(1)(B)(iii) is amended by striking ''under section 29'' and all that follows through ''or not allowed''.

(H) Section 55(c)(3) is amended by striking ''29(b)(6),''.

(I) Subsection (a) of section 772 is amended by inserting ''and'' at the end of paragraph (9), by striking paragraph (10), and by redesignating paragraph (11) as paragraph (10).

(J) Paragraph (5) of section 772(d) is amended by striking ''the foreign tax credit, and the credit allowable under section 29'' and inserting ''and the foreign tax credit''.

(K) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 29.

(L) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 45I the following new item:

''Sec. 45J. Credit for producing fuel from a nonconventional source.''.

(b) AMENDMENTS CONFORMING TO THE REPEAL OF THE NATURAL GAS POLICY ACT OF 1978.—

(1) IN GENERAL.—Section 29(c)(2)(A) (before redesignation under subsection (a)) is amended—

(A) by inserting ''(as in effect before the repeal of such section)'' after ''1978'', and

(B) by striking subsection (e) and redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(2) CONFORMING AMENDMENTS.—Section 29(g)(1)(before redesignation under subsection (a) and paragraph (1) of this subsection) is amended—

(A) in subparagraph (A) by striking ''subsection (f)(1)(B)'' and inserting ''subsection (e)(1)(B)'', and

(B) in subparagraph (B) by striking ''subsection (f)'' and inserting ''subsection (e)''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after December 31, 2005.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 1306. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A (relating to special rules for nuclear decommissioning costs) is amended to read as follows:

''(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.''.

(b) TREATMENT OF CERTAIN DECOMMISSIONING COSTS.—

(1) IN GENERAL.—Section 468A is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

''(f) TRANSFERS INTO QUALIFIED FUNDS.—

''(1) IN GENERAL.—Notwithstanding subsection (b), any taxpayer maintaining a Fund to which this section applies with respect to a nuclear power plant may transfer into such Fund not more than an amount equal to the present value of the portion of the total nuclear decommissioning costs with respect to such nuclear power plant previously excluded for such nuclear power plant under subsection (d)(2)(A) as in effect immediately before the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005.

''(2) DEDUCTION FOR AMOUNTS TRANSFERRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the deduction allowed by subsection (a) for any transfer permitted by this subsection shall be allowed ratably over the remaining estimated useful life (within the meaning of subsection (d)(2)(A)) of the nuclear power plant beginning with the taxable year during which the transfer is made.

''(B) DENIAL OF DEDUCTION FOR PREVIOUSLY DEDUCTED AMOUNTS.—No deduction shall be allowed for any transfer under this subsection of an amount for which a deduction was previously allowed to the taxpayer (or a predecessor) or a corresponding amount was not included in gross income of the taxpayer (or a predecessor). For purposes of the preceding sentence, a ratable portion of each transfer shall be treated as being from previously deducted or excluded amounts to the extent thereof.

''(C) TRANSFERS OF QUALIFIED FUNDS.—If—

''(i) any transfer permitted by this subsection is made to any Fund to which this section applies, and

''(ii) such Fund is transferred thereafter,

any deduction under this subsection for taxable years ending after the date that such Fund is transferred shall be allowed to the transferor for the taxable year which includes such date.

''(D) SPECIAL RULES.—

''(i) GAIN OR LOSS NOT RECOGNIZED ON TRANSFERS TO FUND.—No gain or loss shall be recognized on any transfer described in paragraph (1).

''(ii) TRANSFERS OF APPRECIATED PROPERTY TO FUND.—If appreciated property is transferred in a transfer described in paragraph (1), the amount of the deduction shall not exceed the adjusted basis of such property.

''(3) NEW RULING AMOUNT REQUIRED.—Paragraph (1) shall not apply to any transfer unless the taxpayer requests from the Secretary a new schedule of ruling amounts in connection with such transfer.

''(4) NO BASIS IN QUALIFIED FUNDS.—Notwithstanding any other provision of law, the taxpayer's basis in any Fund to which this section applies shall not be increased by reason of any transfer permitted by this subsection.''.

(2) NEW RULING AMOUNT TO TAKE INTO ACCOUNT TOTAL COSTS.—Subparagraph (A) of section 468A(d)(2) (defining ruling amount) is amended to read as follows:

''(A) fund the total nuclear decommissioning costs with respect to such power plant over the estimated useful life of such power plant, and''.

(c) TECHNICAL AMENDMENTS.—Section 468A(e)(2) (relating to taxation of Fund) is amended—

(1) by striking ''rate set forth in subparagraph (B)'' in subparagraph (A) and inserting ''rate of 20 percent'',

(2) by striking subparagraph (B), and

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

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

SEC. 1307. ARBITRAGE RULES NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.

(a) IN GENERAL.—Subsection (b) of section 148 (relating to higher yielding investments) is amended by adding at the end the following new paragraph:

''(4) SAFE HARBOR FOR PREPAID NATURAL GAS.—

''(A) IN GENERAL.—The term 'investment-type property' does not include a prepayment under a qualified natural gas supply contract.

''(B) QUALIFIED NATURAL GAS SUPPLY CONTRACT.—For purposes of this paragraph, the term 'qualified natural gas supply contract' means any contract to acquire natural gas for resale by a utility owned by a governmental unit if the amount of gas permitted to be acquired under the contract by the utility during any year does not exceed the sum of—

''(i) the annual average amount during the testing period of natural gas purchased (other than for resale) by customers of such utility who are located within the service area of such utility, and

''(ii) the amount of natural gas to be used to transport the prepaid natural gas to the utility during such year.

''(C) NATURAL GAS USED TO GENERATE ELECTRICITY.—Natural gas used to generate electricity shall be taken into account in determining the average under subparagraph (B)(i)—

''(i) only if the electricity is generated by a utility owned by a governmental unit, and

''(ii) only to the extent that the electricity is sold (other than for resale) to customers of such utility who are located within the service area of such utility.

''(D) ADJUSTMENTS FOR CHANGES IN CUSTOMER BASE.—

''(i) NEW BUSINESS CUSTOMERS.—If—

''(I) after the close of the testing period and before the date of issuance of the issue, the utility owned by a governmental unit enters into a contract to supply natural gas (other than for resale) for a business use at a property within the service area of such utility, and

''(II) the utility did not supply natural gas to such property during the testing period or the ratable amount of natural gas to be supplied under the contract is significantly greater than the ratable amount of gas supplied to such property during the testing period,

then a contract shall not fail to be treated as a qualified natural gas supply contract by reason of supplying the additional natural gas under the contract referred to in subclause (I).

''(ii) LOST CUSTOMERS.—The average under subparagraph (B)(i) shall not exceed the annual amount of natural gas reasonably expected to be purchased (other than for resale) by persons who are located within the service area of such utility and who, as of the date of issuance of the issue, are customers of such utility.

''(E) RULING REQUESTS.—The Secretary may increase the average under subparagraph (B)(i) for any period if the utility owned by the governmental unit establishes to the satisfaction of the Secretary that, based on objective evidence of growth in natural gas consumption or population, such average would otherwise be insufficient for such period.

''(F) ADJUSTMENT FOR NATURAL GAS OTHERWISE ON HAND.—

''(i) IN GENERAL.—The amount otherwise permitted to be acquired under the contract for any period shall be reduced by—

''(I) the applicable share of natural gas held by the utility on the date of issuance of the issue, and

''(II) the natural gas (not taken into account under subclause (I)) which the utility has a right to acquire during such period (determined as of the date of issuance of the issue).

''(ii) APPLICABLE SHARE.—For purposes of the clause (i), the term 'applicable share' means, with respect to any period, the natural gas allocable to such period if the gas were allocated ratably over the period to which the prepayment relates.

''(G) INTENTIONAL ACTS.—Subparagraph (A) shall cease to apply to any issue if the utility owned by the governmental unit engages in any intentional act to render the volume of natural gas acquired by such prepayment to be in excess of the sum of—

''(i) the amount of natural gas needed (other than for resale) by customers of such utility who are located within the service area of such utility, and

''(ii) the amount of natural gas used to transport such natural gas to the utility.

''(H) TESTING PERIOD.—For purposes of this paragraph, the term 'testing period' means, with respect to an issue, the most recent 5 calendar years ending before the date of issuance of the issue.

''(I) SERVICE AREA.—For purposes of this paragraph, the service area of a utility owned by a governmental unit shall be comprised of—

''(i) any area throughout which such utility provided at all times during the testing period—

''(I) in the case of a natural gas utility, natural gas transmission or distribution services, and

''(II) in the case of an electric utility, electricity distribution services,

''(ii) any area within a county contiguous to the area described in clause (i) in which retail customers of such utility are located if such area is not also served by another utility providing natural gas or electricity services, as the case may be, and

''(iii) any area recognized as the service area of such utility under State or Federal law.''.

(b) PRIVATE LOAN FINANCING TEST NOT TO APPLY TO PREPAYMENTS FOR NATURAL GAS.—Paragraph (2) of section 141(c) (providing exceptions to the private loan financing test) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by adding at the end the following new subparagraph:

''(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).''.

(c) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—Section 141(d) is amended by adding at the end the following new paragraph:

''(7) EXCEPTION FOR QUALIFIED ELECTRIC AND NATURAL GAS SUPPLY CONTRACTS.—The term 'nongovernmental output property' shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 1308. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to limitations on application of subsection (c)) is amended to read as follows:

''(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 75,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Subtitle B—Miscellaneous Energy Tax Incentives

SEC. 1311. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

''(2) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year, and

''(3) 15 percent of the qualified fuel cell property expenditures made by the taxpayer during such year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed under subsection (a) shall not exceed—

''(i) $2,000 for solar water heating property described in subsection (c)(1),

''(ii) $2,000 for photovoltaic property described in subsection (c)(2), and ''(iii) $500 for each 0.5 kilowatt of capacity of property described in subsection (c)(3).

''(B) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—In determining the amount of the credit allowed to a taxpayer with respect to any dwelling unit under this section, the dollar amounts under clauses (i) and (ii) of subparagraph (A) with respect to each type of property described in such clauses shall be reduced by the credit allowed to the taxpayer under this section with respect to such type of property for all preceding taxable years with respect to such dwelling unit.

''(2) PROPERTY STANDARDS.—No credit shall be allowed under this section for an item of property unless—

''(A) the original use of such property commences with the taxpayer,

''(B) such property can be reasonably expected to remain in use for at least 5 years,

''(C) such property is installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer,

''(D) in the case of solar water heating property, such property is certified for performance by the non-profit Solar Rating and Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

''(E) in the case of fuel cell property, such property meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy).

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property which uses solar energy to heat water for use in a dwelling unit.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit and which is not described in paragraph (1).

''(3) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for any qualified fuel cell property (as defined in section 48(b)(1)).

''(d) SPECIAL RULES.—For purposes of this section—

''(1) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) of subsection (c) solely because it constitutes a structural component of the structure on which it is installed.

''(2) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(3) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals, the following rules shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(C) Subparagraphs (A) and (B) shall be applied separately with respect to expenditures described in paragraphs (1), (2), and (3) of subsection (c).

''(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made the individual's tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

''(5) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(6) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(7) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(8) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

''(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(f) TERMINATION.—The credit allowed under this section shall not apply to taxable years beginning after December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Residential energy efficient property.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after the date of the enactment of this Act.

SEC. 1312. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property,''.

(b) ENERGY PERCENTAGE.—Subparagraph (A) of section 48(a)(2) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 15 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(c) QUALIFIED FUEL CELL PROPERTY.—Section 48 (relating to energy credit) is amended—

(1) by redesignating subsection (b) as paragraph (5) of subsection (a),

(2) by striking ''subsection (a)'' in paragraph (5) of subsection (a), as redesignated by paragraph (1), and inserting ''this subsection'', and

(3) by adding at the end the following new subsection:

''(b) QUALIFIED FUEL CELL PROPERTY.—For purposes of subsection (a)(3)(A)(iii)—

''(1) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

''(A) generates at least 0.5 kilowatt of electricity using an electrochemical process, and

''(B) has an electricity-only generation efficiency greater than 30 percent.

''(2) LIMITATION.—The energy credit with respect to any qualified fuel cell property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

''(3) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system, comprised of a fuel cell stack assembly and associated balance of plant components, which converts a fuel into electricity using electrochemical means.

''(4) TERMINATION.—The term 'qualified fuel cell property' shall not include any property placed in service after December 31, 2007.''.

(d) CONFORMING AMENDMENT.—Section 48(a)(1) is amended by inserting ''except as provided in subsection (b)(2),'' before ''the energy'' the first place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after April 11, 2005, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1313. REDUCED MOTOR FUEL EXCISE TAX ON CERTAIN MIXTURES OF DIESEL FUEL.

(a) IN GENERAL.—Paragraph (2) of section 4081(a) is amended by adding at the end the following:

''(D) DIESEL-WATER FUEL EMULSION.—In the case of diesel-water fuel emulsion at least

16.9 percent of which is water and with respect to which the emulsion additive is registered by a United States manufacturer with the Environmental Protection Agency pursuant to section 211 of the Clean Air Act (as in effect on March 31, 2003), subparagraph (A)(iii) shall be applied by substituting '19.7 cents' for '24.3 cents'.''.

(b) SPECIAL RULES FOR DIESEL-WATER FUEL EMULSIONS.—

(1) REFUNDS FOR TAX-PAID PURCHASES.—Section 6427 is amended by redesignating subsections (m) through (p) as subsections (n) through (q), respectively, and by inserting after subsection (l) the following new subsection:

''(m) DIESEL FUEL USED TO PRODUCE EMULSION.—

''(1) IN GENERAL.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at the regular tax rate is used by any person in producing an emulsion described in section 4081(a)(2)(D) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

''(2) DEFINITIONS.—For purposes of paragraph (1)—

''(A) REGULAR TAX RATE.—The term 'regular tax rate' means the aggregate rate of tax imposed by section 4081 determined without regard to section 4081(a)(2)(D).

''(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means the aggregate rate of tax imposed by section 4081 determined with regard to section 4081(a)(2)(D).''.

(2) LATER SEPARATION OF FUEL.—Section 4081 (relating to imposition of tax) is amended by inserting after subsection (b) the following new subsection:

''(c) LATER SEPARATION OF FUEL FROM DIESEL-WATER FUEL EMULSION.—If any person separates the taxable fuel from a diesel-water fuel emulsion on which tax was imposed under subsection (a) at a rate determined under subsection (a)(2)(D) (or with respect to which a credit or payment was allowed or made by reason of section 6427), such person shall be treated as the refiner of such taxable fuel. The amount of tax imposed on any removal of such fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or entry of such fuel.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2006.

SEC. 1314. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 167 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

''(2) HALF-YEAR CONVENTION.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

''(3) EXCLUSIVE METHOD.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

''(4) TREATMENT UPON ABANDONMENT.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

''(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 1315. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 167 (relating to depreciation), as amended by section 1314 of this title, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

''(i) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

''(1) IN GENERAL.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

''(2) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''167(h), 167(i),'' after ''under section''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 1316. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits) is amended by adding at the end the following:

''SEC. 30B. ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year.

''(b) CREDIT AMOUNT.—For purposes of subsection (a)—

''(1) FUEL EFFICIENCY.—The credit amount with respect to any vehicle shall be—

''(A) $500, if the city fuel economy of such vehicle is at least 125 percent but less than 150 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

''(B) $1,000, if the city fuel economy of such vehicle is at least 150 percent but less than 175 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

''(C) $1,500, if the city fuel economy of such vehicle is at least 175 percent but less than 200 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

''(D) $2,000, if the city fuel economy of such vehicle is at least 200 percent but less than 225 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class,

''(E) $2,500, if the city fuel economy of such vehicle is at least 225 percent but less than 250 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class, and

''(F) $3,000, if the city fuel economy of such vehicle is at least 250 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class.

''(2) CONSERVATION.—The credit amount determined under paragraph (1) with respect to any vehicle shall be increased by—

''(A) $250, if the lifetime fuel savings of such vehicle is at least 1,500 gallons of motor fuel but less than 2,500 gallons of motor fuel, and

''(B) $500, if the lifetime fuel savings of such vehicle is at least 2,500 gallons of motor fuel.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27 and 30A for the taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—The term 'qualified advanced lean burn technology motor vehicle' means a motor vehicle—

''(A) the original use of which commences with the taxpayer,

''(B) powered by an internal combustion engine that—

''(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel, and

''(ii) incorporates direct injection,

''(C) that only uses diesel fuel (as defined in section 4083(a)(3)),

''(D) the city fuel economy of which is at least 125 percent of the 2000 model year city fuel economy for a vehicle in the same inertia weight class, and

''(E) that has received a certificate that such vehicle meets or exceeds the Bin 8 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act.

''(2) LIFETIME FUEL SAVINGS.—The term 'lifetime fuel savings' means, with respect to a qualified advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

''(A) 120,000 divided by the 2000 model year city fuel economy for the vehicle inertia weight class, over

''(B) 120,000 divided by the city fuel economy for such vehicle.

''(3) 2000 MODEL YEAR CITY FUEL ECONOMY.—The 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(A) In the case of a passenger automobile:

''If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
1,500 or 1,750 lbs	43.7 mpg
2,000 lbs	38.3 mpg
2,250 lbs	34.1 mpg
2,500 lbs	30.7 mpg
2,750 lbs	27.9 mpg
3,000 lbs	25.6 mpg
3,500 lbs	22.0 mpg
4,000 lbs	19.3 mpg
4,500 lbs	17.2 mpg
5,000 lbs	15.5 mpg

“If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
5,500 lbs	14.1 mpg
6,000 lbs	12.9 mpg
6,500 lbs	11.9 mpg
7,000 or 8,500 lbs	11.1 mpg.

‘‘(B) In the case of a light truck:

“If vehicle inertia weight class is:	The 2000 model year city fuel economy is:
1,500 or 1,750 lbs	37.6 mpg
2,000 lbs	33.7 mpg
2,250 lbs	30.6 mpg
2,500 lbs	28.0 mpg
2,750 lbs	25.9 mpg
3,000 lbs	24.1 mpg
3,500 lbs	21.3 mpg
4,000 lbs	19.0 mpg
4,500 lbs	17.3 mpg
5,000 lbs	15.8 mpg
5,500 lbs	14.6 mpg
6,000 lbs	13.6 mpg
6,500 lbs	12.8 mpg
7,000 or 8,500 lbs	12.0 mpg.

‘‘(4) MOTOR VEHICLE.—The term ‘motor vehicle’ has the meaning given such term by section 30(c)(2).

‘‘(5) CITY FUEL ECONOMY.—City fuel economy with respect to any vehicle shall be measured in accordance with testing and calculation procedures established by the Administrator of the Environmental Protection Agency by regulations in effect on April 11, 2005.

‘‘(6) OTHER TERMS.—The terms ‘passenger automobile’, ‘light truck’, and ‘manufacturer’ shall have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

‘‘(e) CARRYFORWARD ALLOWED.—

‘‘(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (c) for such taxable year (referred to as the ‘unused credit year’ in this paragraph), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

‘‘(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

‘‘(f) SPECIAL RULES.—For purposes of this section—

‘‘(1) REDUCTION IN BASIS.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

‘‘(2) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter (other than the credit allowable under subsection (a)), with respect to any vehicle shall be reduced by the amount of credit allowed under subsection (a) (determined without regard to subsection (c)) for such vehicle for the taxable year.

‘‘(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (c)).

‘‘(4) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

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

‘‘(6) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

‘‘(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

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

‘‘(g) REGULATIONS.—

‘‘(1) IN GENERAL.—The Secretary shall promulgate such regulations as necessary to carry out this section, including regulations to prevent the avoidance of the purposes of this section through disposal of any motor vehicle or leasing of any motor vehicle for a lease period of less than the economic life of such vehicle.

‘‘(2) DETERMINATION OF MOTOR VEHICLE ELIGIBILITY.—The Secretary, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

‘‘(h) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.’’.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by section 1311 of this title, is amended by striking ‘‘and’’ at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ‘‘, and’’, and by adding at the end the following:

‘‘(33) to the extent provided in section 30B(f)(1).’’.

(2) Section 6501(m) is amended by inserting ‘‘30B(f)(6),’’ after ‘‘30(d)(4),’’.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following:

‘‘Sec. 30B. Advanced lean burn technology motor vehicle credit.’’.

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

SEC. 1317. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 1311, is amended by inserting after section 25C the following new section:

“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

‘‘(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

‘‘(b) LIMITATIONS.—

‘‘(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling unit shall not exceed $2,000.

‘‘(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling unit for all prior taxable years.

‘‘(c) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term ‘qualified energy efficiency improvements’ means any energy efficient building envelope component which meets the prescriptive criteria for such component established by the 2000 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005 (or, in the case of a metal roof with appropriate pigmented coatings which meet the Energy Star program requirements), if—

‘‘(1) such component is installed in or on a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121),

‘‘(2) the original use of such component commences with the taxpayer, and

‘‘(3) such component reasonably can be expected to remain in use for at least 5 years. If the aggregate cost of such components with respect to any dwelling unit exceeds $1,000, such components shall be treated as qualified energy efficiency improvements only if such components are also certified in accordance with subsection (d) as meeting such prescriptive criteria.

‘‘(d) CERTIFICATION.—The certification described in subsection (c) shall be—

‘‘(1) determined on the basis of the technical specifications or applicable ratings (including product labeling requirements) for the measurement of energy efficiency (based upon energy use or building envelope component performance) for the energy efficient building envelope component,

‘‘(2) provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy rating system provider who is accredited by or otherwise authorized to use approved energy performance measurement methods by the Residential Energy Services Network (RESNET), and

‘‘(3) made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components installed and their respective energy efficiency levels.

‘‘(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

‘‘(1) BUILDING ENVELOPE COMPONENT.—The term ‘building envelope component’ means—

‘‘(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

‘‘(B) exterior windows (including skylights), ''(C) exterior doors, and

''(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit.

''(2) MANUFACTURED HOMES INCLUDED.—The term 'dwelling unit' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

''(3) APPLICATION OF RULES.—Rules similar to the rules under paragraphs (3), (4), and (5) of section 25C(d) shall apply.

''(f) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) APPLICATION OF SECTION.—This section shall apply to qualified energy efficiency improvements installed after the date of the enactment of the Enhanced Energy Infrastructure and Technology Tax Act of 2005, and before January 1, 2008.''.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by section 1316 of this title, is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting '', and'', and by adding at the end the following new paragraph:

''(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 1311, is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Energy efficiency improvements to existing homes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to improvements installed after the date of the enactment of this Act in taxable years ending after such date.

Subtitle C—Alternative Minimum Tax Relief

SEC. 1321. NEW NONREFUNDABLE PERSONAL CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—

(1) SECTION 25C.—Section 25C(b), as added by section 1311 of this title, is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(2) SECTION 25D.—Section 25D(b), as added by section 1317 of this title, is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 23(b)(4)(B) is amended by inserting ''and sections 25C and 25D'' after ''this section''.

(2) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, 25C, and 25D''.

(3) Section 25(e)(1)(C) is amended by inserting ''25C, and 25D'' after ''25B,''.

(4) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23, 25C, and 25D''.

(5) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, 25C, and 25D''.

(6) Section 904(i) is amended by striking ''and 25B'' and inserting ''25B, 25C, and 25D''.

(7) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, 25C, and 25D''.

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

SEC. 1322. CERTAIN BUSINESS ENERGY CREDITS ALLOWED AGAINST REGULAR AND MINIMUM TAXES.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by redesignating clause (ii) as clause (iv) and by striking clause (i) and inserting the following new clauses:

''(i) the credits determined under sections 40, 45H, and 45I,

''(ii) so much of the credit determined under section 46 as is attributable to section 48(a)(3)(A)(iii),

''(iii) for taxable years beginning after December 31, 2005, and before January 1, 2008, the credit determined under section 43, and''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendment made by subsection (a) shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years beginning after December 31, 2005.

(2) FUEL CELLS.—Clause (ii) of section 38(c)(4)(B) of the Internal Revenue Code of 1986, as amended by subsection (a) of this section, shall apply to credits determined under the Internal Revenue Code of 1986 for taxable years ending after April 11, 2005.

TITLE XIV—MISCELLANEOUS

Subtitle C—Other Provisions

SEC. 1441. CONTINUATION OF TRANSMISSION SECURITY ORDER.

Department of Energy Order No. 202–03–2, issued by the Secretary of Energy on August 28, 2003, shall remain in effect unless rescinded by Federal statute.

SEC. 1442. REVIEW OF AGENCY DETERMINATIONS.

Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended by adding at the end the following:

''(i)(1) The United States Court of Appeals for the District of Columbia Circuit shall have original and exclusive jurisdiction over any civil action—

''(A) for review of any order or action of any Federal or State administrative agency or officer to issue, condition, or deny any permit, license, concurrence, or approval issued under authority of any Federal law, other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), required for the construction of a natural gas pipeline for which a certificate of public convenience and necessity is issued by the Commission under this section;

''(B) alleging unreasonable delay by any Federal or State administrative agency or officer in entering an order or taking other action described in subparagraph (A); or

''(C) challenging any decision made or action taken under this subsection.

''(2)(A) If the Court finds that the order, action, or failure to act is not consistent with the public convenience and necessity (as determined by the Commission under this section), or would prevent the construction and operation of natural gas facilities authorized by the certificate of public convenience and necessity, the permit, license, concurrence, or approval that is the subject of the order, action, or failure to act shall be deemed to have been issued subject to any conditions set forth in the reviewed order or action that the Court finds to be consistent with the public convenience and necessity.

''(B) For purposes of paragraph (1)(B), the failure of an agency or officer to issue any such permit, license, concurrence, or approval within the later of 1 year after the date of filing of an application for the permit, license, concurrence, or approval or 60 days after the date of issuance of the certificate of public convenience and necessity under this section, shall be considered to be unreasonable delay unless the Court, for good cause shown, determines otherwise.

''(C) The Court shall set any action brought under paragraph (1) for expedited consideration.''.

SEC. 1443. 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.—(A) The term 'upwind area' means an area that—

''(i) significantly contributes to 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.—If the Administrator—

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

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

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

''(3) REQUIRED APPROVAL.—In order to extend the attainment date for a downwind area under this subsection, the Administrator must 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; and

''(B) includes any additional measures needed to demonstrate attainment by the extended attainment date provided under this subsection.

''(4) PRIOR RECLASSIFICATION DETERMINATION.—If, no more than 18 months prior to the date of enactment of this subsection, the Administrator made a reclassification determination under subsection (b)(2)(A) for any downwind area, and the Administrator approves the plan revision referred to in paragraph (3) for such area within 12 months after the date of enactment of this subsection, the reclassification shall be withdrawn and the attainment date extended in accordance with paragraph (5) upon such approval. The Administrator shall also withdraw a reclassification determination under subsection (b)(2)(A) made after the date of enactment of this subsection and extend the attainment date in accordance with paragraph (5) if the Administrator approves the plan revision referred to in paragraph (3) within 12 months of the date the reclassification determination under subsection (b)(2)(A) is issued. In such instances the 'current classification' used for evaluating the revision of the applicable implementation plan under paragraph (3) shall be the classification of the downwind area under this section immediately prior to such reclassification.

''(5) EXTENDED DATE.—The attainment date extended under this subsection shall provide for attainment of such national ambient air quality standard for ozone in the downwind area as expeditiously as practicable but no later than the date on which the last reductions in pollution transport necessary for attainment in the downwind area are required to be achieved by the upwind area or areas.''.

SEC. 1444. ENERGY PRODUCTION INCENTIVES.

(a) IN GENERAL.—A State may provide to any entity—

(1) a credit against any tax or fee owed to the State under a State law, or

(2) any other tax incentive,

determined by the State to be appropriate, in the amount calculated under and in accordance with a formula determined by the State, for production described in subsection (b) in the State by the entity that receives such credit or such incentive.

(b) ELIGIBLE ENTITIES.—Subsection (a) shall apply with respect to the production in the State of—

(1) electricity from coal mined in the State and used in a facility, if such production meets all applicable Federal and State laws and if such facility uses scrubbers or other forms of clean coal technology,

(2) electricity from a renewable source such as wind, solar, or biomass, or

(3) ethanol.

(c) EFFECT ON INTERSTATE COMMERCE.—Any action taken by a State in accordance with this section with respect to a tax or fee payable, or incentive applicable, for any period beginning after the date of the enactment of this Act shall—

(1) be considered to be a reasonable regulation of commerce; and

(2) not be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate, against interstate commerce.

SEC. 1446. REGULATION OF CERTAIN OIL USED IN TRANSFORMERS.

Notwithstanding any other provision of law, or rule promulgated by the Environmental Protection Agency, vegetable oil made from soybeans and used in electric transformers as thermal insulation shall not be regulated as an oil as defined under section 2(a)(1)(A) of the Edible Oil Regulatory Reform Act (33 U.S.C. 2720(a)(1)(A)).

SEC. 1447. RISK ASSESSMENTS.

Subtitle B of title XXX of the Energy Policy Act of 1992 is amended by adding at the end the following new section:

''SEC. 3022. RISK ASSESSMENT.

''Federal agencies conducting assessments of risks to human health and the environment from energy technology, production, transport, transmission, distribution, storage, use, or conservation activities shall use sound and objective scientific practices in assessing such risks, shall consider the best available science (including peer reviewed studies), and shall include a description of the weight of the scientific evidence concerning such risks.''.

SEC. 1448. OXYGEN-FUEL.

(a) PROGRAM.—The Secretary of Energy shall establish a program on oxygen-fuel systems. If feasible, the program shall include renovation of at least one existing large unit and one existing small unit, and construction of one new large unit and one new small unit. Cost sharing shall not be required.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section—

(1) $100,000,000 for fiscal year 2006;

(2) $100,000,000 for fiscal year 2007; and

(3) $100,000,000 for fiscal year 2008.

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

(1) the term ''large unit'' means a unit with a generating capacity of 100 megawatts or more;

(2) the term ''oxygen-fuel systems'' means systems that utilize fuel efficiency benefits of oil, gas, coal, and biomass combustion using substantially pure oxygen, with high flame temperatures and the exclusion of air from the boiler, in industrial or electric utility steam generating units; and

(3) the term ''small unit'' means a unit with a generating capacity in the 10–50 megawatt range.

SEC. 1449. PETROCHEMICAL AND OIL REFINERY FACILITY HEALTH ASSESSMENT.

(a) ESTABLISHMENT.—The Secretary of Energy shall conduct a study of direct and significant health impacts to persons resulting from living in proximity to petrochemical and oil refinery facilities. The Secretary shall consult with the Director of the National Cancer Institute and other Federal Government bodies with expertise in the field it deems appropriate in the design of such study. The study shall be conducted according to sound and objective scientific practices and present the weight of the scientific evidence. The Secretary shall obtain scientific peer review of the draft study.

(b) REPORT TO CONGRESS.—The Secretary shall transmit the results of the study to Congress within 6 months of the enactment of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for the completion of the study.

SEC. 1450. UNITED STATES-ISRAEL COOPERATION.

(a) FINDINGS.—The Congress finds that—

(1) on February 1, 1996, United States Secretary of Energy Hazel R. O'Leary and Israeli Minister of Energy and Infrastructure Gonen Segev signed the Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation, to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(2) the Agreement entered into force in February 2000;

(3) in February 2005, the Agreement was automatically renewed for one additional 5-year period pursuant to Article X of the Agreement; and

(4) under the Agreement, the United States and Israel may cooperate in energy research and development in a variety of alternative and advanced energy sectors.

(b) REPORT TO CONGRESS.—(1) The Secretary of Energy shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on—

(A) how the United States and Israel have cooperated on energy research and development activities under the Agreement;

(B) projects initiated pursuant to the Agreement; and

(C) plans for future cooperation and joint projects under the Agreement.

(2) The report shall be submitted no later than three months after the date of enactment of this Act.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that energy cooperation between the Governments of the United States and Israel is mutually beneficial in the development of energy technology.

SEC. 1451. CARBON-BASED FUEL CELL DEVELOPMENT.

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

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

(2) An operating temperature range not to exceed 900 degrees celsius.

(b) QUALIFIED INSTITUTION.—For the purposes of subsection (a), a qualified institution is a research-intensive institution of higher education with demonstrated expertise in the development of carbon-based fuel cells allowing the direct use of high sulfur content coal as fuel, and which has produced a laboratory-scale 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 of Energy for carrying out this section $850,000 for fiscal year 2006.

TITLE XV—ETHANOL AND MOTOR FUELS

Subtitle A—General Provisions

SEC. 1501. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this section:

''(A) ETHANOL.—(i) The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(I) dedicated energy crops and trees;

''(II) wood and wood residues;

''(III) plants;

''(IV) grasses;

''(V) agricultural residues; and

''(VI) fibers.

''(ii) The term 'waste derived ethanol' means ethanol derived from—

''(I) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

''(II) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes cellulosic biomass ethanol, waste derived ethanol, and biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)) and any blending components derived from renewable fuel (provided that only the renewable fuel portion of any such blending component shall be considered part of the applicable volume under the renewable fuel program established by this subsection).

''(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—Not later than 1 year after the enactment of this subsection, the Administrator shall promulgate regulations ensuring that motor vehicle fuel sold or dispensed to consumers in the contiguous United States, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewable fuel can be used, or impose any per-gallon obligation for the use of renewable fuel. If the Administrator does not promulgate such regulations, the applicable percentage referred to in paragraph (4), on a volume percentage of gasoline basis, shall be 2.2 in 2005.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

''Calendar year	Applicable volume of renewable fuel (in billions of gallons)
2005	3.1
2006	3.3
2007	3.5
2008	3.8
2009	4.1
2010	4.4
2011	4.7
2012	5.0

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) NON-CONTIGUOUS STATE OPT-IN.—Upon the petition of a non-contiguous State, the Administrator may allow the renewable fuel program established by subtitle A of title XV of the Energy Policy Act of 2005 to apply in such non-contiguous State at the same time or any time after the Administrator promulgates regulations under paragraph (2). The Administrator may promulgate or revise regulations under paragraph (2), establish applicable percentages under paragraph (4), provide for the generation of credits under paragraph (6), and take such other actions as may be necessary to allow for the application of the renewable fuels program in a non-contiguous State.

''(4) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate of the volumes of gasoline that will be sold or introduced into commerce in the United States during the following calendar year.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of the calendar years 2005 through 2011, based on the estimate provided under subparagraph (A), the Administrator shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refiners, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

''(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

''(i) to prevent the imposition of redundant obligations to any person specified in subparagraph (B)(ii)(I); and

''(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (11).

''(5) EQUIVALENCY.—For the purpose of paragraph (2), 1 gallon of either cellulosic biomass ethanol or waste derived ethanol—

''(A) shall be considered to be the equivalent of 1.5 gallon of renewable fuel; or

''(B) if the cellulostic biomass ethanol or waste derived ethanol is derived from agricultural residue or wood residue or is an agricultural byproduct (as that term is used in section 919 of the Energy Policy Act of 2005), shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

''(6) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided paragraph (11), the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance—

''(i) in the calendar year in which the credit was generated or the next calendar year; or

''(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (7).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewable fuel deficit provided that, in the calendar year following the year in which the renewable fuel deficit is created, such person shall achieve compliance with the renewable fuel requirement under paragraph (2), and shall generate or purchase additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

''(7) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of the calendar years 2005 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during one of the periods specified in subparagraph (D) of the calendar year;

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years; and

''(iii) promulgating regulations or other requirements to impose a 35 percent or more seasonal use of renewable fuels will not prevent or interfere with the attainment of national ambient air quality standards or significantly increase the price of motor fuels to the consumer.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2005 in a State which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(8) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(9) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days after the enactment of this subsection, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional, or State basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the enactment of this subsection, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This paragraph shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (8) or paragraph (10), pertaining to waivers.

''(10) ASSESSMENT AND WAIVER.—The Administrator, in consultation with the Secretary of Energy and the Secretary of Agriculture, shall evaluate the requirement of paragraph (2) and determine, prior to January 1, 2007, and prior to January 1 of any subsequent year in which the applicable volume of renewable fuel is increased under paragraph (2)(B), whether the requirement of paragraph (2), including the applicable volume of renewable fuel contained in paragraph (2)(B) should remain in effect, in whole or in part, during 2007 or any year or years subsequent to 2007. In evaluating the requirement of paragraph (2) and in making any determination under this section, the Administrator shall consider the best available information and data collected by accepted methods or best available means regarding—

''(A) the capacity of renewable fuel producers to supply an adequate amount of renewable fuel at competitive prices to fulfill the requirement of paragraph (2);

''(B) the potential of the requirement of paragraph (2) to significantly raise the price of gasoline, food (excluding the net price impact on the requirement in paragraph (2) on commodities used in the production of ethanol), or heating oil for consumers in any significant area or region of the country above the price that would otherwise apply to such commodities in the absence of such requirement;

''(C) the potential of the requirement of paragraph (2) to interfere with the supply of fuel in any significant gasoline market or region of the country, including interference with the efficient operation of refiners, blenders, importers, wholesale suppliers, and retail vendors of gasoline, and other motor fuels; and

''(D) the potential of the requirement of paragraph (2) to cause or promote exceedances of Federal, State, or local air quality standards.

If the Administrator determines, by clear and convincing information, after public notice and the opportunity for comment, that the requirement of paragraph (2) would have significant and meaningful adverse impact on the supply of fuel and related infrastructure or on the economy, public health, or environment of any significant area or region of the country, the Administrator may waive, in whole or in part, the requirement of paragraph (2) in any one year for which the determination is made for that area or region of the country, except that any such waiver shall not have the effect of reducing the applicable volume of renewable fuel specified in paragraph (2)(B) with respect to any year for which the determination is made. In determining economic impact under this paragraph, the Administrator shall not consider the reduced revenues available from the Highway Trust Fund (section 9503 of the Internal Revenue Code of 1986) as a result of the use of ethanol.

''(11) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in paragraph (2)(B)(i). Not later than December 31, 2007, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(12) ETHANOL MARKET CONCENTRATION ANALYSIS.—

''(A) ANALYSIS.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price setting and other anticompetitive behavior.

''(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

''(B) REPORT.—Not later than December 1, 2005, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).''.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended as follows:

(1) In paragraph (1)—

(A) in the first sentence, by striking ''or (n)'' each place it appears and inserting ''(n), or (o)''; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), or (o)''.

(2) In the first sentence of paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), and (o)''.

(c) SURVEY OF RENEWABLE FUEL MARKET.—

(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator of the Environmental Protection Agency (in consultation with the Secretary of Energy acting through the Administrator of the Energy Information Administration) shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the ''Administrator'') may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator, to avoid duplicative requirements, shall rely, to the extent practicable, on existing reporting and recordkeeping requirements and other information available to the Administrator including gasoline distribution patterns that include multistate use areas.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

SEC. 1502. FUELS SAFE HARBOR.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, no renewable fuel, as defined by section 211(o)(1) of the Clean Air Act, or methyl tertiary butyl ether (hereafter in this section referred to as ''MTBE''), used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing such renewable fuel or MTBE, shall be deemed a defective product by virtue of the fact that it is, or contains, such a renewable fuel or MTBE, if it does not violate a control or prohibition imposed by the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the ''Administrator'') under section 211 of such Act, and the manufacturer is in compliance with all requests for information under subsection (b) of such section 211 of such Act. If the safe harbor provided by this section does not apply, the existence of a claim of defective product shall be determined under otherwise applicable law. Nothing in this subsection shall be construed to affect the liability of any person for environmental remediation costs, drinking water contamination, negligence for spills or other reasonably foreseeable events, public or private nuisance, trespass, breach of warranty, breach of contract, or any other liability other than liability based upon a claim of defective product.

(b) EFFECTIVE DATE.—This section shall be effective as of September 5, 2003, and shall apply with respect to all claims filed on or after that date.

SEC. 1503. FINDINGS AND MTBE TRANSITION ASSISTANCE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (hereinafter in this section referred to as ''MTBE'') has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygen standard, Congress was aware that significant use of MTBE would result from the adoption of that standard, and that the use of MTBE would likely be important to the cost-effective implementation of that program;

(4) Congress was aware that gasoline and its component additives can and do leak from storage tanks;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) having previously required oxygenates like MTBE for air quality purposes, Congress has—

(A) reconsidered the relative value of MTBE in gasoline;

(B) decided to establish a date certain for action by the Environmental Protection Agency to prohibit the use of MTBE in gasoline; and

(C) decided to provide for the elimination of the oxygenate requirement for reformulated gasoline and to provide for a renewable fuels content requirement for motor fuel; and

(7) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act; and

(B) for the purpose of mitigating any fuel supply problems that may result from the elimination of the oxygenate requirement for reformulated gasoline and from the decision to establish a date certain for action by the Environmental Protection Agency to prohibit the use of MTBE in gasoline.

(b) PURPOSES.—The purpose of this section is to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended by adding at the end the following:

''(5) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

''(A) IN GENERAL.—

''(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether (hereinafter in this subsection referred to as 'MTBE') in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of iso-octane, iso-octene, alkylates, or renewable fuels.

''(ii) DETERMINATION.—The Administrator, in consultation with the Secretary of Energy, may determine that transition assistance for the production of iso-octane, iso-octene, alkylates, or renewable fuels is inconsistent with the provisions of subparagraph (B) and, on that basis, may deny applications for grants authorized by this paragraph.

''(B) FURTHER GRANTS.—The Secretary of Energy, in consultation with the Administrator, may also further make grants to merchant producers of MTBE in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of such other fuel additives (unless the Administrator determines that such fuel additives may reasonably be anticipated to endanger public health or the environment) that, consistent with this subsection—

''(i) have been registered and have been tested or are being tested in accordance with the requirements of this section; and

''(ii) will contribute to replacing gasoline volumes lost as a result of amendments made to subsection (k) of this section by section 1504(a) and 1506 of the Energy Policy Act of 2005.

''(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

''(i) is located in the United States; and

''(ii) produced MTBE for consumption before April 1, 2003 and ceased production at any time after the date of enactment of this paragraph.

''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2005 through 2012, to remain available until expended.''.

SEC. 1504. USE OF MTBE.

(a) IN GENERAL.—Subject to subsections (e) and (f), not later than December 31, 2014, the use of methyl tertiary butyl ether (hereinafter in this section referred to as ''MTBE'') in motor vehicle fuel in any State other than a State described in subsection (c) is prohibited.

(b) REGULATIONS.—The Administrator of the Environmental Protection Agency (hereafter referred to in this section as the ''Administrator'') shall promulgate regulations to effect the prohibition in subsection (a).

(c) STATES THAT AUTHORIZE USE.—A State described in this subsection is a State in which the Governor of the State submits a notification to the Administrator authorizing the use of MTBE in motor vehicle fuel sold or used in the State.

(d) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subsection (c).

(e) TRACE QUANTITIES.—In carrying out subsection (a), the Administrator may allow trace quantities of MTBE, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

(f) LIMITATION.—The Administrator, under authority of subsection (a), shall not prohibit or control the production of MTBE for export from the United States or for any other use other than for use in motor vehicle fuel.

(g) EFFECT ON STATE LAW.—The amendments made by this title have no effect regarding any available authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 1505. NATIONAL ACADEMY OF SCIENCES REVIEW AND PRESIDENTIAL DETERMINATION.

(a) NAS REVIEW.—Not later than May 31, 2013, the Secretary shall enter into an arrangement with the National Academy of Sciences to review the use of methyl tertiary butyl ether (hereafter referred to in this section as ''MTBE'') in fuel and fuel additives. The review shall only use the best available scientific information and data collected by accepted methods or the best available means. The review shall examine the use of MTBE in fuel and fuel additives, significant beneficial and detrimental effects of this use on environmental quality or public health or welfare including the costs and benefits of such effects, likely effects of controls or prohibitions on MTBE regarding fuel availability and price, and other appropriate and reasonable actions that are available to protect the environment or public health or welfare from any detrimental effects of the use of MTBE in fuel or fuel additives. The review shall be peer-reviewed prior to publication and all supporting data and analytical models shall be available to the public. The review shall be completed no later than May 31, 2014.

(b) PRESIDENTIAL DETERMINATION.—No later than June 30, 2014, the President may make a determination that restrictions on the use of MTBE to be implemented pursuant to section 1504 shall not take place and that the legal authority contained in section 1504 to prohibit the use of MTBE in motor vehicle fuel shall become null and void.

SEC. 1506. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended as follows:

(A) In paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking ''(including the oxygen content requirement contained in subparagraph (B))'';

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(B) In paragraph (3)(A), by striking clause (v).

(C) In paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii).

(II) by redesignating clause (iii) as clause (ii).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect 270 days after the date of enactment of this Act, except that such amendments shall take effect upon such date of enactment in any State that has received a waiver under section 209(b) of the Clean Air Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended as follows:

(1) By striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''.

(2) By adding at the end the following:

''(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

''(i) DEFINITIONS.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

''(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph the Administrator shall establish, for each refinery or importer, standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years

1999 and 2000, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

''(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000.

''(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

''(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

''(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

''(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

''(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

''(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

''(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

''(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

''(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refinery or importer shall meet the standards applicable under clause (ii) not later than April 1 of the year following the report in subclause (II) and for subsequent years.

''(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2005, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).''.

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) SAVINGS CLAUSE.—Nothing in this section is intended to affect or prejudice either any legal claims or actions with respect to regulations promulgated by the Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the ''Administrator'') prior to the date of enactment of this Act regarding emissions of toxic air pollutants from motor vehicles or the adjustment of standards applicable to a specific refinery or importer made under such prior regulations and the Administrator may apply such adjustments to the standards applicable to such refinery or importer under clause (iii)(I) of section 211(k)(1)(B) of the Clean Air Act, except that—

(1) the Administrator shall revise such adjustments to be based only on calendar years 1999–2000; and

(2) for adjustments based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline, the Administrator may revise such adjustments to take account of the scope of Federal or State prohibitions on the use of methyl tertiary butyl ether imposed after the date of the enactment of this paragraph, except that any such adjustment shall require such refiner or importer, to the greatest extent practicable, to maintain the reduction achieved during calendar years 1999–2000 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refinery or importer; *Provided*, that any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 1999–2000.

SEC. 1507. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by inserting after subsection (o) the following:

''(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this subsection, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by subtitle A of title XV of the Energy Policy Act of 2005.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.''.

SEC. 1508. DATA COLLECTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m) RENEWABLE FUELS SURVEY.—(1) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information both on a national and regional basis, including each of the following:

''(A) The quantity of renewable fuels produced.

''(B) The quantity of renewable fuels blended.

''(C) The quantity of renewable fuels imported.

''(D) The quantity of renewable fuels demanded.

''(E) Market price data.

''(F) Such other analyses or evaluations as the Administrator finds is necessary to achieve the purposes of this section.

''(2) The Administrator shall also collect or estimate information both on a national and regional basis, pursuant to subparagraphs (A) through (F) of paragraph (1), for the 5 years prior to implementation of this subsection.

''(3) This subsection does not affect the authority of the Administrator to collect data under section 52 of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a).''.

SEC. 1509. REDUCING THE PROLIFERATION OF STATE FUEL CONTROLS.

(a) EPA APPROVAL OF STATE PLANS WITH FUEL CONTROLS.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding at the end the following: ''The Administrator shall not approve a control or prohibition respecting the use of a fuel or fuel additive under this subparagraph unless the Administrator, after consultation with the Secretary of Energy, publishes in the Federal Register a finding that, in the Administrator's judgment, such control or prohibition will not cause fuel supply or distribution interruptions or have a significant adverse impact on fuel producibility in the affected area or contiguous areas.''.

(b) STUDY.—The Administrator of the Environmental Protection Agency (hereinafter in this subsection referred to as the ''Administrator''), in cooperation with the Secretary of Energy, shall undertake a study of the projected effects on air quality, the proliferation of fuel blends, fuel availability, and fuel costs of providing a preference for each of the following:

(A) Reformulated gasoline referred to in subsection (k) of section 211 of the Clean Air Act.

(B) A low RVP gasoline blend that has been certified by the Administrator as having a Reid Vapor Pressure of 7.0 pounds per square inch (psi).

(C) A low RVP gasoline blend that has been certified by the Administrator as having a Reid Vapor Pressure of 7.8 pounds per square inch (psi).

In carrying out such study, the Administrator shall obtain comments from affected parties. The Administrator shall submit the results of such study to the Congress not later than 18 months after the date of enactment of this Act, together with any recommended legislative changes.

SEC. 1510. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the ''Administrator'') and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to consumers in various States and localities;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while improving air quality at the national, regional and local levels consistent with the attainment of national ambient air quality standards, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply;

(F) the feasibility of providing incentives to promote cleaner burning motor vehicle fuel; and

(G) the extent to which improvements in air quality and any increases or decreases in the price of motor fuel can be projected to result from the Environmental Protection Agency's Tier II requirements for conventional gasoline and vehicle emission systems, the reformulated gasoline program, the renewable content requirements established by this subtitle, State programs regarding gasoline volatility, and any other requirements imposed by States or localities affecting the composition of motor fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than December 31, 2007, the Administrator and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report under this subsection shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report under this subsection, the Administrator and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) motor vehicle fuel producers and distributors; and

(D) the public.

SEC. 1511. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE AND CELLULOSIC BIOMASS LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy (hereinafter in this section referred to as the ''Secretary'') shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste and cellulosic biomass into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal;

(B) the availability of sufficient quantities of cellulosic biomass; or

(C) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress a report on the activities of the Secretary under this section.

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

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

SEC. 1512. CELLULOSIC BIOMASS AND WASTE-DERIVED ETHANOL CONVERSION ASSISTANCE.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

''(r) CELLULOSIC BIOMASS AND WASTE-DERIVED ETHANOL CONVERSION ASSISTANCE.—

''(1) IN GENERAL.—The Secretary of Energy may provide grants to merchant producers of cellulosic biomass ethanol and waste-derived ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of ethanol.

''(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

''(A) is located in the United States; and

''(B) uses cellulosic biomass or waste-derived feedstocks derived from agricultural residues, wood residues, municipal solid waste, or agricultural byproducts as that term is used in section 919 of the Energy Policy Act of 2005.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated the following amounts to carry out this subsection:

''(A) $100,000,000 for fiscal year 2005.

''(B) $250,000,000 for fiscal year 2006.

''(C) $400,000,000 for fiscal year 2007.''.

SEC. 1513. BLENDING OF COMPLIANT REFORMULATED GASOLINES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

''(s) BLENDING OF COMPLIANT REFORMULATED GASOLINES.—

''(1) IN GENERAL.—Notwithstanding subsections (h) and (k) and subject to the limitations in paragraph (2) of this subsection, it shall not be a violation of this subtitle for a gasoline retailer, during any month of the year, to blend at a retail location batches of ethanol-blended and non-ethanol-blended reformulated gasoline, provided that—

''(A) each batch of gasoline to be blended has been individually certified as in compliance with subsections (h) and (k) prior to being blended;

''(B) the retailer notifies the Administrator prior to such blending, and identifies the exact location of the retail station and the specific tank in which such blending will take place;

''(C) the retailer retains and, as requested by the Administrator or the Administrator's designee, makes available for inspection such certifications accounting for all gasoline at the retail outlet; and

''(D) the retailer does not, between June 1 and September 15 of each year, blend a batch of VOC-controlled, or 'summer', gasoline with a batch of non-VOC-controlled, or 'winter', gasoline (as these terms are defined under subsections (h) and (k)).

''(2) LIMITATIONS.—

''(A) FREQUENCY LIMITATION.—A retailer shall only be permitted to blend batches of compliant reformulated gasoline under this subsection a maximum of two blending periods between May 1 and September 15 of each calendar year.

''(B) DURATION OF BLENDING PERIOD.—Each blending period authorized under subparagraph (A) shall extend for a period of no more than 10 consecutive calendar days.

''(3) SURVEYS.—A sample of gasoline taken from a retail location that has blended gasoline within the past 30 days and is in compliance with subparagraphs (A), (B), (C), and (D) of paragraph (1) shall not be used in a VOC survey mandated by 40 C.F.R. Part 80.

''(4) STATE IMPLEMENTATION PLANS.—A State shall be held harmless and shall not be required to revise its State implementation plan under section 110 to account for the emissions from blended gasoline authorized under paragraph (1).

''(5) PRESERVATION OF STATE LAW.—Nothing in this subsection shall—

''(A) preempt existing State laws or regulations regulating the blending of compliant gasolines; or

''(B) prohibit a State from adopting such restrictions in the future.

''(6) REGULATIONS.—The Administrator shall promulgate, after notice and comment, regulations implementing this subsection within one year after the date of enactment of this subsection.

''(7) EFFECTIVE DATE.—This subsection shall become effective 15 months after the date of its enactment and shall apply to blended batches of reformulated gasoline on or after that date, regardless of whether the implementing regulations required by paragraph (6) have been promulgated by the Administrator by that date.

''(8) LIABILITY.—No person other than the person responsible for blending under this subsection shall be subject to an enforcement action or penalties under subsection (d) solely arising from the blending of compliant reformulated gasolines by the retailers.

''(9) FORMULATION OF GASOLINE.—This subsection does not grant authority to the Administrator or any State (or any subdivision thereof) to require reformulation of gasoline at the refinery to adjust for potential or actual emissions increases due to the blending authorized by this subsection.''.

Subtitle B—Underground Storage Tank Compliance

SEC. 1521. SHORT TITLE.

This subtitle may be cited as the ''Underground Storage Tank Compliance Act of 2005''.

SEC. 1522. LEAKING UNDERGROUND STORAGE TANKS.

(a) IN GENERAL.—Section 9004 of the Solid Waste Disposal Act (42 U.S.C. 6991c) is amended by adding at the end the following:

''(f) TRUST FUND DISTRIBUTION.—

''(1) IN GENERAL.—

''(A) AMOUNT AND PERMITTED USES OF DISTRIBUTION.—The Administrator shall distribute to States not less than 80 percent of the funds from the Trust Fund that are made available to the Administrator under section 9014(2)(A) for each fiscal year for use in paying the reasonable costs, incurred under a cooperative agreement with any State for—

''(i) corrective actions taken by the State under section 9003(h)(7)(A);

''(ii) necessary administrative expenses, as determined by the Administrator, that are directly related to State fund or State assurance programs under subsection (c)(1); or

''(iii) enforcement, by a State or a local government, of State or local regulations pertaining to underground storage tanks regulated under this subtitle.

''(B) USE OF FUNDS FOR ENFORCEMENT.—In addition to the uses of funds authorized under subparagraph (A), the Administrator may use funds from the Trust Fund that are not distributed to States under subparagraph (A) for enforcement of any regulation promulgated by the Administrator under this subtitle.

''(C) PROHIBITED USES.—Funds provided to a State by the Administrator under subparagraph (A) shall not be used by the State to provide financial assistance to an owner or operator to meet any requirement relating to underground storage tanks under subparts B, C, D, H, and G of part 280 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subsection).

''(2) ALLOCATION.—

''(A) PROCESS.—Subject to subparagraphs (B) and (C), in the case of a State with which the Administrator has entered into a cooperative agreement under section 9003(h)(7)(A), the Administrator shall distribute funds from the Trust Fund to the State using an allocation process developed by the Administrator.

''(B) DIVERSION OF STATE FUNDS.—The Administrator shall not distribute funds under subparagraph (A)(iii) of subsection (f)(1) to any State that has diverted funds from a State fund or State assurance program for purposes other than those related to the regulation of underground storage tanks covered by this subtitle, with the exception of those transfers that had been completed earlier than the date of enactment of this subsection.

''(C) REVISIONS TO PROCESS.—The Administrator may revise the allocation process referred to in subparagraph (A) after—

''(i) consulting with State agencies responsible for overseeing corrective action for releases from underground storage tanks; and

''(ii) taking into consideration, at a minimum, each of the following:

''(I) The number of confirmed releases from federally regulated leaking underground storage tanks in the States.

''(II) The number of federally regulated underground storage tanks in the States.

''(III) The performance of the States in implementing and enforcing the program.

''(IV) The financial needs of the States.

''(V) The ability of the States to use the funds referred to in subparagraph (A) in any year.

''(3) DISTRIBUTIONS TO STATE AGENCIES.—Distributions from the Trust Fund under this subsection shall be made directly to a State agency that—

''(A) enters into a cooperative agreement referred to in paragraph (2)(A); or

''(B) is enforcing a State program approved under this section.''.

(b) WITHDRAWAL OF APPROVAL OF STATE FUNDS.—Section 9004(c) of the Solid Waste Disposal Act (42 U.S.C. 6991c(c)) is amended by inserting the following new paragraph at the end thereof:

''(6) WITHDRAWAL OF APPROVAL.—After an opportunity for good faith, collaborative efforts to correct financial deficiencies with a State fund, the Administrator may withdraw approval of any State fund or State assurance program to be used as a financial responsibility mechanism without withdrawing approval of a State underground storage tank program under section 9004(a).''.

(c) ABILITY TO PAY.—Section 9003(h)(6) of the Solid Waste Disposal Act (42 U.S.C. 6591a(h)(6)) is amended by adding the following new subparagraph at the end thereof:

''(E) INABILITY OR LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—In determining the level of recovery effort, or amount that should be recovered, the Administrator (or the State pursuant to paragraph (7)) shall consider the owner or operator's ability to pay. An inability or limited ability to pay corrective action costs must be demonstrated to the Administrator (or the State pursuant to paragraph (7)) by the owner or operator.

''(ii) CONSIDERATIONS.—In determining whether or not a demonstration is made under clause (i), the Administrator (or the State pursuant to paragraph (7)) shall take into consideration the ability of the owner or operator to pay corrective action costs and still maintain its basic business operations, including consideration of the overall financial condition of the owner or operator and demonstrable constraints on the ability of the owner or operator to raise revenues.

''(iii) INFORMATION.—An owner or operator requesting consideration under this subparagraph shall promptly provide the Administrator (or the State pursuant to paragraph (7)) with all relevant information needed to determine the ability of the owner or operator to pay corrective action costs.

''(iv) ALTERNATIVE PAYMENT METHODS.—The Administrator (or the State pursuant to paragraph (7)) shall consider alternative payment methods as may be necessary or appropriate if the Administrator (or the State pursuant to paragraph (7)) determines that an owner or operator cannot pay all or a portion of the costs in a lump sum payment.

''(iii) MISREPRESENTATION.—If an owner or operator provides false information or otherwise misrepresents their financial situation under clause (ii), the Administrator (or the State pursuant to paragraph (7)) shall seek full recovery of the costs of all such actions pursuant to the provisions of subparagraph (A) without consideration of the factors in subparagraph (B).''.

SEC. 1523. INSPECTION OF UNDERGROUND STORAGE TANKS.

(a) INSPECTION REQUIREMENTS.—Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended by inserting the following new subsection at the end thereof:

''(c) INSPECTION REQUIREMENTS.—

''(1) UNINSPECTED TANKS.—In the case of underground storage tanks regulated under this subtitle that have not undergone an inspection since December 22, 1998, not later than 2 years after the date of enactment of this subsection, the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of all such tanks to determine compliance with this subtitle and the regulations under this subtitle (40 C.F.R. 280) or a requirement or standard of a State program developed under section 9004.

''(2) PERIODIC INSPECTIONS.—After completion of all inspections required under paragraph (1), the Administrator or a State that receives funding under this subtitle, as appropriate, shall conduct on-site inspections of each underground storage tank regulated under this subtitle at least once every 3 years to determine compliance with this subtitle and the regulations under this subtitle (40 C.F.R. 280) or a requirement or standard of a State program developed under section 9004. The Administrator may extend for up to one additional year the first 3-year inspection interval under this paragraph if the State demonstrates that it has insufficient resources to complete all such inspections within the first 3-year period.

''(3) INSPECTION AUTHORITY.—Nothing in this section shall be construed to diminish the Administrator's or a State's authorities under section 9005(a).''.

(b) STUDY OF ALTERNATIVE INSPECTION PROGRAMS.—The Administrator of the Environmental Protection Agency, in coordination with a State, shall gather information on compliance assurance programs that could serve as an alternative to the inspection programs under section 9005(c) of the Solid Waste Disposal Act (42 U.S.C. 6991d(c)) and shall, within 4 years after the date of enactment of this Act, submit a report to the Congress containing the results of such study.

SEC. 1524. OPERATOR TRAINING.

(a) IN GENERAL.—Section 9010 of the Solid Waste Disposal Act (42 U.S.C. 6991i) is amended to read as follows:

"SEC. 9010. OPERATOR TRAINING.

''(a) GUIDELINES.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Underground Storage Tank Compliance Act of 2005, in consultation and cooperation with States and after public notice and opportunity for comment, the Administrator shall publish guidelines that specify training requirements for—

''(A) persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

''(B) persons having daily on-site responsibility for the operation and maintenance of underground storage tanks systems; and

''(C) daily, on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system.

''(2) CONSIDERATIONS.—The guidelines described in paragraph (1) shall take into account—

''(A) State training programs in existence as of the date of publication of the guidelines;

''(B) training programs that are being employed by tank owners and tank operators as of the date of enactment of the Underground Storage Tank Compliance Act of 2005;

''(C) the high turnover rate of tank operators and other personnel;

''(D) the frequency of improvement in underground storage tank equipment technology;

''(E) the nature of the businesses in which the tank operators are engaged;

''(F) the substantial differences in the scope and length of training needed for the different classes of persons described in subparagraphs (A), (B), and (C) of paragraph (1); and

''(G) such other factors as the Administrator determines to be necessary to carry out this section.

''(b) STATE PROGRAMS.—

''(1) IN GENERAL.—Not later than 2 years after the date on which the Administrator publishes the guidelines under subsection (a)(1), each State that receives funding under this subtitle shall develop State-specific training requirements that are consistent with the guidelines developed under subsection (a)(1).

''(2) REQUIREMENTS.—State requirements described in paragraph (1) shall—

''(A) be consistent with subsection (a);

''(B) be developed in cooperation with tank owners and tank operators;

''(C) take into consideration training programs implemented by tank owners and tank operators as of the date of enactment of this section; and

''(D) be appropriately communicated to tank owners and operators.

''(3) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops and implements requirements described in paragraph (1), in addition to any funds that the State is entitled to receive under this subtitle, not more than $200,000, to be used to carry out the requirements.

''(c) TRAINING.—All persons that are subject to the operator training requirements of subsection (a) shall—

''(1) meet the training requirements developed under subsection (b); and

''(2) repeat the applicable requirements developed under subsection (b), if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with—

''(A) a requirement or standard promulgated by the Administrator under section 9003; or

''(B) a requirement or standard of a State program approved under section 9004.''.

(b) STATE PROGRAM REQUIREMENT.—Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding the following new paragraph at the end thereof:

''(9) State-specific training requirements as required by section 9010.''.

(c) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e) is amended as follows:

(1) By striking ''or'' at the end of subparagraph (B).

(2) By adding the following new subparagraph after subparagraph (C):

''(D) the training requirements established by States pursuant to section 9010 (relating to operator training); or''.

(d) TABLE OF CONTENTS.—The item relating to section 9010 in table of contents for the Solid Waste Disposal Act is amended to read as follows:

''Sec. 9010. Operator training.''.

SEC. 1525. REMEDIATION FROM OXYGENATED FUEL ADDITIVES.

Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended as follows:

(1) In paragraph (7)(A)—

(A) by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraphs (1), (2), and (12)'' ; and

(B) by striking ''and including the authorities of paragraphs (4), (6), and (8) of this subsection'' and inserting ''and the authority under sections 9011 and 9012 and paragraphs (4), (6), and (8),''.

(2) By adding at the end the following:

''(12) REMEDIATION OF OXYGENATED FUEL CONTAMINATION.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9014(2)(B) to carry out corrective actions with respect to a release of a fuel containing an oxygenated fuel additive that presents a threat to human health or welfare or the environment.

''(B) APPLICABLE AUTHORITY.—The Administrator or a State shall carry out subparagraph (A) in accordance with paragraph (2), and in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

SEC. 1526. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT.

(a) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9011. USE OF FUNDS FOR RELEASE PREVENTION AND COMPLIANCE.

''Funds made available under section 9014(2)(D) from the Trust Fund may be used to conduct inspections, issue orders, or bring actions under this subtitle—

''(1) by a State, in accordance with a grant or cooperative agreement with the Administrator, of State regulations pertaining to underground storage tanks regulated under this subtitle; and

''(2) by the Administrator, for tanks regulated under this subtitle (including under a State program approved under section 9004).''.

(b) GOVERNMENT-OWNED TANKS.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding at the end the following:

''(i) GOVERNMENT-OWNED TANKS.—

''(1) STATE COMPLIANCE REPORT.—(A) Not later than 2 years after the date of enactment of this subsection, each State that receives funding under this subtitle shall submit to the Administrator a State compliance report that—

''(i) lists the location and owner of each underground storage tank described in subparagraph (B) in the State that, as of the date of submission of the report, is not in compliance with section 9003; and

''(ii) specifies the date of the last inspection and describes the actions that have been and will be taken to ensure compliance of the underground storage tank listed under clause (i) with this subtitle.

''(B) An underground storage tank described in this subparagraph is an underground storage tank that is—

''(i) regulated under this subtitle; and

''(ii) owned or operated by the Federal, State, or local government.

''(C) The Administrator shall make each report, received under subparagraph (A), available to the public through an appropriate media.

''(2) FINANCIAL INCENTIVE.—The Administrator may award to a State that develops a report described in paragraph (1), in addition to any other funds that the State is entitled to receive under this subtitle, not more than $50,000, to be used to carry out the report.

''(3) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.''.

(c) PUBLIC RECORD.—Section 9002 of the Solid Waste Disposal Act (42 U.S.C. 6991a) is amended by adding at the end the following:

''(d) PUBLIC RECORD.—

''(1) IN GENERAL.—The Administrator shall require each State that receives Federal funds to carry out this subtitle to maintain, update at least annually, and make available to the public, in such manner and form as the Administrator shall prescribe (after consultation with States), a record of underground storage tanks regulated under this subtitle.

''(2) CONSIDERATIONS.—To the maximum extent practicable, the public record of a State, respectively, shall include, for each year—

''(A) the number, sources, and causes of underground storage tank releases in the State;

''(B) the record of compliance by underground storage tanks in the State with—

''(i) this subtitle; or

''(ii) an applicable State program approved under section 9004; and

''(C) data on the number of underground storage tank equipment failures in the State.''.

(d) INCENTIVE FOR PERFORMANCE.—Section 9006 of the Solid Waste Disposal Act (42 U.S.C. 6991e) is amended by adding at the end the following:

''(e) INCENTIVE FOR PERFORMANCE.—Both of the following may be taken into account in determining the terms of a civil penalty under subsection (d):

''(1) The compliance history of an owner or operator in accordance with this subtitle or a program approved under section 9004.

''(2) Any other factor the Administrator considers appropriate.''.

(e) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

''Sec. 9011. Use of funds for release prevention and compliance.''.

SEC. 1527. DELIVERY PROHIBITION.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

"SEC. 9012. DELIVERY PROHIBITION.

''(a) REQUIREMENTS.—

''(1) PROHIBITION OF DELIVERY OR DEPOSIT.—Beginning 2 years after the date of enactment of this section, it shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility which has been identified by the Administrator or a State implementing agency to be ineligible for fuel delivery or deposit.

''(2) GUIDANCE.—Within 1 year after the date of enactment of this section, the Administrator and States that receive funding under this subtitle shall, in consultation with the underground storage tank owner and product delivery industries, for territory for which they are the primary implementing agencies, publish guidelines detailing the specific processes and procedures they will use to implement the provisions of this section. The processes and procedures include, at a minimum—

''(A) the criteria for determining which underground storage tank facilities are ineligible for delivery or deposit;

''(B) the mechanisms for identifying which facilities are ineligible for delivery or deposit to the underground storage tank owning and fuel delivery industries;

''(C) the process for reclassifying ineligible facilities as eligible for delivery or deposit; and

''(D) a delineation of, or a process for determining, the specified geographic areas subject to paragraph (4).

''(3) DELIVERY PROHIBITION NOTICE.—

''(A) ROSTER.—The Administrator and each State implementing agency that receives funding under this subtitle shall establish within 24 months after the date of enactment of this section a Delivery Prohibition Roster listing underground storage tanks under the Administrator's or the State's jurisdiction that are determined to be ineligible for delivery or deposit pursuant to paragraph (2).

''(B) NOTIFICATION.—The Administrator and each State, as appropriate, shall make readily known, to underground storage tank owners and operators and to product delivery industries, the underground storage tanks listed on a Delivery Prohibition Roster by:

''(i) posting such Rosters, including the physical location and street address of each listed underground storage tank, on official web sites and, if the Administrator or the State so chooses, other electronic means;

''(ii) updating these Rosters periodically; and

''(iii) installing a tamper-proof tag, seal, or other device blocking the fill pipes of such underground storage tanks to prevent the delivery of product into such underground storage tanks.

''(C) ROSTER UPDATES.—The Administrator and the State shall update the Delivery Prohibition Rosters as appropriate, but not less than once a month on the first day of the month.

''(D) TAMPERING WITH DEVICE.—

''(i) PROHIBITION.—It shall be unlawful for any person, other than an authorized representative of the Administrator or a State, as appropriate, to remove, tamper with, destroy, or damage a device installed by the Administrator or a State, as appropriate, under subparagraph (B)(iii) of this subsection.

''(ii) CIVIL PENALTIES.—Any person violating clause (i) of this subparagraph shall be subject to a civil penalty not to exceed $10,000 for each violation.

''(4) LIMITATION.—

''(A) RURAL AND REMOTE AREAS.—Subject to subparagraph (B), the Administrator or a State shall not include an underground storage tank on a Delivery Prohibition Roster under paragraph (3) if an urgent threat to public health, as determined by the Administrator, does not exist and if such a delivery prohibition would jeopardize the availability of, or access to, fuel in any rural and remote areas.

''(B) APPLICABILITY OF LIMITATION.—The limitation under subparagraph (A) shall apply only during the 180-day period following the date of a determination by the Administrator or the appropriate State that exercising the authority of paragraph (3) is limited by subparagraph (A).

''(b) EFFECT ON STATE AUTHORITY.—Nothing in this section shall affect the authority of a State to prohibit the delivery of a regulated substance to an underground storage tank.

''(c) DEFENSE TO VIOLATION.—A person shall not be in violation of subsection (a)(1) if the underground storage tank into which a regulated substance is delivered is not listed on the Administrator's or the appropriate State's Prohibited Delivery Roster 7 calendar days prior to the delivery being made.''.

(b) ENFORCEMENT.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By adding the following new subparagraph after subparagraph (D):

''(E) the delivery prohibition requirement established by section 9012,''.

(2) By adding the following new sentence at the end thereof: ''Any person making or accepting a delivery or deposit of a regulated substance to an underground storage tank at an ineligible facility in violation of section 9012 shall also be subject to the same civil penalty for each day of such violation.''.

(c) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

''Sec. 9012. Delivery prohibition.''.

SEC. 1528. FEDERAL FACILITIES.

Section 9007 of the Solid Waste Disposal Act (42 U.S.C. 6991f) is amended to read as follows:

''SEC. 9007. FEDERAL FACILITIES.

''(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any underground storage tank or underground storage tank system, or (2) engaged in any activity resulting, or which may result, in the installation, operation, management, or closure of any underground storage tank, release response activities related thereto, or in the delivery, acceptance, or deposit of any regulated substance to an underground storage tank or underground storage tank system shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting underground storage tanks in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local underground storage tank regulatory program. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal Court with respect to the enforcement of any such injunctive relief. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law concerning underground storage tanks with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State law concerning underground storage tanks, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction. The President may exempt any underground storage tank of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

''(b) REVIEW OF AND REPORT ON FEDERAL UNDERGROUND STORAGE TANKS.—

''(1) REVIEW.—Not later than 12 months after the date of enactment of the Underground Storage Tank Compliance Act of 2005, each Federal agency that owns or operates 1 or more underground storage tanks, or that manages land on which 1 or more underground storage tanks are located, shall submit to the Administrator, the Committee on Energy and Commerce of the United States House of Representatives, and the Committee on the Environment and Public Works of the United States Senate a compliance strategy report that—

''(A) lists the location and owner of each underground storage tank described in this paragraph;

''(B) lists all tanks that are not in compliance with this subtitle that are owned or operated by the Federal agency;

''(C) specifies the date of the last inspection by a State or Federal inspector of each underground storage tank owned or operated by the agency;

''(D) lists each violation of this subtitle respecting any underground storage tank owned or operated by the agency;

''(E) describes the operator training that has been provided to the operator and other persons having primary daily on-site management responsibility for the operation and maintenance of underground storage tanks owned or operated by the agency; and

''(F) describes the actions that have been and will be taken to ensure compliance for each underground storage tank identified under subparagraph (B).

''(2) NOT A SAFE HARBOR.—This subsection does not relieve any person from any obligation or requirement under this subtitle.''.

SEC. 1529. TANKS ON TRIBAL LANDS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding the following at the end thereof:

''SEC. 9013. TANKS ON TRIBAL LANDS.

''(a) STRATEGY.—The Administrator, in coordination with Indian tribes, shall, not later than 1 year after the date of enactment of this section, develop and implement a strategy—

''(1) giving priority to releases that present the greatest threat to human health or the environment, to take necessary corrective action in response to releases from leaking underground storage tanks located wholly within the boundaries of—

''(A) an Indian reservation; or

''(B) any other area under the jurisdiction of an Indian tribe; and

''(2) to implement and enforce requirements concerning underground storage tanks located wholly within the boundaries of—

''(A) an Indian reservation; or

''(B) any other area under the jurisdiction of an Indian tribe.

''(b) REPORT.—Not later than 2 years after the date of enactment of this section, the Administrator shall submit to Congress a report that summarizes the status of implementation and enforcement of this subtitle in areas located wholly within—

''(1) the boundaries of Indian reservations; and

''(2) any other areas under the jurisdiction of an Indian tribe.

The Administrator shall make the report under this subsection available to the public.

''(c) NOT A SAFE HARBOR.—This section does not relieve any person from any obligation or requirement under this subtitle.

''(d) STATE AUTHORITY.—Nothing in this section applies to any underground storage tank that is located in an area under the jurisdiction of a State, or that is subject to regulation by a State, as of the date of enactment of this section.''.

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

''Sec. 9013. Tanks on Tribal lands.''.

SEC. 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER.

(a) IN GENERAL.—Section 9003 of the Solid Waste Disposal Act (42 U.S.C. 6991b) is amended by adding the following new subsection at the end:

''(i) ADDITIONAL MEASURES TO PROTECT GROUNDWATER FROM CONTAMINATION.—The Administrator shall require each State that receives funding under this subtitle to require one of the following:

''(1) TANK AND PIPING SECONDARY CONTAINMENT.—(A) Each new underground storage tank, or piping connected to any such new tank, installed after the effective date of this subsection, or any existing underground storage tank, or existing piping connected to such existing tank, that is replaced after the effective date of this subsection, shall be secondarily contained and monitored for leaks if the new or replaced underground storage tank or piping is within 1,000 feet of any existing community water system or any existing potable drinking water well.

''(B) In the case of a new underground storage tank system consisting of one or more underground storage tanks and connected by piping, subparagraph (A) shall apply to all underground storage tanks and connected pipes comprising such system.

''(C) In the case of a replacement of an existing underground storage tank or existing piping connected to the underground storage tank, subparagraph (A) shall apply only to the specific underground storage tank or piping being replaced, not to other underground storage tanks and connected pipes comprising such system.

''(D) Each installation of a new motor fuel dispenser system, after the effective date of this subsection, shall include under-dispenser spill containment if the new dispenser is within 1,000 feet of any existing community water system or any existing potable drinking water well.

''(E) This paragraph shall not apply to repairs to an underground storage tank, piping, or dispenser that are meant to restore a tank, pipe, or dispenser to operating condition

''(F) As used in this subsection:

''(i) The term 'secondarily contained' means a release detection and prevention system that meets the requirements of 40 CFR 280.43(g), but shall not include under-dispenser spill containment or control systems.

''(ii) The term 'underground storage tank' has the meaning given to it in section 9001, except that such term does not include tank combinations or more than a single underground pipe connected to a tank.

''(iii) The term 'installation of a new motor fuel dispenser system' means the installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the underground storage tank system, but does not mean the installation of a motor fuel dispenser installed separately from the equipment need to connect the dispenser to the underground storage tank system.

''(G) The Administrator may issue regulations or guidelines implementing the requirements of this subsection.

''(2) EVIDENCE OF FINANCIAL RESPONSIBILITY AND CERTIFICATION.—

''(A) MANUFACTURER AND INSTALLER FINANCIAL RESPONSIBILITY.—A person that manufactures an underground storage tank or piping for an underground storage tank system or that installs an underground storage tank system is required to maintain evidence of financial responsibility under section 9003(d) in order to provide for the costs of corrective actions directly related to releases caused by improper manufacture or installation unless the person can demonstrate themselves to be already covered as an owner or operator of an underground storage tank under section 9003.

''(B) INSTALLER CERTIFICATION.—The Administrator and each State that receives funding under this subtitle, as appropriate, shall require that a person that installs an underground storage tank system is—

''(i) certified or licensed by the tank and piping manufacturer;

''(ii) certified or licensed by the Administrator or a State, as appropriate;

''(iii) has their underground storage tank system installation certified by a registered professional engineer with education and experience in underground storage tank system installation;

''(iv) has had their installation of the underground storage tank inspected and approved by the Administrator or the State, as appropriate;

''(v) compliant with a code of practice developed by a nationally recognized association or independent testing laboratory and in accordance with the manufacturers instructions; or

''(vi) compliant with another method that is determined by the Administrator or a State, as appropriate, to be no less protective of human health and the environment.''.

(b) EFFECTIVE DATE.—This subsection shall take effect 18 months after the date of enactment of this subsection

(c) PROMULGATION OF REGULATIONS OR GUIDELINES.—The Administrator shall issue regulations or guidelines implementing the requirements of this subsection, including guidance to differentiate between the terms ''repair'' and ''replace'' for the purposes of section 9003(i)(1) of the Solid Waste Disposal Act.

(d) PENALTIES.—Section 9006(d)(2) of such Act (42 U.S.C. 6991e(d)(2)) is amended as follows:

(1) By striking ''or'' at the end of subparagraph (B).

(2) By inserting ''; or'' at the end of subparagraph (C).

(3) By adding the following new subparagraph after subparagraph (C):

''(D) the requirements established in section 9003(i),''.

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by adding at the end the following:

''SEC. 9014. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Administrator the following amounts:

''(1) To carry out subtitle I (except sections 9003(h), 9005(c), 9011 and 9012) $50,000,000 for each of fiscal years 2005 through 2009.

''(2) From the Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986:

''(A) to carry out section 9003(h) (except section 9003(h)(12)) $200,000,000 for each of fiscal years 2005 through 2009;

''(B) to carry out section 9003(h)(12), $200,000,000 for each of fiscal years 2005 through 2009;

''(C) to carry out sections 9004(f) and 9005(c) $100,000,000 for each of fiscal years 2005 through 2009; and

''(D) to carry out sections 9011 and 9012 $55,000,000 for each of fiscal years 2005 through 2009.''.

(b) TABLE OF CONTENTS.—The table of contents for such subtitle I is amended by adding the following new item at the end thereof:

''Sec. 9014. Authorization of appropriations.''.

SEC. 1532. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended as follows:

(1) By striking ''For the purposes of this subtitle—'' and inserting ''In this subtitle:''.

(2) By redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively.

(3) By inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:

''(1) INDIAN TRIBE.—

''(A) IN GENERAL.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

''(B) INCLUSIONS.—The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and''.

(4) By inserting after paragraph (8) (as redesignated by paragraph (2) of this subsection) the following:

''(9) TRUST FUND.—The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENTS.—The Solid Waste Disposal Act (42 U.S.C. 6901 and following) is amended as follows:

(1) Section 9003(f) (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in paragraphs (2) and (3), by striking ''9001(2)(A)'' each place it appears and inserting ''9001(7)(A)''.

(2) Section 9003(h) (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking ''Leaking Underground Storage Tank Trust Fund'' each place it appears and inserting ''Trust Fund''.

(3) Section 9009 (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in subsection (d), by striking ''section 9001(1) (A) and (B)'' and inserting ''subparagraphs (A) and (B) of section 9001(10)''.

SEC. 1533. TECHNICAL AMENDMENTS.

The Solid Waste Disposal Act is amended as follows:

(1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A)) is amended by striking ''sustances'' and inserting ''substances''.

(2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(3) Section 9004(a) (42 U.S.C. 6991c(a)) is amended by striking ''in 9001(2) (A) or (B) or both'' and inserting ''in subparagraph (A) or (B) of section 9001(7)''.

(4) Section 9005 (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking ''study taking'' and inserting ''study, taking'';

(B) in subsection (b)(1), by striking ''relevent'' and inserting ''relevant''; and

(C) in subsection (b)(4), by striking ''Evironmental'' and inserting ''Environmental''.

Subtitle C—Boutique Fuels

SEC. 1541. REDUCING THE PROLIFERATION OF BOUTIQUE FUELS.

(a) TEMPORARY WAIVERS DURING SUPPLY EMERGENCIES.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by inserting ''(i)'' after ''(C)'' and by adding the following new clauses at the end thereof:

''(ii) The Administrator may temporarily waive a control or prohibition respecting the use of a fuel or fuel additive required or regulated by the Administrator pursuant to subsection (c), (h), (i), (k), or (m) of this section or prescribed in an applicable implementation plan under section 110 approved by the Administrator under clause (i) of this subparagraph if, after consultation with, and concurrence by, the Secretary of Energy, the Administrator determines that—

''(I) extreme and unusual fuel or fuel additive supply circumstances exist in a State or region of the Nation which prevent the distribution of an adequate supply of the fuel or fuel additive to consumers;

''(II) such extreme and unusual fuel and fuel additive supply circumstances are the result of a natural disaster, an Act of God, a pipeline or refinery equipment failure, or another event that could not reasonably have been foreseen or prevented and not the lack of prudent planning on the part of the suppliers of the fuel or fuel additive to such State or region; and

''(III) it is in the public interest to grant the waiver (for example, when a waiver is necessary to meet projected temporary shortfalls in the supply of the fuel or fuel additive in a State or region of the Nation which cannot otherwise be compensated for).

''(iii) If the Administrator makes the determinations required under clause (ii), such a temporary extreme and unusual fuel and fuel additive supply circumstances waiver shall be permitted only if—

''(I) the waiver applies to the smallest geographic area necessary to address the extreme and unusual fuel and fuel additive supply circumstances;

''(II) the waiver is effective for a period of 20 calendar days or, if the Administrator determines that a shorter waiver period is adequate, for the shortest practicable time period necessary to permit the correction of the extreme and unusual fuel and fuel additive supply circumstances and to mitigate impact on air quality;

''(III) the waiver permits a transitional period, the exact duration of which shall be determined by the Administrator, after the termination of the temporary waiver to permit wholesalers and retailers to blend down their wholesale and retail inventory;

''(IV) the waiver applies to all persons in the motor fuel distribution system; and

''(V) the Administrator has given public notice to all parties in the motor fuel distribution system, and local and State regulators, in the State or region to be covered by the waiver.

The term 'motor fuel distribution system' as used in this clause shall be defined by the Administrator through rulemaking.

''(iv) Within 180 days of the date of enactment of this clause, the Administrator shall promulgate regulations to implement clauses (ii) and (iii).

''(v) Nothing in this subparagraph shall—

''(I) limit or otherwise affect the application of any other waiver authority of the Administrator pursuant to this section or pursuant to a regulation promulgated pursuant to this section; and

''(II) subject any State or person to an enforcement action, penalties, or liability solely arising from actions taken pursuant to the issuance of a waiver under this subparagraph.''.

(b) LIMIT ON NUMBER OF BOUTIQUE FUELS.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)), as amended by subsection (a), is further amended by adding at the end the following:

''(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).

''(VI) 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.''.

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

(1) JOINT STUDY.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall undertake a study of the effects on air quality, on the number of fuel blends, on fuel availability, on fuel fungibility, and on fuel costs of the State plan provisions adopted pursuant to section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)).

(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.

(3) RESPONSIBILITY OF ADMINISTRATOR.—In carrying out the study required by this section, the Administrator shall coordinate obtaining comments from affected parties interested in the air quality impact assessment portion of the study. The Administrator shall use sound and objective science practices, shall consider the best available science, and shall consider and include a description of the weight of the scientific evidence.

(4) RESPONSIBILITY OF SECRETARY.—In carrying out the study required by this section, the Secretary shall coordinate obtaining comments from affected parties interested in the fuel availability, number of fuel blends, fuel fungibility and fuel costs portion of the study.

(5) REPORT TO CONGRESS.—The Administrator and the Secretary jointly shall submit the results of the study required by this section in a report to the Congress not later than 12 months after the date of the enactment of this Act, together with any recommended regulatory and legislative changes. Such report shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated jointly to the Administrator and the Secretary $500,000 for the completion of the study required under this subsection.

(d) DEFINITIONS.—In this section:

(1) The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) The term ''Secretary'' means the Secretary of Energy.

(3) The term ''fuel'' means gasoline, diesel fuel, and any other liquid petroleum product commercially known as gasoline and diesel fuel for use in highway and nonroad motor vehicles.

(4) The term ''a control or prohibition respecting a new fuel'' means a control or prohibition on the formulation, composition, or emissions characteristics of a fuel that would require the increase or decrease of a constituent in gasoline or diesel fuel.

TITLE XVI—STUDIES

SEC. 1601. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) DEFINITION.—For purposes of this section ''petroleum'' means crude oil, motor gasoline, jet fuel, distillates, and propane.

(b) STUDY.—The Secretary of Energy shall conduct a study on petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(c) CONTENTS.—The study shall address—

(1) historical normal ranges for petroleum and natural gas inventory levels;

(2) historical and projected storage capacity trends;

(3) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service, or other indicators of shortage begin to appear;

(4) explanations for inventory levels dropping below normal ranges; and

(5) the ability of industry to meet United States demand for petroleum and natural gas without shortages or price spikes, when inventory levels are below normal ranges.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit a report to Congress on the results of the study, including findings and any recommendations for preventing future supply shortages.

SEC. 1605. STUDY OF ENERGY EFFICIENCY STANDARDS.

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within 1 year after the date of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to Congress.

SEC. 1606. TELECOMMUTING STUDY.

(a) STUDY REQUIRED.—The Secretary, in consultation with the Commission, the Director of the Office of Personnel Management, the Administrator of General Services, and the Administrator of NTIA, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(b) REQUIRED SUBJECTS OF STUDY.—The study required by subsection (a) shall analyze the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(c) REPORT REQUIRED.—The Secretary shall submit to the President and Congress a report on the study required by this section not later than 6 months after the date of enactment of this Act. Such report shall include a description of the results of the analysis of each of the subject described in subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(3) NTIA.—The term ''NTIA'' means the National Telecommunications and Information Administration of the Department of Commerce.

(4) TELECOMMUTING.—The term ''telecommuting'' means the performance of work functions using communications technologies, thereby eliminating or substantially reducing the need to commute to and from traditional worksites.

(5) FEDERAL EMPLOYEE.—The term ''Federal employee'' has the meaning provided the term ''employee'' by section 2105 of title 5, United States Code.

SEC. 1607. LIHEAP REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall transmit to Congress a report on how the Low-Income Home Energy Assistance Program could be used more effectively to prevent loss of life from extreme temperatures. In preparing such report, the Secretary shall consult with appropriate officials in all 50 States and the District of Columbia.

SEC. 1608. OIL BYPASS FILTRATION TECHNOLOGY.

The Secretary of Energy and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in reducing demand for oil and protecting the environment;

(2) examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets; and

(3) include in such study, prior to any determination of the feasibility of using oil bypass filtration technology, the evaluation of products and various manufacturers.

SEC. 1609. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary of Energy shall—

(1) conduct a study of the benefits of total integrated thermal systems in reducing demand for oil and protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Department of Defense and other Federal motor vehicle fleets.

SEC. 1610. UNIVERSITY COLLABORATION.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report that examines the feasibility of promoting collaborations between large institutions of higher education and small institutions of higher education through grants, contracts, and cooperative agreements made by the Secretary for energy projects. The Secretary shall also consider providing incentives for the inclusion of small institutions of higher education, including minority-serving institutions, in energy research grants, contracts, and cooperative agreements.

SEC. 1611. RELIABILITY AND CONSUMER PROTECTION ASSESSMENT.

Not later than 5 years after the date of enactment of this Act, and each 5 years thereafter, the Federal Energy Regulatory Commission shall assess the effects of the exemption of electric cooperatives and government-owned utilities from Commission regulation under section 201(f) of the Federal Power Act. The assessment shall include any effects on—

(1) reliability of interstate electric transmission networks;

(2) benefit to consumers, and efficiency, of competitive wholesale electricity markets;

(3) just and reasonable rates for electricity consumers; and

(4) the ability of the Commission to protect electricity consumers.

If the Commission finds that the 201(f) exemption results in adverse effects on consumers or electric reliability, the Commission shall make appropriate recommendations to Congress pursuant to section 311 of the Federal Power Act.

SEC. 1612. REPORT ON ENERGY INTEGRATION WITH LATIN AMERICA.

The Secretary of Energy shall submit an annual report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate concerning the status of energy export development in Latin America and efforts by the Secretary and other departments and agencies of the United States to promote energy integration with Latin America. The report shall contain a detailed analysis of the status of energy export development in Mexico and a description of all significant efforts by the Secretary and other departments and agencies to promote a constructive relationship with Mexico regarding the development of that nation's energy capacity. In particular this report shall outline efforts the Secretary and other departments and agencies have made to ensure that regulatory approval and oversight of United States/Mexico border projects that result in the expansion of Mexican energy capacity are effectively coordinated across departments and with the Mexican government.

SEC. 1613. LOW-VOLUME GAS RESERVOIR STUDY.

(a) STUDY.—The Secretary of Energy shall make a grant to an organization of oil and gas producing States, specifically those containing significant numbers of marginal oil and natural gas wells, for conducting an annual study of low-volume natural gas reservoirs. Such organization shall work with the State geologist of each State being studied.

(b) CONTENTS.—The studies under this section shall—

(1) determine the status and location of marginal wells and gas reservoirs;

(2) gather the production information of these marginal wells and reservoirs;

(3) estimate the remaining producible reserves based on variable pipeline pressures;

(4) locate low-pressure gathering facilities and pipelines;

(5) recommend incentives which will enable the continued production of these resources;

(6) produce maps and literature to disseminate to States to promote conservation of natural gas reserves; and

(7) evaluate the amount of natural gas that is being wasted through the practice of venting or flaring of natural gas produced in association with crude oil well production.

(c) DATA ANALYSIS.—Data development and analysis under this section shall be performed by an institution of higher education with GIS capabilities. If the organization receiving the grant under subsection (a) does not have GIS capabilities, such organization shall contract with one or more entities with—

(1) technological capabilities and resources to perform advanced image processing, GIS programming, and data analysis; and

(2) the ability to—

(A) process remotely sensed imagery with high spatial resolution;

(B) deploy global positioning systems;

(C) process and synthesize existing, variable-format gas well, pipeline, gathering facility, and reservoir data;

(D) create and query GIS databases with infrastructure location and attribute information;

(E) write computer programs to customize relevant GIS software;

(F) generate maps, charts, and graphs which summarize findings from data research for presentation to different audiences; and

(G) deliver data in a variety of formats, including Internet Map Server for query and display, desktop computer display, and access through handheld personal digital assistants.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section—

(1) $1,500,000 for fiscal year 2006; and

(2) $450,000 for each of the fiscal years 2007 through 2010.

(e) DEFINITIONS.—For purposes of this section, the term ''GIS'' means geographic information systems technology that facilitates the organization and management of data with a geographic component.

TITLE XVII—RENEWABLE ENERGY

SEC. 1701. GRANTS TO IMPROVE THE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, PETROLEUM-BASED PRODUCT SUBSTITUTES, AND OTHER COMMERCIAL PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Thousands of communities in the United States, many located near Federal lands, are at risk to wildfire. Approximately 190,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future. The accumulation of heavy forest fuel loads continues to increase as a result of disease, insect infestations, and drought, further raising the risk of fire each year.

(2) In addition, more than 70,000,000 acres across all land ownerships are at risk to higher than normal mortality over the next 15 years from insect infestation and disease. High levels of tree mortality from insects and disease result in increased fire risk, loss of old growth, degraded watershed conditions, and changes in species diversity and productivity, as well as diminished fish and wildlife habitat and decreased timber values.

(3) Preventive treatments such as removing fuel loading, ladder fuels, and hazard trees, planting proper species mix and restoring and protecting early successional habitat, and other specific restoration treatments designed to reduce the susceptibility of forest land, woodland, and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest health by creating a mosaic of species-mix and age distribution. Such prevention treatments are widely acknowledged to be more successful and cost effective than suppression treatments in the case of insects, disease, and fire.

(4) The byproducts of preventive treatment (wood, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest lands, woodlands and rangelands represent an abundant supply of biomass for biomass-to-energy facilities and raw material for business. There are currently few markets for the extraordinary volumes of byproducts being generated as a result of the necessary large-scale preventive treatment activities.

(5) The United States should—

(A) promote economic and entrepreneurial opportunities in using byproducts removed through preventive treatment activities related to hazardous fuels reduction, disease, and insect infestation; and

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for byproducts of preventive treatment activities.

(b) DEFINITIONS.—In this section:

(1) BIOMASS.—The term ''biomass'' means trees and woody plants, including limbs, tops, needles, and other woody parts, and byproducts of preventive treatment, such as wood, brush, thinnings, chips, and slash, that are removed—

(A) to reduce hazardous fuels; or

(B) to reduce the risk of or to contain disease or insect infestation.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(3) PERSON.—The term ''person'' includes—

(A) an individual;

(B) a community (as determined by the Secretary concerned);

(C) an Indian tribe;

(D) a small business, micro-business, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(4) PREFERRED COMMUNITY.—The term ''preferred community'' means—

(A) any town, township, municipality, or other similar unit of local government (as determined by the Secretary concerned) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation; or

(B) any county that—

(i) is not contained within a metropolitan statistical area; and

(ii) the Secretary concerned, in the sole discretion of the Secretary concerned, determines contains or is located near land, the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation or which suffers from disease or insect infestation.

(5) SECRETARY CONCERNED.—The term ''Secretary concerned'' means the Secretary of Agriculture or the Secretary of the Interior.

(c) BIOMASS COMMERCIAL USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, or substitutes for petroleum-based products to offset the costs incurred to purchase biomass for use by such facility.

(2) GRANT AMOUNTS.—A grant under this subsection may not exceed $20 per green ton of biomass delivered.

(3) MONITORING OF GRANT RECIPIENT ACTIVITIES.—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary concerned may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass. Upon notice by a representative of the Secretary concerned, the grant recipient shall afford the representative reasonable access to the facility that purchases or uses biomass and an opportunity to examine the inventory and records of the facility.

(d) IMPROVED BIOMASS USE GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary concerned may make grants to persons to offset the cost of projects to develop or research opportunities to improve the use of, or add value to, biomass. In making such grants, the Secretary concerned shall give preference to persons in preferred communities.

(2) SELECTION.—The Secretary concerned shall select a grant recipient under paragraph (1) after giving consideration to the anticipated public benefits of the project, including the potential to develop thermal or electric energy resources or affordable energy, opportunities for the creation or expansion of small businesses and micro-businesses, and the potential for new job creation.

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

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2006 through 2016 to carry out this section.

(f) REPORT.—Not later than October 1, 2010, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Resources, the Committee on Energy and Commerce, and the Committee on Agriculture of the House of Representatives a report describing the results of the grant programs authorized by this section. The report shall include the following:

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

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

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

SEC. 1702. ENVIRONMENTAL REVIEW FOR RENEWABLE ENERGY PROJECTS.

(a) COMPLIANCE WITH NEPA FOR RENEWABLE ENERGY PROJECTS.—Notwithstanding any other law, in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) with respect to any action authorizing a renewable energy project under the jurisdiction of a Federal agency—

(1) no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative; and

(2) no Federal agency is required to analyze the environmental effects of alternative locations or actions other than those submitted by the project proponent.

(b) CONSIDERATION OF ALTERNATIVES.—In any environmental assessment or environmental impact statement referred to in subsection (a), the Federal agency shall only identify and analyze the environmental effects and potential mitigation measures of—

(1) the proposed action; and

(2) the no action alternative.

(c) PUBLIC COMMENT.—In preparing an environmental assessment or environmental impact statement referred to in subsection (a), the Federal agency shall only consider public comments that specifically address the preferred action and that are filed within 20 days after publication of a draft environmental assessment or draft environmental impact statement. Notwithstanding any other law, compliance with this subsection is deemed to satisfy section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines with respect to proposed renewable energy projects.

(d) RENEWABLE ENERGY PROJECT DEFINED.—For purposes of this section, the term ''renewable energy project''—

(1) means any proposal to utilize an energy source other than nuclear power, coal, oil, or natural gas; and

(2) includes the use of wind, solar, geothermal, biomass, or tidal forces to generate energy.

SEC. 1703. SENSE OF CONGRESS REGARDING GENERATION CAPACITY OF ELECTRICITY FROM RENEWABLE ENERGY RESOURCES ON PUBLIC LANDS.

It is the sense of the Congress that the Secretary of the Interior should, before the end of the 10-year period beginning on the date of enactment of this Act, seek to have approved non-hydropower renewable energy projects located on the public lands with a generation capacity of at least 10,000 megawatts of electricity.

TITLE XVIII—GEOTHERMAL ENERGY

SEC. 1801. SHORT TITLE.

This title may be cited as the ''John Rishel Geothermal Steam Act Amendments of 2005''.

SEC. 1802. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

''SEC. 4. LEASING PROCEDURES.

''(a) NOMINATIONS.—The Secretary shall accept nominations of lands available for leasing at any time from qualified companies and individuals under this Act.

''(b) COMPETITIVE LEASE SALE REQUIRED.—The Secretary shall hold a competitive lease sale at least once every 2 years for lands in a State which has nominations pending under subsection (a) if such lands are otherwise available for leasing. Lands that are subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency are not available for competitive leasing.

''(c) NONCOMPETITIVE LEASING.—

''(1) REQUIREMENT.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

''(2) STATES WITHOUT NOMINATIONS.—In any State for which there are no nominations received under subsection (a) and having a total acreage under lease or the subject of an application for lease of less than 10,000 acres, the Secretary may designate lands available for 2 years for noncompetitive leasing.

''(d) LEASES SOLD AS A BLOCK.—If information is available to the Secretary indicating a geothermal resource that could be produced as 1 unit can reasonably be expected to underlie more than 1 parcel to be offered in a competitive lease sale, the parcels for such a resource may be offered for bidding as a block in the competitive lease sale.

''(e) AREA SUBJECT TO LEASE FOR GEOTHERMAL RESOURCES.—A geothermal lease for the use of geothermal resources shall embrace not more than the amount of acreage determined by the Secretary to be appropriate.''.

SEC. 1803. DIRECT USE.

(a) FEES FOR DIRECT USE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in paragraph (c) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B);

(2) by redesignating paragraphs (a) through (d) in order as paragraphs (1) through (4);

(3) by inserting ''(a) IN GENERAL.—'' after ''SEC. 5.''; and

(4) by adding at the end the following:

''(b) FEES FOR DIRECT USE.—

''(1) IN GENERAL.—Notwithstanding subsection (a)(1), with respect to the direct use of geothermal resources for purposes other than the commercial generation of electricity, the Secretary of the Interior shall establish a schedule of fees and collect fees pursuant to such a schedule in lieu of royalties. Notwithstanding section 102(a)(9) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(a)(9)), the schedule of fees shall be based upon comparable non-Federal fees charged for direct use of geothermal resources within the State concerned. For direct use by a State or local government for public purposes, the fee charged shall be nominal. Leases in existence on the date of enactment of this subsection shall be modified in order to reflect the provisions of this subsection.

''(2) FINAL REGULATION.—In issuing any final regulation establishing a schedule of fees under this subsection, the Secretary shall seek—

''(A) to provide lessees with a simplified administrative system;

''(B) to encourage development of this underutilized energy resource on the Federal estate; and

''(C) to contribute to sustainable economic development opportunities for host communities.''.

(b) LEASING FOR DIRECT USE.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is further amended by adding at the end the following:

''(f) LEASING FOR DIRECT USE OF GEOTHERMAL RESOURCES.—Lands leased under this Act exclusively for direct use of geothermal resources shall be leased to any qualified applicant who first applies for such a lease under regulations issued by the Secretary, if—

''(1) the Secretary publishes a notice of the lands proposed for leasing 60 days before the date of the issuance of the lease; and

''(2) the Secretary does not receive in the 60-day period beginning on the date of such publication any nomination to include the lands concerned in the next competitive lease sale.

''(g) AREA SUBJECT TO LEASE FOR DIRECT USE.—A geothermal lease for the direct use of geothermal resources shall embrace not more than the amount of acreage determined by the Secretary to be reasonably necessary for such proposed utilization.''.

(c) EXISTING LEASES WITH A DIRECT USE FACILITY.—

(1) APPLICATION TO CONVERT.—Any lessee under a lease under the Geothermal Steam Act of 1970 that was issued before the date of enactment of this Act may apply to the Secretary of the Interior, by not later than 18 months after the date of enactment of this Act, to convert such lease to a lease for direct utilization of geothermal resources in accordance with the amendments made by this section.

(2) CONVERSION.—The Secretary shall approve such an application and convert such a lease to a lease in accordance with the amendments by not later than 180 days after receipt of such application, unless the Secretary determines that the applicant is not a qualified applicant with respect to the lease.

(3) APPLICATION OF NEW LEASE TERMS.—The schedule of fees established under the amendment made by subsection (a)(4) shall apply with respect to payments under a lease converted under this subsection that are due and owing to the United States on or after July 16, 2003.

SEC. 1804. ROYALTIES AND NEAR-TERM PRODUCTION INCENTIVES.

(a) ROYALTY.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

(1) in subsection (a) by striking paragraph (1) and inserting the following:

''(1) a royalty on electricity produced using geothermal resources, other than direct use of geothermal resources, that shall be—

''(A) not less than 1 percent and not more than 2.5 percent of the gross proceeds from the sale of electricity produced from such resources during the first 10 years of production under the lease; and

''(B) not less than 2 and not more than 5 percent of the gross proceeds from the sale of electricity produced from such resources during each year after such 10-year period;''; and

(2) by adding at the end the following:

''(c) FINAL REGULATION ESTABLISHING ROYALTY RATES.—In issuing any final regulation establishing royalty rates under this section, the Secretary shall seek—

''(1) to provide lessees a simplified administrative system;

''(2) to encourage new development;

''(3) to achieve the same long-term level of royalty revenues to States and counties as the regulation in effect on the date of enactment of this subsection; and

''(4) to reflect any change in profitability of operations for which royalties will be paid due to the requirements imposed by Federal agencies, including delays.

''(d) CREDITS FOR IN-KIND PAYMENTS OF ELECTRICITY.—The Secretary may provide to a lessee a credit against royalties owed under this Act, in an amount equal to the value of electricity provided under contract to a State or county government that is entitled to a portion of such royalties under section 20 of this Act, section 35 of the Mineral Leasing Act (30 U.S.C. 191), or section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355), if—

''(1) the Secretary has approved in advance the contract between the lessee and the State or county government for such in-kind payments;

''(2) the contract establishes a specific methodology to determine the value of such credits; and

''(3) the maximum credit will be equal to the royalty value owed to the State or county that is a party to the contract and the electricity received will serve as the royalty payment from the Federal Government to that entity.''.

(b) DISPOSAL OF MONEYS FROM SALES, BONUSES, ROYALTIES, AND RENTS.—Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

''SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

''(a) IN GENERAL.—Except with respect to lands in the State of Alaska, all monies received by the United States from sales, bonuses, rentals, and royalties under this Act shall be paid into the Treasury of the United States. Of amounts deposited under this subsection, subject to the provisions of section

35 of the Mineral Leasing Act (30 U.S.C. 191(b)) and section 5(a)(2) of this Act—

''(1) 50 percent shall be paid to the State within the boundaries of which the leased lands or geothermal resources are or were located; and

''(2) 25 percent shall be paid to the County within the boundaries of which the leased lands or geothermal resources are or were located.

''(b) USE OF PAYMENTS.—Amounts paid to a State or county under subsection (a) shall be used consistent with the terms of section 35 of the Mineral Leasing Act (30 U.S.C. 191).''.

(c) NEAR-TERM PRODUCTION INCENTIVE FOR EXISTING LEASES.—

(1) IN GENERAL.—Notwithstanding section 5(a) of the Geothermal Steam Act of 1970, the royalty required to be paid shall be 50 percent of the amount of the royalty otherwise required, on any lease issued before the date of enactment of this Act that does not convert to new royalty terms under subsection (e)—

(A) with respect to commercial production of energy from a facility that begins such production in the 6-year period beginning on the date of enactment of this Act; or

(B) on qualified expansion geothermal energy.

(2) 4-YEAR APPLICATION.—Paragraph (1) applies only to new commercial production of energy from a facility in the first 4 years of such production.

(d) DEFINITION OF QUALIFIED EXPANSION GEOTHERMAL ENERGY.—In this section, the term ''qualified expansion geothermal energy'' means geothermal energy produced from a generation facility for which—

(1) the production is increased by more than 10 percent as a result of expansion of the facility carried out in the 6-year period beginning on the date of enactment of this Act; and

(2) such production increase is greater than 10 percent of the average production by the facility during the 5-year period preceding the expansion of the facility (as such average is adjusted to reflect any trend, in changes in production during that period).

(e) ROYALTY UNDER EXISTING LEASES.—

(1) IN GENERAL.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 before the date of enactment of this Act may modify the terms of the lease relating to payment of royalties to comply with the amendment made by subsection (a), by applying to the Secretary of the Interior by not later than 18 months after the date of enactment of this Act.

(2) APPLICATION OF MODIFICATION.—Such modification shall apply to any use of geothermal resources to which the amendment applies that occurs after the date of that application.

(3) CONSULTATION.—The Secretary—

(A) shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection; and

(B) may establish royalty based on a gross proceeds percentage within the range specified in the amendment made by subsection (a)(1) and with the concurrence of the lessee and the State.

SEC. 1805. EXPEDITING ADMINISTRATIVE ACTION FOR GEOTHERMAL LEASING.

(a) TREATMENT OF GEOTHERMAL LEASING WITH RESPECT TO FEDERAL LAND MANAGEMENT PLAN REQUIREMENTS.—Section 15 of the Geothermal Steam Act of 1970 (30 U.S.C. 1014) is amended by adding at the end the following:

''(d) TREATMENT OF GEOTHERMAL LEASING UNDER FEDERAL LAND MANAGEMENT PLANS.—Geothermal leasing and development of Federal lands in accordance with this Act is deemed to be consistent with the management of National Forest System lands under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) and public lands under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Land and resource management plans and land use plans in effect under such sections on the date of the enactment of this subsection are deemed to be adequate to proceed with the issuance of leases under this Act.''.

(b) LEASE APPLICATIONS PENDING ON JANUARY 1, 2005.—

(1) PRIORITY.—It shall be a priority for the Secretary of the Interior, and for the Secretary of Agriculture with respect to National Forest Systems lands, to ensure timely completion of administrative actions necessary to process applications for geothermal leasing pending on January 1, 2005.

(2) APPLICABLE LAW.—An application referred to in paragraph (1), and any lease issued pursuant to such an application—

(A) except as provided in subparagraph (B), shall be subject to this section as in effect on January 1, 2005; or

(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.

SEC. 1806. COORDINATION OF GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LANDS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into and submit to Congress a memorandum of understanding in accordance with this section, the Geothermal Steam Act of 1970 (as amended by this Act), and other applicable laws, regarding coordination of leasing and permitting for geothermal development of public lands and National Forest System lands under their respective jurisdictions.

(b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall—

(1) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application procession;

(2) establish a 5-year program for geothermal leasing of lands in the National Forest System, and a process for updating that program every 5 years; and

(3) establish a program for reducing the backlog of geothermal lease application pending on January 1, 2005, by 90 percent within the 5-year period beginning on the date of enactment of this Act, including, as necessary, by—

(A) issuing leases, rejecting lease applications for failure to comply with the provisions of the regulations under which they were filed, or determining that an original applicant (or the applicant's assigns, heirs, or estate) is no longer interested in pursuing the lease application;

(B) making diligent efforts to directly contact the lease applicants (including their heirs, assigns, or estates); and

(C) ensuring that no lease application is rejected except in compliance with all requirements regarding diligent direct contact.

(c) DATA RETRIEVAL SYSTEM.—The memorandum of understanding shall establish a joint data retrieval system that is capable of tracking lease and permit applications and providing to the applicant information as to their status within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 1807. REVIEW AND REPORT TO CONGRESS.

The Secretary of the Interior shall promptly review and report to Congress not later than 3 years after the date of enactment of this Act regarding the status of all withdrawals from leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) of Federal lands, specifying for each such area whether the basis for such withdrawal still applies.

SEC. 1808. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by adding at the end the following:

''SEC. 30. REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES.

''(a) IN GENERAL.—The Secretary of the Interior shall issue regulations under which the Secretary shall reimburse a person that is a lessee, operator, operating rights owner, or applicant for any lease under this Act for reasonable amounts paid by the person for preparation for the Secretary by a contractor or other person selected by the Secretary of any project-level analysis, documentation, or related study required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (a) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily;

''(3) the person maintains records of its costs in accordance with regulations issued by the Secretary;

''(4) the reimbursement is in the form of a reduction in the Federal share of the royalty required to be paid for the lease for which the analysis, documentation, or related study is conducted, and is agreed to by the Secretary and the person reimbursed prior to commencing the analysis, documentation, or related study; and

''(5) the agreement required under paragraph (4) contains provisions—

''(A) reducing royalties owed on lease production based on market prices;

''(B) stipulating an automatic termination of the royalty reduction upon recovery of documented costs; and

''(C) providing a process by which the lessee may seek reimbursement for circumstances in which production from the specified lease is not possible.''.

(b) APPLICATION.—The amendment made by this section shall apply with respect to an analysis, documentation, or a related study conducted on or after the date of enactment of this Act for any lease entered into before, on, or after the date of enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendment made by this section by not later than 1 year after the date of enactment of this Act.

SEC. 1809. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

The Secretary of Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall update the 1978 Assessment of Geothermal Resources, and submit that updated assessment to Congress—

(1) not later than 3 years after the date of enactment of this Act; and

(2) thereafter as the availability of data and developments in technology warrant.

SEC. 1810. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

''SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

''(a) ADOPTION OF UNITS BY LESSEES.—

''(1) IN GENERAL.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not any part of the geothermal field, or like area, is then subject to any Unit Agreement (cooperative plan of development or operation)), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a Unit Agreement for such field, or like area, or any part thereof including direct use resources, if determined and certified by the Secretary to be necessary or advisable in the public interest. A majority interest of lessees under any single lease shall have the authority to commit that lease to a Unit Agreement. The Secretary of the Interior may also initiate the formation of a Unit Agreement, if such action is in the public interest.

''(2) MODIFICATION OF LEASE REQUIREMENTS BY SECRETARY.—The Secretary may, in the discretion of the Secretary, and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of such leases and make conditions with reference to such leases, with the consent of the lessees, in connection with the creation and operation of any such Unit Agreement as the Secretary may deem necessary or proper to secure the proper protection of the public interest. Leases with unlike lease terms or royalty rates do not need to be modified to be in the same unit.

''(b) REQUIREMENT OF PLANS UNDER NEW LEASES.—The Secretary—

''(1) may provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under such a reasonable Unit Agreement; and

''(2) may prescribe such an Agreement under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

''(c) MODIFICATION OF RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION.—The Secretary may require that any Agreement authorized by this section that applies to lands owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the Agreement to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such an Agreement.

''(d) EXCLUSION FROM DETERMINATION OF HOLDING OR CONTROL.—Any lands that are subject to any Agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under any provision of this Act.

''(e) POOLING OF CERTAIN LANDS.—If separate tracts of lands cannot be independently developed and operated to use geothermal resources pursuant to any section of this Act—

''(1) such lands, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, for purposes of development and operation under a Communitization Agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if such pooling is determined by the Secretary to be in the public interest; and

''(2) operation or production pursuant to such an Agreement shall be treated as operation or production with respect to each tract of land that is subject to the agreement.

''(f) UNIT AGREEMENT REVIEW.—No more than 5 years after approval of any cooperative or Unit Agreement and at least every 5 years thereafter, the Secretary shall review each such Agreement and, after notice and opportunity for comment, eliminate from inclusion in such Agreement any lands that the Secretary determines are not reasonably necessary for Unit operations under the Agreement. Such elimination shall be based on scientific evidence, and shall occur only if it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any land so eliminated shall be eligible for an extension under subsection (g) of section 6 if it meets the requirements for such an extension.

''(g) DRILLING OR DEVELOPMENT CONTRACTS.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by 1 or more lessees of geothermal leases, with 1 or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served thereby. All leases operated under such approved drilling or development contracts, and interests thereunder, shall be excepted in determining holdings or control under section 7.

''(h) COORDINATION WITH STATE GOVERNMENTS.—The Secretary shall coordinate unitization and pooling activities with the appropriate State agencies and shall ensure that State leases included in any unitization or pooling arrangement are treated equally with Federal leases.''.

SEC. 1811. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) by striking paragraph (2) and inserting the following:

''(2) a royalty on any byproduct that is a mineral named in the first section of the Mineral Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of such mineral under a lease under that Act;''.

SEC. 1812. REPEAL OF AUTHORITIES OF SECRETARY TO READJUST TERMS, CONDITIONS, RENTALS, AND ROYALTIES.

Section 8 of the Geothermal Steam Act of 1970 (30 U.S.C. 1007) is amended by repealing subsection (b), and by redesignating subsection (c) as subsection (b).

SEC. 1813. CREDITING OF RENTAL TOWARD ROYALTY.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended—

(1) in subsection (a)(2) by inserting ''and'' after the semicolon at the end;

(2) in subsection (a)(3) by striking ''; and'' and inserting a period;

(3) by striking paragraph (4) of subsection (a); and

(4) by adding at the end the following:

''(e) CREDITING OF RENTAL TOWARD ROYALTY.—Any annual rental under this section that is paid with respect to a lease before the first day of the year for which the annual rental is owed shall be credited to the amount of royalty that is required to be paid under the lease for that year.''.

SEC. 1814. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended—

(1) by striking so much as precedes subsection (c), and striking subsections (e), (g), (h), (i), and (j);

(2) by redesignating subsections (c), (d), and (f) in order as subsections (g), (h), and (i); and

(3) by inserting before subsection (g), as so redesignated, the following:

''SEC. 6. LEASE TERM AND WORK COMMITMENT REQUIREMENTS.

''(a) IN GENERAL.—

''(1) PRIMARY TERM.—A geothermal lease shall be for a primary term of 10 years.

''(2) INITIAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease for 5 years if, for each year after the fifth year of the lease—

''(A) the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year; or

''(B) the lessee paid in accordance with subsection (d) the value of any work that was not completed in accordance with those requirements.

''(3) ADDITIONAL EXTENSION.—The Secretary shall extend the primary term of a geothermal lease (after an initial extension under paragraph (2)) for an additional 5 years if, for each year of the initial extension under paragraph (2), the Secretary determined under subsection (c) that the lessee satisfied the work commitment requirements that applied to the lease for that year.

''(b) REQUIREMENT TO SATISFY ANNUAL WORK COMMITMENT REQUIREMENT.—

''(1) IN GENERAL.—The lessee for a geothermal lease shall, for each year after the fifth year of the lease, satisfy work commitment requirements prescribed by the Secretary that apply to the lease for that year.

''(2) PRESCRIPTION OF WORK COMMITMENT REQUIREMENTS.—The Secretary shall issue regulations prescribing minimum equivalent dollar value work commitment requirements for geothermal leases, that—

''(A) require that a lessee, in each year after the fifth year of the primary term of a geothermal lease, diligently work to achieve commercial utilization of geothermal resources under the lease;

''(B) describe work that qualifies to meet these requirements and factors, such as force majeure events, that suspend or modify the work commitment obligation;

''(C) carry forward and apply to work commitment requirements for a year, work completed in any year in the preceding 3-year period that was in excess of the work required to be performed in that preceding year;

''(D) establish transition rules for leases issued before the date of the enactment of this subsection, including terms under which a lease that is near the end of its term on the date of enactment of this subsection may be extended for up to 2 years—

''(i) to allow achievement of production under the lease; or

''(ii) to allow the lease to be included in a producing unit; and

''(E) establish an annual payment that, at the option of the lessee, may be exercised in lieu of meeting any work requirement for a limited number of years that the Secretary determines will not impair achieving diligent development of the geothermal resource.

''(3) GEOTHERMAL LEASE OVERLYING MINING CLAIM.—

''(A) EXEMPTION.—The lessee for a geothermal lease of an area overlying an area subject to a mining claim for which a plan of operations has been approved by the relevant Federal land management agency is exempt from annual work requirements established under this Act, if development of the geothermal resource subject to the lease would interfere with the mining operations under such claim.

''(B) TERMINATION OF EXEMPTION.—An exemption under this paragraph expires upon the termination of the mining operations.

''(4) TERMINATION OF APPLICATION OF REQUIREMENTS.—Work commitment requirements prescribed under this subsection shall not apply to a geothermal lease after the date on which the geothermal resource is utilized under the lease in commercial quantities.

''(c) DETERMINATION OF WHETHER REQUIREMENTS SATISFIED.—The Secretary shall, by not later than 90 days after the end of each year for which work commitment requirements under subsection (b) apply to a geothermal lease—

''(1) determine whether the lessee has satisfied the requirements that apply for that year;

''(2) notify the lessee of that determination; and

''(3) in the case of a notification that the lessee did not satisfy work commitment requirements for the year, include in the notification—

''(A) a description of the specific work that was not completed by the lessee in accordance with the requirements; and

''(B) the amount of the dollar value of such work that was not completed, reduced by the amount of expenditures made for work completed in a prior year that is carried forward pursuant to subsection (b)(2)(D).

''(d) PAYMENT OF VALUE OF UNCOMPLETED WORK.—

''(1) IN GENERAL.—If the Secretary notifies a lessee that the lessee failed to satisfy work commitment requirements under subsection (b), the lessee shall pay to the Secretary, by not later than the end of the 60-day period beginning on the date of the notification, the dollar value of work that was not completed by the lessee, in the amount stated in the notification (as reduced under subsection (c)(3)(B)).

''(2) FAILURE TO PAY VALUE OF UNCOMPLETED WORK.—If a lessee fails to pay such amount to the Secretary before the end of that period, the lease shall terminate upon the expiration of the period.

''(e) CONTINUATION DURING COMMERCIAL UTILIZATION.—

''(1) IN GENERAL.—If a geothermal resource that is subject to a geothermal lease is utilized in commercial quantities within the primary term of the lease under subsection (a) (including any extension of the lease under subsection (a)), such lease shall continue until the date on which the geothermal resource is no longer utilized in commercial quantities.

''(2) CONTINUATION OF ASSOCIATED LEASES.—If a geothermal lease is for an area in which there is injected fluid or steam from a nearby geothermal resource for the purpose of maintaining commercial utilization of a geothermal resource, such lease shall continue until such commercial utilization is terminated.

''(f) CONVERSION OF GEOTHERMAL LEASE TO MINERAL LEASE.—A lessee under a lease for a geothermal resource that has been utilized for commercial production of electricity, has been determined by the Secretary to be incapable of any further commercial utilization, and is producing any valuable byproduct in payable quantities may, within 6 months after such determination—

''(1) convert the lease to a mineral lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.) or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.), if the lands that are subject to the lease can be leased under that Act for the production of such byproduct; or

''(2) convert the lease to a mining claim under the general mining laws, if the byproduct is a locatable mineral.''.

SEC. 1815. ADVANCED ROYALTIES REQUIRED FOR SUSPENSION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:

''(f) ADVANCED ROYALTIES REQUIRED FOR SUSPENSION OF PRODUCTION.—

''(1) CONTINUATION OF LEASE FOLLOWING CESSATION OF PRODUCTION.—If, at any time after commercial production under a geothermal lease is achieved, production ceases for any cause the lease shall remain in full force and effect—

''(A) during the 1-year period beginning on the date production ceases; and

''(B) after such period if, and so long as, the lessee commences and continues diligently and in good faith until such production is resumed the steps, operations, or procedures necessary to cause a resumption of such production.

''(2) ADVANCE ROYALTIES FOLLOWING SUSPENSION OF PRODUCTION.—If production of heat or energy under a geothermal lease is suspended after the date of any such production for which royalty is required under subsection (a) and the terms of paragraph (1) are not met, the Secretary shall require the lessee, until the end of such suspension, to pay royalty in advance at the monthly pro rata rate of the average annual rate at which such royalty was paid each year in the 5-year-period preceding the date of suspension.

''(3) LIMITATION ON APPLICATION.—Paragraph (2) shall not apply if the suspension is required or otherwise caused by the Secretary, the Secretary of a military department, a State or local government, or a force majeure.''.

SEC. 1816. ANNUAL RENTAL.

(a) ANNUAL RENTAL RATE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended in subsection (a) in paragraph (3) by striking ''$1 per acre or fraction thereof for each year of the lease'' and all that follows through the end of the paragraph and inserting ''$1 per acre or fraction thereof for each year of the lease through the tenth year in the case of a lease awarded in a noncompetitive lease sale; or $2 per acre or fraction thereof for the first year, $3 per acre or fraction thereof for each of the second through tenth years, in the case of a lease awarded in a competitive lease sale; and $5 per acre or fraction thereof for each year after the 10th year thereof for all leases.''.

(b) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is further amended by adding at the end the following:

''(g) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—

''(1) IN GENERAL.—The Secretary shall terminate any geothermal lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, upon the expiration of the 45-day period beginning on the date of the failure to pay such rental.

''(2) NOTIFICATION.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

''(3) REINSTATEMENT.—A geothermal lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of such amount.''.

SEC. 1817. DEPOSIT AND USE OF GEOTHERMAL LEASE REVENUES FOR 5 FISCAL YEARS.

(a) DEPOSIT OF GEOTHERMAL RESOURCES LEASES.—Notwithstanding any other provision of law, amounts received by the United States in the first 5 fiscal years beginning after the date of enactment of this Act as rentals, royalties, and other payments required under leases under the Geothermal Steam Act of 1970, excluding funds required to be paid to State and county governments, shall be deposited into a separate account in the Treasury.

(b) USE OF DEPOSITS.—Subject to appropriations, the Secretary may use amounts deposited under subsection (a) to implement the Geothermal Steam Act of 1970 and this Act.

SEC. 1818. REPEAL OF ACREAGE LIMITATIONS.

Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is repealed.

SEC. 1819. TECHNICAL AMENDMENTS.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is further amended as follows:

(1) By striking ''geothermal steam and associated geothermal resources'' each place it appears and inserting ''geothermal resources''.

(2) Section 2(e) (30 U.S.C. 1001(e)) is amended to read as follows:

''(e) 'direct use' means utilization of geothermal resources for commercial, residential, agricultural, public facilities, off-grid generation of electricity, or other energy needs other than the commercial production of electricity; and''.

(3) Section 21 (30 U.S.C. 1020) is amended by striking ''(a) Within one hundred'' and all that follows through ''(b) Geothermal'' and inserting ''Geothermal''.

(4) The first section (30 U.S.C. 1001 note) is amended by striking ''That this'' and inserting the following:

''SEC. 1. SHORT TITLE.

''This''.

(5) Section 2 (30 U.S.C. 1001) is amended by striking ''SEC. 2. As'' and inserting the following:

''SEC. 2. DEFINITIONS.

''As''.

(6) Section 3 (30 U.S.C. 1002) is amended by striking ''SEC. 3. Subject'' and inserting the following:

''SEC. 3. LANDS SUBJECT TO GEOTHERMAL LEASING.

''Subject''.

(7) Section 5 (30 U.S.C. 1004) is further amended by striking ''SEC. 5.'', and by inserting immediately before and above subsection (a) the following:

''SEC. 5. RENTS AND ROYALTIES.''.

(8) Section 8 (30 U.S.C. 1007) is amended by striking ''SEC. 8. (a) The'' and inserting the following:

''SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

''(a) The''.

(9) Section 9 (30 U.S.C. 1008) is amended by striking ''SEC. 9. If'' and inserting the following:

''SEC. 9. BYPRODUCTS.

''If''.

(10) Section 10 (30 U.S.C. 1009) is amended by striking ''SEC. 10. The'' and inserting the following:

''SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

''The''.

(11) Section 11 (30 U.S.C. 1010) is amended by striking ''SEC. 11. The'' and inserting the following:

''SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

''The''.

(12) Section 12 (30 U.S.C. 1011) is amended by striking ''SEC. 12. Leases'' and inserting the following:

''SEC. 12. TERMINATION OF LEASES.

''Leases''.

(13) Section 13 (30 U.S.C. 1012) is amended by striking ''SEC. 13. The'' and inserting the following:

''SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

''The''.

(14) Section 14 (30 U.S.C. 1013) is amended by striking ''SEC. 14. Subject'' and inserting the following:

"SEC. 14. SURFACE LAND USE.

''Subject''.

(15) Section 15 (30 U.S.C. 1014) is amended by striking ''SEC. 15. (a) Geothermal'' and inserting the following:

"SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

''(a) Geothermal''.

(16) Section 16 (30 U.S.C. 1015) is amended by striking ''SEC. 16. Leases'' and inserting the following:

"SEC. 16. REQUIREMENT FOR LESSEES.

''Leases''.

(17) Section 17 (30 U.S.C. 1016) is amended by striking ''SEC. 17. Administration'' and inserting the following:

"SEC. 17. ADMINISTRATION.

''Administration''.

(18) Section 19 (30 U.S.C. 1018) is amended by striking ''SEC. 19. Upon'' and inserting the following:

"SEC. 19. DATA FROM FEDERAL AGENCIES.

''Upon''.

(19) Section 21 (30 U.S.C. 1020) is further amended by striking ''SEC. 21.'', and by inserting immediately before and above the remainder of that section the following:

"SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.".

(20) Section 22 (30 U.S.C. 1021) is amended by striking ''SEC. 22. Nothing'' and inserting the following:

"SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

''Nothing''.

(21) Section 23 (30 U.S.C. 1022) is amended by striking ''SEC. 23. (a) All'' and inserting the following:

"SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

''(a) All''.

(22) Section 24 (30 U.S.C. 1023) is amended by striking ''SEC. 24. The'' and inserting the following:

"SEC. 24. RULES AND REGULATIONS.

''The''.

(23) Section 25 (30 U.S.C. 1024) is amended by striking ''SEC. 25. As'' and inserting the following:

"SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

''As''.

(24) Section 26 is amended by striking ''SEC. 26. The'' and inserting the following:

"SEC. 26. AMENDMENT.

''The''.

(25) Section 27 (30 U.S.C. 1025) is amended by striking ''SEC. 27. The'' and inserting the following:

"SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

''The''.

(26) Section 28 (30 U.S.C. 1026) is amended by striking ''SEC. 28. (a)(1) The'' and inserting the following:

"SEC. 28. SIGNIFICANT THERMAL FEATURES.

''(a)(1) The''.

(27) Section 29 (30 U.S.C. 1027) is amended by striking ''SEC. 29. The'' and inserting the following:

"SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

''The''.

SEC. 1820. INTERMOUNTAIN WEST GEOTHERMAL CONSORTIUM.

(a) PARTICIPATION AUTHORIZED.—The Secretary of Energy, acting through the Idaho National Laboratory, may participate in a consortium described in subsection (b) to address science and science policy issues surrounding the expanded discovery and use of geothermal energy, including from geothermal resources on public lands.

(b) MEMBERS.—The consortium referred to in subsection (a) shall—

(1) be known as the ''Intermountain West Geothermal Consortium'';

(2) be a regional consortium of institutions and government agencies that focuses on building collaborative efforts among the universities in the State of Idaho, other regional universities, State agencies, and the Idaho National Laboratory;

(3) include Boise State University, the University of Idaho (including the Idaho Water Resources Research Institute), the Oregon Institute of Technology, the Desert Research Institute with the University and Community College System of Nevada, and the Energy and Geoscience Institute at the University of Utah;

(4) be hosted and managed by Boise State University; and

(5) have a director appointed by Boise State University, and associate directors appointed by each participating institution.

(c) FINANCIAL ASSISTANCE.—The Secretary of Energy, acting through the Idaho National Laboratory and subject to the availability of appropriations, will provide financial assistance to Boise State University for expenditure under contracts with members of the consortium to carry out the activities of the consortium.

TITLE XIX—HYDROPOWER

SEC. 1901. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) IN GENERAL.—The Secretary of the Interior, the Secretary of Energy, and the Secretary of the Army shall jointly conduct a study of the potential for increasing electric power production capability at federally owned or operated water regulation, storage, and conveyance facilities.

(b) CONTENT.—The study under this section shall include identification and description in detail of each facility that is capable, with or without modification, of producing additional hydroelectric power, including estimation of the existing potential for the facility to generate hydroelectric power.

(c) REPORT.—The Secretaries shall submit to the Committees on Energy and Commerce, Resources, and Transportation and Infrastructure of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study under this section by not later than 18 months after the date of the enactment of this Act. The report shall include each of the following:

(1) The identifications, descriptions, and estimations referred to in subsection (b).

(2) A description of activities currently conducted or considered, or that could be considered, to produce additional hydroelectric power from each identified facility.

(3) A summary of prior actions taken by the Secretaries to produce additional hydroelectric power from each identified facility.

(4) The costs to install, upgrade, or modify equipment or take other actions to produce additional hydroelectric power from each identified facility and the level of Federal power customer involvement in the determination of such costs.

(5) The benefits that would be achieved by such installation, upgrade, modification, or other action, including quantified estimates of any additional energy or capacity from each facility identified under subsection (b).

(6) A description of actions that are planned, underway, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, by performing generator upgrades or rewinds, or construction of pumped storage facilities.

(7) The impact of increased hydroelectric power production on irrigation, water supply, fish, wildlife, Indian tribes, river health, water quality, navigation, recreation, fishing, and flood control.

(8) Any additional recommendations to increase hydroelectric power production from, and reduce costs and improve efficiency at, federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 1902. SHIFT OF PROJECT LOADS TO OFF-PEAK PERIODS.

(a) IN GENERAL.—The Secretary of the Interior shall—

(1) review electric power consumption by Bureau of Reclamation facilities for water pumping purposes; and

(2) make such adjustments in such pumping as possible to minimize the amount of electric power consumed for such pumping during periods of peak electric power consumption, including by performing as much of such pumping as possible during off-peak hours at night.

(b) CONSENT OF AFFECTED IRRIGATION CUSTOMERS REQUIRED.—The Secretary may not under this section make any adjustment in pumping at a facility without the consent of each person that has contracted with the United States for delivery of water from the facility for use for irrigation and that would be affected by such adjustment.

(c) EXISTING OBLIGATIONS NOT AFFECTED.—This section shall not be construed to affect any existing obligation of the Secretary to provide electric power, water, or other benefits from Bureau of Reclamation facilities, including recreational releases.

SEC. 1903. REPORT IDENTIFYING AND DESCRIBING THE STATUS OF POTENTIAL HYDROPOWER FACILITIES.

(a) REPORT REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, acting through the Bureau of Reclamation, shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report identifying and describing the status of potential hydropower facilities included in water surface storage studies undertaken by the Secretary for projects that have not been completed or authorized for construction.

(b) REPORT CONTENTS.—The report shall include the following:

(1) Identification of all surface storage studies authorized by Congress since the enactment of the Reclamation Project Act of 1939 (43 U.S.C. 485 et seq.).

(2) The purposes of each project included within each study identified under paragraph (1).

(3) The status of each study identified under paragraph (1), including for each study—

(A) whether the study is completed or, if not completed, still authorized;

(B) the level of analyses conducted at the feasibility and reconnaissance levels of review;

(C) identifiable environmental impacts of each project included in the study, including to fish and wildlife, water quality, and recreation;

(D) projected water yield from each such project;

(E) beneficiaries of each such project;

(F) the amount authorized and expended;

(G) projected funding needs and timelines for completing the study (if applicable);

(H) anticipated costs of each such project; and

(I) other factors that might interfere with construction of any such project.

(4) An identification of potential hydroelectric facilities that might be developed pursuant to each study identified under paragraph (1).

(5) Applicable costs and benefits associated with potential hydroelectric production pursuant to each study.

TITLE XX—OIL AND GAS—RESOURCES

Subtitle A—Production Incentives

SEC. 2001. DEFINITION OF SECRETARY.

In this subtitle, the term ''Secretary'' means the Secretary of the Interior.

SEC. 2002. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after the date of enactment of this Act under any Federal oil or gas lease or permit under section 36 of the Mineral Leasing Act (30 U.S.C. 192), section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353), or any other Federal law governing leasing of Federal land for oil and gas development.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States shall, on the demand of the Secretary, be paid in oil or gas. If the Secretary makes such a demand, the following provisions apply to such payment:

(1) SATISFACTION OF ROYALTY OBLIGATION.—Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies the lessee's royalty obligation for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) MARKETABLE CONDITION.—

(A) IN GENERAL.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(B) DEFINITION OF MARKETABLE CONDITION.—In this paragraph, the term ''in marketable condition'' means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(3) DISPOSITION BY THE SECRETARY.—The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3))) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) RETENTION BY THE SECRETARY.—The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use oil or gas received as royalty taken in-kind (in this paragraph referred to as ''royalty production'') to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from the sale of oil taken in-kind, without fiscal year limitation, to pay salaries and other administrative costs directly related to the royalty-in-kind program.

(c) REIMBURSEMENT OF COST.—If the lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) REPORTS.—

(1) IN GENERAL.—Not later than September 30, 2005, the Secretary shall submit to Congress a report that addresses—

(A) actions taken to develop businesses processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) REPORTS ON OIL OR GAS ROYALTIES TAKEN IN-KIND.—For each of fiscal years 2005 through 2014 in which the United States takes oil or gas royalties in-kind from production in any State or from the outer Continental Shelf, excluding royalties taken in-kind and sold to refineries under subsection (h), the Secretary shall submit to Congress a report that describes—

(A) the methodology or methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-value;

(B) an explanation of the evaluation that led the Secretary to take royalties in-kind from a lease or group of leases, including the expected revenue effect of taking royalties in-kind;

(C) actual amounts received by the United States derived from taking royalties in-kind and costs and savings incurred by the United States associated with taking royalties in-kind, including, but not limited to, administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties in-kind.

(f) DEDUCTION OF EXPENSES.—

(1) IN GENERAL.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the United States Treasury.

(2) ACCOUNTING FOR DEDUCTIONS.—When the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary—

(1) shall consult with a State before conducting a royalty in-kind program under this subtitle within the State, and may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(2) shall consult annually with any State from which Federal oil or gas royalty is being taken in-kind to ensure, to the maximum extent practicable, that the royalty in-kind program provides revenues to the State greater than or equal to those likely to have been received had royalties been taken in-value.

(h) SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not have their own source of supply for crude oil, the Secretary may grant preference to such refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in such refineries at private sale at not less than the market price.

(2) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary of Energy may, at the discretion of the Secretary, prorate the oil among refineries described in paragraph (1) in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary in-kind from onshore oil and gas leases may be sold at not less than the market price to any Federal agency.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in-kind from a Federal oil or gas lease on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—

(1) PREFERENCE.—In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit a report to Congress, assessing the effectiveness of granting preferences specified in paragraph (1) and providing a specific recommendation on the continuation of authority to grant preferences.

SEC. 2003. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) DEFINITION OF MARGINAL PROPERTY.—Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this section the term ''marginal property'' means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 million British thermal units of gas per well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary issues regulations under subsection (e) that prescribe different thresholds or standards, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) when the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) when

the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units for 90 consecutive trading days.

(c) REDUCED ROYALTY RATE.—

(1) IN GENERAL.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) PERIOD OF EFFECTIVENESS.—The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (d)(1)(A) shall terminate—

(1) with respect to oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) REGULATIONS PRESCRIBING DIFFERENT RELIEF.—

(1) DISCRETIONARY REGULATIONS.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) MANDATORY REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall by regulation—

(A) prescribe standards and requirements for, and the extent of royalty relief for, marginal properties for oil and gas leases on the outer Continental Shelf; and

(B) define what constitutes a marginal property on the outer Continental Shelf for purposes of this section.

(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters.

(f) SAVINGS PROVISION.—Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

SEC. 2004. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) ROYALTY INCENTIVE REGULATIONS FOR ULTRA DEEP GAS WELLS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35,000,000,000 cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(2) DEFINITION OF ULTRA DEEP WELL.—In this subsection, the term ''ultra deep well'' means a well drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(b) ROYALTY INCENTIVE REGULATIONS FOR DEEP GAS WELLS.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes with respect to the production of natural gas from deep wells on leases issued in waters more than 200 meters but less than 400 meters deep located in the Gulf of Mexico wholly west of 87 degrees, 30 minutes west longitude. The suspension volumes for deep wells within 200 to 400 meters of water depth shall be calculated using the same methodology used to calculate the suspension volumes for deep wells in the shallower waters of the Gulf of Mexico, and in no case shall the suspension volumes for deep wells within 200 to 400 meters of water depth be lower than those for deep wells in shallower waters. Regulations issued under this subsection shall be retroactive to the date that the notice of proposed rulemaking is published in the Federal Register.

(c) LIMITATION.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

SEC. 2005. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) IN GENERAL.—For all tracts located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico, including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring within 5 years after the date of enactment of this Act shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)), except that the suspension of royalties shall be set at a volume of not less than—

(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 to 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 to 1,600 meters;

(3) 12,000,000 barrels of oil equivalent for each lease in water depths of 1,600 to 2,000 meters; and

(4) 16,000,000 barrels of oil equivalent for each lease in water depths greater than 2,000 meters.

(b) LIMITATION.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

SEC. 2006. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by inserting ''and in the Planning Areas offshore Alaska'' after ''West longitude''.

SEC. 2007. OIL AND GAS LEASING IN THE NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) TRANSFER OF AUTHORITY.—

(1) REDESIGNATION.—The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.) is amended by redesignating section 107 (42 U.S.C. 6507) as section 108.

(2) TRANSFER.—The matter under the heading ''EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA'' under the heading ''ENERGY AND MINERALS'' of title I of Public Law 96–514 (42 U.S.C. 6508) is—

(A) transferred to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

(B) designated as section 107 of that Act; and

(C) moved so as to appear after section 106 of that Act (42 U.S.C. 6506).

(b) COMPETITIVE LEASING.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as amended by subsection (a) of this section) is amended—

(1) by striking the heading and all that follows through ''*Provided*, That (1) activities'' and inserting the following:

''SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.

''(a) IN GENERAL.—Notwithstanding any other provision of law and pursuant to regulations issued by the Secretary, the Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska (referred to in this section as the 'Reserve').

''(b) MITIGATION OF ADVERSE EFFECTS.—Activities'';

(2) by striking ''Alaska (the Reserve); (2) the'' and inserting

''Alaska.

''(c) LAND USE PLANNING; BLM WILDERNESS STUDY.—The'';

(3) by striking ''Reserve; (3) the'' and inserting

''Reserve.

''(d) FIRST LEASE SALE.—The'';

(4) by striking ''4332); (4) the'' and inserting ''4321 et seq.).

''(e) WITHDRAWALS.—The'';

(5) by striking ''herein; (5) bidding'' and inserting

''under this section.

''(f) BIDDING SYSTEMS.—Bidding'';

(6) by striking ''629); (6) lease'' and inserting

''629).

''(g) GEOLOGICAL STRUCTURES.—Lease'';

(7) by striking ''structures; (7) the'' and inserting

''structures.

''(h) SIZE OF LEASE TRACTS.—The'';

(8) by striking ''Secretary; (8)'' and all that follows through ''Drilling, production,'' and inserting

''Secretary.

''(i) TERMS.—

''(1) IN GENERAL.—Each lease shall be—

''(A) issued for an initial period of not more than 10 years; and

''(B) renewed for successive 10-year terms if—

''(i) oil or gas is produced from the lease in paying quantities;

''(ii) oil or gas is capable of being produced in paying quantities; or

''(iii) drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

''(2) RENEWAL OF NONPRODUCING LEASES.—The Secretary shall renew for an additional

10-year term a lease that does not meet the requirements of paragraph (1)(B) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and—

''(A) the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on 1 or more wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development;

''(B) the lessee—

''(i) pays the Secretary a renewal fee of $100 per acre of leased land; and

''(ii) provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future development of the leased land; or

''(C) all or part of the lease—

''(i) is part of a unit agreement covering a lease described in subparagraph (A) or (B); and

''(ii) has not been previously contracted out of the unit.

''(3) APPLICABILITY.—This subsection applies to a lease that—

''(A) is entered into before, on, or after the date of enactment of the Energy Policy Act of 2005; and

''(B) is effective on or after the date of enactment of that Act.

''(j) UNIT AGREEMENTS.—

''(1) IN GENERAL.—For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest.

''(2) PARTICIPATION BY STATE OF ALASKA.—The Secretary shall ensure that the State of Alaska is provided the opportunity for active participation concerning creation and management of units formed or expanded under this subsection that include acreage in which the State of Alaska has an interest in the mineral estate.

''(3) PARTICIPATION BY REGIONAL CORPORATIONS.—The Secretary shall ensure that any Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) is provided the opportunity for active participation concerning creation and management of units that include acreage in which the Regional Corporation has an interest in the mineral estate.

''(4) PRODUCTION ALLOCATION METHODOLOGY.—The Secretary may use a production allocation methodology for each participating area within a unit created for land in the Reserve, State of Alaska land, or Regional Corporation land shall, when appropriate, be based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and a real variation in reservoir producibility across diverse leasehold interests.

''(5) BENEFIT OF OPERATIONS.—Drilling, production,'';

(9) by striking ''When separate'' and inserting the following:

''(6) POOLING.—If separate'';

(10) by inserting ''(in consultation with the owners of the other land)'' after ''determined by the Secretary of the Interior'';

(11) by striking ''thereto; (10) to'' and all that follows through ''the terms provided therein.'' and inserting

''to the agreement.

''(k) EXPLORATION INCENTIVES.—

''(1) IN GENERAL.—

''(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), if (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include lands available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) the Secretary determines that the waiver, suspension, or reduction is in the public interest.

''(B) APPLICABILITY.—This paragraph applies to a lease that—

''(i) is entered into before, on, or after the date of enactment of the Energy Policy Act of 2005; and

''(ii) is effective on or after the date of enactment of that Act.'';

(12) by striking ''The Secretary is authorized to'' and inserting the following:

''(2) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may'';

(13) by striking ''In the event'' and inserting the following:

''(3) SUSPENSION OF PAYMENTS.—If'';

(14) by striking ''thereto; and (11) all'' and inserting

''to the lease.

''(l) RECEIPTS.—All'';

(15) by redesignating clauses (A), (B), and (C) as clauses (1), (2), and (3), respectively;

(16) by striking ''Any agency'' and inserting the following:

''(m) EXPLORATIONS.—Any agency'';

(17) by striking ''Any action'' and inserting the following:

''(n) ENVIRONMENTAL IMPACT STATEMENTS.—

''(1) JUDICIAL REVIEW.—Any action'';

(18) by striking ''The detailed'' and inserting the following:

''(2) INITIAL LEASE SALES.—The detailed'';

(19) by striking ''of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504)''; and

(20) by adding at the end the following:

''(o) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)) or any other provision of law—

''(1) the Secretary of the Interior shall waive administration of any oil and gas lease insofar as such lease covers any land in the National Petroleum Reserve in Alaska in which the subsurface estate is conveyed to the Arctic Slope Regional Corporation; and

''(2) if any such conveyance of such subsurface estate does not cover all the land embraced within any such oil and gas lease—

''(A) the person who owns the subsurface estate in any particular portion of the land covered by such lease shall be entitled to all of the revenues reserved under such lease as to such portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to such particular portion of the land covered by such lease; and

''(B) the Secretary of the Interior shall segregate such lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Arctic Slope Regional Corporation, and operations, production, or other circumstances (other than payment of rentals or royalties) that satisfy obligations of the lessee under, or maintain, either of the segregated leases shall likewise satisfy obligations of the lessee under, or maintain, the other segregated lease to the same extent as if such segregated leases remained a part of the original unsegregated lease.''.

SEC. 2008. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

(b) ACTIVITIES.—The program under subsection (a) shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned, or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(c) COOPERATION AND CONSULTATIONS.—In carrying out the program under subsection (a), the Secretary shall—

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(d) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall submit to Congress a plan for carrying out the program under subsection (a).

(e) IDLED WELL.—For the purposes of this section, a well is idled if—

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LAND.—

(1) IN GENERAL.—The Secretary of Energy shall establish a program to provide technical and financial assistance to oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private land.

(2) ASSISTANCE.—The Secretary of Energy shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned or abandoned oil or gas wells on State and private land.

(3) ACTIVITIES.—The program under paragraph (1) shall include—

(A) mechanisms to facilitate identification, if feasible, of the persons currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities;

(C) information and training programs on best practices for remediation of different types of sites; and

(D) funding of State mitigation efforts on a cost-shared basis.

(g) FEDERAL REIMBURSEMENT FOR ORPHANED WELL RECLAMATION PILOT PROGRAM.—

(1) REIMBURSEMENT FOR REMEDIATING, RECLAIMING, AND CLOSING WELLS ON LAND SUBJECT TO A NEW LEASE.—The Secretary shall carry out a pilot program under which, in issuing a new oil and gas lease on federally owned land on which 1 or more orphaned wells are located, the Secretary—

(A) may require, but not as a condition of the lease, that the lessee remediate, reclaim, and close in accordance with standards established by the Secretary, all orphaned wells on the land leased; and

(B) shall develop a program to reimburse a lessee, through a royalty credit against the Federal share of royalties owed or other means, for the reasonable actual costs of remediating, reclaiming, and closing the orphaned well pursuant to that requirement.

(2) REIMBURSEMENT FOR RECLAIMING ORPHANED WELLS ON OTHER LAND.—In carrying out this subsection, the Secretary—

(A) may authorize any lessee under an oil and gas lease on federally owned land to reclaim in accordance with the Secretary's standards—

(i) an orphaned well on unleased federally owned land; or

(ii) an orphaned well located on an existing lease on federally owned land for the reclamation of which the lessee is not legally responsible; and

(B) shall develop a program to provide reimbursement of 115 percent of the reasonable actual costs of remediating, reclaiming, and closing the orphaned well, through credits against the Federal share of royalties or other means.

(3) EFFECT OF REMEDIATION, RECLAMATION, OR CLOSURE OF WELL PURSUANT TO AN APPROVED REMEDIATION PLAN.—

(A) DEFINITION OF REMEDIATING PARTY.—In this paragraph the term ''remediating party'' means a person who remediates, reclaims, or closes an abandoned, orphaned, or idled well pursuant to this subsection.

(B) GENERAL RULE.—A remediating party who remediates, reclaims, or closes an abandoned, orphaned, or idled well in accordance with a detailed written remediation plan approved by the Secretary under this subsection, shall be immune from civil liability under Federal environmental laws, for—

(i) pre-existing environmental conditions at or associated with the well, unless the remediating party owns or operates, in the past owned or operated, or is related to a person that owns or operates or in the past owned or operated, the well or the land on which the well is located; or

(ii) any remaining releases of pollutants from the well during or after completion of the remediation, reclamation, or closure of the well, unless the remediating party causes increased pollution as a result of activities that are not in accordance with the approved remediation plan.

(C) LIMITATIONS.—Nothing in this section shall limit in any way the liability of a remediating party for injury, damage, or pollution resulting from the remediating party's acts or omissions that are not in accordance with the approved remediation plan, are reckless or willful, constitute gross negligence or wanton misconduct, or are unlawful.

(4) REGULATIONS.—The Secretary may issue such regulations as are appropriate to carry out this subsection.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.

(2) USE.—Of the amounts authorized under paragraph (1), $5,000,000 are authorized for each fiscal year for activities under subsection (f).

SEC. 2009. COMBINED HYDROCARBON LEASING.

(a) SPECIAL PROVISIONS REGARDING LEASING.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

''(i) a lease for exploration for and extraction of tar sand; and

''(ii) a lease for exploration for and development of oil and gas.

''(C) A lease issued for tar sand shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $2 per acre.

''(D) The Secretary may waive, suspend, or alter any requirement under section 26 that a permittee under a permit authorizing prospecting for tar sand must exercise due diligence, to promote any resource covered by a combined hydrocarbon lease.''.

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is amended in the second sentence by inserting '', subject to paragraph (2)(B),'' after ''Secretary''.

(c) REGULATIONS.—Not later than 45 days after the date of enactment of this Act, the Secretary shall issue final regulations to implement this section.

SEC. 2010. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

''(A) support exploration, development, production, transportation, or storage of oil, natural gas, or other minerals;

''(B) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

''(C) use, for energy-related or marine-related purposes, facilities currently or previously used for activities authorized under this Act.

''(2) PAYMENTS.—The Secretary shall establish reasonable forms of payments for any easement or right-of-way granted under this subsection. Such payments shall not be assessed on the basis of throughput or production. The Secretary may establish fees, rentals, bonus, or other payments by rule or by agreement with the party to which the lease, easement, or right-of-way is granted. If a lease, easement, right-of-way, license, or permit under this subsection covers a specific tract of, or regards a facility located on, the outer Continental Shelf and is not an easement or right-of-way for transmission or transportation of energy, minerals, or other natural resources, the Secretary shall pay 50 percent of any amount received from the holder of the lease, easement, right-of-way, license, or permit to the State off the shore of which the geographic center of the area covered by the lease, easement, right-of-way, license, permit, or facility is located, in accordance with Federal law determining the seaward lateral boundaries of the coastal States.

''(3) CONSULTATION.—Before exercising authority under this subsection, the Secretary shall consult with the Secretary of Defense and other appropriate agencies concerning issues related to national security and navigational obstruction.

''(4) COMPETITIVE OR NONCOMPETITIVE BASIS.—

''(A) IN GENERAL.—The Secretary may issue a lease, easement, or right-of-way for energy and related purposes as described in paragraph (1) on a competitive or noncompetitive basis.

''(B) CONSIDERATIONS.—In determining whether a lease, easement, or right-of-way shall be granted competitively or noncompetitively, the Secretary shall consider such factors as—

''(i) prevention of waste and conservation of natural resources;

''(ii) the economic viability of an energy project;

''(iii) protection of the environment;

''(iv) the national interest and national security;

''(v) human safety;

''(vi) protection of correlative rights; and

''(vii) potential return for the lease, easement, or right-of-way.

''(5) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2005, the Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant agencies of the Federal Government and affected States, shall issue any necessary regulations to ensure safety, protection of the environment, prevention of waste, and conservation of the natural resources of the outer Continental Shelf, protection of national security interests, and protection of correlative rights in the outer Continental Shelf.

''(6) SECURITY.—The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to furnish a surety bond or other form of security, as prescribed by the Secretary, and to comply with such other requirements as the Secretary considers necessary to protect the interests of the United States.

''(7) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

''(8) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf designated as a National Marine Sanctuary.''.

(b) CONFORMING AMENDMENT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking the section heading and inserting the following: ''LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—''.

(c) SAVINGS PROVISION.—Nothing in the amendment made by subsection (a) requires, with respect to any project—

(1) for which offshore test facilities have been constructed before the date of enactment of this Act; or

(2) for which a request for proposals has been issued by a public authority,

any resubmittal of documents previously submitted or any reauthorization of actions previously authorized.

SEC. 2011. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

(a) SHORT TITLE.—This section may be cited as the ''National Geological and Geophysical Data Preservation Program Act of 2005''.

(b) PROGRAM.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material; and

(3) to provide technical and financial assistance related to the archival material.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as the geological survey in the State.

(4) DATA FROM FEDERAL LAND.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data were collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) NATIONAL CATALOG.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in the system; and

(C) the means of accessing the material.

(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities under subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be not more than 50 percent of the total cost of the activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) PROGRAM.—The term ''Program'' means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) SURVEY.—The term ''Survey'' means the United States Geological Survey.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2006 through 2010.

SEC. 2012. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after ''acreage held in special tar sand areas'' the following: '', and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year,''.

SEC. 2013. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION UNDER THE COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) IN GENERAL.—Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended to read as follows:

''APPEALS TO THE SECRETARY

''SEC. 319. (a) NOTICE.—The Secretary shall publish an initial notice in the Federal Register not later than 30 days after the date of the filing of any appeal to the Secretary of a consistency determination under section 307.

''(b) CLOSURE OF RECORD.—

''(1) IN GENERAL.—Not later than the end of the 120-day period beginning on the date of publication of an initial notice under subsection (a), the Secretary shall receive no more filings on the appeal and the administrative record regarding the appeal shall be closed.

''(2) NOTICE.—Upon the closure of the administrative record, the Secretary shall immediately publish a notice that the administrative record has been closed.

''(c) DEADLINE FOR DECISION.—The Secretary shall issue a decision in any appeal filed under section 307 not later than 120 days after the closure of the administrative record.

''(d) APPLICATION.—This section applies to appeals initiated by the Secretary and appeals filed by an applicant.''.

(b) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to any appeal initiated or filed before, on, or after the date of enactment of this Act.

(2) LIMITATION.—Subsection (a) of section 319 of the Coastal Zone Management Act of 1972 (as amended by subsection (a)) shall not apply with respect to an appeal initiated or filed before the date of enactment of this Act.

(c) CLOSURE OF RECORD FOR APPEAL FILED BEFORE DATE OF ENACTMENT.—Notwithstanding section 319(b)(1) of the Coastal Zone Management Act of 1972 (as amended by this section), in the case of an appeal of a consistency determination under section 307 of that Act initiated or filed before the date of enactment of this Act, the Secretary of Commerce shall receive no more filings on the appeal and the administrative record regarding the appeal shall be closed not later than 120 days after the date of enactment of this Act.

SEC. 2014. REIMBURSEMENT FOR COSTS OF NEPA ANALYSES, DOCUMENTATION, AND STUDIES.

(a) IN GENERAL.—The Mineral Leasing Act is amended by inserting after section 37 (30 U.S.C. 193) the following:

''REIMBURSEMENT FOR COSTS OF CERTAIN ANALYSES, DOCUMENTATION, AND STUDIES

''SEC. 38. (a) IN GENERAL.—The Secretary of the Interior shall issue regulations under which the Secretary shall reimburse a person that is a lessee, operator, operating rights owner, or applicant for any lease under this Act for reasonable amounts paid by the person for preparation for the Secretary by a contractor or other person selected by the Secretary of any project-level analysis, documentation, or related study required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the lease.

''(b) CONDITIONS.—The Secretary may provide reimbursement under subsection (a) only if—

''(1) adequate funding to enable the Secretary to timely prepare the analysis, documentation, or related study is not appropriated;

''(2) the person paid the costs voluntarily;

''(3) the person maintains records of its costs in accordance with regulations issued by the Secretary;

''(4) the reimbursement is in the form of a reduction in the Federal share of the royalty required to be paid for the lease for which the analysis, documentation, or related study is conducted, and is agreed to by the Secretary and the person reimbursed prior to commencing the analysis, documentation, or related study; and

''(5) the agreement required under paragraph (4) contains provisions—

''(A) reducing royalties owed on lease production based on market prices;

''(B) stipulating an automatic termination of the royalty reduction upon recovery of documented costs; and

''(C) providing a process by which the lessee may seek reimbursement for circumstances in which production from the specified lease is not possible.''.

(b) APPLICATION.—The amendment made by this section shall apply with respect to an analysis, documentation, or a related study conducted on or after the date of enactment of this Act for any lease entered into before, on, or after the date of enactment of this Act.

(c) DEADLINE FOR REGULATIONS.—The Secretary shall issue regulations implementing the amendment made by this section by not later than 1 year after the date of enactment of this Act.

SEC. 2015. GAS HYDRATE PRODUCTION INCENTIVE.

(a) PURPOSE.—The purpose of this section is to promote natural gas production from the abundant natural gas hydrate resources on the outer Continental Shelf and Federal lands in Alaska by providing royalty incentives.

(b) SUSPENSION OF ROYALTIES.—

(1) IN GENERAL.—The Secretary of the Interior shall grant royalty relief in accordance with this section for natural gas produced from gas hydrate resources under any lease that is an eligible lease under paragraph (2).

(2) ELIGIBLE LEASES.—A lease shall be an eligible lease for purposes of this section if—

(A) it is issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or is an oil and gas lease issued for onshore Federal lands in Alaska;

(B) it is issued prior to January 1, 2016; and

(C) production under the lease of natural gas from the gas hydrate resources commences prior to January 1, 2018.

(3) AMOUNT OF RELIEF.—The Secretary shall grant royalty relief under this section as a suspension volume of at least 50 billion cubic feet of natural gas produced from gas hydrate resources per 9 square mile leased tract. Such relief shall be in addition to any other royalty relief under any other provision applicable to the lease that does not specifically grant a gas hydrate production incentive. The minimum suspension volume under this section for leased tracts that are smaller or larger than nine square miles shall be adjusted on a proportional basis.

(4) LIMITATION.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

(c) APPLICATION.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(d) RULEMAKINGS.—The Secretary shall complete any rulemakings implementing this section within 1 year after the date of enactment of this Act.

(e) GAS HYDRATE RESOURCES DEFINED.—In this section, the term ''gas hydrate resources'' includes both the natural gas content of gas hydrates within the hydrate stability zone and free natural gas trapped by and beneath the hydrate stability zone.

SEC. 2016. ONSHORE DEEP GAS PRODUCTION INCENTIVE.

(a) PURPOSE.—The purpose of this section is to promote natural gas production from the abundant onshore deep gas resources on Federal lands by providing royalty incentives.

(b) SUSPENSION OF ROYALTIES.—

(1) IN GENERAL.—The Secretary shall grant royalty relief in accordance with this section for natural gas produced from deep wells spudded after the date of enactment of this Act under any onshore Federal oil and gas lease.

(2) AMOUNT OF RELIEF.—The Secretary shall grant royalty relief under this section as a suspension volume determined by the Secretary in an amount necessary to maximize production of natural gas volumes. The maximum suspension volume shall be 50 billion cubic feet of natural gas per lease. Such royalty suspension volume shall be applied beginning with the first dollar of royalty obligation for production on or after the date of enactment of this Act.

(3) LIMITATION.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

(c) APPLICATION.—This section shall apply to any onshore Federal oil and gas lease issued before, on, or after the date of enactment of this Act.

(d) RULEMAKINGS.—

(1) REQUIREMENT.—The Secretary shall complete any rulemakings implementing this section within 1 year after the date of enactment of this Act.

(2) DEFINITION OF DEEP WELL.—Such regulations shall include a definition of the term ''deep well'' for purposes of this section.

SEC. 2017. ENHANCED OIL AND NATURAL GAS PRODUCTION INCENTIVE.

(a) FINDINGS.—Congress finds the following:

(1) Approximately two-thirds of the original oil in place in the United States remains unproduced.

(2) Enhanced oil and natural gas production from the sequestering of carbon dioxide and other appropriate gases has the potential to increase oil and natural gas production in the United States by 2 million barrels of oil equivalent per day, or more.

(3) Collection of carbon dioxide and other appropriate gases from industrial facilities could provide a significant source of these gases that could be permanently sequestered into oil and natural gas fields.

(4) Such collection could be made economic by providing production incentives to oil and natural gas lessees.

(5) Providing production incentives for enhanced oil and natural gas production would promote significant advances in emissions control and capture technology.

(6) Capturing and productively using industrial emissions of carbon dioxide would help reduce the carbon intensity of the economy.

(7) Enhanced production of oil and natural gas lessens the potential for environmental impacts when compared with development of new oil and natural gas fields because the infrastructure, such as wells, pipelines, and platforms, is generally already in place.

(b) PURPOSE.—The purpose of this section is—

(1) to promote the capturing, transportation, and injection of produced carbon dioxide, natural carbon dioxide, and other appropriate gases for sequestration into oil and gas fields; and

(2) to promote oil and natural gas production from the abundant resources on the outer Continental Shelf and onshore Federal lands by enhancing recovery of oil or natural gas (or both).

(c) SUSPENSION OF ROYALTIES.—

(1) IN GENERAL.—The Secretary of the Interior shall grant a royalty relief in accordance with this section for production of oil or natural gas (or both) from lands subject to an eligible lease into which the lessee injects carbon dioxide, or other appropriate gas or other matter approved by the Secretary, for the purpose of enhancing recovery of oil or natural gas (or both) from the eligible lease.

(2) ELIGIBLE LEASES.—A lease shall be an eligible lease for purposes of this section if it is a lease for production of oil or gas (or both) from Federal outer Continental Shelf or onshore lands that the Secretary determines may contain a volume of oil or natural gas that would not likely be produced without royalty relief under this subsection.

(3) AMOUNT OF RELIEF.—The Secretary shall grant royalty relief under this section as a suspension volume determined by the Secretary in an amount necessary to maximize production of oil and natural gas volumes. The maximum suspension volume shall be 50 billion cubic feet of natural gas, or equivalent oil volume on a Btu basis, or a combination thereof, per eligible lease.

(4) LIMITATION.—The Secretary may place limitations on the suspension of royalty relief granted based on market price.

(d) APPLICATION.—This section shall apply to any eligible lease issued before, on, or after the date of enactment of this Act.

(e) RULEMAKINGS.—The Secretary shall complete any rulemakings implementing this provision within 1 year after the date of enactment of this Act.

SEC. 2018. OIL SHALE.

(a) FINDING.—Congress finds that oil shale resources located within the United States—

(1) total almost 2 trillion barrels of oil in place; and

(2) are a strategically important domestic resource that should be developed on an accelerated basis to reduce our growing reliance on politically and economically unstable sources of foreign oil imports.

(b) REQUIREMENT TO DEVELOP OIL SHALE LEASING PROGRAM.—The Secretary of the Interior shall develop a Federal commercial oil shale leasing program as soon as practicable and publish a final regulation implementing such program by not later than December 31, 2006.

(c) COMMENCEMENT OF LEASE SALES.—The Secretary shall hold the first oil shale lease sale under such program within 180 days after publishing the final regulation.

(d) REPORT.—Within 90 days after the date of enactment of this Act, the Secretary shall report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on—

(1) the interim actions necessary to—

(A) develop the program under subsection (b);

(B) promulgate the final regulation under subsection (b); and

(C) conduct the first lease sale under the program under subsection (b); and

(2) a schedule for completing such actions.

(e) OIL SHALE LAND EXCHANGES.—

(1) REQUIREMENT.—The Secretary shall identify and pursue to completion oil shale land exchanges, on a value-for-value basis, that will allow qualified oil shale developers to have early access to currently owned Federal oil shale lands and to commence commercial oil shale development.

(2) APPLICABLE LAW.—The Secretary shall conduct land exchanges under this subsection in accordance with the Federal Land

Policy Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Federal Land Exchange Facilitation Act of 1988 (43 U.S.C. 1701 note).

SEC. 2019. USE OF INFORMATION ABOUT OIL AND GAS PUBLIC CHALLENGES.

(a) FINDINGS.—Congress finds the following:

(1) The Government Accountability Office (in this section referred to as the ''GAO''), in report GAO–05–124, found that the Bureau of Land Management does not systematically gather and use nationwide information on public challenges to manage its oil and gas program.

(2) The GAO found that this failure prevents the Director of the Bureau from assessing the impact of public challenges on the workload of the Bureau of Land Management State offices and eliminates the ability of the Director to make appropriate staffing and funding resource allocation decisions.

(b) REQUIREMENT.—The Secretary of the Interior and the Secretary of Agriculture shall systematically collect and use nationwide information on public challenges to manage the oil and gas programs of the bureaus within their departments. The Secretaries shall gather such information at the planning, leasing, exploration, and development stages, and shall maintain such information electronically with current data.

Subtitle B—Access to Federal Land

SEC. 2021. OFFICE OF FEDERAL ENERGY PROJECT COORDINATION.

(a) ESTABLISHMENT.—The President shall establish the Office of Federal Energy Project Coordination (referred to in this section as the ''Office'') within the Executive Office of the President in the same manner and with the same mission as the White House Energy Projects Task Force established by Executive Order No. 13212 (42 U.S.C. 13201 note).

(b) STAFFING.—The Office shall be staffed by functional experts from relevant Federal agencies on a nonreimbursable basis to carry out the mission of the Office.

(c) REPORT.—The Office shall transmit an annual report to Congress that describes the activities put in place to coordinate and expedite Federal decisions on energy projects. The report shall list accomplishments in improving the Federal decisionmaking process and shall include any additional recommendations or systemic changes needed to establish a more effective and efficient Federal permitting process.

SEC. 2022. FEDERAL ONSHORE OIL AND GAS LEASING AND PERMITTING PRACTICES.

(a) REVIEW OF ONSHORE OIL AND GAS LEASING PRACTICES.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture with respect to National Forest System lands under the jurisdiction of the Department of Agriculture, shall perform an internal review of current Federal onshore oil and gas leasing and permitting practices.

(2) INCLUSIONS.—The review shall include the process for—

(A) accepting or rejecting offers to lease;

(B) administrative appeals of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease;

(C) considering surface use plans of operation, including the timeframes in which the plans are considered, and any recommendations for improving and expediting the process; and

(D) identifying stipulations to address site-specific concerns and conditions, including those stipulations relating to the environment and resource use conflicts.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall transmit a report to Congress that describes—

(1) actions taken under section 3 of Executive Order No. 13212 (42 U.S.C. 13201 note); and

(2) actions taken or any plans to improve the Federal onshore oil and gas leasing program.

SEC. 2023. MANAGEMENT OF FEDERAL OIL AND GAS LEASING PROGRAMS.

(a) TIMELY ACTION ON LEASES AND PERMITS.—To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing, the Secretary of the Interior (in this section referred to as the ''Secretary'') shall—

(1) ensure expeditious compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));

(2) improve consultation and coordination with the States and the public; and

(3) improve the collection, storage, and retrieval of information relating to the leasing activities.

(b) BEST MANAGEMENT PRACTICES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement best management practices to—

(A) improve the administration of the onshore oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(B) ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing.

(2) CONSIDERATIONS.—In developing the best management practices under paragraph (1), the Secretary shall consider any recommendations from the review under section 2022.

(3) REGULATIONS.—Not later than 180 days after the development of best management practices under paragraph (1), the Secretary shall publish, for public comment, proposed regulations that set forth specific timeframes for processing leases and applications in accordance with the practices, including deadlines for—

(A) approving or disapproving resource management plans and related documents, lease applications, and surface use plans; and

(B) related administrative appeals.

(c) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated to carry out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary for each of fiscal years 2006 through 2009—

(1) $40,000,000 to carry out subsections (a) and (b); and

(2) $20,000,000 to carry out subsection (c).

SEC. 2024. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public lands under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System lands under the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of oil and gas lease applications, surface use plans of operation, and applications for permits to drill, including steps for processing surface use plans and applications for permits to drill consistent with the timelines established by the amendment made by section 2028;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts; and

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied.

(c) DATA RETRIEVAL SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture.

(2) RESOURCE MAPPING.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish a joint Geographic Information System mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 2025. ESTIMATES OF OIL AND GAS RESOURCES UNDERLYING ONSHORE FEDERAL LAND.

(a) ASSESSMENT.—Section 604 of the Energy Act of 2000 (42 U.S.C. 6217) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''reserve''; and

(ii) by striking ''and'' after the semicolon; and

(B) by striking paragraph (2) and inserting the following:

''(2) the extent and nature of any restrictions or impediments to the development of the resources, including—

''(A) impediments to the timely granting of leases;

''(B) post-lease restrictions, impediments, or delays on development for conditions of approval, applications for permits to drill, or processing of environmental permits; and

''(C) permits or restrictions associated with transporting the resources for entry into commerce; and

''(3) the quantity of resources not produced or introduced into commerce because of the restrictions.'';

(2) in subsection (b)—

(A) by striking ''reserve'' and inserting ''resource''; and

(B) by striking ''publically'' and inserting ''publicly''; and

(3) by striking subsection (d) and inserting the following:

''(d) ASSESSMENTS.—Using the inventory, the Secretary of Energy shall make periodic assessments of economically recoverable resources accounting for a range of parameters such as current costs, commodity prices, technology, and regulations.''.

(b) METHODOLOGY.—The Secretary of the Interior shall use the same assessment methodology across all geological provinces, areas, and regions in preparing and issuing national geological assessments to ensure accurate comparisons of geological resources.

SEC. 2026. COMPLIANCE WITH EXECUTIVE ORDER 13211; ACTIONS CONCERNING REGULATIONS THAT SIGNIFICANTLY AFFECT ENERGY SUPPLY, DISTRIBUTION, OR USE.

(a) REQUIREMENT.—The head of each Federal agency shall require that before the Federal agency takes any action that could have a significant adverse effect on the supply of domestic energy resources from Federal public land, the Federal agency taking the action shall comply with Executive Order No. 13211 (42 U.S.C. 13201 note).

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall publish guidance for purposes of this section describing what constitutes a significant adverse effect on the supply of domestic energy resources under Executive Order No. 13211 (42 U.S.C. 13201 note).

(c) MEMORANDUM OF UNDERSTANDING.—The Secretary of the Interior and the Secretary of Agriculture shall include in the memorandum of understanding under section 2024 provisions for implementing subsection (a) of this section.

SEC. 2027. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) ESTABLISHMENT.—The Secretary of the Interior (in this section referred to as the ''Secretary'') shall establish a Federal Permit Streamlining Pilot Project (in this section referred to as the ''Pilot Project'').

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Chief of Engineers of the Army Corps of Engineers for purposes of this section.

(2) STATE PARTICIPATION.—The Secretary may request that the Governors of Wyoming, Montana, Colorado, Utah, and New Mexico be signatories to the memorandum of understanding.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall assign to each of the field offices identified in subsection (d), on a nonreimbursable basis, an employee who has expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) FIELD OFFICES.—The following Bureau of Land Management Field Offices shall serve as the Pilot Project offices:

(1) Rawlins, Wyoming.

(2) Buffalo, Wyoming.

(3) Miles City, Montana

(4) Farmington, New Mexico.

(5) Carlsbad, New Mexico.

(6) Glenwood Springs, Colorado.

(7) Vernal, Utah.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report that—

(1) outlines the results of the Pilot Project to date; and

(2) makes a recommendation to the President regarding whether the Pilot Project should be implemented throughout the United States.

(f) ADDITIONAL PERSONNEL.—The Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq).

(g) SAVINGS PROVISION.—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 2028. DEADLINE FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

''(p) DEADLINES FOR CONSIDERATION OF APPLICATIONS FOR PERMITS.—

''(1) IN GENERAL.—Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall—

''(A) notify the applicant that the application is complete; or

''(B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete.

''(2) ISSUANCE OR DEFERRAL.—Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

''(A) issue the permit; or

''(B)(i) defer decision on the permit; and

''(ii) provide to the applicant a notice that specifies any steps that the applicant could take for the permit to be issued.

''(3) REQUIREMENTS FOR DEFERRED APPLICATIONS.—

''(A) IN GENERAL.—If the Secretary provides notice under paragraph (2)(B)(ii), the applicant shall have a period of 2 years from the date of receipt of the notice in which to complete all requirements specified by the Secretary, including providing information needed for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(B) ISSUANCE OF DECISION ON PERMIT.—If the applicant completes the requirements within the period specified in subparagraph (A), the Secretary shall issue a decision on the permit not later than 10 days after the date of completion of the requirements described in subparagraph (A).

''(C) DENIAL OF PERMIT.—If the applicant does not complete the requirements within the period specified in subparagraph (A), the Secretary shall deny the permit.

''(q) REPORT.—On a quarterly basis, each field office of the Bureau of Land Management and the Forest Service shall transmit to the Secretary of the Interior or the Secretary of Agriculture, respectively, a report that—

''(1) specifies the number of applications for permits to drill received by the field office in the period covered by the report; and

''(2) describes how each of the applications was disposed of by the field office in accordance with subsection (p).''.

SEC. 2029. CLARIFICATION OF FAIR MARKET RENTAL VALUE DETERMINATIONS FOR PUBLIC LAND AND FOREST SERVICE RIGHTS-OF-WAY.

(a) LINEAR RIGHTS-OF-WAY UNDER FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976.—Section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) is amended by adding at the end the following:

''(k) DETERMINATION OF FAIR MARKET VALUE OF LINEAR RIGHTS-OF-WAY.—

''(1) IN GENERAL.—Effective beginning on the date of the issuance of the rules required by paragraph (2), for purposes of subsection (g), the Secretary concerned shall determine the fair market value for the use of land encumbered by a linear right-of-way granted, issued, or renewed under this title using the valuation method described in paragraphs (2), (3), and (4).

''(2) REVISIONS.—Not later than 1 year after the date of enactment of this subsection—

''(A) the Secretary of the Interior shall amend section 2803.1–2 of title 43, Code of Federal Regulations, as in effect on the date of enactment of this subsection, to revise the per acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone; and

''(B) the Secretary of Agriculture shall make the same revision for linear rights-of-way granted, issued, or renewed under this title on National Forest System land.

''(3) UPDATES.—The Secretary concerned shall annually update the schedule revised under paragraph (2) by multiplying the current year's rental per acre by the annual change, second quarter to second quarter (June 30 to June 30) in the Gross National Product Implicit Price Deflator Index published in the Survey of Current Business of the Department of Commerce, Bureau of Economic Analysis.

''(4) REVIEW.—If the cumulative change in the index referred to in paragraph (3) exceeds 30 percent, or the change in the 3-year average of the 1-year Treasury interest rate used to determine per acre rental fee zone values exceeds plus or minus 50 percent, the Secretary concerned shall conduct a review of the zones and rental per acre figures to determine whether the value of Federal land has differed sufficiently from the index referred to in paragraph (3) to warrant a revision in the base zones and rental per acre figures. If, as a result of the review, the Secretary concerned determines that such a revision is warranted, the Secretary concerned shall revise the base zones and rental per acre figures accordingly. Any revision of base zones and rental per acre figure shall only affect lease rental rates at inception or renewal.''.

(b) RIGHTS-OF-WAY UNDER MINERAL LEASING ACT.—Section 28(*l*) of the Mineral Leasing Act (30 U.S.C. 185(*l*)) is amended by inserting before the period at the end the following: ''using the valuation method described in section 2803.1–2 of title 43, Code of Federal Regulations, as revised in accordance with section 504(k) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(k))''.

SEC. 2030. ENERGY FACILITY RIGHTS-OF-WAY AND CORRIDORS ON FEDERAL LAND.

(a) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Federal Energy Regulatory Commission, shall submit to Congress a joint report—

(A) that addresses—

(i) the location of existing rights-of-way and designated and de facto corridors for oil, gas, and hydrogen pipelines and electric transmission and distribution facilities on Federal land; and

(ii) opportunities for additional oil, gas, and hydrogen pipeline and electric transmission capacity within those rights-of-way and corridors; and

(B) that includes a plan for making available, on request, to the appropriate Federal, State, and local agencies, tribal governments, and other persons involved in the siting of oil, gas, and hydrogen pipelines and electricity transmission facilities Geographic Information System-based information regarding the location of the existing rights-of-way and corridors and any planned rights-of-way and corridors.

(2) CONSULTATIONS AND CONSIDERATIONS.—In preparing the report, the Secretary of the Interior and the Secretary of Agriculture shall consult with—

(A) other agencies of Federal, State, tribal, or local units of government, as appropriate;

(B) persons involved in the siting of oil, gas, and hydrogen pipelines and electric transmission facilities; and

(C) other interested members of the public.

(3) LIMITATION.—The Secretary of the Interior and the Secretary of Agriculture shall limit the distribution of the report and Geographic Information System-based information referred to in paragraph (1) as necessary for national and infrastructure security reasons, if either Secretary determines that the information may be withheld from public disclosure under a national security or other exception under section 552(b) of title 5, United States Code.

(b) CORRIDOR DESIGNATIONS.—

(1) 11 CONTIGUOUS WESTERN STATES.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall jointly—

(A) designate, under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) and other applicable Federal laws, corridors for oil, gas, and hydrogen pipelines and electricity transmission and facilities on Federal land in the eleven contiguous Western States (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702));

(B) perform any environmental reviews that may be required to complete the designations of corridors for the facilities on Federal land in the eleven contiguous Western States; and

(C) incorporate the designated corridors into—

(i) the relevant departmental and agency land use and resource management plans; or

(ii) equivalent plans.

(2) OTHER STATES.—Not later than 4 years after the date of enactment of this Act, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall jointly—

(A) identify corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land in the States other than those described in paragraph (1); and

(B) schedule prompt action to identify, designate, and incorporate the corridors into the land use plan.

(3) ONGOING RESPONSIBILITIES.—The Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, and the Secretary of the Interior, with respect to lands under their respective jurisdictions, in consultation with the Federal Energy Regulatory Commission and the affected utility industries, shall establish procedures that—

(A) ensure that additional corridors for oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities on Federal land are promptly identified and designated; and

(B) expedite applications to construct or modify oil, gas, and hydrogen pipelines and electricity transmission and distribution facilities within the corridors, taking into account prior analyses and environmental reviews undertaken during the designation of corridors.

(c) CONSIDERATIONS.—In carrying out this section, the Secretaries shall take into account the need for upgraded and new electricity transmission and distribution facilities to—

(1) improve reliability;

(2) relieve congestion; and

(3) enhance the capability of the national grid to deliver electricity.

(d) DEFINITION OF CORRIDOR.—

(1) IN GENERAL.—In this section and title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.), the term ''corridor'' means—

(A) a linear strip of land—

(i) with a width determined with consideration given to technological, environmental, and topographical factors; and

(ii) that contains, or may in the future contain, 1 or more utility, communication, or transportation facilities;

(B) a land use designation that is established—

(i) by law;

(ii) by Secretarial Order;

(iii) through the land use planning process; or

(iv) by other management decision; and

(C) a designation made for the purpose of establishing the preferred location of compatible linear facilities and land uses.

(2) SPECIFICATIONS OF CORRIDOR.—On designation of a corridor under this section, the centerline, width, and compatible uses of a corridor shall be specified.

SEC. 2031. CONSULTATION REGARDING ENERGY RIGHTS-OF-WAY ON PUBLIC LAND.

(a) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Energy, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense with respect to lands under their respective jurisdictions, shall enter into a memorandum of understanding to coordinate all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility. To the maximum extent practicable under applicable law, the Secretary of Energy shall, to ensure timely review and permit decisions, coordinate such authorizations and reviews with any Indian tribes, multi-State entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility.

(2) CONTENTS.—The memorandum of understanding shall include provisions that—

(A) establish—

(i) a unified right-of-way application form; and

(ii) an administrative procedure for processing right-of-way applications, including lines of authority, steps in application processing, and timeframes for application processing;

(B) provide for coordination of planning relating to the granting of the rights-of-way;

(C) provide for an agreement among the affected Federal agencies to prepare a single environmental review document to be used as the basis for all Federal authorization decisions; and

(D) provide for coordination of use of right-of-way stipulations to achieve consistency.

(b) NATURAL GAS PIPELINES.—

(1) IN GENERAL.—With respect to permitting activities for interstate natural gas pipelines, the May 2002 document entitled ''Interagency Agreement On Early Coordination Of Required Environmental And Historic Preservation Reviews Conducted In Conjunction With The Issuance Of Authorizations To Construct And Operate Interstate Natural Gas Pipelines Certificated By The Federal Energy Regulatory Commission'' shall constitute compliance with subsection (a).

(2) REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, agencies that are signatories to the document referred to in paragraph (1) shall transmit to Congress a report on how the agencies under the jurisdiction of the Secretaries are incorporating and implementing the provisions of the document referred to in paragraph (1).

(B) CONTENTS.—The report shall address—

(i) efforts to implement the provisions of the document referred to in paragraph (1);

(ii) whether the efforts have had a streamlining effect;

(iii) further improvements to the permitting process of the agency; and

(iv) recommendations for inclusion of State and tribal governments in a coordinated permitting process.

(c) DEFINITION OF UTILITY FACILITY.—In this section, the term ''utility facility'' means any privately, publicly, or cooperatively owned line, facility, or system—

(1) for the transportation of—

(A) oil, natural gas, synthetic liquid fuel, or gaseous fuel;

(B) any refined product produced from oil, natural gas, synthetic liquid fuel, or gaseous fuel; or

(C) products in support of the production of material referred to in subparagraph (A) or (B);

(2) for storage and terminal facilities in connection with the production of material referred to in paragraph (1); or

(3) for the generation, transmission, and distribution of electric energy.

SEC. 2032. ELECTRICITY TRANSMISSION LINE RIGHT-OF-WAY, CLEVELAND NATIONAL FOREST AND ADJACENT PUBLIC LAND, CALIFORNIA.

(a) ISSUANCE.—

(1) IN GENERAL.—Not later than 60 days after the completion of the environmental reviews under subsection (c), the Secretary of the Interior and the Secretary of Agriculture shall issue all necessary grants, easements, permits, plan amendments, and other approvals to allow for the siting and construction of a high-voltage electricity transmission line right-of-way running approximately north to south through the Trabuco Ranger District of the Cleveland National Forest in the State of California and adjacent lands under the jurisdiction of the Bureau of Land Management and the Forest Service.

(2) INCLUSIONS.—The right-of-way approvals under paragraph (1) shall provide all necessary Federal authorization from the Secretary of the Interior and the Secretary of Agriculture for the routing, construction, operation, and maintenance of a 500-kilovolt transmission line capable of meeting the long-term electricity transmission needs of the region between the existing Valley-Serrano transmission line to the north and the Telega-Escondido transmission line to the south, and for connecting to future generating capacity that may be developed in the region.

(b) PROTECTION OF WILDERNESS AREAS.—The Secretary of the Interior and the Secretary of Agriculture shall not allow any portion of a transmission line right-of-way corridor identified in subsection (a) to enter any identified wilderness area in existence as of the date of enactment of this Act.

(c) ENVIRONMENTAL AND ADMINISTRATIVE REVIEWS.—

(1) DEPARTMENT OF INTERIOR OR LOCAL AGENCY.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management, shall be the lead Federal agency with overall responsibility to ensure completion of required environmental and other reviews of the approvals to be issued under subsection (a).

(2) NATIONAL FOREST SYSTEM LAND.—For the portions of the corridor on National Forest System lands, the Secretary of Agriculture shall complete all required environmental reviews and administrative actions in coordination with the Secretary of the Interior.

(3) EXPEDITIOUS COMPLETION.—The reviews required for issuance of the approvals under subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

(d) OTHER TERMS AND CONDITIONS.—The transmission line right-of-way shall be subject to such terms and conditions as the Secretary of the Interior and the Secretary of Agriculture consider necessary, based on the environmental reviews under subsection (c), to protect the value of historic, cultural, and natural resources under the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture.

(e) PREFERENCE AMONG PROPOSALS.—The Secretary of the Interior and the Secretary of Agriculture shall give a preference to any application or preapplication proposal for a transmission line right-of-way referred to in subsection (a) that was submitted before December 31, 2002, over all other applications and proposals for the same or a similar right-of-way submitted on or after that date.

SEC. 2033. SENSE OF CONGRESS REGARDING DEVELOPMENT OF MINERALS UNDER PADRE ISLAND NATIONAL SEASHORE.

(a) FINDINGS.—Congress finds the following:

(1) Pursuant to Public Law 87–712 (16 U.S.C. 459d et seq.; popularly known as the ''Federal Enabling Act'') and various deeds and actions under that Act, the United States is the owner of only the surface estate of certain lands constituting the Padre Island National Seashore.

(2) Ownership of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore was never acquired by the United States, and ownership of those interests is held by the State of Texas and private parties.

(3) Public Law 87–712 (16 U.S.C. 459d et seq.)—

(A) expressly contemplated that the United States would recognize the ownership and future development of the oil, gas, and other minerals in the subsurface estate of the lands constituting the Padre Island National Seashore by the owners and their mineral lessees; and

(B) recognized that approval of the State of Texas was required to create Padre Island National Seashore.

(4) Approval was given for the creation of Padre Island National Seashore by the State of Texas through Tex. Rev. Civ. Stat. Ann. Art. 6077(t) (Vernon 1970), which expressly recognized that development of the oil, gas, and other minerals in the subsurface of the lands constituting Padre Island National Seashore would be conducted with full rights of ingress and egress under the laws of the State of Texas.

(b) SENSE OF CONGRESS.—It is the sense of Congress that with regard to Federal law, any regulation of the development of oil, gas, or other minerals in the subsurface of the lands constituting Padre Island National Seashore should be made as if those lands retained the status that the lands had on September 27, 1962.

SEC. 2034. LIVINGSTON PARISH MINERAL RIGHTS TRANSFER.

(a) AMENDMENTS.—Section 102 of Public Law 102–562 (106 Stat. 4234) is amended—

(1) by striking ''(a) IN GENERAL.—'';

(2) by striking ''and subject to the reservation in subsection (b),''; and

(3) by striking subsection (b).

(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of the Interior shall execute the legal instruments necessary to effectuate the amendment made by subsection (a)(3).

Subtitle C—Naval Petroleum Reserves

SEC. 2041. TRANSFER OF ADMINISTRATIVE JURISDICTION AND ENVIRONMENTAL REMEDIATION, NAVAL PETROLEUM RESERVE NUMBERED 2, KERN COUNTY, CALIFORNIA.

(a) ADMINISTRATION JURISDICTION TRANSFER TO SECRETARY OF THE INTERIOR.—Effective on the date of the enactment of this Act, administrative jurisdiction and control over all public domain lands included within Naval Petroleum Reserve Numbered 2 located in Kern County, California, (other than the lands specified in subsection (b)) are transferred from the Secretary of Energy to the Secretary of the Interior for management, subject to subsection (c), in accordance with the general land laws.

(b) EXCLUSION OF CERTAIN RESERVE LANDS.—The transfer of administrative jurisdiction made by subsection (a) does not include the following lands:

(1) That portion of Naval Petroleum Reserve Numbered 2 authorized for disposal under section 3403(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C. 7420 note).

(2) That portion of the surface estate of Naval Petroleum Reserve Numbered 2 conveyed to the City of Taft, California, by section 2042 of this Act.

(c) PURPOSE OF TRANSFER.—Notwithstanding any other provision of law, the principle purpose of the lands subject to transfer under subsection (a) is the production of hydrocarbon resources, and the Secretary of the Interior shall manage the lands in a fashion consistent with this purpose. In managing the lands, the Secretary of the Interior shall regulate operations only to prevent unnecessary degradation and to provide for ultimate economic recovery of the resources.

(d) CONFORMING AMENDMENT.—Section 3403 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 10 U.S.C 7420 note) is amended by striking subsection (b).

SEC. 2042. LAND CONVEYANCE, PORTION OF NAVAL PETROLEUM RESERVE NUMBERED 2, TO CITY OF TAFT, CALIFORNIA.

(a) CONVEYANCE.—Effective on the date of the enactment of this Act, there is conveyed to the City of Taft, California (in this section referred to as the ''City''), all surface right, title, and interest of the United States in and to a parcel of real property consisting of approximately 167 acres located in the N½ of section 18, township 32 south, range 24 east, Mount Diablo meridian, more fully described as Parcels 1 and 2 according to the Record of Survey filed on July 1, 1974, in Book 11 of Record Surveys at page 68, County of Kern, State of California.

(b) CONSIDERATION.—The conveyance under subsection (a) is made without the payment of consideration by the City.

(c) TREATMENT OF EXISTING RIGHTS.—The conveyance under subsection (a) is subject to valid existing rights, including Federal oil and gas lease SAC—019577.

(d) TREATMENT OF MINERALS.—All coal, oil, gas, and other minerals within the lands conveyed under subsection (a) are reserved to the United States, except that the United States and its lessees, licensees, permittees, or assignees shall have no right of surface use or occupancy of the lands. Nothing in this subsection shall be construed to require the United States or its lessees, licensees, permittees, or assignees to support the surface of the conveyed lands.

(e) INDEMNIFY AND HOLD HARMLESS.—The City shall indemnify, defend, and hold harmless the United States for, from, and against, and the City shall assume all responsibility for, any and all liability of any kind or nature, including all loss, cost, expense, or damage, arising from the City's use or occupancy of, or operations on, the land conveyed under subsection (a), whether such use or occupancy of, or operations on, occurred before or occur after the date of the enactment of this Act.

(f) INSTRUMENT OF CONVEYANCE.—Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall execute, file, and cause to be recorded in the appropriate office a deed or other appropriate instrument documenting the conveyance made by this section.

SEC. 2043. REVOCATION OF LAND WITHDRAWAL.

Effective on the date of the enactment of this Act, the Executive Order of December 13, 1912, which created Naval Petroleum Reserve Numbered 2, is revoked in its entirety.

SEC. 2044. EFFECT OF TRANSFER AND CONVEYANCE.

Nothing in this Act shall be construed——

(1) to impose on the Secretary of Energy any new liability or responsibility that the Secretary of Energy did not bear before the date of the enactment of this Act; or

(2) to increase the level of responsibility of the Secretary of Energy with respect to any responsibility borne by the Secretary of Energy before that date.

Subtitle D—Miscellaneous Provisions

SEC. 2051. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES.

(a) REVIEW.—In consultation with affected private surface owners, oil and gas industry, and other interested parties, the Secretary of the Interior shall undertake a review of the current policies and practices with respect to management of Federal subsurface oil and gas development activities and their effects on the privately owned surface. This review shall include—

(1) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a Federal mineral lease, the private surface owners and the Department;

(2) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304) concerning surface mining of Federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane production; and

(3) recommendations for administrative or legislative action necessary to facilitate reasonable access for Federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) REPORT.—The Secretary of the Interior shall report the results of such review to Congress not later than 180 days after the date of enactment of this Act.

SEC. 2052. ROYALTY PAYMENTS UNDER LEASES UNDER THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) ROYALTY RELIEF.—

(1) IN GENERAL.—For purposes of providing compensation for lessees and a State for which amounts are authorized by section 6004(c) of the Oil Pollution Act of 1990 (Public Law 101–380), a lessee may withhold from payment any royalty due and owing to the United States under any leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1301 et seq.) for offshore oil or gas production from a covered lease tract if, on or before the date that the payment is due and payable to the United States, the lessee makes a payment to the State of 44 cents for every $1 of royalty withheld.

(2) TREATMENT OF AMOUNTS.—Any royalty withheld by a lessee in accordance with this section (including any portion thereof that is paid to the State under paragraph (1)) shall be treated as paid for purposes of satisfaction of the royalty obligations of the lessee to the United States.

(3) CERTIFICATION OF WITHHELD AMOUNTS.—The Secretary of the Treasury shall—

(A) determine the amount of royalty withheld by a lessee under this section; and

(B) promptly publish a certification when the total amount of royalty withheld by the lessee under this section is equal to—

(i) the dollar amount stated at page 47 of Senate Report number 101–534, which is designated therein as the total drainage claim for the West Delta field; plus

(ii) interest as described at page 47 of that Report.

(b) PERIOD OF ROYALTY RELIEF.—Subsection (a) shall apply to royalty amounts that are due and payable in the period beginning on January 1, 2006, and ending on the date on which the Secretary of the Treasury publishes a certification under subsection (a)(4)(B).

(c) DEFINITIONS.—As used in this section:

(1) COVERED LEASE TRACT.—The term ''covered lease tract'' means a leased tract (or portion of a leased tract)—

(A) lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)); or

(B) lying within such zone but to which such section does not apply.

(2) LESSEE.—The term ''lessee''—

(A) means a person or entity that, on the date of the enactment of the Oil Pollution Act of 1990, was a lessee referred to in section 6004(c) of that Act (as in effect on that date of the enactment), but did not hold lease rights in Federal offshore lease OCS–G–5669; and

(B) includes successors and affiliates of a person or entity described in subparagraph (A).

SEC. 2053. DOMESTIC OFFSHORE ENERGY REINVESTMENT.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. DOMESTIC OFFSHORE ENERGY REINVESTMENT PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL ENERGY STATE.—The term 'Coastal Energy State' means a Coastal State off the coastline of which, within the seaward lateral boundary as determined under section 4, outer Continental Shelf bonus bids or royalties are generated.

''(2) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a county, parish, or other equivalent subdivision of a Coastal Energy State, all or part of which lies within the boundaries of the coastal zone of the State, as identified in the State's approved coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) on the date of the enactment of this section.

''(3) COASTAL POPULATION.—The term 'coastal population' means the population of a coastal political subdivision, as determined by the most recent official data of the Census Bureau.

''(4) COASTLINE.—The term 'coastline' has the same meaning as the term 'coast line' in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).

''(5) FUND.—The term 'Fund' means the Secure Energy Reinvestment Fund established by this section.

''(6) LEASED TRACT.—The term 'leased tract' means a tract maintained under section 6 or leased under section 8 for the purpose of drilling for, developing, and producing oil and natural gas resources.

''(7) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—The term 'qualified outer Continental Shelf revenues' means all amounts received by the United States on or after October 1, 2005, from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g), or lying within such zone but to which section 8(g) does not apply, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related interest.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

''(b) SECURE ENERGY REINVESTMENT FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate account which shall be known as the 'Secure Energy Reinvestment Fund'. The Fund shall consist of amounts deposited under paragraph (2).

''(2) DEPOSITS.—For each of fiscal years 2006 through 2015, the Secretary of the Treasury shall deposit into the Fund, subject to appropriations, the following:

''(A) Notwithstanding section 9, all qualified outer Continental Shelf revenues attributable to royalties received by the United States in the fiscal year that are in excess of the following amount:

''(i) $7,000,000,000 in the case of royalties received in fiscal year 2006.

''(ii) $7,100,000,000 in the case of royalties received in fiscal year 2007.

''(iii) $7,300,000,000 in the case of royalties received in fiscal year 2008.

''(iv) $6,900,000,000 in the case of royalties received in fiscal year 2009.

''(v) $7,200,000,000 in the case of royalties received in fiscal year 2010.

''(vi) $7,250,000,000 in the case of royalties received in fiscal year 2011.

''(vii) $8,125,000,000 in the case of royalties received in fiscal year 2012.

''(viii) $8,100,000,000 in the case of royalties received in fiscal year 2013.

''(ix) $9,000,000,000 in the case of royalties received in fiscal year 2014.

''(x) $7,500,000,000 in the case of royalties received in fiscal year 2015.

''(B) Notwithstanding section 9, all qualified outer Continental shelf revenues attributable to bonus bids received by the United States in each of the fiscal years 2006 through 2015 that are in excess of $880,000,000.

''(C) Notwithstanding section 9, in addition to amounts deposited under subparagraphs (A) and (B), $35,000,000 of amounts received by the United States each fiscal year as royalties for oil or gas production on the outer Continental Shelf.

''(D) All interest earned under paragraph (4).

In no event shall deposits under subparagraphs (A) through (C) total more than $50,000,000 per fiscal year.

''(3) DEPOSITS AFTER FISCAL YEAR 2015.—For each fiscal year after fiscal year 2015, the Secretary of the Treasury shall deposit into the Fund the following:

''(A) 25 percent of qualified outer Continental Shelf revenues received by the United States in the preceding fiscal year.

''(B) All interest earned under paragraph (4).

''(4) INVESTMENT.—The Secretary of the Treasury shall invest moneys in the Fund (including interest) in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of the Treasury, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Such invested moneys shall remain invested until needed to meet requirements for disbursement under this section.

''(c) USE OF SECURE ENERGY REINVESTMENT FUND.—

''(1) IN GENERAL.—(A) The Secretary shall use amounts in the Fund remaining after the application of subsection (d) to pay to each Coastal Energy State, and to coastal political subdivisions of such State, the amount allocated to the State or coastal political subdivision, respectively, under this subsection.

''(B) The Secretary shall make payments under this paragraph in December of 2006, and of each year thereafter, from revenues received by the United States in the preceding fiscal year.

''(2) ALLOCATION.—The Secretary shall allocate amounts deposited into the Fund in a fiscal year, and other amounts determined by the Secretary to be available, among Coastal Energy States, and to coastal political subdivisions of such States, as follows:

''(A)(i) The allocation for each Coastal Energy State shall be calculated based on the ratio of qualified outer Continental Shelf revenues generated off the coastline of the Coastal Energy State to the qualified outer Continental Shelf revenues generated off the coastlines of all Coastal Energy States for the preceding fiscal year.

''(ii) For purposes of this subparagraph, qualified outer Continental Shelf revenues shall be considered to be generated off the coastline of a Coastal Energy State if the geographic center of the lease tract from which the revenues are generated is located within the area formed by the extension of the State's seaward lateral boundaries.

''(B) 35 percent of each Coastal Energy State's allocable share as determined under subparagraph (A) shall be allocated among and paid directly to the coastal political subdivisions of the State by the Secretary based on the following formula:

''(i) 25 percent shall be allocated based on the ratio of each coastal political subdivision's coastal population to the coastal population of all coastal political subdivisions of the Coastal Energy State.

''(ii) 25 percent shall be allocated based on the ratio of each coastal political subdivision's coastline miles to the coastline miles of all coastal political subdivisions of the State. In the case of a coastal political subdivision without a coastline, the coastline of the political subdivision for purposes of this clause shall be one-third the average length of the coastline of the other coastal political subdivisions of the State.

''(iii) 50 percent shall be allocated based on a formula that allocates 75 percent of the funds based on such coastal political subdivision's relative distance from any leased tract used to calculate that State's allocation and 25 percent of the funds based on the relative level of outer Continental Shelf oil and gas activities in a coastal political subdivision to the level of outer Continental Shelf oil and gas activities in all coastal political subdivisions in such State, as determined by the Secretary.

''(d) ADMINISTRATIVE EXPENSES.—Of amounts in the Fund each fiscal year, the Secretary may use up to one-half of one percent for the administrative costs of implementing this section.

''(e) DISPOSITION OF FUNDS.—A Coastal Energy State or coastal political subdivision may use funds provided to such entity under this section for any payment that is eligible to be made with funds provided to States under section 35 of the Mineral Leasing Act (30 U.S.C. 191).''.

SEC. 2054. REPURCHASE OF LEASES THAT ARE NOT ALLOWED TO BE EXPLORED OR DEVELOPED.

(a) AUTHORITY TO REPURCHASE AND CANCEL CERTAIN LEASES.—Notwithstanding any other provisions of law, any Federal oil and gas, geothermal, coal, oil shale, or tar sands lease, whether onshore or offshore, issued by the Secretary, or units of such leases if unitized, that by operation of law, including but not limited to denial of a permit request, (1) is not allowed to be explored in the lawful manner requested by the lessee, or (2) if explored resulting in a commercial discovery is not allowed to be developed or produced in the lawful manner requested by the lessee, shall, upon the written request of the lessee and a finding by the Secretary that such lease qualifies, be authorized for repurchase and cancelled by the Secretary. If a permit, approval, or appeal has been expressly denied and the proposal of the lessee is found by the Secretary not to have been in compliance with law, the lessee shall not be entitled to have the lease repurchased and cancelled. However, if the lessee alleges that the Government has failed to act on a proposal of the lessee within the applicable period of time, the Secretary shall make no inquiry or determination as to whether the contents of the request complied with the law, and the Secretary shall restrict the Secretary's findings to whether or not the Government failed to act within the applicable period of time. The Secretary shall make all decisions under this section within 180 days of request. The area covered by any repurchased and cancelled lease shall remain available for future leasing unless otherwise prohibited by law. For purposes of this section, failure to act within a regulatory or statutory timeframe, whether advisory or mandatory, or if none, within a reasonable period of time not to exceed 180 days, on a permit request, administrative appeal, or other request for approval, shall be considered to meet the operation of law requirements of this section. Further, conditions of approval attached to permit approvals shall meet the operation of law requirement of this section if such conditions are not mandated by statute or regulation and not agreed to by the lessee. A lessee shall not be required to exhaust administrative remedies regarding a permit request, administrative appeal, or other required request for approval for the purposes of this section.

(b) DETERMINATION OF A COMMERCIAL DISCOVERY.—The Secretary shall make any required determination of the existence of a commercial resource discovery. For oil and gas, a commercial discovery is a discovery in paying quantities. The Secretary shall be guided in such a determination by precedent, and by written advice, including input from the lessee.

(c) COMPENSATION.—Upon authorization by the Secretary of the repurchase of a lease under this section, a lessee shall be compensated in the amount of the total of lease acquisition costs, rentals, seismic acquisition costs, archeological and environmental studies, drilling costs, and other reasonable expenses on the lease, including expenses incurred in the repurchase process, to the extent that the lessee has not previously been compensated by the United States for such expenses. The lessee shall not be compensated for general overhead expenses, employee salaries, or interest. If the lessee is an assignee, the lessee may not claim the expenses of his assignor. Compensation shall be in the form of a check or electronic transfer from the Department of the Treasury from funds deposited into miscellaneous receipts under the authority of the same Act that authorized the issuance of the lease being repurchased. If the Secretary fails to make the repurchase authorization decision under subsection (a) within the required 180 days and the lease is ultimately repurchased, the compensation due to the lessee shall increase by 25 percent, plus 1 percent for every seven days that the decision is delayed beyond the required 180 days.

(d) DELEGATION OF AUTHORITY AND FINALITY OF DECISIONS.—The Secretary may delegate authority granted by this section only to individuals who have been appointed by the President, by and with the advice and consent of the Senate. A decision under this section by the Secretary, or delegated official, shall be considered the final agency decision.

(e) REGULATIONS.—The Secretary shall issue reasonable regulations implementing this section not later than 1 year after date of enactment of this Act.

(f) SECRETARY.—For purposes of this section, the term ''Secretary'' means the Secretary of the Interior.

(g) NO PREJUDICE.—This section shall not be interpreted to prejudice any other rights that the lessee would have in the absence of this section.

TITLE XXI—COAL

SEC. 2101. SHORT TITLE.

This title may be cited as the ''Coal Leasing Amendments Act of 2005''.

SEC. 2102. LEASE MODIFICATIONS FOR CONTIGUOUS COAL LANDS OR COAL DEPOSITS.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended in the first sentence by striking ''such lease,'' and all that follows through the end of the sentence and inserting ''such lease.''.

SEC. 2103. APPROVAL OF LOGICAL MINING UNITS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) The Secretary may establish a period of more than 40 years if the Secretary determines that the longer period—

''(i) will ensure the maximum economic recovery of a coal deposit; or

''(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.''.

SEC. 2104. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

(a) IN GENERAL.—Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended to read as follows:

''(b)(1) Each lease shall be subjected to the condition of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee.

''(2)(A) The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties.

''(B) Such advance royalties shall be computed—

''(i) based on—

''(I) the average price in the spot market for sales of comparable coal from the same region during the last month of each applicable continued operation year; or

''(II) in the absence of a spot market for comparable coal from the same region, by using a comparable method established by the Secretary of the Interior to capture the commercial value of coal; and

''(ii) based on commercial quantities, as defined by regulation by the Secretary of the Interior.

''(C) The aggregate number of years during the initial and any extended term of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20.

''(3) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year.

''(4) This subsection shall be applicable to any lease or logical mining unit in existence on the date of the enactment of this paragraph or issued or approved after such date.

''(5) Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) relating to commencement of production at the end of 10 years.''.

(b) AUTHORITY TO WAIVE, SUSPEND, OR REDUCE ADVANCE ROYALTIES.—Section 39 of the Mineral Leasing Act (30 U.S.C. 209) is amended by striking the last sentence.

SEC. 2105. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ''and not later than three years after a lease is issued,''.

SEC. 2106. AMENDMENT RELATING TO FINANCIAL ASSURANCES WITH RESPECT TO BONUS BIDS.

Section 2(a) of the Mineral Leasing Act (30 U.S.C. 201(a)) is amended by adding at the end the following:

''(4)(A) The Secretary shall not require a surety bond or any other financial assurance to guarantee payment of deferred bonus bid installments with respect to any coal lease issued on a cash bonus bid to a lessee or successor in interest having a history of a timely payment of noncontested coal royalties and advanced coal royalties in lieu of production (where applicable) and bonus bid installment payments.

''(B) The Secretary may waive any requirement that a lessee provide a surety bond or other financial assurance for a coal lease issued before the date of the enactment of the Energy Policy Act of 2005 only if the Secretary determines that the lessee has a history of making timely payments referred to in subparagraph (A).

''(5) Notwithstanding any other provision of law, if the lessee under a coal lease fails to pay any installment of a deferred cash bonus bid within 10 days after the Secretary provides written notice that payment of the installment is past due—

''(A) the lease shall automatically terminate; and

''(B) any bonus payments already made to the United States with respect to the lease shall not be returned to the lessee or credited in any future lease sale.''.

SEC. 2107. INVENTORY REQUIREMENT.

(a) REVIEW OF ASSESSMENTS.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall review coal assessments and other available data to identify—

(A) public lands with coal resources;

(B) the extent and nature of any restrictions or impediments to the development of coal resources on public lands identified under paragraph (1); and

(C) with respect to areas of such lands for which sufficient data exists, resources of compliant coal and supercompliant coal.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the term ''compliant coal'' means coal that contains not less than 1.0 and not more than 1.2 pounds of sulfur dioxide per million Btu; and

(B) the term ''supercompliant coal'' means coal that contains less than 1.0 pounds of sulfur dioxide per million Btu.

(b) COMPLETION AND UPDATING OF THE INVENTORY.—The Secretary—

(1) shall complete the inventory under subsection (a) by not later than 2 years after the date of enactment of this Act; and

(2) shall update the inventory as the availability of data and developments in technology warrant.

(c) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and make publicly available—

(1) a report containing the inventory under this section, by not later than 2 years after the effective date of this section; and

(2) each update of such inventory.

SEC. 2108. APPLICATION OF AMENDMENTS.

The amendments made by this title apply with respect to any coal lease issued before, on, or after the date of the enactment of this Act.

SEC. 2109. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

The Secretary of the Interior shall—

(1) undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana; and

(2) not later than 6 months after the date of enactment of this Act, report to Congress on alternatives to resolve these conflicts and an identification of a preferred alternative with specific legislative language, if any, required to implement the preferred alternative.

TITLE XXII—ARCTIC COASTAL PLAIN DOMESTIC ENERGY

SEC. 2201. SHORT TITLE.

This title may be cited as the ''Arctic Coastal Plain Domestic Energy Security Act of 2005''.

SEC. 2202. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area identified as such in the map entitled ''Arctic National Wildlife Refuge'', dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142(b)(1)), comprising approximately 1,549,000 acres, and as described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) SECRETARY.—The term ''Secretary'', except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 2203. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this Act and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.) that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, and including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3143) is repealed.

(2) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966, the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and that no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities, including actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map referred to in section 2202(1).

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases located outside the area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including rules and regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) to reflect any significant biological, environmental, or engineering data that come to the Secretary's attention.

SEC. 2204. LEASE SALES.

(a) IN GENERAL.—Lands may be leased pursuant to this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Bidding for leases under this title shall be by sealed competitive cash bonus bids.

(d) ACREAGE MINIMUM IN FIRST SALE.—In the first lease sale under this title, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) TIMING OF LEASE SALES.—The Secretary shall—

(1) conduct the first lease sale under this title within 22 months after the date of the enactment of this Act; and

(2) conduct additional sales so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

SEC. 2205. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 2204 any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

SEC. 2206. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued pursuant to this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold from the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, and the environment as required pursuant to section 2203(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with the provisions of this title and the regulations issued under this title.

(b) PROJECT LABOR AGREEMENTS.—The Secretary, as a term and condition of each lease under this title and in recognizing the Government's proprietary interest in labor stability and in the ability of construction labor and management to meet the particular needs and conditions of projects to be developed under the leases issued pursuant to this title and the special concerns of the parties to such leases, shall require that the lessee and its agents and contractors negotiate to obtain a project labor agreement for the employment of laborers and mechanics on production, maintenance, and construction under the lease.

SEC. 2207. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 2203, administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times, if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on general public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river system; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or reduction of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC-ASRC private lands that are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LANDS.—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

SEC. 2208. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINT.—

(1) DEADLINE.—Subject to paragraph (2), any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title shall be filed in any appropriate district court of the United States—

(A) except as provided in subparagraph (B), within the 90-day period beginning on the date of the action being challenged; or

(B) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of an action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 2209. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

(1) 50 percent shall be paid to the State of Alaska; and

(2) except as provided in section 2212(d) the balance shall be deposited into the Treasury as miscellaneous receipts.

(b) PAYMENTS TO ALASKA.—Payments to the State of Alaska under this section shall be made semiannually.

(c) USE OF BONUS PAYMENTS FOR LOW-INCOME HOME ENERGY ASSISTANCE.—Amounts that are received by the United States as bonuses for leases under this title and deposited into the Treasury under subsection (a)(2) may be appropriated to the Secretary of the Health and Human Services, in addition to amounts otherwise available, to provide assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

SEC. 2210. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) EXEMPTION.—Title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.) shall not apply to the issuance by the Secretary under section 28 of the Mineral Leasing Act (30 U.S.C. 185) of rights-of-way and easements across the Coastal Plain for the transportation of oil and gas.

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement referred to in subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 2203(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 2211. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding the provisions of section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation effective January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

SEC. 2212. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) FINANCIAL ASSISTANCE AUTHORIZED.—

(1) IN GENERAL.—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2) and that are directly impacted by the exploration for or production of oil and gas on the Coastal Plain under this title.

(2) ELIGIBLE ENTITIES.—The North Slope Borough, Kaktovik, and other boroughs, municipal subdivisions, villages, and any other community organized under Alaska State law shall be eligible for financial assistance under this section.

(b) USE OF ASSISTANCE.—Financial assistance under this section may be used only for—

(1) planning for mitigation of the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational and subsistence values;

(2) implementing mitigation plans and maintaining mitigation projects;

(3) developing, carrying out, and maintaining projects and programs that provide new or expanded public facilities and services to address needs and problems associated with such effects, including firefighting, police, water, waste treatment, medivac, and medical services; and

(4) establishment of a coordination office, by the North Slope Borough, in the City of Kaktovik, which shall—

(A) coordinate with and advise developers on local conditions, impact, and history of the areas utilized for development; and

(B) provide to the Committee on Resources of the Senate and the Committee on Energy and Resources of the Senate an annual report on the status of coordination between developers and the communities affected by development.

(c) APPLICATION.—

(1) IN GENERAL.—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) NORTH SLOPE BOROUGH COMMUNITIES.—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) APPLICATION ASSISTANCE.—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—There is established in the Treasury the Coastal Plain Local Government Impact Aid Assistance Fund.

(2) USE.—Amounts in the fund may be used only for providing financial assistance under this section.

(3) DEPOSITS.—Subject to paragraph (4), there shall be deposited into the fund amounts received by the United States as revenues derived from rents, bonuses, and

royalties under on leases and lease sales authorized under this title.

(4) LIMITATION ON DEPOSITS.—The total amount in the fund may not exceed $11,000,000.

(5) INVESTMENT OF BALANCES.—The Secretary of the Treasury shall invest amounts in the fund in interest bearing government securities.

(e) AUTHORIZATION OF APPROPRIATIONS.—To provide financial assistance under this section there is authorized to be appropriated to the Secretary from the Coastal Plain Local Government Impact Aid Assistance Fund $5,000,000 for each fiscal year.

TITLE XXIII—SET AMERICA FREE (SAFE)

SEC. 2301. SHORT TITLE.

This title may be cited as the ''Set America Free Act of 2005'' or the ''SAFE Act''.

SEC. 2302. FINDINGS.

Congress finds the following:

(1) The three contiguous North American countries of Canada, Mexico, and the United States share many economic, environmental, and security interests, including being among each others' largest trading partners, similar interests in clean air and clean water, concern about infiltration of terrorists from nations that host terrorist organizations, and interdependent economic systems.

(2) North American energy self-sufficiency is consistent with the shared interests of the three contiguous North American countries and should be achieved through methods that recognize and respect the sovereignty of each of the three contiguous North American countries.

(3) The Energy Information Administration (EIA), in its April 2004 International Energy Outlook, projects that world energy consumption will increase by 54 percent from 2001 to 2025 and that world oil consumption will rise from 77 million barrels per day (Mmbbl/d) in 2001 to 121 Mmbbl/d in 2025.

(4) In the same report, EIA projects that, without a change in governmental policy, the United States oil consumption will rise by 44.4 percent from 19.6 Mmbbl/d (7.15 billion barrels per year (Bbbl/y)) in 2001 to 28.3 Mmbbl/d (10.33 Bbbl/y) in 2025, and that the oil consumption of the three contiguous North American countries of Canada, Mexico, and the United States (in this title referred to as the ''three contiguous North American countries'') will rise by 47.2 percent from 23.5 Mmbbl/d (8.58 Bbbl/y) in 2001 (30.5 percent of world consumption) to 34.6 Mmbbl/d (12.6 Bbbl/y) in 2025 (28.6 percent of world consumption).

(5) EIA projects that, without a change in governmental policy, oil production in the three contiguous North American countries will rise by 18.8 percent from 15.4 Mmbbl/d (5.6 Bbbl/y) in 2001 (19.4 percent of world production) to 18.3 Mmbbl/d (6.7 Bbbl/y) in 2025 (14.5 percent of world production).

(6) EIA projects that, without a change in governmental policy, the three contiguous North American countries contain 492.7 Bbbls of oil resources (16.8 percent of total world oil resources) (not including unconventional oil resources such as United States oil shale or the overwhelming majority of Canadian oil sands) at the base case oil price, which represents sufficient oil to fully supply the needs of the three contiguous North American countries for 57.4 years based on 2001 oil consumption and 39.1 years based on projected 2025 oil consumption, resulting in an average of approximately 48 years of full supply.

(7) In the same report, EIA projects that, without a change in governmental policy, the United States natural gas consumption will rise by 38.9 percent from 22.6 trillion cubic feet per year (Tcf/y) in 2001 to 31.4 Tcf/y in 2025, and that the natural gas consumption of the three contiguous North American countries will rise by 48.0 percent from 26.9 Tcf/y in 2001 (29.3 percent of world consumption) to 39.8 Tcf/y in 2025 (26.3 percent of world consumption).

(8) EIA projects that, without a change in governmental policy, natural gas production in the three contiguous North American countries will rise by 21.7 percent from 27.6 Tcf/y in 2001 (30.3 percent of world production) to 33.6 Tcf/y in 2025 (22.3 percent of world production), not including Alaskan gas through the natural gas pipeline, gas from gas hydrates, nor expanded coal gasification. The United States Geological Survey estimates that natural gas hydrate resources inplace total 169,000 Tcf in Alaska and its surrounding waters, and approximately 150,000 Tcf off the lower-48 Atlantic, Pacific, and Gulf of Mexico coastlines.

(9) The terrorist attacks in the United States on September 11, 2001, and the subsequent expansion of terrorist organizations in regions outside of North America in areas that are major suppliers of oil, and potential suppliers of liquified natural gas, to the United States have significantly increased the national security and homeland security risks to the United States of relying upon oil and natural gas supply sources located outside of the three contiguous North American countries. The United States imports 60 percent of our oil supplies–the highest in history. After Canada and Mexico, the largest oil suppliers to the United States are Saudi Arabia, Venezuela, Nigeria, Iraq, and Algeria all of which suffer from significant instability.

(10) According to published scientific, technical, and economic reports, the three contiguous North American countries have the resource base and technical ability to increase production of oil by at least 15 Mmbbl/d by 2025 and 20 Mmbbl/d by 2030 even before increases in coal liquifaction, biofuels, gas-to-liquids, and other methods of creating liquid substitutes for crude oil and crude oil products.

(11) This increase in North American oil production would be derived from a variety of resources including, among others—

(A) the United States oil shale resource base (2 trillion barrels of oil in place out of 2.6 trillion in the world) believed to be capable of eventually producing 10 Mmbbl/d for more than 100 years;

(B) the Canadian Alberta oil sands resource base (1.7 trillion barrels of oil in place), also believed to be capable of eventually producing 10 Mmbbl/d for more than 100 years;

(C) the United States heavy oil resource base (80 billion barrels of oil in place);

(D) the remaining 400 billion barrels of conventional oil in place in the United States of which 60 billion barrels are potentially producible with advanced CO2 enhanced oil recovery technology;

(E) the United States oil sands resource base of 54 billion barrels of oil in place;

(F) the Arctic National Wildlife Refuge Coastal Plain area (ANWR) with a mean technically recoverable resource of more than 10 billion barrels of oil;

(G) the National Petroleum Reserve-Alaska (NPR-A) with a mean technically recoverable resource of 9.3 billion barrels of oil;

(H) the 12–18 billion barrels of oil likely to be producible in the Canadian Atlantic offshore;

(I) the extensive resources of the Canadian Arctic onshore and offshore;

(J) the extensive resources in the Alaskan Arctic offshore and the outer Continental Shelf offshore the lower-48 United States;

(K) other extensive oil resources in Canada and the United States; and

(L) the extensive oil resources of Mexico.

(12) In addition to being the ''Saudi Arabia'' of oil shale with at least 75 percent of the world's oil shale resource base, the United States is also the ''Saudi Arabia'' of coal. The EIA estimates that total economically recoverable reserves of coal around the world are 1,083 billion short tons–enough to last approximately 210 years at current consumption levels. EIA estimates that the economically recoverable coal reserves of the United States, at 25 percent of total world reserves, are the largest in the world. Total United States coal resources are vastly larger than the 270 billion short tons of economically recoverable reserves, and with new technology much more could economically be made available to supply our energy needs. World consumption of coal in 2001 was 5.26 billion short tons and is projected to grow to 7.57 billion short tons in 2025. 70 percent of the increased world consumption is projected to be attributable to China and India. United States consumption of coal in 2001 was 1.06 billion short tons and is projected to grow to 1.57 billion short tons in 2025.

(13) Growth in world oil consumption has been outstripping growth in world production of conventional oil resources for several primary reasons, including that conventional oil production in most oil producing countries has peaked and is now declining, and developing nations such as China and India are greatly accelerating their consumption of crude oil.

(14) The recent increases in world oil prices are caused by the faster growth in demand over supply and this trend is likely to continue because the remaining conventional oil is more difficult and expensive to find and produce, and frequently not reasonably available.

(15) The National Intelligence Council, an advisor to the Central Intelligence Agency, found in its report, ''Mapping the Global Future,'' NIC 2004–13, December 2004, that ''Continued limited access of the international oil companies to major fields could restrain this investment necessary for supply to meet demand, however, and many of the areas—the Caspian Sea, Venezuela, West Africa, and South China Sea—that are being counted on to provide increased output involve substantial political or economic risk. Traditional suppliers in the Middle East are also increasingly unstable. Thus sharper demand-driven competition for resources, perhaps accompanied by a major disruption of oil supplies, is among the key uncertainties. China and India, which lack adequate domestic energy resources, will have to ensure continued access to outside suppliers; thus, the need for energy will be a major factor in shaping their foreign and defense policies, including expanding naval power''.

(16) Because the price of crude oil is set on a world market basis, the excess of world demand over supply will continue to drive up oil prices to levels potentially several times those of today unless all nations capable of producing significant quantities of incremental oil respond by ensuring such production is developed and available for consumption on an expedited basis.

(17) The eventual, long-term solution is to drastically reduce the world's reliance on oil as the primary fuel for transportation (40 percent of the United States consumption of oil is to power light motor vehicles).

(18) North America, while maximizing the production of oil, must use the next 40 years as a transition period to a more sustainable energy model.

(19) The United States also has large renewable energy resource potential including wind, geothermal, solar, biomass, ocean

thermal, waves and currents, and hydroelectric. The EIA's July 2004 report, ''Renewable Energy Trends 2003'', found that renewable energy provided 6 percent of the Nation's energy supply in 2003. The largest renewable energy source was biomass with 47 percent of the renewables total energy output, followed closely by hydroelectric with 45 percent, then geothermal with 5 percent, wind with 2 percent, and solar with 1 percent. Technology is rapidly advancing, positioning renewable energy to provide an increasing share of our energy supply in the residential, commercial, industrial, transportation, and electric power sectors. The United States public lands and waters comprise 2.25 billion acres, large portions of which may be available to rapidly expand this clean and renewable alternative to fossil energy resources. These lands should be reviewed for their potential contribution to our Nation's domestic energy security.

(20) The United States has the strongest environmental safeguards in the world, and our standards, science, and technology have proven that the United States can produce energy in an environmentally benign manner, particularly when compared with the lesser environmental standards in most foreign oil producing countries.

(21) The 1999 Clinton Administration report, ''Environmental Benefits of Advanced Oil and Gas Exploration and Production Technology,'' highlights the technological achievements of the United States oil and gas industry. The report noted, ''public awareness of the significant and impressive environmental benefits from new exploration and production (E&P) technology advances remains limited . . .. We believe it is important to tell this remarkable story of environmental progress in E&P technology. Greater awareness of the industry's achievements in environmental protection will provide the context for effective policy, and for informed decision making by both the private and public sectors.''.

(22) Many Americans believe the myth that spills from oil and natural gas exploration and production are the leading cause of oil pollution in the oceans and the Nation's rivers and streams. The reality is that, to the contrary, in 2002 the National Academy of Sciences found that offshore oil and natural gas exploration and production account for a total of only 2 percent of the oil in the North American marine environment; natural sources such as oil seeps account for 63 percent of such oil; industrial and municipal discharges, including urban runoff, account for 22 percent of such oil; atmospheric pollution accounts for 8 percent of such oil; marine transportation accounts for 3 percent of such oil; and recreational vessels account for 2 percent of such oil.

(23) Various national security organizations and experts have warned the United States of the escalating risks to our national security of relying on transoceanic oil imports from unstable regions of the world for a significant part of our oil supplies, and they have urged the Nation to reduce its dependence on oil.

(24) Polls consistently have found that a majority of individuals in the United States strongly support reducing our reliance on foreign energy sources.

(25) A recent report on ''Energy and National Security'' issued by Sandia National Laboratories, SAND2003–3287, September 2003, found that our national security is threatened by our continued reliance on vast quantities of oil from unstable foreign sources. The report found that supply disruptions, caused by terrorists or otherwise, could immediately remove many millions of barrels of oil per day from the world supply, and noted that the EIA has estimated that for every one million bbl/d of oil supply disrupted, world oil prices might increase $3–$5 per barrel. Sandia found six solution options, including—

(A) maintenance of strategic reserves;

(B) support of foreign government regimes likely to maintain production;

(C) military deterrence, protection, or intervention to secure production sources and facilities;

(D) diversification of production sources;

(E) reduction of oil intensity through conservation or through more efficient energy use; and

(F) development and deployment of alternatives to oil (or gas).

Sandia noted ''that none of these measures seems likely to emerge from business-as-usual market processes. Thus implementation of these measures will usually require public policy decisions. In the case of the first three, they would be foreign and military policy decisions; in the case of the latter three, they would be legal, regulatory, or governmental subsidy decisions.'' Sandia mentioned oil shale and tar sands as potential diversified sources of oil supplies, and hydrogen, coal, renewables, nuclear fission, and methane hydrates as alternatives to oil.

(26) President Clinton concluded, on February 16, 1995, under section 232 of the Trade Expansion Act of 1962, that ''. . . the nation's growing reliance on imports of crude oil and refined petroleum products threaten the nation's security because they increase U.S. vulnerability to oil supply interruptions.''. In 1994 crude oil imports were 7.051 million barrels per day. On March 24, 2000, President Clinton, upon further review under section 232, found, ''I have reviewed and approved the findings of your investigative report . . . that imports of crude oil threaten to impair the national security.''. Between the two statements by President Clinton, United States crude oil imports increased 21.6 percent to 8.581 million barrels per day in 1999.

(27) Economists have found that while OPEC is an important source of oil price increases, the United States government is also partly to blame because overly burdensome government regulations on domestic energy exploration, production, and sales have supported OPEC's monopoly power and restricted competition from American energy companies, in addition to making expansive highly prospective areas off-limits to leasing and production.

(28) In addition to jeopardizing our national and energy security, importing the majority of our oil also injures our economic security. The United States imported approximately 4.7 billion barrels of oil in 2004, of which 1.4 billion barrels were from Canada and Mexico. Imported energy creates very few jobs in the United States and makes only a very minor contribution to our Gross Domestic Product (GDP). If we substitute North American production for the remaining 3.3 billion barrels of imports per year, at $40 per barrel the new production would sell for $132 billion. A widely used commercial economics model projects that GDP would increase by $336 billion, creating 1,667,160 jobs, each with an average total annual compensation of $50,356. Further, such activity is projected to generate approximately $22 billion in indirect business taxes, including sales, excise, and severance taxes. At a one-eighth royalty, total royalty payments to mineral rights owners would approximate $16.5 billion per year. Further, our imported energy represents more than 25 percent of our international trade deficit. American production could eliminate two-thirds of the 25 percent, strengthening our economy.

SEC. 2303. PURPOSE.

The purpose of this title is to establish a United States commission to make recommendations for a coordinated and comprehensive North American energy policy that will achieve energy self-sufficiency by 2025 within the three contiguous North American nation area of Canada, Mexico, and the United States.

SEC. 2304. UNITED STATES COMMISSION ON NORTH AMERICAN ENERGY FREEDOM.

(a) ESTABLISHMENT.—There is hereby established the United States Commission on North American Energy Freedom (in this title referred to as the ''Commission''). The Federal Advisory Committee Act (5 U.S.C. App.), except sections 3, 7, and 12, does not apply to the Commission.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 16 members appointed by the President from among individuals described in paragraph (2) who are knowledgeable on energy issues, including oil and gas exploration and production, crude oil refining, oil and gas pipelines, electricity production and transmission, coal, unconventional hydrocarbon resources, fuel cells, motor vehicle power systems, nuclear energy, renewable energy, biofuels, energy efficiency, and energy conservation. The membership of the Commission shall be balanced by area of expertise to the extent consistent with maintaining the highest level of expertise on the Commission. Members of the Commission may be citizens of Canada, Mexico, or the United States, and the President shall ensure that citizens of all three nations are appointed to the Commission.

(2) NOMINATIONS.—The President shall appoint the members of the Commission within 60 days after the effective date of this Act, including individuals nominated as follows:

(A) 4 members shall be appointed from amongst individuals independently determined by the President to be qualified for appointment.

(B) 4 members shall be appointed from a list of 8 individuals who shall be nominated by the majority leader of the Senate in consultation with the chairman of the Committee on Energy and Natural Resources of the Senate.

(C) 4 members shall be appointed from a list of 8 individuals who shall be nominated by the Speaker of the House of Representatives in consultation with the chairmen of the Committees on Energy and Commerce and Resources of the House of Representatives.

(D) 2 members shall be appointed from a list of 4 individuals who shall be nominated by the minority leader of the Senate in consultation with the ranking Member of the Committee on Energy and Natural Resources of the Senate.

(E) 2 members shall be appointed from a list of 4 individuals who shall be nominated by the minority leader of the House in consultation with the ranking Members of the Committees on Energy and Commerce and Resources of the House of Representatives.

(3) CHAIRMAN.—The chairman of the Commission shall be selected by the President. The chairman of the Commission shall be responsible for—

(A) the assignment of duties and responsibilities among staff personnel and their continuing supervision; and

(B) the use and expenditure of funds available to the Commission.

(4) VACANCIES.—Any vacancy on the Commission shall be filled in the same manner as the original incumbent was appointed.

(c) RESOURCES.—In carrying out its functions under this section, the Commission—

(1) is authorized to secure directly from any Federal agency or department any information it deems necessary to carry out its functions under this Act, and each such

agency or department is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information (other than information described in section 552(b)(1)(A) of title 5, United States Code) to the Commission, upon the request of the Commission;

(2) may enter into contracts, subject to the availability of appropriations for contracting, and employ such staff experts and consultants as may be necessary to carry out the duties of the Commission, as provided by section 3109 of title 5, United States Code; and

(3) shall establish a multidisciplinary science and technical advisory panel of experts in the field of energy to assist the Commission in preparing its report, including ensuring that the scientific and technical information considered by the Commission is based on the best scientific and technical information available.

(d) STAFFING.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary for the Commission to perform its duties. The executive director shall be compensated at a rate not to exceed the rate payable for Level IV of the Executive Schedule under chapter 5136 of title 5, United States Code. The chairman shall select staff from among qualified citizens of Canada, Mexico, and the United States of America.

(e) MEETINGS.—

(1) ADMINISTRATION.—All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(c) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—

(A) NOTICE.—All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(B) MINUTES.—Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(3) INITIAL MEETING.—The Commission shall hold its first meeting within 30 days after all 16 members have been appointed.

(f) REPORT.—Within 12 months after the effective date of this Act, the Commission shall submit to Congress and the President a final report of its findings and recommendations regarding North American energy freedom.

(g) ADMINISTRATIVE PROCEDURE FOR REPORT AND REVIEW.—Chapter 5 and chapter 7 of title 5, United States Code, do not apply to the preparation, review, or submission of the report required by subsection (f).

(h) TERMINATION.—The Commission shall cease to exist 90 days after the date on which it submits its final report.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this chapter a total of $10,000,000 for the 2 fiscal-year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. 2305. NORTH AMERICAN ENERGY FREEDOM POLICY.

Within 90 days after receiving and considering the report and recommendations of the Commission under section 2304, the President shall submit to Congress a statement of proposals to implement or respond to the Commission's recommendations for a coordinated, comprehensive, and long-range national policy to achieve North American energy freedom by 2025.

TITLE XXV—GRAND CANYON HYDROGEN-POWERED TRANSPORTATION DEMONSTRATION

SEC. 2501. SHORT TITLE.

This title may be cited as the ''Grand Canyon Hydrogen-Powered Transportation Demonstration Act of 2005''.

SEC. 2502. DEFINITIONS.

For purposes of this title, the term—

(1) ''Departments'' means the Department of Energy jointly with the Department of the Interior; and

(2) ''Secretaries'' means the Secretary of Energy jointly with the Secretary of the Interior.

SEC. 2503. FINDINGS.

The Congress finds that—

(1) there is a need for a research and development program to support and foster the development, demonstration, and deployment of emerging hydrogen-based transportation technologies suitable for use in sensitive resource areas;

(2) partnerships between the Department of Energy, the Department of the Interior, Native American Tribes, and United States industry to develop hydrogen-based energy technologies can provide significant benefits to our Nation, including enhancing our environmental stewardship, reducing our dependence on foreign oil, increasing our energy security, as well as creating jobs for United States workers and improving the competitive position of the United States in the global economy; and

(3) when technologically and economically feasible, the implementation of clean, silent or nearly silent, hydrogen-based transportation technologies would further resource stewardship and experiential goals in sensitive resource areas including units of the National Park System, such as Grand Canyon National Park.

SEC. 2504. RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretaries shall jointly establish and carry out a research and development program, in partnership with the private sector, relating to hydrogen-based transportation technologies suitable for operations in sensitive resource areas such as national parks. The Secretaries, in partnership with the private sector, shall conduct a demonstration of hydrogen-based public transportation technology at Grand Canyon National Park within three years after the date of enactment of this Act. At his discretion, the Secretary of Energy may choose to extend existing Department of Energy hydrogen-related vehicle research and development programs in order to meet the objectives and requirements of this title. The Secretaries shall provide preference to tribal entities in the establishment of the research and development program.

(b) OBJECTIVE.—The objective of the program shall be to research, develop, and demonstrate, in cooperation with affected and related industries, a hydrogen-based alternative public transportation system suitable for operations within Grand Canyon National Park, that meets the following standards:

(1) Silent or near-silent operation.

(2) Low, ultra low, or zero emission of pollutants.

(3) Reliability.

(4) Safe conveyance of passengers and operator.

(c) PARTNERSHIP.—In order to accomplish the objective set forth in subsection (b), the Secretaries shall establish a partnership among the Departments, manufacturers, other affected or related industries, Native American Tribes, and the National Park Service shuttle operators and tour operators authorized to provide services in Grand Canyon National Park.

SEC. 2505. REPORTS TO CONGRESS.

One year after the date of enactment of this Act, and annually thereafter for the duration of the program, the Secretaries shall submit a report to the Committees on Appropriations, Resources, and Energy and Commerce of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate describing the ongoing activities of the Secretaries and the Departments relating to the program authorized under this title and, to the extent practicable, the activities planned for the coming fiscal year.

SEC. 2506. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretaries to carry out this title, in addition to any amounts made available for these or related purposes under other Acts, $400,000 per year for three consecutive fiscal years beginning with the full fiscal year following the date of enactment of this Act.

TITLE XXVI—ADDITIONAL PROVISIONS

SEC. 2601. LIMITATION ON REQUIRED REVIEW UNDER NEPA.

(a) LIMITATION ON REVIEW.—Action by the Secretary of the Interior in managing the public lands with respect to any of the activities described in subsection (b) shall not be subject to review under section 102(2)(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), if the activity is conducted for the purpose of exploration or development of a domestic Federal energy source.

(b) ACTIVITIES DESCRIBED.—The activities referred to in subsection (a) are the following:

(1) Geophysical exploration that does not require road building.

(2) Individual surface disturbances of less than 5 acres.

(3) Drilling an oil or gas well at a location or well pad site at which drilling has occurred previously.

(4) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to the National Environmental Policy Act of 1969 analyzed such drilling as a reasonably foreseeable activity.

(5) Disposal of water produced from an oil or gas well, if the disposal is in compliance with a permit issued under the Federal Water Pollution Control Act.

(6) Placement of a pipeline in an approved right-of-way corridor.

(7) Maintenance of a minor activity, other than any construction or major renovation of a building or facility.

SEC. 2602. ENHANCING ENERGY EFFICIENCY IN MANAGEMENT OF FEDERAL LANDS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that Federal agencies should enhance the use of energy efficient technologies in the management of natural resources.

(b) ENERGY EFFICIENT BUILDINGS.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to incorporate energy efficient technologies in public and administrative buildings associated with management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

(c) ENERGY EFFICIENT VEHICLES.—To the extent practicable, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall seek to use energy efficient motor vehicles, including vehicles equipped with biodiesel or hybrid engine technologies, in the management of the National Park System, National Wildlife Refuge System, National Forest System, National Marine Sanctuaries System, and other public lands and resources managed by the Secretaries.

The CHAIRMAN. No amendment to the bill shall be in order except those printed in House Report 109–49.

Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 109–49.

AMENDMENT NO. 1 OFFERED BY MR. HALL

Mr. HALL. Madam Chairman, I rise as the designee of the chairman and I offer amendment No. 1.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 Offered by Mr. HALL:

In the item in the table of contents relating to section 142, strike ''cdbg'' and insert ''CDBG''.

In section 105(a)(1), strike ''Section 801(a)'' and insert ''Section 801(a)(2)''.

In section 105(a)(1), strike ''(42 U.S.C. 8287(a))'' and insert ''(42 U.S.C. 8287(a)(2))''.

In section 105(a)(1), in the proposed subparagraph (E), insert ''and report to the Office of Management and Budget'' after ''shall meet monthly''.

In section 105(a)(1), in the proposed subparagraph (E), insert ''No Federal agency shall enter into a contract under this title unless the Office of Management and Budget has approved such contract.'' after ''contracts are not exceeded.''.

In section 105, strike subsections (c), (d), (e), (f), and (g), and redesignate subsection (h) as subsection (c).

In section 133(b), in the proposed subsection (f), strike ''for suspended ceiling fans,''; and strike the last sentence.

In section 133(c), in the proposed subsection (v), strike ''SUSPENDED CEILING FANS, VENDING MACHINES,'' and insert ''VENDING MACHINES'' in the subsection heading.

In section 133(c), in the proposed subsection (v), strike ''suspended ceiling fans, refrigerated bottled or canned beverage vending machines,'' and insert ''refrigerated bottled or canned beverage vending machines''.

In section 136, strike ''Section 327'' and insert ''Effective 3 years after the date of enactment of this Act, section 327''.

In section 136, redesignate the proposed subsection (h) as subsection (i).

In section 136, in the proposed subsection (i)(1) (as so redesignated by the preceding amendment), strike ''or revised'' both places it appears.

In section 148 of the bill, strike subparagraph (B) of paragraph (1) and insert the following:

(B) in paragraph (2), by inserting '', and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code'' after ''90.1–1989')'';

In section 148 of the bill, strike subparagraph (B) of paragraph (2) and all that follows through the end of paragraph (3) and insert the following:

(B) by inserting '', and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code'' before the period at the end; and

(3) in subsection (c)—

(A) in the heading, by inserting ''AND THE INTERNATIONAL ENERGY CONSERVATION CODE'' after ''MODEL ENERGY CODE''; and

(B) by inserting '', or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code'' after ''1989''.

In section 205(a), in the proposed section 570(a)(1), strike ''Secretary'' and insert ''Administrator of General Services''.

In section 205(a), in the proposed section 570(a)(4), strike ''Secretary'' and insert ''Administrator''.

In section 205(a), in the proposed section 570(b)(1), strike ''Secretary'' and insert ''Administrator''.

In section 205(a), in the proposed section 570(b)(2), strike ''Secretary'' and insert ''Administrator''.

In section 205(a), strike ''Part 4 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8271 et seq.)'' and insert ''Subchapter VI of chapter 31 of title 40, United States Code,''.

In section 205(a), at the beginning of the quoted material, strike ''sec. 570.'' and insert ''**§3177.**''.

Strike section 206 (and amend the table of contents accordingly).

Strike section 244 (and amend the table of contents accordingly).

Strike section 245 (and amend the table of contents accordingly).

In title III, after section 330, insert the following new section (and amend the table of contents accordingly):

SEC. 332. NATURAL GAS MARKET REFORM.

(a) CLARIFICATION OF EXISTING CFTC AUTHORITY.—

(1) FALSE REPORTING.—Section 9(a)(2) of the Commodity Exchange Act (7 U.S.C. 13(a)(2)) is amended by striking ''false or misleading or knowingly inaccurate reports'' and inserting ''knowingly false or knowingly misleading or knowingly inaccurate reports''.

(2) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended by redesignating subsection (f) as subsection (e), and adding:

''(f) COMMISSION ADMINISTRATIVE AND CIVIL AUTHORITY.—The Commission may bring administrative or civil actions as provided in this Act against any person for a violation of any provision of this section including, but not limited to, false reporting under subsection (a)(2).''.

(3) EFFECT OF AMENDMENTS.—The amendments made by paragraphs (1) and (2) restate, without substantive change, existing burden of proof provisions and existing Commission civil enforcement authority, respectively. These clarifying changes do not alter any existing burden of proof or grant any new statutory authority. The provisions of this section, as restated herein, continue to apply to any action pending on or commenced after the date of enactment of this Act for any act, omission, or violation occurring before, on, or after, such date of enactment.

(b) FRAUD AUTHORITY.—Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking subsection (a) and inserting the following:

''(a) It shall be unlawful—

''(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

''(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to section 5a(g) (1) and (2) of this Act, that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

''(A) to cheat or defraud or attempt to cheat or defraud such other person;

''(B) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for such other person any false record;

''(C) willfully to deceive or attempt to deceive such other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of subsection (a)(2), with such other person; or

''(D)(i) to bucket an order if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market; or

''(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of such other person to become the buyer in respect to any selling order of such other person, or become the seller in respect to any buying order of such other person, if such order is either represented by such person as an order to be executed, or required to be executed, on or subject to the rules of a designated contract market.

''(b) Subsection (a)(2) shall not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to section 5a(g) (1) and (2) of this Act, with another person, to disclose to such other person nonpublic information that may be material to the market price of such commodity or transaction, except as necessary to make any statement made to such other person in connection with such transaction, not misleading in any material respect.''.

(c) JURISDICTION OF THE CFTC.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by adding at the end:

''SEC. 26. JURISDICTION.

''This Act shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.). Any request for information by the Commission to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity, and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission, which shall cooperate in responding to any information request by the Commission.''.

(d) INCREASED PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a)—

(A) by striking ''$5,000'' and inserting ''$1,000,000''; and

(B) by striking ''two years'' and inserting ''5 years''; and

(2) in subsection (b), by striking ''$500'' and inserting ''$50,000''.

In section 441(a), in the proposed section 3105(b)(1), insert ''or equal to'' after ''projects less than''.

In section 640, strike ''Section 3110'' and insert ''Section 3110(a)''.

In section 640, in the proposed paragraph (8), strike ''Not later than'' and insert ''To the extent appropriations are provided in advance for this purpose or are otherwise available, not later than''.

In section 663, at the beginning of the quoted material, strike ''(z)'' and insert ''z.''.

In section 663, in the proposed subsection z.(1), strike ''section 922(o), (v), and (w)'' and insert ''section 922(a)(4) and (o)''.

In section 663, in the proposed subsection z.(2)(A), strike '', (o), (v), and (w)'' and insert ''and (o)''.

In section 722(b)(1)(B), strike '', scooters,''.

In title VII, amend section 753 to read as follows:

SEC. 753. AVIATION FUEL CONSERVATION AND EMISSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly initiate a study to identify—

(1) the impact of aircraft emissions on air quality in nonattainment areas;

(2) ways to promote fuel conservation measures for aviation to enhance fuel efficiency and reduce emissions; and

(3) opportunities to reduce air traffic inefficiencies that increase fuel burn and emissions.

(b) FOCUS.—The study under subsection (a) shall focus on how air traffic management inefficiencies, such as aircraft idling at airports, result in unnecessary fuel burn and air emissions.

(c) REPORT.—Not later than 1 year after the date of the initiation of the study under subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the Environmental Protection Agency shall jointly submit to the Committee on Energy and Commerce and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate a report that—

(1) describes the results of the study; and

(2) includes any recommendations on ways in which unnecessary fuel use and emissions affecting air quality may be reduced—

(A) without adversely affecting safety and security and increasing individual aircraft noise; and

(B) while taking into account all aircraft emissions and the impact of those emissions on the human health.

(d) RISK ASSESSMENTS.—Any assessment of risk to human health and the environment prepared by the Administrator of the Federal Aviation Administration or the Administrator of the Environmental Protection Agency to support the report in this section shall be based on sound and objective scientific practices, shall consider the best available science, and shall present the weight of the scientific evidence concerning such risks.

In title VII, amend section 756 to read as follows:

SEC. 756. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

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

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term ''advanced truck stop electrification system'' means a stationary system that delivers heat, air conditioning, electricity, or communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle with or without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term ''auxiliary power unit'' means an integrated system that—

(A) provides heat, air conditioning, engine warming, or electricity to components on a heavy-duty vehicle; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term ''heavy-duty vehicle'' means a vehicle that—

(A) has a gross vehicle weight rating greater than 8,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term ''idle reduction technology'' means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) ENERGY CONSERVATION TECHNOLOGY.—the term ''energy conservation technology'' means any device, system of devices, or equipment that improves the fuel economy of a heavy-duty vehicle.

(7) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term ''long-duration idling'' means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term ''long-duration idling'' does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION AND ENERGY CONSERVATION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation shall, through the Environmental Protection Agency's SmartWay Transport Partnership, establish a program to support deployment of idle reduction and energy conservation technologies .

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction and energy conservation technologies based on the costs and beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A) $19,500,000 for fiscal year 2006, $30,000,000 for fiscal year 2007, and $45,000,000 for fiscal year 2008.

(ii) COST SHARING.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iii) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

''(12) HEAVY DUTY VEHICLES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

''(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 400 pounds.

''(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

''(i) the idle reduction technology is fully functional at all times; and

''(ii) the 400-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).''.

(d) REPORT.—Not later than 60 days after the date on which funds are initially awarded under this section, and on an annual basis thereafter, the Administrator shall submit to Congress a report containing—

(1) an identification of the grant recipients, a description of the projects to be funded and the amount of funding provided; and

(2) an identification of all other applicants that submitted applications under the program.

In title VIII, after section 810, insert the following and make the necessary conforming changes in the table of contents:

SEC. 811. HYDROGEN FUEL CELL BUSES.

The Secretary of Energy, through the advanced vehicle technologies program, in coordination with the Secretary of Transportation, shall advance the development of fuel cell bus technologies by providing funding for 4 demonstration sites that—

(1) have or will soon have hydrogen infrastructure for fuel cell bus operation; and

(2) are operated by entities with experience in the development of fuel cell bus technologies, to enable the widespread utilization of fuel cell buses.

Such demonstrations shall address the reliability of fuel cell heavy-duty vehicles, expense, infrastructure, containment, storage, safety, training, and other issues.

In title IX, subtitle F, chapter 1, add at the end the following new sections:

SEC. 968A. WESTERN MICHIGAN DEMONSTRATION PROJECT.

The Administrator of the Environmental Protection Agency, in consultation with the State of Michigan and affected local officials, shall conduct a demonstration project to address the effect of transported ozone and ozone precursors in Southwestern Michigan. The demonstration program shall address projected nonattainment areas in Southwestern Michigan that include counties with design values for ozone of less than .095 based on years 2000 to 2002 or the most current 3-year period of air quality data. The Administrator shall assess any difficulties such areas may experience in meeting the 8 hour national ambient air quality standard for ozone due to the effect of transported ozone or ozone precursors into the areas. The Administrator shall work with State and local officials to determine the extent of ozone and ozone precursor transport, to assess alternatives to achieve compliance with the 8 hour standard apart from local controls, and to determine the timeframe in which such compliance could take place. The Administrator shall complete this demonstration project no later than 2 years after the date of enactment of this section and shall not impose any requirement or sanction that might otherwise apply during the pendency of the demonstration project.

SEC. 968B. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with Western Hemisphere countries.

(b) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with Western Hemisphere countries to—

(1) assist the countries in formulating and adopting changes in economic policies and other policies to—

(A) increase the production of energy supplies; and

(B) improve energy efficiency; and

(2) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) UNIVERSITY PARTICIPATION.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of universities so as to take advantage of the acceptance of universities by Western Hemisphere countries as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of universities that involve the participation of minority students, such as Hispanic-serving institutions and Historically Black Colleges and Universities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $8,000,000 for fiscal year 2006;

(2) $10,000,000 for fiscal year 2007;

(3) $13,000,000 for fiscal year 2008;

(4) $16,000,000 for fiscal year 2009; and

(5) $19,000,000 for fiscal year 2010.

SEC. 968C. ARCTIC ENGINEERING RESEARCH CENTER.

(a) IN GENERAL.—The Secretary of Energy (referred to in this section as the ''Secretary'') in consultation with the Secretary of Transportation and the United States Arctic Research Commission shall provide annual grants to a university located adjacent to the Arctic Energy Office of the Department of Energy, to establish and operate a university research center to be headquartered in Fairbanks and to be known as the ''Arctic Engineering Research Center'' (referred to in this section as the ''Center'').

(b) PURPOSE.—The purpose of the Center shall be to conduct research on, and develop improved methods of, construction and use of materials to improve the overall performance of roads, bridges, residential, commercial, and industrial structures, and other infrastructure in the Arctic region, with an emphasis on developing—

(1) new construction techniques for roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure that are capable of withstanding the Arctic environment and using limited energy resources as efficiently as possible;

(2) technologies and procedures for increasing road, bridge, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure safety, reliability, and integrity in the Arctic region;

(3) new materials and improving the performance and energy efficiency of existing materials for the construction of roads, bridges, rail, and related transportation infrastructure and residential, commercial, and industrial infrastructure in the Arctic region; and

(4) recommendations for new local, regional, and State permitting and building codes to ensure transportation and building safety and efficient energy use when constructing, using, and occupying such infrastructure in the Arctic region.

(c) OBJECTIVES.—The Center shall carry out—

(1) basic and applied research in the subjects described in subsection (b), the products of which shall be judged by peers or other experts in the field to advance the body of knowledge in road, bridge, rail, and infrastructure engineering in the Arctic region; and

(2) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented.

(d) AMOUNT OF GRANT.—For each of fiscal years 2006 through 2011, the Secretary shall provide a grant in the amount of $3,000,000 to the institution specified in subsection (a) to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006 through 2011.

SEC. 968D. BARROW GEOPHYSICAL RESEARCH FACILITY.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility in Barrow, Alaska, to be known as the ''Barrow Geophysical Research Facility'', to support scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency for the planning, design, construction, and support of the Barrow Geophysical Research Facility $61,000,000.

In section 970(d), amend paragraph (3) to read as follows:

(3) REQUIREMENT OF SECTION 501(c)(3) STATUS.—The Secretary shall not select a consortium under this section unless such consortium is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under such section 501(a) of such Code.

In section 1236, adding a new section 217 to the Federal Power Act, insert a period before the final closing quotation marks.

In section 1252(a) and in section 1252(b), strike ''Public Utilities'' and insert ''Public Utility''.

In section 1254(b)(1), in the amendment to section 112(b) of the Public Utility Regulatory Policies Act of 1978, strike ''(3)(A)'' and insert ''(5)(A)''.

In section 1254(b)(2), strike ''112(d) f'' and insert ''112(d) of''.

In title XII, in section 1274(a), after ''for'' strike ''section'' and insert ''sections 1269 (relating to effect on other regulations), 1270 (relating to enforcement), 1271 (relating to savings provisions), and''.

In title XII, amend section 1298 to read as follows:

SEC. 1298. ECONOMIC DISPATCH.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 223. JOINT BOARDS ON ECONOMIC DISPATCH.

''(a) IN GENERAL.—The Commission shall convene joint boards on a regional basis pursuant to section 209 of this Act to study the issue of security constrained economic dispatch for the various market regions. The Commission shall designate the appropriate regions to be covered by each such joint board for purposes of this section.

''(b) MEMBERSHIP.—The Commission shall request each State to nominate a representative for the appropriate regional joint board, and shall designate a member of the Commission to chair and participate as a member of each such board.

''(c) POWERS.—The sole authority of each joint board convened under this section shall be to consider issues relevant to what constitutes 'security constrained economic dispatch' and how such a mode of operating an electric energy system affects or enhances the reliability and affordability of service to customers in the region concerned and to make recommendations to the Commission regarding such issues.

''(d) REPORT TO THE CONGRESS.—Within one year after enactment of this section, the Commission shall issue a report and submit such report to the Congress regarding the recommendations of the joint boards under this section and the Commission may consolidate the recommendations of more than one such regional joint board, including any consensus recommendations for statutory or regulatory reform.''.

In section 1443, in the amendment adding subsection (d) to section 181 of the Clean Air Act, in paragraph (4), strike ''If, no more than 18 months prior to the date of enactment of this subsection'' and insert ''If, after April 1, 2003'' and strike ''within 12 months after the date of enactment of this subsection''.

In title XIV, in section 1446, strike ''as defined under section 2(a)(1)(A)'' and insert ''identified under section 2(a)(1)(B)'' and strike ''2720(a)(1)(A)'' and insert ''2720(a)(1)(B)''.

In title XV, in section 1505(a), strike ''The review shall be completed no later than May 31, 2014'' and insert ''The review shall commence after May 31, 2013, and shall be completed no later than May 31, 2014''.

In section 1505(b), strike ''No later'' and insert ''After completion of the review under subsection (a) and no later''.

In section 1510, in subparagraph (G) of subsection (a)(2), after ''vehicle emission systems,'' insert ''on-road and off-road diesel rules,'' and after ''imposed by'' insert ''the Federal Government,''.

In section 1510(b)(1), strike ''2007'' and insert ''2009''.

In title XV, in section 1530, in subsection (a) adding a new subsection (i) to section 9003 of the Solid Waste Disposal Act, strike subparagraph (G) of paragraph (1) of such new subsection (i) and insert a period at the end of subsection (b).

In title XV, in section 1531, in the amendment adding new section 9014 to the Solid Waste Disposal Act, in paragraph (2)(C) strike ''9004(f)'' and insert ''9003(i), 9004(f),'' and in paragraph (2)(D) strike ''9011 and 9012'' and insert ''9010, 9011, 9012, and 9013''.

In section 1541(c)(2), strike ''preserves air quality standards'' and insert ''addresses air quality requirements''.

In section 1541(c)(2), strike ''that results'' and insert ''including that which has resulted''.

In section 1541(c), insert the following new paragraph after paragraph (2) and redesignate the following paragraphs accordingly:

(3) CONDUCT OF STUDY.—In carrying out their joint duties under this section, the Administrator and the Secretary shall use sound science and objective science practices, shall consider the best available science, shall use data collected by accepted means and shall consider and include a description of the weight of the scientific evidence. The Administrator and the Secretary shall coordinate the study required by this section with other studies required by the act and shall endeavor to avoid duplication of effort with regard to such studies.

In section 1541(c)(4) (as redesignated by the preceding amendment), strike the sentence beginning with ''The Administrator shall use sound''.

In the heading of title XVII, insert ''**—RESOURCES**'' at the end (and amend the table of contents accordingly).

In the heading of title XIX, insert ''**—RESOURCES**'' at the end (and amend the table of contents accordingly).

Strike section 2026 (and amend the table of contents accordingly).

In the heading of title XXI, insert ''**—RESOURCES**'' at the end (and amend the table of contents accordingly).

Redesignate title XXV as title XXIV, and redesignate sections 2501 through 2506 as sections 2401 through 2406, respectively (and amend the table of contents accordingly).

Redesignate section 2601 as section 2055, and move it to the end of subtitle D of title XX.

Redesignate section 2602 as section 112, and move it to the end of subtitle A of title I.

Strike the remainder of title XXVI.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Texas (Mr. HALL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas (Mr. HALL).

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

Madam Chairman, I offer a manager's amendment which sets forth clearly all of the changes we are proposing to make in our comprehensive energy bill. We have listed all of the changes, rather than offer a substitute, so all Members know which provisions we are changing. Our summary clearly explains these changes.

Madam Chairman, this amendment makes some technical changes, adds a few provisions which were part of the H.R. 6 conference report from last Congress, and clarifies some of the provisions contained in this year's bill. None of these provisions should be controversial.

We make technical changes in the ceiling fan efficiency standards. We clarify references to the firearm laws in the nuclear security provision, which had referred to a law no longer in existence. We clarified the tax status of the consortium under the ultradeep program. And we made clear the PUHCA provisions would not impair FERC's or State commissions' ability to enforce provisions and that companies still must comply with existing orders during the period repeal becomes effective.

We clarify dates in the NAS MTBE study, rulemaking and appropriation authorization dates for the LUST program, and clarified the bump-up dates. We allowed our clean air coal projects to be eligible to power plants of 600 MW or less. We made technical changes to the boutique fuels studies and our reference to the soybean oil within the Edible Oil Act. We have also included the on road and off-road diesel rules in the fuel harmonization study. We also clarified that FERC would have a role to play with the regional boards we established to set guidelines for efficient, economic dispatch of electric power.

Madam Chairman, we again try to cap the energy savings performance contracts at $500 million. We disagree these provisions should score. Like many, we have voiced our opposition to this score, but we are concerned about the cost of the bill, so we are trying again to cap its cost. We also tried to avoid a $64 million score on our employee benefits amendment we adopted in committee.

Some of our other changes include clarifying that the 3-year time period in which the Federal Government must establish energy efficiency standards on certain products be prospective only. Like we did in the bill of the last Congress, we moved the photovoltaic program from DOE to GSA.

We added back into the bill some of the provisions contained in our H.R. 6 conference report of the last Congress. Several were in the research and development title and include the Western Michigan Demonstration Project, the Western Hemisphere Energy Cooperation Project, the Arctic Engineering Research Center, and the Barrow Geophysical Research Facility.

Madam Chairman, most importantly, we reinserted the natural gas market reform provision from the last Congress to ensure Enron trading practices of the past are not repeated. We had to drop this provision because the parliamentarians thought it could be subject to a point of order in our committee, so we are putting it back in now.

We have also added the aircraft idling study, the engine idling program, and the hydrogen fuel bus program. If any Member has any concerns about these provisions, I look forward to working with you through conference. We have added some noncontroversial amendments through the affordable housing energy efficiency provisions.

The other amendments are purely technical in nature, such as removing duplicative provisions passed by other committees.

Finally, Madam Chairman, I want to thank the gentleman from California (Mr. POMBO), chairman of the Committee on Resources; the gentleman from California (Mr. THOMAS), chairman of the Committee on Ways and Means; the gentleman from New York (Mr. BOEHLERT), chairman of the Committee on Science; the gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform; the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure, and their staffs, for helping us put together this manager's amendment; and I ask for its adoption.

Madam Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I claim the time in opposition, and I yield myself 3 minutes.

Madam Chairman, I rise in opposition to the Barton manager's amendment. I have a number of concerns about the manager's amendment.

Let me just begin by saying that inside of the bill there was a provision that I authored in the Committee on Energy and Commerce that was accepted by the Chair, by the majority. And then, without any consultation with me, this amendment has been taken out of the energy bill by the manager's amendment which is being proposed here today.

Let me tell you a little bit about the change they are going to make without any consultation with me.

Now, when you think of all the pollution that comes out of smokestacks, that is created by the generation of electricity from coal-fired plants or from gas-fired plants to create electricity, well, that electricity is being created in order, for the most part, to keep our lights on, our air-conditioning on, to make sure that we can live in a modern society.

Now, at the Department of Energy, in the first 5 years of the Bush administration, they have yet to have a new rulemaking that would improve the efficiency of any of these appliances. Now, the cumulative impact of that is that we are going to see, unfortunately, several hundred new coal-fired or gas-fired generating plants constructed in America.

Now, what does that mean? Well, in addition to the cost to consumers who are going to have to pay for these new plants, you also have all of the additional pollution. We have 8 million children with asthma. We have a rise in breast cancer and prostate cancer and other diseases. More than 50 percent of all disease is environmentally based, coming from what we breathe, from the water that we drink.

The majority, in its wisdom, has decided they are going to impose no burdens on anyone who makes any appliances in America, so they have to improve their efficiency, which is very typical of the entire Bush administration's approach to these technologies. But the impact of having all of these window air conditioners, furnaces, lighting fixtures, heat pumps, 3 years from now, 6 years from now, 10 years from now being just as inefficient as they were 5 years ago is that all this additional pollution has to go into the air: the carbon, the mercury, the sulfur, the nitrous oxide that is inhaled by children in our country. And I just think it is wrong, without any consultation with me, to take my amendment and put it in this manager's amendment, to have it deleted from the bill.

Madam Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Chairman, how much time does the gentleman from Texas (Mr. HALL) have?

The CHAIRMAN. The gentleman from Texas has 1 minute remaining.

Mr. BARTON of Texas. Would the gentleman from Texas (Mr. HALL) yield to me 1 minute?

Mr. HALL. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Madam Chairman, I do not think it is a surprise that I rise in strong support of the Barton manager's amendment, since I am the Barton who authored the amendment.

But I just want to tell my good friend from Massachusetts, whom I just listened to extremely closely as he told his tale of woe about his amendment being accepted in committee and not accepted in the manager's amendment, we found out, as we went to implement it, that there were some things we did not understand about his amendment.

Now, I am sure the gentleman explained it clearly and concisely, and I was probably listening to one of my staffers and probably just did not hear his explanation, but it was actually retroactive in application.

Madam Chairman, had we accepted it and put it in the manager's amendment, there would have been an immediate outcry to implement some standards that were not yet implementable because it would have been retroactive. That is the primary reason it is not in the manager's amendment.

As we go to conference, we will continue to work with the distinguished gentleman, and we probably can find some way to get some part of it in in the conference. But that is the primary reason that particular amendment is not in the manager's amendment.

Mr. MARKEY. Madam Chairman, I yield myself the balance of my time.

Here is the problem with the Bush administration. The Congress, over the years, has passed any number of regulations that deal with the issue of appliance efficiency, but the Bush administration is allergic to energy efficiency. It just wants to put a big new gas station on top of the Arctic wilderness or on top of any other pristine area in our country rather than looking at the technological genius of our country to find some way of improving our efficiency.

So even with regard to new standards in this manager's amendment, they give this administration 6 years, 6 years, to come up with new standards, even as the Bush administration has not done anything for the first 5 years of its term of office at the height of an energy crisis, knowing the consequence of all of this pollution going into the atmosphere in terms of its impact upon the health of our country.

My colleagues, just so you know, women in Japan contract breast cancer at only one-fifth the rate of American women. Women in Japan contract breast cancer at only one-fifth the rate of American women. Women in Japan contract breast cancer at only one-fifth the rate of American women. After the family comes to America from Japan, they contract it at the same rate as Americans. That means it is not in the genes of the girls; it means it is in our air, it is in our water.

What this amendment does is, it says we are just going to build a couple hundred more large electrical generating plants, coal and natural gas, and just spew it into the atmosphere. Well, that is going to be breathed in, all that mercury, all that sulfur and nitrous oxide, and it is going to have a dramatically negative impact upon the health of our country.

My colleagues, this is a bad amendment, and I really regret it is out here and that my friend has proposed it.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Texas (Mr. HALL).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109–49.

AMENDMENT NO. 2 OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DINGELL:

Title XII of H.R. 6 is amended by striking sections 1201 through 1235 and sections 1237 through 1298, by striking the title heading, by inserting the following before title XIII, by redesignating section 1236 (relating to native load service obligation) as section 1233 of the following and inserting such redesignated section 1233 after section 1232 of the following, and by making the necessary conforming changes in the table of contents:

TITLE XII—ELECTRICITY

SECTION 1201. SHORT TITLE.

This title may be cited as the ''Electric Reliability Act of 2005''.

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY.

''(a) DEFINITIONS.—For purposes of this section:

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

''(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

''(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

''(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

''(2) has established rules that—

''(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

''(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

''(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

''(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

''(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

The total amount of all dues, fees, and other charges collected by the ERO in each of the fiscal years 2006 through 2015 and allocated under subparagraph (B) shall not exceed $50,000,000.

''(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

''(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

''(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

''(A) the Commission finds a conflict exists between a reliability standard and any such provision;

''(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

''(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

''(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice and the record of the proceeding with the Commission.

''(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

''(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

''(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

''(A) the regional entity is governed by—

''(i) an independent board;

''(ii) a balanced stakeholder board; or

''(iii) a combination independent and balanced stakeholder board.

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

''(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

''(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

''(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

''(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

''(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards..

''(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

''(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

''(k) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.''.

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) LIMITATION ON ANNUAL APPROPRIATIONS.—There is authorized to be appropriated not more than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

''SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

''(a) TRANSMISSION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

''(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

''(b) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

''(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

''(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

''(3) meets other criteria the Commission determines to be in the public interest.

''(c) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

''(d) EXEMPTION TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

''(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(f) REMAND.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

''(g) OTHER REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

''(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

''(j) DEFINITION.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

''(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

''(2) is an entity described in section 201(f).''.

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

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

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term ''appropriate Federal regulatory authority'' means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL UTILITY.—The term ''Federal utility'' means a Federal power marketing agency or the Tennessee Valley Authority.

(3) TRANSMISSION SYSTEM.—The term ''transmission system'' means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement; consistency with existing contracts and third-party financing arrangements; and consistency with said Federal utility's statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) OTHER OBLIGATIONS.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) REPEAL.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106–377, section 1(a)(2); 114 Stat. 1441, 1441A–80; 16 U.S.C. 824n) is repealed.

Subtitle C—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible onsite generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

''(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

''(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.''.

(b) COMPLIANCE.—

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

''(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

''(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).''.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).''.

(3) PRIOR STATE ACTIONS.—

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

''(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.''.

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).''.

SEC. 1252. SMART METERING.

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

''(14) TIME-BASED METERING AND COMMUNICATIONS.—

''(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

''(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

''(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

''(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

''(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

''(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

''(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

''(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).''.

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

(1) By inserting in subsection (b) after the phrase ''the standard for time-of-day rates established by section 111(d)(3)'' the following: ''and the standard for time-based metering and communications established by section 111(d)(14)''.

(2) By inserting in subsection (b) after the phrase ''are likely to exceed the metering'' the following: ''and communications''.

(3) By adding the at the end the following:

''(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.''.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting ''; and'', and by adding the following at the end thereof:

''(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.''.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

''(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

''(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

''(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

''(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.''.

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

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

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

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

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

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

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

(C) the annual resource contribution of demand resources;

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

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

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

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

''(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

''(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).''.

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

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

''(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.''.

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

Subtitle D—Market Transparency, Enforcement, and Consumer Protection

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

''No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

''SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

''(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

''(b) DEFINITION.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

''(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.''.

SEC. 1283. FRAUDULENT OR MANIPULATIVE PRACTICES.

(a) UNLAWFUL ACTS.—It shall be unlawful for any entity, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails to use or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) APPLICATION OF FEDERAL POWER ACT TO THIS ACT.—The provisions of section 307 through 309 and 313 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 1284. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

''SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

''(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

''(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of section 204, 301, 304, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

''(c) PREVIOUS FERC ACTION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that was taken before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

''(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.''.

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 304 of the Federal Power Act is amended by adding thereof the following new subsection at the end thereof:

''(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

''(2) Section 201(f) shall not limit the application of this subsection.''.

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

''(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.''.

SEC. 1286. TRANSPARENCY.

(a) DEFINITION.—As used in this section the term ''electric power or natural gas information processor'' means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, or cooperative bank, if such bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) PROHIBITION.—No electric power or natural gas information processor may make use of the mails or any means or instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas;

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information;

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity;

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas; and

(F) assure equal regulation of all markets involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) RELATED COMMODITIES.—For purposes of this section, the phrase ''purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas'' includes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is excluded from regulation under the Commodities Exchange Act pursuant to section 2 of that Act.

(d) PROHIBITION.—No person who owns, controls, or is under the control or ownership of a public utility, a natural gas company, or a public utility holding company may own, control, or operate any electronic computer network or other mulitateral trading facility utilized to trade electricity or natural gas.

SEC. 1287. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking ''$5,000'' in subsection (a) and inserting ''$5,000,000 for an individual and $25,000,000 for any other defendant'' and by striking out ''two years'' and inserting ''five years'' .

(2) By striking ''$500'' in subsection (b) and inserting ''$1,000,000''.

(3) By striking subsection (c).

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o091) is amended as follows:

(1) By striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''.

(2) By striking ''$10,000 for each day that such violation continues'' and inserting ''the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation''.

(3) By adding the following at the end thereof:

''(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

''(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

''(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

''(A) involves the purchase or sale of electricity, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

''(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or selling or purchasing electric energy at wholesale in interstate commerce;

''(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

''(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

''(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

''(4) Such entity has willfully violated any provision of this Act.

''(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

''(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

''(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

''(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

''(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

''(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

''(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

''(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.''

(4) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.''.

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

''(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

''(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

''(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

''(A) involves the purchase or sale of natural gas, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

''(B) arises out of the conduct of the business of transmitting natural gas in interstate commerce, or the selling in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

''(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

''(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

''(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

''(4) Such entity has willfully violated any provision of this Act.

''(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

''(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

''(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

''(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

''(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

''(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

''(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

''(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

''(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.''.

SEC. 1288. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating pursuant to a claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 1289. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report of the results of its review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 1290. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

''(g) RULES AND PROCEDURES TO PROTECT CONSUMERS OF PUBLIC UTILITIES.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, and any affiliate of, such public utility company, and no public utility shall acquire or own any securities of the holding company or other affiliates of the holding company unless the Commission has determined that such acquisition or ownership is consistent with the public interest and the protection of consumers of such public utility.''.

SEC. 1291. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: ''In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission may establish an earlier refund effective date.''.

(2) By striking the second and third sentences.

(3) By striking out ''the refund effective date or by'' and '', whichever is earlier,'' in the fifth sentence.

(4) In the seventh sentence by striking ''through a date fifteen months after such refund effective date'' and insert ''and prior to the conclusion of the proceeding'' and by striking the proviso.

SEC. 1292. ACCOUNTS AND REPORTS.

Section 318 of the Federal Power Act is amended by adding the following at the end thereof: ''This section shall not apply to sections 301 and 304 of this Act.''.

SEC. 1293. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

''(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any change in the activities and characteristics relied upon by the Commission in granting such public utility the authority to sell electric energy at market-based rates. If the Commission finds that:

''(1) a rate charged by a public utility authorized to sell electric energy at market-based rates is unjust, unreasonable, unduly discriminatory or preferential,

''(2) the public utility has intentionally engaged in an activity that violates any other rule, tariff, or order of the Commission, or

''(3) any violation of the Electric Reliability Act of 2005,

the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.''.

SEC. 1294. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting ''electric utility,'' after ''Any person,''.

(2) By inserting '', transmitting utility,'' after ''licensee'' each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''person,'' in the first 2 places it appears and by striking ''any person unless such person'' and inserting ''any entity unless such entity''.

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting '', electric utility, transmitting utility, or other entity'' after ''person'' each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: ''or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.''.

SEC. 1295. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CRAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term ''State regulatory authority'' has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms ''electric consumer'' and ''electric utility'' have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

''(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.''.

SEC. 1296. SAVINGS PROVISION.

Nothing in this title or in any amendment made by this title shall be construed to affect the authority of any court to make a determination in any proceeding commenced before the enactment of this Act regarding the authority of the Federal Energy Regulatory Commission to permit any person to sell or distribute electric energy at market-based rates.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. BARTON) each will control 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Madam Chairman, I yield myself 3 minutes.

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

Mr. DINGELL. Madam Chairman, it is regrettable indeed that we function under such a constrained rule, but the amendment which I have been permitted to offer here contains real benefits for electricity consumers and includes many of the reforms that I and other of my colleagues have proposed in committee markups, on the House floor, and in conference during consideration of various energy bills.

First, the amendment would prevent future Enron-like debacles by providing the Federal Energy Regulatory Commission with broad authority to deter and punish fraudulent behavior that distorts electricity and natural gas markets.

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Enron's ingenuity demonstrates how difficult it is for regulators to foresee, punish, prevent, and correct every type of misconduct. A recent FERC report concluded, ''Currently, the Commission has few remedies to address misconduct by market participants.''

Second, my amendment addresses an important real electricity concern, the need to ensure that the FERC has the authority to issue orders requiring refunds for all electricity overcharges. Regrettably, that is not now the case. The skill and arts of Enron and Enron-like rascals will enable them to escape much of the refunds which they should make after the most active kind of wrong doing, as we saw in the western part of the United States.

Third, the amendment does not repeal the Public Utility Holding Company Act of 1935 without which Enron would certainly have purchased more utilities than it did, sunk its tentacles even more deeply into the electric industry, and skinned more consumers and innocent buyers of electricity.

The amendment requires the SEC to review a company's existing exemptions under the act to make sure they do not assert false claim, as the commission belatedly determined Enron had done.

With due respect to the gentleman from Texas (Mr. BARTON), I believe my amendment provides a far better alternative for consumers than the wholly inadequate provisions of H.R. 6. H.R. 6 includes only limited cosmetic changes to current Federal electricity law. It outlaws ''roundtrip trading'' and filing of false information, but offers no protection against schemes liken Enron's Death Star, Get Shorty, or Richochet.

Moreover, H.R. 6 does not authorize FERC to grant full refunds to consumers who were skinned by inflated electricity prices, but rather allows refunds only from the date when the complaint is filed.

Finally, H.R. 6 repeals PUHCA, leaving consumers and investors even more vulnerable to deception by Enron-type players who concoct ''special purpose entities'' to move money around while hiding behind complex, opaque corporate structures. I would note a recent Standard & Poor report states: ''Utility investment in non-core businesses has been responsible for most of the credit deterioration in the utility industry.'' I urge my colleagues to adopt the amendment.

Mr. BARTON of Texas. Madam Chairman, I yield myself 4 minutes.

Madam Chairman, first, I rise in opposition to the Dingell substitute. I do want the record to show that I supported at the Committee on Rules that it be made in order so we could have a full debate.

The Dingell substitute, if it were actually to be implemented into the bill and become law, would go far beyond anything currently being considered in the electricity sector. It would increase the fines already under the bill that go up to $1 million. The Dingell substitute would take that to $5 million and in some cases $25 million. I will admit with the gentleman from Michigan that the current fine is insignificant. I think it is $5,000, and we need to increase that. So the bill takes it to $1 million. The Dingell substitute would take it to between $5 million and $25 million.

The Dingell substitute does not repeal PUHCA. The bill before us does repeal the Public Utility Holding Company Act, but the bill before us keeps in order the reporting requirements under PUHCA so the SEC would have the ability to maintain analysis of records and things like that of the companies that are subject to PUHCA.

The Dingell substitute would require retroactive refunds for market-based rates. It would go back into contracts that have already been executed and electricity is being consumed and money for that electricity has been paid, and for the first time create a retroactive refund. I think that is unwise and unnecessary.

Basically, I would say that the Dingell substitute is well intentioned; but in some cases it goes too far, and in some cases it is silent on the underlying bill. I would hope we would oppose it and keep the base text of the bill that is before us.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

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

Mr. BOUCHER. Madam Chairman, I thank the gentleman from Michigan (Mr. DINGELL) for yielding me this time, and I want to commend the gentleman for bringing this very important substitute for the electricity title in the bill before the House this afternoon. I strongly support the substitute for the electricity provisions in the bill put forward by the gentleman from Michigan (Mr. DINGELL).

The Dingell amendment would improve current law in a number of ways. It would enhance the FERC's ability to deter and punish parties that engage in fraudulent activities that harm consumers. It would create reporting requirements based on the record-keeping requirements under the Federal securities laws for all wholesale energy transactions. It would increase civil and criminal penalties under the Federal Power Act modeled on the penalties established in the Sarbanes-Oxley law. It would direct the FERC to review approved market-based rates on an annual basis to remain sure that they are fair and reasonable as circumstances change.

Unfortunately, one of the things that we have learned during the last few years is that the energy markets are ripe for manipulation. The Dingell substitute would modernize our laws to give the FERC the necessary tools to prevent and, if necessary, punish the entities that engage in fraudulent conduct.

In addition to the strong consumer protection and antifraud provisions, the Dingell amendment also retains the less controversial and very useful parts of the electricity title, including the much-needed reliability provisions for transmission lines, the net metering and smart metering provisions and FERC Lite, to name other provisions.

The Dingell substitute would be a positive addition to the Federal law, ensuring that wholesale electricity markets operate in an efficient and equitable manner. I strongly support the Dingell substitute and urge its approval by the House.

Mr. BARTON of Texas. Madam Chairman, I yield 2 minutes to the gentleman from New Hampshire (Mr. BASS), a member of the committee.

Mr. BASS. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. DINGELL). Basically, this guts the whole bill. It substitutes a power act amendment for the entire bill. It, frankly, goes far beyond anything being considered currently in the electricity debate, particularly with respect to utility security, FERC ratemaking authority, reporting requirements, and industry accounting.

In addition, this amendment would fundamentally rewrite portions of the Natural Gas Act, something that is clearly outside the scope of this debate. I point out that the amendment is opposed by the Edison Electric Institute, the American Public Power Association, and the National Rural Electric Cooperative Association. Those are the co-ops.

It does not help site new transmission that is needed to ensure reliability and provide adequate supplies of affordable electricity to consumers. It does not repeal PUHCA, which facilitates the construction of new construction and promotes badly needed investment in the electric utility industry. It does not amend PURPA to reform the contract process and save constituents money, and it does not promote certainty of contract that is necessary to promote investment and better market operation by putting all market-based contracts at risk. It does not provide FERC the flexibility needed to regulate markets that develop in the future by issuing prescriptive rules, procedures, and penalties.

What the amendment does do, unfortunately, is create market uncertainty, it imposes excessive penalties, and it institutes almost continuous investigation of all utilities with market-based rates, not only burdening utilities, but also burdening FERC and stretching its resources.

Madam Chairman, I hope that the Congress will join me and other like-minded colleagues in opposing this amendment.

Mr. DINGELL. Madam Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Madam Chairman, I want to speak to one aspect of this very important consumer protection amendment, and that is what the amendment is: it protects consumers. The issue I want to talk about is refund authority.

Can there be any doubt today that Western consumers were gouged as a result of energy market manipulation in 2000 and 2001? Can there be any doubt that refunds are owed? So when a Member rises on the floor and talks about retroactive and it is not fair to have something retroactive, we have to have the arm of the law reach back so consumers are refunded the dollars that they were ripped off.

Madam Chairman, 5 years after the crisis in California, no refunds have been ordered because for 5 years the Federal Energy Regulatory Commission has insisted it does not have the authority to order the retroactive refunds that will fully compensate consumers. FERC knows the evidence, and here it is: one, Enron memos reveal that the energy trading company implemented elaborate market manipulation strategies to drive up prices. The Enron memos gave these ploys names like Fat Boy, Death Star, and Get Shorty.

Number two, audio tapes of Enron energy traders surfaced that confirmed the existence of secret deals with power producers that deliberately drove up prices by ordering power plants shut down.

Number three, transcripts of Reliant Energy traders from 2000 revealed that Reliant power plant operators deliberately kept power offline in order to increase energy prices at the height of the crisis.

Four, on March 3, 2003, a coalition of California governmental entities and public utilities presented the FERC with more than 1,000 pages of evidence documenting a ''pervasive pattern of market manipulation that resulted in disastrous effects on prices and reliability.'' And in March 2003, the FERC confirmed that significant power manipulation had taken place in the West.

This amendment gives the FERC broad authority to order retroactive refunds for market-based rates that are not just and reasonable. For California, billions are at stake. I urge a vote for this amendment. Last fall Governor Schwarzenegger said, ''Californians deserve refunds to fairly compensate them for the excessively high prices they paid during the energy crisis.''

Mr. BARTON of Texas. Madam Chairman, I yield myself such time as I may consume for the purpose of responding to the gentlewoman from California (Ms. ESHOO) and also to enter into a colloquy with the gentleman from New Hampshire.

First, let me simply say I understand the concern of the gentlewoman from California (Ms. ESHOO) about the situation in the power markets in California 4 to 5 years ago, and I know she feels more needs to be done. As we speak, there is litigation in process to have more done in that area.

I will say on the record, hundreds of millions, if not billions, of dollars have been reclaimed, indictments have been brought, cases have gone to court and convictions obtained and people sent to jail for some of the transgressions the gentlewoman alluded to.

□ 1730

While it is obvious that she feels more needs to be done, I think it does need to be stated on the record that quite a bit already has been done.

Madam Chairman, I yield to the gentleman from New Hampshire (Mr. BASS).

Mr. BASS. I thank the gentleman for yielding.

Madam Chairman, over the past several months, the gentleman from Texas and I have worked toward a fair and equitable solution to the problem of contamination caused by MTBE getting into our groundwater and other waters. I appreciate all his efforts and the faith he has placed in me on this issue which is so critical to New Hampshire, a State that has been affected significantly and, obviously, other affected States.

Like him, I had hoped that we would be able to have our solution ready for today's House consideration of the Energy Policy Act. However, I am not satisfied that what we have agreed upon in principle is sufficient to the problem or comprehensive enough to have my support, and I would rather not rush it simply for the sake of being done today.

Does the gentleman agree that spending additional time will result in an improved product that will provide a mechanism to ensure that our drinking water is clean and safe today and into the future?

Mr. BARTON of Texas. Madam Chairman, I agree with the gentleman from New Hampshire. He and I have been working toward a solution to the contamination problem in New Hampshire and across the Nation. If he is not satisfied with the solution thus far, then I am not satisfied with it either, and I agree with him that more must and will be done.

With the time that we will have to continue our already significant progress, I appreciate his commitment to reach out to other Members with similar problems like his. Committee staff and I stand ready to assist in every way and are fully committed to resolving the problem before the bill is presented to the President for enactment.

Mr. BASS. I thank the gentleman for those comments.

Does the gentleman also agree that the principles we have established so far, including a fair funding system, strict cleanup standard and an appropriate amount of time for contamination discovery will be safeguarded in the final product unless equivalent mechanisms can be developed?

Mr. BARTON of Texas. I agree with that statement, also. The principles the gentleman has outlined should be part of the solution. I am confident that our work will adequately satisfy New Hampshire and other contaminated States with problems similar to his State's.

Madam Chairman, I will just say that we are in opposition to the Dingell substitute and would urge a ''no'' vote at the appropriate time.

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

The CHAIRMAN. Without objection, the gentleman from Massachusetts (Mr. MARKEY) will control the balance of the time.

There was no objection.

Mr. MARKEY. Madam Chairman, I yield myself 1½ minutes.

The provisions which are in the bill already are good. It is that they just do not go far enough to deal with this electricity crisis that we saw that went across the country.

What the Dingell amendment does is very simple. It creates an antifraud authority at the Federal Energy Regulatory Commission with tough, new criminal and civil penalties. It ensures, in other words, that they can get the real job done.

It also provides real transparency on pricing and trading of electricity in this marketplace. It also prohibits self-dealing, interaffiliate dealing. All of the kinds of activities which were identified in the aftermath of the Enron and the related scandals is prohibited; and the authority is given to the FERC in order to make sure that they get the job done. This is the needed final piece to make sure we do not see a repetition of what happened at Enron.

Vote ''aye'' on the Dingell amendment.

Madam Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. DINGELL).

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

Mr. DINGELL. Madam Chairman, if my colleagues want a replication of Enron and the abuses, the stealing, the dishonesty that hurt pensioners, retirees, shareholders, others in the industry, hundreds and hundreds of ratepayers and hurt the structure of the States in the western United States, then vote against this amendment.

This amendment stops self-dealing. This amendment requires that there be repayment of money wrongfully taken. It allows FERC and the SEC to provide the necessary steps that will stop Enrons and others like Enron from doing what Enron did, which caused such desperate hurt to millions of Americans in the western United States.

My amendment does go further than anything else being considered. Enron's abuses went further than anyone expected, far beyond, and they shook the entire electric industry. But it also hurt consumers, States, and also retirees and pensioners and shareholders.

This amendment will stop that abuse. I urge my colleagues to vote for it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DINGELL. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. DINGELL) will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 109–49.

AMENDMENT NO. 3 OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. MARKEY: Strike title XXII.

The CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from California (Mr. POMBO) each will control 15 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, I yield myself 3 minutes.

The Arctic National Wildlife Refuge is a national treasure, a place of ancient wilderness that remains much the same as it was at the end of the last Ice Age. It is one of the few places remaining in America where man has not scarred the land. It is a place where roads do not pave the way and where the animals truly do roam free. The refuge is home to the 130,000-strong porcupine caribou herd as well as polar bears, musk oxen and even more than 130 species of migratory birds.

All wildlife refuges have, by bipartisan consensus, been set aside to ensure that a few special places, natural places, will not succumb to the pressures of commercial exploitation. The Arctic refuge is one of the most unique wild and irreplaceable refuges of all. If we allow the oil and gas drillers into this refuge, we might as well say goodbye to protection of all 544 refuges in this country.

The Arctic National Wildlife Refuge is the crown jewel of the wildlife refuge system in the United States. Of those 544 refuges, it is estimated that 60 percent of them have the potential for oil and gas development. Overturning the 39-year precedent of never leasing a wildlife refuge to the oil companies where leases did not previously exist will set in motion a series of events that will endanger each of the other 543 refuges spread throughout the States and districts of the Members of this body.

Besides the wildlife refuges, drilling in the Arctic refuge is widely seen as the first step in lifting the moratoria on drilling on the outer continental shelf of the Atlantic and Pacific coasts, specifically in Florida and California.

The chairman of ExxonMobil recently said that drilling in the Arctic refuge is representative of the broader issue of whether drilling will be allowed in other environmentally sensitive places such as the coasts of California and Florida. In a 2003 speech to the Republican Caucus, House Majority Leader TOM DELAY proclaimed the issue of the Arctic refuge is about precedent and repeatedly referred to its symbolism.

Matthew Simmons, an oil industry banker and former Bush adviser, recently told the New York Times that if you cannot do ANWR, you will never be able to drill in the promising areas.

Ladies and gentlemen, this is a huge test for us. The Republican majority has decided not to do anything about making SUVs and automobiles more fuel efficient, and that is where 70 percent of all gasoline, all oil, goes, into those gasoline tanks. Instead of making those vehicles more efficient, what they have decided to do is to construct a gasoline station on top of the Arctic Wildlife Refuge in order to fuel those inefficient vehicles. We must stop them.

Madam Chairman, I reserve the balance of my time.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Madam Chairman, I thank the chairman of the Committee on Resources for yielding me this time.

This is a perennial amendment we have. This energy bill provides for production, conservation and research, but ANWR is one of the most important production parts. Granted we cannot produce ourselves out of these high energy prices, but we have to produce in our own country if we ever expect to lower the prices.

Our Nation needs more energy. Our economy, consumers and workers bid against China, Europe and India's economies for every barrel of Middle Eastern, African and Venezuelan oil. The Congress so far has refused to open promising offshore areas to exploration, even as Cuba, employing Spanish and Chinese energy companies, is drilling 60 miles from the Florida Keys, much closer than we allow American companies to do.

No nation can produce energy more responsibly than ours. Energy production is not like it used to be 50, 25 or even 10 years ago. It is much cleaner and much more scrutinized. Supporting only long-term solutions and conservation is important, but not enough. Our cars get 25 percent of their gas from U.S. lands, but our children will see even less if we do not produce at home.

Two-thirds of the world's oil reserves are in the Middle East, controlled by OPEC. If they act as a cartel, they will control the world price of oil for the foreseeable future. If we allow domestic production to die out, conservation and research will not save us and we will have to pay a terrible economic price.

If we allow production in ANWR, we will see great benefits at a very low, temporary cost and see thousands of good-paying jobs created over the next 25 years. The caribou, bears, birds and other wildlife can thrive just as they have at Prudhoe Bay. Tanker accidents will be prevented by new, double-hulled oil tankers and environmental impacts overall will be much less.

Drill sites are much smaller today and we use fewer wells with our new drilling technology. Permanent gravel roads are no longer necessary if we use the winter ice road. The doom and gloom scenarios by opponents of ANWR oil are inaccurate and not based on reality. I have been there many times, Madam Chairman, and I can tell you that we can produce it and the bears and the caribou will be in ANWR just like they are in Prudhoe Bay.

Mr. MARKEY. Madam Chairman, I yield 1½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Madam Chairman, first, let me just say, I want to thank the gentleman from Massachusetts (Mr. MARKEY) for yielding me the time, for his leadership and the gentlewoman from Connecticut (Mrs. JOHNSON) for her leadership in making sure that this is a bipartisan amendment. Opening up the Arctic National Wildlife Refuge to oil and gas drilling is not the answer to our long-term energy or security needs.

The fact is, we are addicted to oil. The proponents of this bill would have you believe that the only way to cure an addict is to feed the addiction at whatever cost, regardless of the effect on the environment, on our wildlife, and on our public health.

As a psychiatric social worker by profession, I can tell you this does not work. We should be working to reduce our dependency by promoting energy efficiency and energy conservation, and funding research to develop and utilize clean and renewable sources of energy. By allowing drilling in the Arctic refuge, we are spoiling a pristine natural environment, we are furthering our dependence on oil, and we are contributing to high levels of asthma, such as in my own district in west Oakland and throughout the country.

Reducing dependencies on alcohol and on drugs leads to individuals leading clean and sober lives. Our country needs to reduce its dependency on oil, for a clean and sober and independent future is what our children deserve.

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

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

Mr. GIBBONS. Madam Chairman, as I rise to the podium here, I want to bring up a poster which shows what this Arctic National Wildlife Area really is. First of all, let me say that the Arctic National Wildlife Refuge is 19.5 million acres of Alaska, set aside in 1960. Also in 1960, they set aside 1.5 million acres for exploration for oil. That is called the area 1002 part of ANWR.

This is area 1002. This is the area we are going to be drilling on for oil and gas. As you can see, no big trees, no big mountains, no big herds of anything. It is just frozen tundra out there.

□ 1745

But the 1002 area will continue to provide, as the USGS has already said, an estimated oil reservoir for this country that will equal the amount of oil we will get from Saudi Arabia for 30 years, Madam Chairman; 10.4 billion barrels would make it the largest oil reserve find in the world since the nearby Prudhoe Bay discovery was done 30 years ago.

Madam Chairman, the area 1002 is not a wilderness. It is part of ANWR set aside 18 years ago for oil and gas exploration. This is where this 2,000-acre surface disturbance is going to take place. We are not talking about a pristine wilderness area that one would find in any of the southern 48 contiguous States that have forests.

So with that, Madam Chairman, I just wanted to bring to the Members' attention that this is not the pristine wilderness that most people have in mind. This is a frozen tundra that we are going to disturb only 2,000 acres of it, and from there we are going to provide this country with nearly 10 billion barrels of new oil to meet the needs of this country's energy demands.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. KENNEDY).

Mr. KENNEDY of Minnesota. Madam Chairman, I rise to support this amendment.

Since coming to Congress, I have been committed to the need to maximize our domestic energy resources. However, I firmly believe that we must pursue domestic energy independence in a manner that protects our natural resources like the Arctic National Wildlife Refuge. Instead of opening up ANWR to oil drilling, I believe that we should look to new sources and new technologies to increase our energy independence.

I am proud to say that my State of Minnesota is a leader in the field of renewable energy such as ethanol, biodiesel, and wind energy. Minnesota companies offer innovative technologies to reduce our energy needs. These renewable energy sources and technologies offer a sensible alternative to help reduce our reliance on foreign sources of oil without endangering our environment. That is why I support the Markey-Johnson amendment and urge my colleagues to do the same.

Mr. POMBO. Madam Chairman, I yield 4 minutes to the gentleman from Alaska (Mr. YOUNG), chairman of the Committee on Transportation and Infrastructure.

Mr. YOUNG of Alaska. Madam Chairman, I want to thank the gentleman from California (Chairman POMBO) and the gentleman from Texas (Chairman BARTON) for their fine work on a good piece of legislation that starts our process in becoming independent, providing energy policy, which I have heard none from the other side. Remarkably, when I hear people talking about new innovative ideas, they do not tell me what ''new'' is.

We are fossil-fuel oriented, and I will admit to that. And we are also dependent, and we have to admit to that. And we are talking about an area that is not pristine, an area, in fact, that should be developed that is 74 miles from the pipeline, an area that we have developed already in Prudhoe Bay, and we can see the great damage that is done up there. The caribou are using the pipeline to rub their backs on. The caribou are calving around the wells. The gentleman from Massachusetts (Mr. MARKEY) has never been there; so he would not know. And we have polar bears now that are using the line for a transportation corridor.

So, Madam Chairman, those who would support the Markey amendment are really supporting terrorism because you do not want to develop the domestic fuel supply in this country, and we can. We should be doing this right now. And I hear people tell me it will only affect us 10 years from now. If you had done it when I asked you to do it 20 years ago, we could have solved that problem.

The thing that sort of strikes me the most is I hear people talk about special interests. In fact, the gentleman from Massachusetts (Mr. MARKEY) mentioned it today about special interests, serving up special interests. But I would like to just read a little short letter that I happened to pick up off a Web site. It says: ''Dear friend, in a few short hours the Republican energy bill will be brought up for debate and a vote on the floor of the House of Representatives. I need your immediate help to ensure that this terrible bill never becomes law.

''Last week in the Committee on Energy and Commerce, I offered a series of amendments to increase the average fuel efficiency'' and it was turned down by the Republicans.

''I then offered an amendment in the Committee on Resources to strip a provision from the bill that would open the Arctic National Wildlife Refuge for oil drilling.'' The Republicans again voted against it.

''If we allow drilling in the Arctic National Wildlife Refuge we will forever ruin this unique wilderness and allow the oil industry to target all 450 National Wildlife Refuges . . .

''For the last 5 years, I have led the battle in the House to stop the Republicans in the Congress from selling off one of our greatest natural resources to the powerful special interests. Help me continue to fight to expose to the American people the dangers of this extreme and ineffective action by making a contribution today.''

Just, by the way, dial in to www.edmarkey.org/contribute. That is a special interest.

''Help me to continue to fight for sensible, clean and independent energy future and shine a light on the Republican Party backroom attempts to cater to special interests by making an immediate contribution. As Justice Louis Brandeis used to say, 'Sunshine is the best disinfectant.' ''

This is a blatant use of an issue to raise money, and you ought to be ashamed of yourself. To raise money on an issue that has nothing to do with energy, energy that this country needs. We are no longer the only buyers on the block in this world with China and India in the field. And if we do not wake up, we will have a collapse in our economy. We must develop not only ANWR but other sources of fossil fuels in this country as well as nuclear and as well as hydro and as well as wind and all those other forms of energy and quit talking about pipe dreams, because if we do not, there will not be the jobs for the future generations and this country cannot lead this world. And to have someone stand on this floor and offer an amendment that will take out the only provisional production is against America, against this great Nation, and, in fact, would do the wrong thing for this Nation.

So I ask Members to vote ''no'' on the Markey amendment. Keep this good bill intact. Let us produce energy for this Nation. Let us provide for future generations.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Madam Chairman, I want to commend my colleagues for offering this sensible amendment.

We should not even be having this discussion because drilling in ANWR will not make us energy independent and it will not end our Nation's reliance on Middle East oil. Drilling in ANWR will do little to reduce our current dependence on foreign oil because it will take more than 10 years, yes, more than 10 years to process what little oil may be there. In fact, if we spent half the time promoting legislation that encourages the use of renewable energy that we have discussing drilling in ANWR, we would be close to developing a sensible energy policy that would ensure real energy independence. We would invest in alternative renewable clean energy, conservation, and efficiency.

That is why I will support this sensible amendment, and I encourage my colleagues to do the same.

Mr. POMBO. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON), chairman of the Committee on Energy and Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Chairman, I thank the gentleman from California for yielding me this time.

First, let me say that I do oppose the Markey amendment, but I want to say that the letter that was just read is totally legal. He has got every right if he wants to use something to try to raise money. He did not send me that letter. Had he sent it to me, I would have had to reply in the negative that I could not make the contribution. But I recognize his right to do it in that manner.

I oppose the Markey amendment because I want to pay less for gasoline in Texas. I would like to tell the Members that my great State is self-sufficient in energy production and self-sufficient in oil, but it is not true. We are the largest producer of oil of the 50 States, but we are also the largest consumer.

ANWR has the potential to produce up to 2 million barrels a day for 30 years. And depending on one's point of view, that is a lot or a little. If one wants to say it is a lot, it is more than we import from Saudi Arabia. If one wants to say it is a little, it is less than we use in a year in this country. But 2 million barrels a day for 30 years would lower prices for every American at the pump.

I would point out that in terms of the environment, we have been producing successfully in Prudhoe Bay for almost 30 years without any harm to the environment, as the gentleman from Alaska (Chairman YOUNG) showed in those pictures when he was up here right before me.

My district produces substantial amounts of oil and gas. We are producing 1.5 billion cubic feet of gas every day. That is one half of a trillion cubic feet a year. I cannot tell the Members how many hundreds of thousands of barrels of oil per day, but we are producing significant amounts of oil. We are producing it through the water table and supplies of many of the cities that I represent. We are producing it from underneath downtown Fort Worth, Texas. And we are doing it in a safe and environmentally effective fashion. We could do that also in ANWR. I strongly support the gentleman from California's (Chairman POMBO) amendment that would allow it.

I want to thank our colleagues in the other body for already agreeing in the reconciliation instructions, and I urge a ''no'' vote on the Markey amendment.

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Madam Chairman, I have the greatest respect for the gentleman from Alaska (Mr. YOUNG), and I simply have a difference of opinion with him on this despite that great respect.

In what has become a congressional ritual, the prospect of drilling in the Arctic has been repeatedly struck down in recognition of the fact that American working families do not want it. Still, we have proponents telling us that drilling is good for jobs.

Some of the Nation's largest unions, I might point out, like the SEIU, United Auto Workers, United Steelworkers, and United Farm Workers, are on record opposing drilling in the Arctic Refuge. Why? Because it is bad labor policy. Oil production is one of the least labor-intensive industries, supporting fewer than three direct jobs per $1 million of investment. Energy efficiency supports 27 jobs for the same investment.

It is also bad economic policy. One dollar spent on petroleum production creates only $1.51 in economic value. But that same dollar, when invested in energy efficiency, creates $2.23 in economic value.

Our Nation's energy policy should not include drilling in the Arctic.

Mr. POMBO. Madam Chairman, I yield 1½ minutes to the gentleman from California (Mr. NUNES).

Mr. NUNES. Madam Chairman, I had an opportunity to go up to and visit in Alaska the gentleman from Alaska's (Chairman YOUNG) district. And I find it really interesting to hear the opposition to this bill because when I went up there, I envisioned that I would see trees, running water, big mountains, things that the American people would want to preserve. However, when I got there, I found nothing but tundra. And it was just kind of a wasteland of ice and tundra.

And as the American people are paying upwards of $2.50 a gallon for fuel today and we sit in the white building on Capitol Hill, I wonder what they are thinking out there.

This should have been opened long ago. We could get 10 percent of our daily supply from ANWR. But I believe that the radical environmental groups have been using this as a fund-raising tool for their organizations because what they say is in ANWR and what we see when we get there does not exist. And now I think the fund-raising has continued. Unfortunately, though, it has spread here to the halls of Congress. And with all the ethics charges that are being brought today by the Democrats, I find it very interesting that the author of this amendment sends out a fund-raising letter, and I have the fund-raising letter right here that, that asks people to contribute today. And I would like to submit this for the RECORD, Madam Chairman, because this is outrageous when people are paying $2.50 a gallon and the Democrats and the radical environmental groups are using this as a fund-raising tool.

DEAR FRIEND: In a few short hours, the Republican Energy Bill will be brought up for debate and a vote on the floor of the House of Representatives. I need your immediate help to ensure that this terrible bill never becomes law.

Last week, in the Energy and Commerce Committee, I offered a series of amendments to increase the average fuel efficiency of cars, mini-vans and SUVs. Each of these amendments was voted down by the Republican majority on the Committee, ensuring that the most technologically advanced nation in the world will continue to ignore energy conservation and not diminish its demand for oil. Why is it that we can send a man to the moon and beyond but cannot make our cars more efficient? This is auto mechanics, not rocket science.

I then offered an amendment in the Resources Committee to strip a provision from the bill that would open the Arctic National Wildlife Refuge for oil drilling. The Republicans on that committee voted against my amendment, choosing to set up a gas station in this pristine National Refuge.

If we allow drilling in the Arctic National Wildlife Refuge, we will forever ruin this unique wilderness and allow the oil industry to target all 540 National Wildlife Refuges for drilling and exploitation—all for a few meager months worth of oil. Furthermore, drilling in the Refuge is completely unnecessary. If we were to increase the average fuel efficiency of cars, mini-vans and SUV's by only three miles per gallon, we would conserve more oil in ten years than could ever be produced by drilling in the Arctic National Wildlife Refuge.

For the last five years I have led the battle in the House to stop the Republicans in Congress from selling off one of our greatest natural treasures to the powerful special interests. Help me continue to fight to expose to the American people the dangers of this extreme and ineffective action by making a contribution today.

Today, I will offer these amendments again on the House floor. This series of votes is a critical moment for our country's energy future. I need your help now to expose the travesty of this Republican energy plan and ensure that this horrendous bill, rife with handouts to the special interests, is ultimately defeated. If this bill passes, we will create more pollution, forever spoil one of our most important and beautiful public lands and be forced to continue placing our soldiers in harm's way in defense of oil in the Middle East.

Help me continue to fight for a sensible, clean and independent energy future and shine a light on the Republican Party's backroom attempts to cater to the special interests by making an immediate contribution. As Justice Louis Brandies used to say, ''sunshine is the best disinfectant.''

Thank your for your action,

ED MARKEY

Mr. MARKEY. Madam Chairman, I yield 1 minute to the gentleman from Washington State (Mr. INSLEE).

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

Mr. INSLEE. Madam Chairman, the gentleman from Alaska (Mr. YOUNG) asked a very important question: Where are the technologies that we can use to avoid having to destroy the character of one of our most pristine areas in America?

And the answer is that we have technologies today that we simply stopped using 20 years ago.

□ 1600

If you look at this graph, it shows the mileage of our cars that we have. You see, starting in 1975 it went up dramatically because we had a bipartisan consensus to demand to use existing technologies to improve our automobile efficiency. It went up dramatically, almost doubling, almost doubling by 1985.

And then what happened? We fell off the wagon, and since that time, our average full economy shown by this middle line has absolutely, absolutely gone down since 1985.

The fact of the matter is, these are not future techno dreams that someone has dreamed up in their garage somewhere; they are technologies that exist today. I drive a car that gets 44 miles to the gallon. I am 6′2″, 200 pounds; it is totally safe and comfortable.

We need to get back on the fuel efficiency wagon as we were in the 1980s on a bipartisan basis and not put a mustache on the Mona Lisa. You say 2,000 acres? It is still a mustache on the Mona Lisa for our most pristine areas.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today in opposition to the Markey amendment.

Of course, energy independence should be the goal of this Congress. Worldwide demand for petroleum has increased in the last decade. Our production has been relatively flat.

The inevitable result is higher prices at the gasoline pump. The reality is, it takes a long time to go from the oil field to the gasoline station, and we have lost considerable time in this regard.

Ten years ago, 1995, 104th Congress, H.R. 2491 would have allowed oil exploration in the ANWR. The Department of Energy has estimated, and the chairman quoted today, between 1 and 2 million barrels of oil a day could be derived from this source.

Unfortunately, this legislation, passed by the House and the Senate, was vetoed by President Clinton. That was nearly 10 years ago. Given a time line of 7 to 14 years for building a pipeline structure, it is time that we could scarcely afford.

Just like the other gentleman from California, I have been to ANWR. The vast coastal plain is unsuitable for habitation during the summer months because of the marshy consistency. Any caribou unlucky enough to calve in this region would likely die from exsanguination at the hands of the mosquitoes there.

The people in ANWR are counting on this Congress to do the right thing and allow them, the rightful owners of these mineral rights, to begin developing the sources that were granted to them upon statehood in 1959.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Chairman, I thank the gentleman from Massachusetts for his leadership on this issue.

I see a far different place than the two gentlemen that have spoken before us from the opposition. When I went up to the Arctic National Wildlife Refuge, I saw a tremendously diverse area in terms of wildlife. I saw musk oxen, grizzly bears, Arctic char, and this marvelous caribou herd, which is the largest in North America, migrate to cross the area that we are talking about drilling in. So there is a far different area than is being described.

One of the things that has not been mentioned here is, two native tribes depend on the migration of these caribou, and they have asked the Congress and they have asked the State of Alaska to stand up for them and to say, We do not want to have the destruction of this migration, because their livelihood depends on having caribou, and their entire existence rotates around that.

So I would urge my colleagues to support the Markey amendment and vote down this dangerous energy bill.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, may I inquire of the Chair how much time is remaining.

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from Massachusetts (Mr. MARKEY) has 5½ minutes remaining; the gentleman from California (Mr. POMBO) has 2½ minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 3½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the Markey amendment.

I consider this one of the most important environmental votes Congress will cast this year, the vote to protect the Arctic National Wildlife Refuge from oil and gas drilling.

According to the U.S. Geographical Survey, this area would produce far less oil than the U.S. consumes in a single year, and is the only conservation area that protects a complete spectrum of Arctic and sub-Arctic ecosystems in North America.

The ecosystem will be seriously damaged by drilling in the ANWR, make no mistake about it. Roads, pipelines, drilling platforms and communities to support personnel all involve disturbing this critical natural habitat by moving a great deal of extremely heavy equipment across fragile lands, by locating multi-ton rigs and whole communities of people to support the drilling operation on this fragile land base.

Drilling supporters claim that everything can be done in the refuge using ice roads and platforms. But even if ice roads did not melt in summer months, the reality is that there is simply not enough water in the refuge to create the roads and platforms necessary to drill in the ANWR refuge.

Just building 1 mile of road takes a million gallons of water. There are only eight lakes scattered across the refuge containing enough unfrozen water to build a mile or more of ice roads. That means the only alternative truly is permanent gravel roads crisscrossing the refuge and, in fact, there is not one oil field in Alaska's North Slope that does not have permanent gravel roads.

Some drilling supporters cite the central Arctic caribou herd as illustrating that the caribou and drilling can coexist harmoniously. But calving females have completely withdrawn from the drilling area around Prudhoe Bay and are declining around the Kuparak complex. While there is ample area for the central Arctic herd to move away from the drilling facilities for calving and still be supported, this is not the case for the porcupine caribou herd. They are a much larger herd and the coastal plain where they calve is much smaller. They would be displaced into the foothills where both they and their calves would be extremely vulnerable to predators.

Finally, it would take a decade to deliver oil from the ANWR, and the amount, again, as I said earlier, would be very limited, according to the U.S. Geological Survey.

On the other hand, the National Petroleum Reserve and other areas are capable of providing far more oil. In fact, the Federal Government, the State of Alaska, the Arctic Slope Regional Corporation, and others are in the process of leasing 50 million undeveloped acres in this region.

We do not need to drill on the ANWR plain. If we were to increase the fuel efficiency of automobiles by just 3 miles per gallon, we would save a million barrels of oil a day, five times the amount we would get out of ANWR. Or, if just California increased their use of currently available clean diesel technology cars, pickups and SUVs just to the levels seen in Europe today, just California could save 110 million gallons of gasoline by the year 2010.

So this vote is not about oil, it is about our values and how we balance the value we place on a critical environmental resource and its ecosystems, and the value we place on exploration in a low-yield area. Indeed, it is about prudent stewardship.

Mr. POMBO. Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield myself the balance of the time.

The Acting CHAIRMAN. The gentleman from Massachusetts has 2 minutes remaining.

Mr. MARKEY. Mr. Chairman, this is a huge moment for this Congress. Inside of the Republican bill that we are voting on is a continuation of the $35,000 tax break to purchase Hummer IIs, a tax break to buy a Hummer II, $35,000. And then they turn with policies like that and they say, We need more gasoline in America. And they turn to an Arctic wildlife refuge as the first example of where they will go, rather than saying, Well, you know, if our country could put a man on the moon in 1969, if we could deploy the Internet around the world in the last 15 years, if we could craft a human genome, then maybe we could find a way to reinvent the automobile and the SUV so that it would average more than 23 miles per gallon, 1983s average; that is the average we have today.

It is wrong, it is immoral for this Congress not to have any fuel efficiency standards for automobiles or SUVs in their bill, to continue tax breaks, giving incentives for Americans to purchase the most inefficient vehicles, and to then turn to the wilderness areas and say, We need the energy.

America is great because its people are great, and what makes us great is we are technological giants. We have only 3 percent of the oil reserves in the world, but with our brains, we can make vehicles that are twice as efficient as the ones that we use today, if we put our minds to it. But the Bush administration and the Republican majority are completely and totally opposed to it. They reject it in their legislation today. Yet, they say they have a solution for the energy crisis in America.

Well, you cannot put 70 percent of all of the oil in gasoline tanks, have no improvement in fuel economy standards, and then say you are solving the problem by going to wilderness areas and spoiling them.

Vote ''aye'' on the Markey amendment.

Mr. POMBO. Mr. Chairman, I yield myself the balance of the time.

The Acting CHAIRMAN. The gentleman from California has 2½ minutes remaining.

Mr. POMBO. Mr. Chairman, this is always a great debate that we have on the energy bill, and I always enjoy the rhetoric of the gentleman from Massachusetts (Mr. MARKEY) and his ability to speak to the issues that he is so passionate about.

I have been to ANWR. I have been up there in the wintertime when it was 40 degrees below zero; I have been there when it was the summertime and it had warmed up to 32. And I agree with the gentleman from Massachusetts on one point, and that is that it is a very unique place that deserves to be protected. I believe that it is one of the most important areas that we have in Alaska, and throughout the country, because of its uniqueness.

But the argument that the gentleman from Massachusetts (Mr. MARKEY) and those who support his amendment continue to make is that we have to choose between energy production and protecting our environment, and we do not. It is a false choice. We keep hearing this over and over again.

Currently, there are about 120 wildlife refuges that have some kind of oil and gas development in them. This is not a wilderness area, as the gentleman from Massachusetts (Mr. MARKEY) keeps talking about, it is a wildlife refuge. And the area that we are talking about doing gas and oil exploration in was reserved by Congress for that purpose.

We do not have to choose between having a vibrant economy, we do not have to choose between providing the energy resources for our country and protecting our environment. We can do both. There is no reason why we cannot.

They talk about the 700,000 jobs that this will produce, and if it is that many, that is American jobs. But that is money that is being sent to foreign countries right now, that will be kept in this country. We have 3,000 union members that are on Capitol Hill today lobbying against the Markey amendment, because they know it means jobs to them. But they also know that it means that they will have to pay less in the future for gasoline than they would if the Markey amendment passes.

This is an important amendment, because when we talk about energy independence, a big part of energy independence is developing our energy resources. It is not about all of these pie-in-the-sky ideas that we keep hearing about. What this is about is developing our own resources here at home, providing jobs here at home, and keeping hundreds of millions of dollars a year here at home. That is the effort that this committee is making; that is the effort that we put in.

Passing the Markey amendment would be a huge mistake. If we had been able to do this before, we would be producing that oil now.

Vote against the Markey amendment again.

Mr. UDALL of Colorado. Mr. Chairman, I support this amendment.

I think our colleagues from Connecticut and Massachusetts have very well explained why the amendment should be adopted.

On that, I don't think there is a need to try to add to what they said except to say that the amendment will protect one of the most special places in our country without much real cost in terms of our ability to maintain needed energy supplies.

But I do want to take just a moment to add a personal note.

As Congress has debated this and similar energy bills, there has been some discussion of the history of the Alaska Lands Act and how its authors might vote if they were still Members of Congress.

Some have even suggested that my father, Mo Udall, would oppose this amendment and support opening the coastal plain to drilling.

That's an interesting thought. Of course, all we really know is that if things were different, they would be different.

But I have my own opinion on the subject—and I think speculation along those lines is not based on history.

I think that the prime sponsors of the Alaska Lands Act, including my father, would support the Markey-Johnson amendment.

Of course, that isn't really the point, anyway—the real issue before us isn't about the past, but about the future.

And it is up to us—not our predecessors—to decide, not just for ourselves but for our children and their children.

But if people want to consider some words from the past, I would direct their attention to the original Committee report on the Alaska Lands Act, dated April 7, 1978.

On page 149, the report points out that "the Committee has noted the eloquent statements of a number of prominent Alaskans" about the idea of building a pipeline across the coastal plain.

"For example," the report continues, "Senator Ted Stevens . . . told the Council on Environmental Quality that 'Some have appropriately compared [that idea] with slicing a razor lade across the face of the Mona Lisa."

I think that is a good summary of what could happen if we do not adopt this amendment.

I am not saying that Senator STEVENS would support the amendment—I am sure he wouldn't.

I am saying that I think he aptly described what will happen if the coastal plain is opened to drilling.

And that is why I will vote for this amendment, and why I urge its adoption by the House.

Mr. CROWLEY. Mr. Chairman, this debate comes down to Fact v. Fiction.

Fiction—The other side argues that drilling in pristine areas will lower gas prices.

Fact—The President's top counselor Dan Bartlett said this week that there is no magic wand to reduce gas prices.

Fiction—Opening ANWR will relieve the U.S. from turning to foreign sources.

Fact—This bill makes our country more dependent on fossil fuels from places like the Mid-East as scientists of all ideologies have stated that the limited amount of oil will not result in a lessening of oil dependency for the U.S.

Fiction—Opening ANWR will weaken OPEC and strengthen the U.S.

Fact—The Bush administration's own Department of Energy contradicts this point, when it determined last year that if world oil markets continue as they currently do, OPEC could "countermand any potential price impact of Arctic Refuge production by reducing its exports by an equal amount?"

Fact—Drilling in ANWR will not lower gas prices at the pump; will not protect our national sovereignty, and will not reduce our dependence on foreign oil.

Fact—Vote for Markey-Johnson.

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Markey-Johnson Amendment to protect the Alaska National Wildlife Refuge.

The coastal plain of ANWR is the last major part of the North Slope that has not been developed. In my judgment, it would be far better to develop prudent and lasting alternate fuel energies than to risk irreparable damage to the wilderness of one of North America's most beautiful frontiers.

The reason the ANWR ''solution'' seems so simple is because it's too good to be true. It won't fix our energy problems—with so little oil available up there, it couldn't possibly, as it will take a decade to get the oil down here. That time would be far better spent developing clean, renewable energy sources that will provide infinite energy without imperiling our last remaining wilderness areas. Even a modest increase in CAFE standards would save more oil than would be produced by drilling in ANWR.

We simply won't have a world to live in if we continue our neglectful ways. What we really need to ask ourselves is: how can we square legitimate environmental concerns with our expanding energy needs?

Mr. Chairman, drilling in the Arctic Refuge is the wrong answer to the right question. I urge my colleagues to vote yes on the Markey-Johnson Amendment.

The Acting CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. MARKEY. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) will be postponed.

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The Acting CHAIRMAN (Mr. SIMPSON). It is now in order to consider amendment No. 4 printed in House Report 109–49.

AMENDMENT NO. 4 OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BOEHLERT:

In title VII, at the end of subtitle E, add the following:

SEC. 775. AVERAGE FUEL ECONOMY STANDARDS.

(a) PURPOSE.—The purpose of this section is to seek to save each year after 2014 10 percent of the oil that would otherwise be used for fuel by automobiles in the United States if average fuel economy standards remained at the same level as the standards that apply for model year 2007.

(b) IN GENERAL.—Section 32902 of title 49, United States Code, is amended by redesignating subsections (i) and (j) in order as subsections (j) and (k), and by inserting after subsection (h) the following:

''(i) STANDARDS FOR MODEL YEARS AFTER 2007.—The Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles manufactured by a manufacturer in model years after model year 2007, that shall—

''(1) ensure that the average fuel economy achieved by automobiles manufactured by a manufacturer in model years after 2014 is no less than 33 miles per gallon;

''(2) ensure that improvements to fuel economy standards do not degrade the safety of automobiles manufactured by a manufacturer; and

''(3) maximize the retention of jobs in the automobile manufacturing sector of the United States.''.

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (c)(1) in the first sentence by inserting ''and subsection (i)'' after ''of this subsection''; and

(2) in subsection (k) (as redesignated by subsection (a)) by striking ''or (g)'' and inserting ''(g), or (i)''.

The Acting CHAIRMAN. The gentleman from New York (Mr. BOEHLERT) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY), and I ask unanimous consent that he be able to control that time.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The Acting CHAIRMAN. The gentleman from Massachusetts will be allotted 5 minutes and will control the 5 minutes.

Does the gentleman from Michigan (Mr. DINGELL) claim the time in opposition?

Mr. DINGELL. I am opposed to the amendment.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) will be recognized for 10 minutes.

Mr. DINGELL. Mr. Chairman, I ask unanimous consent to yield 5 minutes to the gentleman from Michigan (Mr. UPTON) and that he be permitted to yield as he might see appropriate amongst his colleagues.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I yield myself 1 minute. Mr. Chairman, let me make several quick points. First, we cannot become less dependent on foreign oil unless we increase the fuel economy of our vehicles.

We are importing 14 million barrels of oil every day. Cars and light trucks consume 9 million barrels of oil every day, and consumption is going up not down. We are on a collision course with disaster.

Second, we have been losing ground on fuel economy. We use more gas to drive a mile today than we did 20 years ago. Third, this amendment would cut, would cut U.S. consumption by 2 million barrels a day by 2020, more of a savings than any other single source in the bill.

Fourth, the National Academy of Sciences said that full economy can be increased ''without degradation of safety.'' A representative of the Alliance of Automobile Manufacturers confirmed at a recent Science Committee hearing that I chaired that CAFE could be increased without compromising safety.

Finally, the biggest beneficiary of this amendment will be the consumers. They are sick and tired of paying skyrocketing prices for gasoline, $40 to $50 to fill up. They want relief. This amendment offers them hope that we are doing something about it.

Finally, support this commonsense science-based amendment that will help the Nation while leaving more money in consumer's pockets, theirs not ours.

Mr. DINGELL. Mr. Chairman, I yield myself 1 minute.

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

Mr. DINGELL. Mr. Chairman, I know the amendment is offered with the best of good will. It is nonetheless a bad amendment which is going to cost this country jobs. I urge my colleagues to oppose it.

The amendment appears to say that it would only require CAFE to be fixed at 33. In point of fact, it would be required, because of the language in the amendment, to properly go to 36 miles per gallon. If you like driving around in small cars, this will assure that that will be all that you will have.

I will point out who opposes it: AFL–CIO, Farm Bureau, United Auto Workers, National Automobile Dealers, and hundreds of consumers who buy comfortable cars which are big enough so that they can take their family around.

The amendment would purport to have the agency which would fix fuel economy standards to in fact consider both jobs, safety and other questions like that. In point of fact, there is no requirement. So those requirements, in fact, are not requirements but, rather, an illusion.

I would urge my colleagues to vote against the amendment. It is opposed by people who want jobs, who are concerned about the economic welfare and well being of the country, and the auto workers.

Mr. Chairman, I reserve the balance of my time.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentleman from Washington State (Mr. INSLEE.)

Mr. INSLEE. Mr. Chairman, I would, just in support of this amendment, report how successful our country has been previously with this experience. I want to point to a graph showing our fuel efficiency in 1975, that when we were adopting fuel efficiency standards, rocketed up and almost doubled to 1985, then stopped when we lost our commitment to fuel efficiency.

And subsequently it has plateaued; it has actually gone down. The average fuel efficiency today is less than it was in 1985. I want to point this out, because it shows an American success story. We were successful in driving safe, efficient, fuel-efficient cars. And we got off the fuel-efficiency wagon.

It is time to go back. We cut a deal with Canada the other day. We can do it in America.

Mr. UPTON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON), the chairman of the powerful Energy and Commerce Committee.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to this amendment. You could classify this amendment as the darn-the-people amendment, and we are going to tell them what they want to do, not what they really want to do. We are going to tell them that they have to do something whether they want to or not.

I would list as Exhibit A the parking garage of the Cannon Office Building or the Rayburn Office Building or the Longworth Office Building. There are cars and trucks on the market today that meet the standards that would have to be met if this amendment were to become law. I doubt that the congressional fleet meets that standard, because we, like everybody else, want some convenience and want some power under the hood.

But if you want a car or truck that gets 35 or 36 miles a gallon or 40 miles a gallon or more, you can buy it today. How many of us do that? I have had one vehicle that my son actually bought; it was a Nissan Sentra. It probably got 35 miles to the gallon on the highway. When he got through with it and bought himself a little bit bigger, more fancy vehicle, he let me drive it, and I brought it up here, used it as my car for a while. My staff was so embarrassed: it did not have an air conditioner; it was a standard transmission. I could hardly get them to get in the car.

But I did have one vehicle in my life that would have met the standard that is in this bill. I represent an assembly plant in Arlington, Texas, a UAW plant. I doubt very many of those folks actually vote for me because I am a Republican and most of them are not, but they have a right to make the Chevrolet Tahoes and the Cadillac Escalades, because a lot of Americans want to drive that vehicle.

I am not going to go down and tell them, you cannot make that vehicle because it does not meet these fuel-efficiency standards. Let the market decide. If America wants more fuel-efficient vehicles, they are available in the marketplace today.

We do not need a government fiat telling them that that is the only vehicle that they can purchase. Vote against this amendment.

Mr. BOEHLERT. Mr. Chairman, I yield 30 seconds to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise in strong support of the Markey-Boehlert, et al amendment. People used to own slaves and we look back and say how could they? Future generations will say we destroyed the environment and how could we?

Let us conserve, let us see oil prices go down as we stop wasting what we have. SUVs, mini-vans, and trucks need to get better mileage; and we need to tell the automobile manufacturers to make this happen.

Mr. Chairman, I rise in strong support of the support of the amendment to reduce our consumption of oil by increasing fuel economy standards for passenger cars and light trucks.

This amendment requires the Department of Transportation to raise fuel economy standards for automobiles from today's average of 25 miles per gallon to 33 miles per gallon by 2015.

Under this amendment, the Administrator of the National Highway Transportation Safety Administration will have maximum flexibility in how the standards are set. the standard could be increased for cars or SUVs or only the heaviest trucks.

Mr. Chairman, I agree with those who say, "We cannot conserve our way out of this energy problem." However, until we raise CAFE standards, we cannot honestly tell the American people this is a balanced energy plan.

It is absolutely imperative we are more efficient and make better use of our precious resources.

This is a common sense amendment, which represents a modest step forward in our nation's efforts to become more energy efficient. Our amendment will help protect the environment, reduce our dependence on foreign oil and save drivers money at the pump.

The United States cannot continue on a course of increased oil consumption with little to no regard for the implications it has on our environment, economy and national security. There is no better time to focus on reducing our reliance on foreign oil than right now. Increased fuel efficiency standards and tax incentives for conservation and renewable energy sources should be at the heart of our national energy policy in a post-September 11 world.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I rise today to oppose the Boehlert-Markey amendment to the energy bill. This unnecessary amendment would hurt our already struggling economy. It threatens the jobs of workers in Flint, Bay City, Saginaw, and other communities in my congressional district and in my home State of Michigan.

It undermines the hard work of our auto companies and auto workers that is being made through the investment of billions of dollars in alternative fuels and advanced technology vehicles. The drastic increases called for in this amendment would have negative consequences for passenger safety and consumer choice.

The National Highway Traffic Safety Administration has increased CAFE standards, which is their obligation. Clearly, the current process, Mr. Chairman, is working. Opposing this amendment protects jobs, passenger safety, consumer choice, and advancing auto technology.

I urge my colleagues to oppose this amendment.

Mr. MARKEY. Mr. Chairman, I yield 1½ minutes to the gentleman from New Jersey (Mr. MENENDEZ), the chairman of the Democratic Caucus.

Mr. MENENDEZ. Mr. Chairman, I rise in strong support of the Boehlert-Markey amendment. Despite the bill's claims to meet our Nation's energy needs and provide for our Nation's future, H.R. 6 ignores a pivotal approach that will reduce our foreign dependence on oil and alleviate our high oil consumption, increasing fuel economy standards.

Let us look at what we know. We know that fuel economy standards have helped to reduce our dependence on foreign oil. We know that raising the standard to 33 miles a gallon over the next 10 years, which this amendment would do, would save 10 percent of the gas we will consume, and we know that we have the potential in this country to make cars and light trucks much more efficiently.

Mr. Chairman, we need to unlock that potential. We have the technology; we have the innovation. Despite all of this, the bill before us makes no effort to increase those standards. We have a choice: Do we want an energy future that is stagnant and dependent on traditional sources, or do we want a future that will break new boundaries in innovation and technology, reduce our dependency on foreign oil, increase conservation and efficiency and ensure the security of our Nation?

Let us prove that we are serious about our Nation's energy future. Increasing fuel economy standards should be part of the solution and part of our National energy policy. And I urge my colleagues to vote for the Boehlert-Markey amendment.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from the great State of Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, you know you cannot make a fat guy skinny by mandating smaller pant sizes. People have to want to buy the vehicle that you are trying to sell them. There is a reason that moms go through the pain and agony of buying an SUV and a mini-van, because they are safe, because they can get their whole family in there, because they can put a bike in the back, and they can get all the groceries in there.

They buy them because they want them and they are safe. The automobile companies today do not get enough credit for all of the money they are investing in trying to make these things efficient. Believe me, if they could get 40 miles to the gallon in an SUV, they would be on these front steps having a press conference selling these things. Technology has not matched what consumers want. Let them do that. You artificially interfere with where we are going, they are making huge strides. To do this costs Americans jobs. It costs Americans jobs.

Let them do what they are doing best, and innovate their way to those high-mileage SUVs and mini-vans so moms do not have to drive Mini Coopers.

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I believe that this amendment actually saves American lives. Mr. Chairman, there is no better way to look at this issue than through the eyes of a young soldier stationed in the Middle East.

One of the reasons why we pay so much attention to the Persian Gulf is that the economy of the West is totally dependent on oil from this region. We must station forces there to make sure that nothing happens to our supply of energy.

And nothing can change this situation right now. But this amendment can change this situation for the future. By adopting CAFE standards, we will make the Persian Gulf much less important. We will reduce the need to ever deploy young Americans into harm's way. Look into the eyes of a 10-year-old American and think of him or her, and vote for policies which will make it much less likely that any President would ever ask them to return to harm's way in the Persian Gulf.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentlewoman from Michigan (Ms. KILPATRICK).

(Ms. KILPATRICK of Michigan asked and was given permission to revise and extend her remarks.)

Ms. KILPATRICK of Michigan. Mr. Chairman, I rise in strong opposition to this amendment. The National Traffic Safety Administration is the body who sets those standards. There are standards. They scientifically set those standards. And sometimes they raise them. It is important that we keep that responsibility with NTSA who does a fine job with that, to set maximum feasible levels for the standards cars and trucks must use.

I want to read from a good friend here who says, ''Such a proposal would dramatically affect the functionality and performance of vans, pickup trucks and sports utility vehicles that consumers in America want.''

And that is by the United States Chamber of Commerce. One in 10 jobs are related to the auto industry. Fuel economy standards are set scientifically, and this body should not get into that.

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We have standards. The American people choose the cars and trucks they want to drive. I believe that the standards are set fine. And as we go on, the millions of dollars that the industry has put into new development, new cars that are energy efficient we will see as time goes on. Americans are working and we are winning. Leave the standards to NHTSA.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, in a cautionary letter to the President last month, a group of defense experts including conservatives Robert McFarlane, Frank Gaffney, and Boyden Gray said the following: ''With only 2 percent of the world's oil reserves but 25 percent of current world consumption, the United States cannot eliminate its need for imports through increased domestic production alone.''

Our dependence on foreign oil is putting our country in a perilous situation. I urge my colleagues to support this amendment because it will move us away from that perilous addiction to foreign oil and increase efficiency where we use the most oil, and that is the automobile industry.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Chairman, I stand today in opposition for raising the CAFE standards. This is an irrelevant piece of legislation that is not only unnecessary, it is an outdated solution in search of a 21st century problem.

Changing technology and innovation have rendered this amendment unnecessary. The increasing use of hybrid vehicles shows that a market-based approach to increasing fuel efficiency is a better way to reduce American oil consumption than by placing arbitrary standards on automobiles that harm our domestic manufacturers. And, in fact, the only thing we get with CAFE standards down in my district are car dealers with acres and acres of tiny cars they cannot sell.

With today's high gas prices, hybrid vehicles will help reduce the amount of money that our constituents pay at the gas pump.

Mr. Chairman, in the interest of full disclosure, I drive a hybrid vehicle. I did not buy it because of the tax break. I did not buy it because of any legislation that we passed in this Congress. I bought it largely because of air quality concerns back in my district. But now I look positively brilliant that gasoline prices are so high. But the best thing about a hybrid vehicle, Mr. Chairman, is it allows you that feeling of moral superiority as you drive your car.

Mr. BOEHLERT. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. PLATTS).

Mr. PLATTS. Mr. Chairman, I rise in support of this bipartisan amendment. If we want a national energy policy that is truly about economic security for all Americans, not just those in the auto industry, that is about national security for all Americans, it needs to be comprehensive. It needs to be about hybrid vehicles, alternative fuels, renewable fuels. It needs to be about better using our resources we have. But it also needs to be about conservation.

This amendment is one of the greatest steps we can take in the area of going forward in conservation. It is not about whether you should be able to buy an SUV. It is about whether you should be able to buy an SUV that gets 27.5 miles per gallon like a car does instead of 20.7. It is about choice and efficiency.

This amendment is a good amendment. I urge a ''yes'' vote. I commend the prime sponsors of the amendment for bringing it before the House.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. DOYLE).

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

Mr. DOYLE. Mr. Chairman, I would respectfully add my voice to those opposing this amendment.

While clearly we all want to reduce our imports of foreign oil, I have not been convinced that raising CAFE standards would actually accomplish this. As I understand it, our imports' share of oil consumption was 35 percent in 1974. Since then, our new car fuel economy has roughly doubled, but our auto import share has risen nonetheless to about 50 percent. For this reason, I am not convinced that the amendment, if adopted, with achieve one of its primary goals.

Additionally, our national economy is struggling, to say the least. In my home State of Pennsylvania, which is not normally thought of as a State closely tied to the automotive industry, a total of 220,800 jobs are dependent on the industry; 39,700 of these people are directly employed by it, and when you add in other spin-off employment, we are talking about over 220,000 jobs in Pennsylvania alone.

Mr. Chairman, in these difficult economic times, I simply do not think it is prudent to put those jobs and this vital industry in jeopardy when it is not clear the benefits potentially derived would merit doing so.

With the gentleman from Michigan (Mr. DINGELL) I urge defeat of the amendment.

Mr. MARKEY. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Chairman, I rise today in support of the amendment and in opposition to the underlying legislation.

We need to increase our fuel efficiency if the U.S. is ever going to get serious about our energy crisis. Last year, Mr. Chairman, I voted for this energy bill because I thought we needed a national plan, but that was when oil was selling at $30 a barrel.

This year, when oil is averaging $55 a barrel and gas prices are nearly $3 a gallon in some places, it is bad public policy to add to the national debt, borrowing the money to give to companies who are making record profits. The American people deserve better.

I ask for an ''aye'' vote.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. UPTON) has 1 minute remaining.

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

Mr. Chairman, I have a trivia question for you. What automaker has the most vehicles that get a highway fuel economy of 30 miles per gallon or greater? I will give you a hint. They make 19 of the vehicles, and that is more than any other automaker.

Do you know who it is? General Motors.

What frustrates me about this debate is the misconception that CAFE standards are some Holy Grail that foreign manufacturers can get to, but domestic ones cannot. We do not need to micromanage our auto manufacturers. They are doing just fine. CAFE standards are being met and they are being exceeded virtually every single day.

But the more important work is finding real alternatives to gasoline-powered cars and developing them, for every dollar we force the auto companies to spend on the CAFE standards is a dollar they will not spend on hybrids, hydrogen fuel cell and other alternative fuel cell vehicles.

I am sick of hearing the same old debate. I want to get us to the point where we talk about which one of the new alternatives we are most excited about.

I urge you to defeat this used amendment and vote for a new car. Please defeat this amendment.

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

Mr. BOEHLERT. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I believe that I am entitled to close the debate?

The Acting CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) is entitled to close and the gentleman has 1 minute remaining.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. The gentleman from Massachusetts (Mr. MARKEY) has 2 minutes remaining.

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

Mr. Chairman, this is the key issue if we are going to get serious about the imports of oil into our country.

We put 70 percent of all oil that we consume in America into gasoline tanks. In 1975, we averaged 13 miles per gallon; we averaged 13 miles per gallon in 1935. But Congress, because of the energy crisis, passed a law mandating a doubling of the standards in 10 years, and the auto industry responded; and by 1986, the average was 27 miles per gallon, and we had OPEC on its back. The price of oil fell to $12 a barrel. We, using our technological genius, had won.

Now, it is almost 20 years later and America is now averaging 23 miles per gallon. We have gone backwards 4 miles per gallon and played into OPEC's hands as the price of oil goes up to $50 to $55 to $58 a barrel, as consumers are tipped upside down every time they go into a gas station in order to pay to fill up their car.

The only answer is to call upon our country's greatness to improve the fuel economy standards to 33 miles per gallon by 2015. In other words, to add only 6 additional miles per gallon over what was accomplished in 1986.

The opponents of this amendment say that is impossible. Well, we put a man on the moon in 9 years. We improved the fuel economy standards in 10 years by 13 miles per gallon in the 1970s and 1980s, but now we are being told that we do not have any longer the ability to do that.

Well, we are 60 percent dependent upon imported oil. We are heading towards 65 percent, towards 70 percent. That is increased national security problems for our country that we will look back at and regret that we missed this opportunity to make our country more secure.

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

Mr. BOEHLERT. Mr. Chairman, how much time do I have remaining?

The Acting CHAIRMAN. The gentleman from New York (Mr. BOEHLERT) has 1½ minutes remaining.

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

Mr. Chairman, this is myth versus reality. Myth number one: This will cost us jobs, passing this amendment. ''Jobs'' is my favorite four-letter word. This is a bunch of nonsense. The reality is, the new standards, if they are enacted into law, Americans will buy more, not fewer, vehicles because they will be more fuel efficient.

Myth number two: CAFE standards will force Americans into smaller vehicles. The reality is, we heard that argument first back in 1975. The opponents said, If you adopt this new standard, all Americans will be driving compacts or subcompacts in 10 years. What has happened? The record is bigger and bigger vehicles all over the place.

The fact of the matter is, we do not want to take away choice from consumers. We want them to have their SUVs if that is what they want. We want them to have their light trucks if that is what they want. We want Detroit and the American auto industry to make more fuel-efficient vehicles.

Finally, this really offends me, myth number three: We will sacrifice safety. That is what the opponents say; that is not what the National Academy of Sciences says. We already have the technology on the shelf gathering dust to manufacture more fuel-efficient automobiles and light trucks. I say the alarm has been sounded. This is a national security issue.

We are far too dependent on foreign-source oil. This amendment alone will save 2 million barrels a day by 2020 and, in the process, save the American consumers that are fed up with a car requiring $40 or $50 to fill up. They want more fuel efficiency, and we owe it to them and to ourselves to deliver it.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) has 1 minute remaining.

Mr. DINGELL. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Michigan (Mr. STUPAK) to close the debate.

Mr. STUPAK. Mr. Chairman, I rise in opposition to the amendment. Encouraging and supporting the development of innovative new technology is preferable to arbitrary increases in CAFE standards that will truly hurt thousands of American workers. Moreover, the National Academy of Sciences report of 2001 indicated that only the subcompact car segment of our fleet could be expected to achieve this fuel economy level.

This suggests that a substantial portion of the vehicles on the road would have to be very small to reach this objective. Reducing our consumption of oil should come from new technology, not by mandating a standard that requires most vehicles to be a subcompact.

The National Academy of Sciences also raises concerns about potential increases in highway fatalities if the auto industry is forced into selling a greater share of small vehicles. According to the analysis of the Insurance Institute of Highway Safety Data in 1999, since CAFE standards were first announced in 1975, approximately 46,000 people died in crashes who would have survived if CAFE had not encouraged smaller, lighter cars.

I am concerned that this amendment would lead to more unnecessary fatalities. For these reasons, I urge a ''no'' vote on this amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BOEHLERT).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. BOEHLERT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. BOEHLERT) will be postponed.

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109–49.

AMENDMENT NO. 5 OFFERED BY MRS. JOHNSON OF CONNECTICUT

Mrs. JOHNSON of Connecticut. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mrs. JOHNSON of Connecticut:

In title VII, subtitle E, add at the end the following new section:

SEC. 775. UPDATE TESTING PROCEDURES.

The Administrator of the Environmental Protection Agency shall update or revise test procedures, Subpart B—Fuel Economy Regulations for 1978 and Later Model Year Automobiles-Test Procedures 600.209–85 and 600.209–95, of the Code of Federal Regulations, CFR Part 600 (1995) Fuel Economy Regulations for 1977 and Later Model Year Automobiles to take into consideration higher speed limits, faster acceleration rates, variations in temperature, use of air conditioning, shorter city test cycle lengths, current reference fuels, and the use of other fuel depleting features.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentlewoman from Connecticut (Mrs. JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Chairman, I ask unanimous consent to yield to the gentleman from New Jersey (Mr. HOLT) 2½ minutes for purposes of control.

The Acting CHAIRMAN. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support of the Johnson-Holt amendment. It is a simple amendment. It is simply truth in advertising, EPA truth in advertising.

□ 1845

For the past 3 decades, American motorists have been buying cars, relying on miles-per-gallon stickers that grossly overestimate the miles per gallon a car can get. For some vehicles, the advertised miles per gallon is off by as much as 30 percent.

With gas at $2 a gallon and some cars costing more than my husband and I paid for our first home, such false information is simply intolerable, and it is intolerable that our tax dollars are paying for the EPA to develop false and misleading information.

The auto makers are not at fault; neither are the oil companies. It is our own government. That is the culprit, and we cannot tolerate EPA providing wildly inaccurate miles-per-gallon information in the future.

The way to change this is simple. We simply have to modernize the testing procedures that EPA uses. The EPA uses 30-year-old testing standards. The EPA assumes that highway drivers never exceed 50 miles an hour; but of course, they do, and the faster they drive, the more wind resistance they get and the lower fuel economy they achieve.

The EPA also assumes that the rate at which drivers brake and accelerate has not changed over 30 years. Even though the cars have changed dramatically and so have the driving habits. They do not notice that driving in cities is entirely different with its stop-and-go traffic and traffic jams than it used to be 30 years ago.

So our amendment is really simple, straightforward, and common sense. It mandates that EPA update the tests used in determining estimated fuel-economy ratings to reflect real-world driving habits of American motorists.

This is an important little amendment. It is a pocketbook issue. New cars are expensive. Gasoline is expensive. People can buy whatever car they want, that is their right; but they should have accurate information on which to base their choice, and their tax dollars should not be spent for false and misleading information.

So I urge the support of my amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN (Mr. SIMPSON). The gentlewoman from Connecticut's (Mrs. JOHNSON) 2½ minutes has expired.

Mr. BARTON of Texas. Mr. Chairman, I rise in mild opposition to the Johnson amendment.

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) is recognized for 5 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Chairman, I said mild opposition because it is exactly what it is. I chair the committee of jurisdiction that would have this amendment, and we have been working with the Congresswoman from Connecticut to try to perfect her amendment. She has been very gracious to come up to me on the floor, and then her staff and committee staff have been working, and we really thought that earlier in the week or late last week we had an amendment that everybody could agree to. For various reasons, that was not agreed to, so we have the situation today.

At the close of this debate, the gentleman from Michigan (Mr. ROGERS), a member of the committee of jurisdiction, is going to offer a perfecting amendment to the Johnson amendment. I am going to support that at the appropriate time.

We support the goal of the Johnson amendment. She is trying to get consumers fair and accurate information when they go into a showroom or are thinking about purchasing a new vehicle. She states, and I agree, that the consumer has a right to know what the fuel economy is of that particular vehicle; and under current law, the way the tests are conducted, there is some discrepancy, as she has pointed out in her statement in support of her amendment.

Having said that, there are those that have reviewed her amendment and think that it could be a backdoor approach to CAFE standard increases. We just had the debate on the Boehlert-Markey amendment. I voted in the negative on that, and I think when that rollcall is called, the majority of the House is going to be in the negative. So I know that is not the intent of the gentlewoman's amendment, but there are some that think it could be.

We are going to oppose this amendment and support the gentleman from Michigan's (Mr. ROGERS) amendment in the nature of a substitute or amendment to the Johnson amendment. I think at the end of the day, the House is going to work its will, and the gentlewoman from Connecticut (Mrs. JOHNSON) is going to be happy and the gentleman from Michigan (Mr. ROGERS) is going to be happy and the consumers of America are going to be happy when they go into showrooms a year or two from now and see these new window labels that show what the fuel economy is.

Mr. Chairman, I reserve the balance of my time.

Mr. HOLT. Mr. Chairman, I yield 45 seconds to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I wonder how many Americans have bought a car and wondered why their gas mileage was not what had been advertised. Well, it is because the fuel economy numbers advertised by automobile manufacturers are based on 30-year-old fuel economy tests, tests that have not been adjusted for today's realities, and that leads Americans to be regularly misled by inaccurate labels.

The automobile industry has changed significantly over the last 3 decades, but the EPA standards are stuck in the past, overestimating fuel economy data.

I support this amendment. It will require the EPA to update its testing standards so that consumers will have accurate fuel economy information in the future.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Chairman, parliamentary inquiry, since the Rogers amendment, which is next in line, amends, or perfects, the Johnson amendment, does the gentleman from Michigan (Mr. ROGERS) have to seek recognition to offer his amendment before the close of debate on the gentlewoman from Connecticut's (Mrs. JOHNSON) amendment, or does he wait until her debate concludes and then offers his amendment?

The Acting CHAIRMAN. The gentleman may offer his amendment to the amendment at any time during debate on the Johnson amendment.

Mr. BARTON of Texas. At any time.

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) is recognized.

Mr. BARTON of Texas. Mr. Chairman, I reserve my time.

Mr. HOLT. Mr. Chairman, I yield 45 seconds to the other gentlewoman from California (Mrs. DAVIS).

(Mrs. DAVIS of California asked and was given permission to revise and extend her remarks.)

Mrs. DAVIS of California. Mr. Chairman, I support this bill so that we can, and the public can, rely on the energy-conscious information that they are getting and that they know that is correct and accurate, and they can move forward with that.

Mr. Chairman, Members, are your constituents also asking you what you are doing about high gas prices? We must answer that question in this bill.

Individuals can do something about their gasoline consumption when they select a car to buy. We need to help them.

People expect that, when they look at the window sticker, the miles per gallon figures that the EPA supplies are what they will get when they purchase the car.

They are not.

When one of my staff members complained to the car dealer that the gas mileage figures were way off for City Driving for the car she had selected for its fuel efficiency, the dealer said, "Oh, that doesn't apply to driving in DC."

I support this amendment because it would require the EPA to correct the long-standing inaccuracies in its testing procedures.

Our constituents must be able to rely on these facts to be the energy-conscious consumers they want to be.

AMENDMENT NO. 6 OFFERED BY MR. ROGERS OF MICHIGAN TO AMENDMENT NO. 5 OFFERED BY MRS. JOHNSON OF CONNECTICUT

Mr. ROGERS of Michigan. Mr. Chairman, I offer an amendment to the amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment No. 6 offered by Mr. ROGERS of Michigan to amendment No. 5 offered by Mrs. JOHNSON of Connecticut:

In the matter proposed to be inserted by the amendment, strike ''test procedures'' and all that follows through ''Later Model Year Automobiles-Test Procedures'' and insert ''the adjustment factors in sections''.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Michigan (Mr. ROGERS) and the gentlewoman from Connecticut (Mrs. JOHNSON) each will control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Michigan (Ms. KILPATRICK).

(Ms. KILPATRICK of Michigan asked and was given permission to revise and extend her remarks.)

Ms. KILPATRICK of Michigan. Mr. Chairman, I thank the gentleman for yielding me time.

We rise to make this a better amendment. If we want EPA to do the testing, to make sure that things are right and labeling is correct, then we want to make sure that there is one test to do that. What we do not want to do is put additional funds, additional costs, additional measures on the auto industry that is already very fragile.

So we rise in opposition to the Johnson amendment and ask that our amendment be considered because the testing is there. We do not need to have two tests, as is required by the Johnson amendment. It doubles the cost for product, and it allows the competition to be more advanced in our competition war than we are now considering.

The auto industry in America is fragile. We all know that they have invested millions of dollars in their products to make them better, make them fuel efficient, do alternative energy sources.

We believe that our amendment is a perfecting one; and, yes, it requires that the EPA do the proper tests, not two times but the one time that is required and that the labeling be accurate.

We hope that our colleagues will support this Rogers-Kilpatrick amendment. It is a much better amendment, and again works with EPA to make sure that the labeling is correct with the one test.

Consumers deserve to know that the sticker in their window actually reflects the mileage they will get on the road.

The EPA should revisit their fuel economy standards and the Rogers/Kilpatrick amendment would require the EPA to change the adjustment factors that it currently uses to make the fuel economy label accurate.

NANCY JOHNSON's amendment requires the EPA to change the "testing procedures" that auto companies use to determine the fuel economy numbers that go on the dealer label.

Her amendment would require two test auto companies to do one test for labeling and a separate test for CAFE.

JOHNSON's language doubles the cost to the companies.

The Rogers/Kilpatrick amendment deals with the need for improved dealer label accuracy while only requiring one test.

Instead of requiring EPA to change the "testing procedures" the Rogers/Kilpatrick amendment requires the EPA to change the "adjustment factors" that EPA currently uses to make the fuel economy label accurate.

This simple change prevents the auto companies from having to run two separate tests.

Rather the auto companies can run one test that could be used and adjusted with appropriate factors to provide a more accurate fuel economy number.

The Rogers/Kilpatrick perfecting amendment to the Johnson amendment achieves precisely the same goal that the Johnson amendment strives to achieve: accurate fuel economy labels on new cars.

The only difference is that the Rogers/Kilpatrick amendment achieves this goal by having EPA revise the current test, instead of compelling EPA to conduct two separate tests.

The Rogers/Kilpatrick perfecting amendment makes clear that the objective is to change the fuel economy label values—NOT the test procedures. This will ensure that this measure will improve consumer information regarding mileage without imposing an increase in the stringency of CAFE or creating a second fuel economy test for consumer labeling.

The Johnson amendment COULD threaten to increase the stringency of CAFE.

The Johnson amendment would require EPA to change fuel economy testing for label purposes.

If the intent of this change is to create a new test for fuel economy labeling then the burden on automakers to test vehicles for both CAFE and fuel economy labeling would increase substantially.

If, however, the intention is to retain only one vehicle fuel economy test, then the test protocol currently used for determining CAFE values will also be affected—lowering the fleet fuel economy averages of manufacturers and making compliance with the CAFE standards more stringent.

Depending upon the test procedure changes implemented, the stringency of the CAFE standards could increase by 10–20% (or up to a 6 mpg increase in the stringency of the CAFE requirements).

The Acting CHAIRMAN. The gentlewoman from Connecticut controls the time in opposition to the amendment.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I reserve the balance of my time on the Rogers amendment so that we can move on to the gentleman from New Jersey's (Mr. HOLT) comments on our amendment.

The Acting CHAIRMAN. We are currently on the Rogers amendment.

Mr. HOLT. That is fine, if the gentlewoman would yield.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HOLT) on the Rogers amendment.

Mr. HOLT. Mr. Chairman, it is my understanding that I also have 1 minute remaining on the underlying amendment.

The Acting CHAIRMAN. The gentleman from New Jersey (Mr. HOLT) has 1½ minutes remaining.

Mr. HOLT. Mr. Chairman, I thank the gentlewoman for the time.

When you go to the showroom to pick out a new car, the sticker in the window has a number for city mileage, highway mileage. You would like to think that that bore some relationship to reality. Now, on the television ads, they say your actual mileage may vary, when, in fact, your actual mileage probably bears no relationship whatsoever to those numbers in the window because EPA has specified that the auto manufacturers use an archaic testing method.

The amendment that the gentlewoman from Connecticut and I have offered would correct that testing method. That is the way to take care of this problem. It is not the right thing to do to use a multiplier factor, a scale factor, to grade on a curve or to use a fudge factor. That is what the gentleman from Michigan (Mr. ROGERS) is proposing to do, rather than getting at the heart of the problem, which is that the tests are not done in a realistic way.

The tests do not reflect the way people actually drive. The tests suggest that highway speeds are 48 miles per hour with a top speed of 60. Has anybody been on the road recently? That is not the way people drive.

The tests suggest that congestion and stop-and-go traffic is a minor part of driving. By 2001, congestion took about 26 hours per year out of a person's driving time. That is not realistically reflected in the testing method.

The testing method assumes gentle acceleration and braking. That is not the way city driving is done.

The tests suggest or require that there be no air conditioning, and it overestimates trips.

In other words, the tests are wrong. The tests should be modified to reflect the way people actually drive. Using a fudge factor, a multiplier will hide the actual differences between cars, and it will obscure what this is about, which is giving consumers accurate information.

It is certainly the case that for a government-mandated test we should get it right. That is all we are suggesting, and this amendment that the gentleman from Michigan (Mr. ROGERS) has may technically, under parliamentary terms, be called a perfecting amendment. In fact, it completely changes the nature of what we are trying to do, which is to give consumers accurate information.

The Acting CHAIRMAN. The Chair would clarify for the Members, on the underlying amendment, the gentlewoman from Connecticut (Mrs. JOHNSON) has 2½ minutes remaining. The gentleman from Michigan (Mr. ROGERS) has 3½ minutes remaining.

On the amendment by the gentlewoman from Connecticut, the gentleman from Texas (Mr. BARTON) has 2½ minutes remaining. The gentleman from New Jersey (Mr. HOLT) has 1½ minutes remaining. The gentlewoman from Connecticut's (Mrs. JOHNSON) time has expired.

PARLIAMENTARY INQUIRIES

Mr. BARTON of Texas. Mr. Chairman, could I ask a parliamentary inquiry. Before we go to the gentleman from Michigan, when it comes time to vote, are we going to vote on the Rogers amendment to the Johnson amendment, and then if it is amended, we will vote on the Johnson amendment; is that correct? There will be two votes, Rogers to amend Johnson and then Johnson, either amended or unamended, depending on how the Rogers amendment fairs?

The Acting CHAIRMAN. If a recorded vote is requested on the Rogers second degree amendment, the Chair would postpone the request and would not put the question on the Johnson amendment until after disposition of the vote on the amendment of the gentleman from Michigan.

Mr. BARTON of Texas. But we are going to have two votes?

The Acting CHAIRMAN. All time for debate will be consumed now.

Mr. BARTON of Texas. Thank you, Mr. Chairman.

The Acting CHAIRMAN. The gentleman from Michigan (Mr. MIKE ROGERS) is recognized.

Mr. ROGERS of Michigan. Mr. Chairman, parliamentary inquiry, how do we get to the chairman's 2½ minutes remaining on the primary amendment?

The Acting CHAIRMAN. The gentleman from Texas (Mr. BARTON) may use his 2½ minutes now if he wishes.

□ 1900

Mr. BARTON of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. UPTON), the distinguished chairman of the Subcommittee on Telecommunications and the Internet of the Committee on Energy and Commerce.

Mr. UPTON. Mr. Chairman, I thank my distinguished chairman for yielding me this time, and I rise in strong support of the Rogers amendment to the Johnson underlying amendment.

Currently, there is one test conducted on vehicles to determine the fuel economy rating. The Johnson amendment would require EPA to change that fuel economy testing for label purposes. What this will result in is having automakers being forced to do two or three or four, or maybe even more, separate tests. That costs money, more money, and is unnecessary and more burdensome.

Additionally, as written, the Johnson amendment could also affect how CAFE is calculated. The Johnson amendment could lower the fleet fuel economy averages of manufacturers that make compliance with the CAFE standards much more difficult. Instead of running the substantial risk under the Johnson amendment, the Rogers/Kilpatrick bipartisan perfecting amendment makes a technical change to clarify that automakers do not have to run multiple duplicative tests to update fuel economy labeling and ensures that the CAFE program is not manipulated.

Let us take this into a normal example. This morning, many of us, we live in different States, but we come and commute here to Washington. I live in Virginia; it is 7 miles from the Capitol here to my house. It took me more than 30 minutes to get in today. If I had to drive 7 miles in my town of St. Joseph, Michigan, it would take me about 12 minutes. We know that when we buy a car.

I had a staff member that bought a great new Ford hybrid vehicle the other day. He gets accelerated CAFE, or he gets much better gas mileage with that car when he is in the big city driving. When he goes to Chicago, to see the Cubs or the White Sox, or whoever, he gets a lot better mileage because he is stopping and starting all the time. In Kalamazoo, which is a city of 100,000, where he lives, he does not get quite the same mileage because it is a different scenario.

You cannot have 20 or 30, who knows how many tests. Maybe it is like boutique fuels. You have all these different areas, people with different driving habits, and you cannot expect that the EPA is going to put a laundry list of these different tests on the window. We know that when we buy our vehicles. We know about what it is going to be based on, our history of purchasing cars. And, frankly, a duplicative test with these multiple numbers will only be more confusing rather than less confusing to the consumer.

That is why I strongly urge my colleagues on both sides of the aisle, as we have with this bipartisan amendment, to support the Rogers amendment to the Johnson amendment so we can make more sense for every consumer as they purchase a new American car.

Mr. ROGERS of Michigan. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to thank the sponsors of the amendment and their intent and where they wanted to go. The gentlewoman from Connecticut (Mrs. JOHNSON) has done a great job of focusing on a problem that is a problem. We all want accurate numbers on those stickers and times have changed. The gentleman from Michigan and the gentlewoman from Michigan, I think, have outlined exceptionally well why this perfecting amendment makes the intent of what our colleague wants to do exactly that. It clarifies it to the point that we do not get into CAFE, we get accurate numbers, and we do not foist a whole set of new costs onto automakers who are today struggling to keep people employed.

We want accurate numbers as well. But I will tell you, families across this country are suffering in the automobile industry. They are suffering. They have layoffs, they have job cuts, there is a lack of hope in some areas and anxiety you cannot believe in others. So let us err on the side of those families. Let us stand up today and say, yes, we should have accurate numbers on these stickers, the very true intent of what the gentlewoman from Connecticut (Mrs. JOHNSON) and the gentleman from New Jersey (Mr. HOLT) are trying to do and trying to accomplish.

Let us do that, but we can do that without new costs, without new burdens, without even getting close to this argument that they are going to get into in the CAFE debate, and accomplish exactly what they want.

I think my colleagues can be proud of this amendment, as amended, back in their districts and tell people that they fought valiantly to get the 2005 standards on stickers for cars they are going to buy today. It is the right thing to do.

So I would urge my colleague to look deep down and say, do I want to take the chance that I will put out one more American family out of work? Because I think you will. I passionately believe you will, the way your amendment is constructed. It will foist new, unnecessary costs on automakers.

Let us do it the way we know can accomplish what you want and have families at the end of the day saying, I am going to show up and build the finest cars in the world right here, in the great State of Michigan, or any other of the 49 great States of this great country.

Mr. Chairman, I reserve the balance of my time.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in opposition to this amendment.

Now, let me get to the heart of this matter, because if I thought this was going to cost people jobs, I certainly would not bring it up. This question specifically was litigated in 1985 in the D.C. Circuit Court, Center for Auto Safety v. Thomas, and the court clearly determined that the CAFE calculation cannot be changed unless Congress changes U.S. Code 49, section 32904(c). My amendment does not change that section. My amendment only changes section 32908, which has to do with the data that underlies vehicle stickers.

Now, the EPA has changed its testing procedures at least twice since 1975. It did not add a lot of cost. It was not a big problem. It is an EPA center that does this testing. And every time they changed their testing procedures for the sticker purpose, they did not change it for the CAFE standard purpose, because to do that, you have to change section 32904, and my amendment does not change section 32904.

So I am sorry we have not been able to communicate well enough about this, because I certainly do not want to cost manufacturing jobs. I am a big advocate of manufacturing. But I do want consumers to have honest information. And the adjustment in information that the Rogers amendment to my amendment brings is an amendment that will bring down the miles per gallon for those that are high achievers and bring it up for those who are actually low achievers. So it actually makes the problem worse rather than better.

So I urge the body to oppose the Rogers amendment and support the Johnson amendment, because the Rogers amendment has the effect of gutting my amendment, whereas my amendment does not address the CAFE standards section of the law, which is section 32904(c) and only addresses the vehicle sticker section of the law, 32908.

Mr. Chairman, I reserve the balance of my time.

Mr. HOLT. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Chairman, on the second order amendment, how much time does the gentlewoman from Connecticut have remaining?

The Acting CHAIRMAN (Mr. SIMPSON). The gentleman from New Jersey

(Mr. HOLT) has 1½ minutes remaining on the original bill and the gentlewoman from Connecticut (Mrs. JOHNSON) has ½ minute remaining on the perfecting amendment.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I yield the balance of my time to the gentleman from New Jersey (Mr. HOLT).

The Acting CHAIRMAN. The gentleman may use his 1½ minutes also.

Mr. HOLT. Mr. Chairman, I yield myself 2 minutes, and I thank my colleague for yielding her time to me.

Mr. Chairman, to begin to address the second order amendment, which, as I say, may be technically and in parliamentary terms called a perfecting amendment, but in fact it would gut the amendment, it does not get at the heart of the problem, which is that the tests are wrong. The tests are unrealistic. The tests give results that bear no relationship to reality.

Why should taxpayers pay for a test, a government-mandated test, or auto purchasers pay for a test that gives inaccurate information? We need to fix the EPA test. It can be fixed without giving the folks in the State of Michigan or other automobile manufacturing areas heartburn. It does not change the fleet average calculation. It only addresses the issue of consumer information, so that the purchaser will have accurate information.

If you use this scale factor, or fudge factor, it will paper over the underlying problem. It will distort the fuel efficiency difference between different types of vehicles. In fact, my colleague earlier talked about how some hybrid vehicles behave differently under different situations.

The tests themselves need to be changed, not an after-the-fact fudge factor, so that when you go into the showroom to purchase a car and you see the number in the window for city mileage and highway mileage, you will have a reasonable expectation that that car, when used on actual American streets and actual American highways, will give mileage comparable to what is posted there.

The ad says your actual mileage may vary. The way it is today, with the tests that we have, your actual mileage may bear no relationship whatsoever to what is printed in the window. That is what we are trying to correct with the Johnson-Holt amendment. The Rogers second order amendment completely changes the nature of what we are trying to do.

Mr. ROGERS of Michigan. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. SCHWARZ), a great public servant.

Mr. SCHWARZ. Mr. Chairman, the Johnson amendment requires the EPA to change the testing procedures that auto companies use to determine the fuel economy numbers that go on the dealer label. Her amendment requires auto companies to do one test for labeling and a separate test for CAFE. The language in this amendment costs the companies approximately twice as much as the simpler testing they are doing now. This goes to the heart of what we are doing to the auto industry now, unintentionally perhaps, and that is beating up on them; and we should not do that.

The Rogers amendment deals with the need for improved dealer label accuracy, while only requiring one test. Instead of requiring the EPA to change testing procedures, the Rogers amendment requires the EPA to change the adjustment factors that the EPA currently uses to make the fuel economy label accurate.

This is the way to go. It achieves the goal we all want to have, accuracy, in a much more reasonable and a much less expensive way. It is not a fudge.

Mr. ROGERS of Michigan. Mr. Chairman, the gentleman from Michigan, a medical doctor, said it all so well, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. MIKE ROGERS) to the amendment offered by the gentlewoman from Connecticut (Mrs. JOHNSON).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. HOLT. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan (Mr. MIKE ROGERS) will be postponed.

It is now in order to consider amendment No. 7 printed in House Report 109–49.

AMENDMENT NO. 7 OFFERED BY MR. BISHOP OF NEW YORK

Mr. BISHOP of New York. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. BISHOP of New York:

In section 109(2), at the end of the quoted material insert the following new paragraph:

''(4) All housing constructed under the military housing privatization initiative of the Department of Defense shall, to the maximum extent practicable—

''(A) meet Federal building energy efficiency standards under this section; and

''(B) include Energy Star appliances.

In title I, subtitle A, add at the end the following new section:

SEC. 112. MODEL BUILDING ENERGY CODE COMPLIANCE GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a program to provide grants to each State that the Secretary determines, with respect to new buildings in the State, achieves at least a 90-percent rate of compliance (based on energy performance) with the most recent model building energy codes.

(b) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines that standardize criteria by which a State that seeks to receive a grant under this section may—

(1) verify compliance with applicable model building energy codes; and

(2) demonstrate eligibility to receive a grant under this section.

(c) LOCAL GOVERNMENT CODES.—In the case of a State in which building energy codes are established by local governments—

(1) A local government may—

(A) apply for a grant under this section; and

(B) verify compliance, and demonstrate eligibility, for the grant under subsection (b); and

(2) if the Secretary determines that the local government is eligible to receive a grant, the Secretary may provide a grant to the local government.

(d) USE OF FUNDS.—Funds from a grant provided under this section may be used only to carry out activities relating to the implementation of building energy codes and beyond-code building practices.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.

(2) SET ASIDE.—Of the amounts authorized to be appropriated under paragraph (1), the Secretary may use not more than $500,000 for each fiscal year—

(A) to develop compliance guidelines;

(B) to train State and local officials; and

(C) to administer grants provided under this section.

In section 131(a), amend the proposed section 324A(3) to read as follows:

''(3) preserve the integrity of the Energy Star label by—

''(A) regularly updating Energy Star criteria; and

''(B) ensuring, in general, that—

''(i) not more than 25 percent of available models in a product class receive the Energy Star designation; and

''(ii) Energy Star designated products and buildings are at least 10 percent more efficient than—

''(I) appliance standards in effect on the date of enactment of this section; and

''(II) the most recent model energy code;

In section 133(a)(2), add at the end the following new paragraphs:

''(45)(A) The term 'commercial prerinse spray valve' means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

''(B) The term 'commercial prerinse spray valve' may include (as determined by the secretary by rule) products—

''(i) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

''(ii) the application of standards to which would result in significant energy savings; and

''(iii) the application of standards to that would meet the criteria specified in subsection (o)(4).

''(C) The term 'commercial prerinse spray valve' may exclude (as determined by the secretary by rule) products—

''(i) that are used for special food service applications;

''(ii) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

''(iii) the application of standards to which would not result in significant energy savings.

''(46) The term 'dehumidifier' means a self-contained, electrically operated, and mechanically encased assembly consisting of—

''(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

''(B) a refrigerating system, including an electric motor;

''(C) an air-circulating fan; and

''(D) means for collecting or disposing of the condensate.''.

In section 133(b)(1), insert after the proposed paragraph (13) the following new paragraphs:

''(14) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

''(15) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled 'Standard Test Method for Prerinse Spray Valves.'''.

In section 133(c), at the end of the quoted material insert the following new subsections:

''(ee) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

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

''(2)(A) Not later than October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the standards established under paragraph (1) should be amended.

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

''(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

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

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

''(gg) STANDARDS FOR CERTAIN FURNACES.—(1) Notwithstanding subsection (f) and except as provided in paragraphs (2) and (3), a furnace (including a furnace designed solely for installation in a mobile home) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of—

''(A) for natural gas- and propane-fired equipment, not less than 80 percent; and

''(B) for oil-fired equipment not less than 83 percent.

''(2)(A) Notwithstanding subsection (f) and except as provided in paragraph (3)—

''(i) a boiler (other than a gas steam boiler) manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of not less than 84 percent; and

''(ii) a gas steam boiler manufactured 3 or more years after the date of enactment of this subsection shall have an annual fuel utilization efficiency of not less than 82 percent.

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

''(ii) If a State described in clause (i) fails to implement or reasonably enforce (as determined by the Secretary) annual fuel utilization efficiency in accordance with that clause, the annual fuel use efficiency for furnaces (other than boilers and furnaces designed solely for installation in a mobile home or boiler) in that State shall be the fuel utilization efficiency established under paragraph (1).

''(3)(A) Not later than 5 years after the date on which a standard for a product under this subsection takes effect, the Secretary shall promulgate a final rule to determine whether that standard should be amended.

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

''(i) the final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and

''(ii) the new standard shall apply to any product manufactured after the date that is 5 years after the date on which the final rule is promulgated.''.

In section 134(b), in the quoted material, insert at the end the following new paragraphs:

''(6) In the case of dehumidifiers covered under section 325(ee), the Commission shall not require an Energy Guide label.

''(7)(A) Not later than July 1, 2006, the Commission shall prescribe by rule, pursuant to this section, labeling requirements for the electricity used by ceiling fans to circulate air in a room.

''(B) The requirements shall be based on the test procedure and labeling requirements contained in the Energy Star Program Requirements for Residential Ceiling Fans, version 2.0, issued by the Environmental Protection Agency, except that third party testing and other non-labeling requirements shall not be promulgated unless the Commission determines the requirements are necessary to achieve compliance.

''(C) The rule shall apply to products manufactured after the later of—

''(i) January 1, 2007; or

''(ii) the date that is 60 days after the final rule is prescribed.''.

In section 135, in the proposed subsection (h), insert '', upon adoption of a standard under this Act'' after ''fan light kits''.

In title I, subtitle, C, add at the end the following new section:

SEC. 137. COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.

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

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively; and

(B) by inserting after subparagraph (C) the following:

''(D) Very large commercial package air conditioning and heating equipment.'';

(2) in paragraph (2)(B), by striking ''small and large'';

(3) by striking paragraphs (8) and (9) and inserting the following:

''(8)(A) The term 'commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

''(B) The term 'small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

''(C) The term 'large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

''(D) The term 'very large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated at or above 240,000 Btu per hour and below 760,000 Btu per hour (cooling capacity).'';

(4) by redesignating paragraphs (10) through (18) as paragraphs (9) through (17), respectively; and

(5) in paragraph (10) (as redesignated by subparagraph (D)), by inserting '', except for gas unit heaters and gas duct furnaces'' after ''furnaces''.

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

(1) in the subsection heading, by striking ''Small and Large'' and inserting ''Small, Large, and Very Large'';

(2) in paragraph (1), by inserting ''but before January 1, 2010,'' after ''January 1, 1994,'';

(3) in paragraph (2), by inserting ''but before January 1, 2010,'' after ''January 1, 1995,'';

(4) in paragraph (4), by inserting '', except for a gas unit heater or gas duct furnace,'' after ''boiler'';

(5) in paragraph (6)—

(A) in subparagraph (A)—

(i) by inserting ''(i)'' after ''(A)'';

(ii) by striking ''the date of enactment of the Energy Policy Act of 1992'' and inserting ''January 1, 2010'';

(iii) by inserting after ''large commercial package air conditioning and heating equipment'' the following: ''and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any''; and

(iv) by adding at the end the following:

''(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard would result in significant additional conservation of energy and is technologically feasible and economically justified.

''(iii) This subparagraph does not apply to gas-fired warm-air furnaces, gas-fired package boilers, storage water heaters, gas unit heaters, or gas duct furnaces manufactured 5 or more years after the date of enactment of the National Energy Efficiency Policy Act of 2005.''; and

(B) in subparagraph (C)(ii), by inserting ''and very large commercial package air conditioning and heating equipment'' after ''large commercial package air conditioning and heating equipment''; and

(6) by adding at the end the following:

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

''(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 btu per hour (cooling capacity) and less than 135,000 btu per hour (cooling capacity) shall be—

''(i) 11.2 for equipment with no heating or electric resistance heating; and

''(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 btu per hour (cooling capacity) and less than 135,000 btu per hour (cooling capacity) shall be—

''(i) 11.0 for equipment with no heating or electric resistance heating; and

''(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

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

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

''(i) 11.0 for equipment with no heating or electric resistance heating; and

''(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

''(i) 10.6 for equipment with no heating or electric resistance heating; and

''(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

''(9) Each very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

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

''(i) 10.0 for equipment with no heating or electric resistance heating; and

''(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

''(i) 9.5 for equipment with no heating or electric resistance heating; and

''(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

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

''(11) Notwithstanding paragraph (4) and except as provided in paragraph (14), the minimum combustion efficiency at the maximum rated capacity of a gas-fired package boiler with the capacity of 300,000 Btu per hour or more manufactured 4 or more years after the date of enactment of this paragraph shall be 84 percent.

''(12) Notwithstanding paragraph (5) (excluding paragraph (5)(g)), and except as provided in paragraph (14)—

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

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

''(13) Except as provided in paragraph (14), each gas unit heater and gas duct furnace manufactured 3 or more years after the date of enactment of this paragraph shall be equipped with—

''(A) an intermittent ignition device; and

''(B)(i) power venting; or

''(ii) an automatic flue damper.

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

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

''(i) the final rule promulgated pursuant to subparagraph (A) shall contain the new standard; and

''(ii) the new standard shall apply to any product manufactured 4 or more years after the date on which the final rule is promulgated.''.

(c) TEST PROCEDURES.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended in subsections (a)(4) and (d)(1), by inserting ''very large commercial package air conditioning and heating equipment,'' after ''large commercial package air conditioning and heating equipment,'' each place it appears.

(d) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended in the first and second sentences, by inserting ''very large commercial package air conditioning and heating equipment,'' after ''large commercial package air conditioning and heating equipment,'' each place it appears.

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

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

''(2) Any State or local standard prescribed or enacted prior to the date of enactment of this subsection shall not be preempted until the standards established under section 342(a)(9) take effect on January 1, 2010.

''(3) If the California Energy Commission adopts, not later than March 31, 2005, a regulation concerning the energy efficiency or energy effective after, the standards established under section 342(a)(9) take effect on January 1, 2010.''.

In section 304, insert at the end the following: ''In determining whether to defer such acquisition, the Secretary shall use market-based practices when deciding to acquire petroleum for the Strategic Petroleum Reserve, as used prior to 2002; carry out and make public analyses of costs and savings when making or deferring such acquisi tions; take into account and report to Congress the impact the acquisition will have on the domestic and foreign supply of petroleum and the resulting price increases or decreases; and consult with the Secretary of Homeland Security on the security consequences of such acquisition or deferral.''.

In title III, subtitle A, add at the end the following new section:

SEC. 305. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that, to address the crude oil price problem in the short-term, the President should communicate immediately to the members of the Organization of Petroleum Exporting Countries (OPEC) cartel and non-OPEC countries that participate in the cartel of crude oil producing countries that—

(1) the United States seeks to maintain strong relations with crude oil producers around the world while promoting international efforts to remove barriers to energy trade and investment and increased access for United States energy firms around the world;

(2) the United States believes that restricting supply in a market that is in demand for additional crude oil does serious damage to the efforts that OPEC members have made to demonstrate that they represent a reliable source of crude oil supply;

(3) the United States believes that stable crude oil prices and supplies are essential for strong economic growth throughout the world;

(4) the United States seeks an immediate increase in the OPEC crude oil production quotas; and

(5) the United States will temporarily suspend further purchases of crude oil for the Strategic Petroleum Reserve, thereby freeing up additional supply for the marketplace.

Amend section 355 to read as follows (and amend the table of contents accordingly):

SEC. 355. GREAT LAKES OIL AND GAS DRILLING BAN.

No Federal or State permit or lease shall be issued for new oil and gas slant, directional, or offshore drilling in or under one or more of the Great Lakes.

Title XII is amended by striking sections 1201 through 1235 and sections 1237 through 1298, by striking the title heading, by inserting the following before title XIII, by redesignating section 1236 (relating to native load service obligation) as section 1233 of the following and inserting such redesignated section 1233 after section 1232 of the following, and by making the necessary conforming changes in the table of contents:

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Electric Reliability Act of 2005''.

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY.

''(a) DEFINITIONS.—For purposes of this section:

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

''(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

''(6) The term 'transmission organization' means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

''(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify 1 such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

''(2) has established rules that—

''(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

''(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

''(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

''(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

''(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

The total amount of all dues, fees, and other charges collected by the ERO in each of the fiscal years 2006 through 2015 and allocated under subparagraph (B) shall not exceed $50,000,000.

''(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

''(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

''(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

''(A) the Commission finds a conflict exists between a reliability standard and any such provision;

''(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

''(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

''(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice and the record of the proceeding with the Commission.

''(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

''(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

''(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

''(A) the regional entity is governed by—

''(i) an independent board;

''(ii) a balanced stakeholder board; or

''(iii) a combination independent and balanced stakeholder board.

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an

Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

''(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

''(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

''(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

''(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

''(i) SAVINGS PROVISIONS.—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards..

''(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

''(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of their electric load served within the region. A regional advisory body shall be composed of 1 member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

''(k) ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.''.

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Federal Energy Regulatory Commission under section 215(c) of the Federal Power Act and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act are not departments, agencies, or instrumentalities of the United States Government.

(c) LIMITATION ON ANNUAL APPROPRIATIONS.—There is authorized to be appropriated not mroe than $50,000,000 per year for fiscal years 2006 through 2015 for all activities under the amendment made by subsection (a).

Subtitle B—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following new section:

''SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

''(a) TRANSMISSION SERVICES.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

''(2) on terms and conditions (not relating to rates) that are comparable to those under which such unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

''(b) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

''(1) sells no more than 4,000,000 megawatt hours of electricity per year; or

''(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

''(3) meets other criteria the Commission determines to be in the public interest.

''(c) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (a) shall not apply to facilities used in local distribution.

''(d) EXEMPTION TERMINATION.—Whenever the Commission, after an evidentiary hearing held upon a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (b) unreasonably impairs the continued reliability of an interconnected transmission system, it shall revoke the exemption granted to that transmitting utility.

''(e) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(f) REMAND.—In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

''(g) OTHER REQUESTS.—The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

''(h) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(i) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to an RTO or any other Commission-approved independent transmission organization designated to provide nondiscriminatory transmission access.

''(j) DEFINITION.—For purposes of this section, the term 'unregulated transmitting utility' means an entity that—

''(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

''(2) is an entity described in section 201(f).''.

SEC. 1232. FEDERAL UTILITY PARTICIPATION IN REGIONAL TRANSMISSION ORGANIZATIONS.

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

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term ''appropriate Federal regulatory authority'' means—

(A) with respect to a Federal power marketing agency (as defined in the Federal Power Act), the Secretary of Energy, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of that Federal power marketing agency; and

(B) with respect to the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL UTILITY.—The term ''Federal utility'' means a Federal power marketing agency or the Tennessee Valley Authority.

(3) TRANSMISSION SYSTEM.—The term ''transmission system'' means electric transmission facilities owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority is authorized to enter into a contract, agreement or other arrangement transferring control and use of all or part of the Federal utility's transmission system to an RTO or ISO (as defined in the Federal Power Act), approved by the Federal Energy Regulatory Commission. Such contract, agreement or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines necessary or appropriate, including standards that assure recovery of all the Federal utility's costs and expenses related to the transmission facilities that are the subject of the contract, agreement or other arrangement; consistency with existing contracts and third-party financing arrangements; and

consistency with said Federal utility's statutory authorities, obligations, and limitations;

(2) provisions for monitoring and oversight by the Federal utility of the RTO's or ISO's fulfillment of the terms and conditions of the contract, agreement or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the regional transmission organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the RTO or ISO and terminate the contract, agreement or other arrangement in accordance with its terms.

Neither this section, actions taken pursuant to it, nor any other transaction of a Federal utility using an RTO or ISO shall confer upon the Federal Energy Regulatory Commission jurisdiction or authority over the Federal utility's electric generation assets, electric capacity or energy that the Federal utility is authorized by law to market, or the Federal utility's power sales activities.

(c) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate or maintain its transmission system shall be construed to prohibit a transfer of control and use of its transmission system pursuant to, and subject to all requirements of subsection (b).

(2) OTHER OBLIGATIONS.—This subsection shall not be construed to—

(A) suspend, or exempt any Federal utility from, any provision of existing Federal law, including but not limited to any requirement or direction relating to the use of the Federal utility's transmission system, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) REPEAL.—Section 311 of title III of Appendix B of the Act of October 27, 2000 (P.L. 106–377, section 1(a)(2); 114 Stat. 1441, 1441A–80; 16 U.S.C. 824n) is repealed.

Subtitle C—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

''(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

''(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.''.

(b) COMPLIANCE.—

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

''(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

''(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).''.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).''.

(3) PRIOR STATE ACTIONS.—

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

''(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.''.

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).''.

SEC. 1252. SMART METERING.

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

''(14) TIME-BASED METERING AND COMMUNICATIONS.—

''(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

''(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

''(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

''(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption; and

''(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly.

''(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

''(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

''(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).''.

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

(1) By inserting in subsection (b) after the phrase ''the standard for time-of-day rates established by section 111(d)(3)'' the following: ''and the standard for time-based metering and communications established by section 111(d)(14)''.

(2) By inserting in subsection (b) after the phrase ''are likely to exceed the metering'' the following: ''and communications''.

(3) By adding the at the end the following:

''(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.''.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting ''; and'', and by adding the following at the end thereof:

''(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.''.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

''(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

''(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

''(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

''(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.''.

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

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

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

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

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

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

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

(C) the annual resource contribution of demand resources;

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

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

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

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

''(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

''(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).''.

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

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

''(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.''.

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

Subtitle D—Market Transparency, Enforcement, and Consumer Protection

SEC. 1282. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 221. PROHIBITION ON FILING FALSE INFORMATION.

''No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by such Federal agency.

''SEC. 222. PROHIBITION ON ROUND TRIP TRADING.

''(a) PROHIBITION.—No person or other entity (including an entity described in section 201(f)) shall willfully and knowingly enter into any contract or other arrangement to execute a 'round trip trade' for the purchase or sale of electric energy at wholesale.

''(b) DEFINITION.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or any other entity—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

''(3) enters into the contract or arrangement with a specific intent to fraudulently affect reported revenues, trading volumes, or prices.''.

SEC. 1283. FRAUDULENT OR MANIPULATIVE PRACTICES.

(a) UNLAWFUL ACTS.—It shall be unlawful for any entity, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails to use or employ, in the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, any fraudulent, manipulative, or deceptive device or contrivance in contravention of such rules and regulations as the Federal Energy Regulatory Commission may prescribe as necessary or appropriate in the public interest.

(b) APPLICATION OF FEDERAL POWER ACT TO THIS ACT.—The provisions of section 307 through 309 and 313 through 317 of the Federal Power Act shall apply to violations of the Electric Reliability Act of 2005 in the same manner and to the same extent as such provisions apply to entities subject to Part II of the Federal Power Act.

SEC. 1284. RULEMAKING ON EXEMPTIONS, WAIVERS, ETC UNDER FEDERAL POWER ACT.

Part III of the Federal Power Act is amended by inserting the following new section after section 319 and by redesignating sections 320 and 321 as sections 321 and 322, respectively:

''SEC. 320. CRITERIA FOR CERTAIN EXEMPTIONS, WAIVERS, ETC.

''(a) RULE REQUIRED FOR CERTAIN WAIVERS, EXEMPTIONS, ETC.—Not later than 6 months after the enactment of this Act, the Commission shall promulgate a rule establishing specific criteria for providing an exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of sections 204, 301, 304, and 305 (including any prospective blanket order). Such criteria shall be sufficient to insure that any such action taken by the Commission will be consistent with the purposes of such requirements and will otherwise protect the public interest.

''(b) MORATORIUM ON CERTAIN WAIVERS, EXEMPTIONS, ETC.—After the date of enactment of this section, the Commission may not issue, adopt, order, approve, or promulgate any exemption, waiver, or other reduced or abbreviated form of compliance with the requirements of section 204, 301, 304, or 305 (including any prospective blanket order) until after the rule promulgated under subsection (a) has taken effect.

''(c) PREVIOUS FERC ACTION.—The Commission shall undertake a review, by rule or order, of each exemption, waiver, or other reduced or abbreviated form of compliance described in subsection (a) that was taken before the date of enactment of this section. No such action may continue in force and effect after the date 18 months after the date of enactment of this section unless the Commission finds that such action complies with the rule under subsection (a).

''(d) EXEMPTION UNDER 204(F) NOT APPLICABLE.—For purposes of this section, in applying section 204, the provisions of section 204(f) shall not apply.''.

SEC. 1285. REPORTING REQUIREMENTS IN ELECTRIC POWER SALES AND TRANSMISSION.

(a) AUDIT TRAILS.—Section 304 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

''(c)(1) The Commission shall, by rule or order, require each person or other entity engaged in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce, and each broker, dealer, and power marketer involved in any such transmission or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.

''(2) Section 201(f) shall not limit the application of this subsection.''.

(b) NATURAL GAS.—Section 8 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

''(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.''.

SEC. 1286. TRANSPARENCY.

(a) DEFINITION.—As used in this section the term ''electric power or natural gas information processor'' means any person engaged in the business of—

(1) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis, information with respect to such transactions or quotations.

The term does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any self-regulatory organization, any bank, broker, dealer, building and loan, savings and loan, or homestead association, or cooperative bank, if such bank, broker, dealer, association, or cooperative bank would be deemed to be an electric power or natural gas information processor solely by reason of functions performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative bank activities, or any common carrier, as defined in section 3 of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3 of that Act, unless the Commission determines that such carrier is engaged in the business of collecting, processing, or preparing for distribution or publication, information with respect to transactions in or quotations involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(b) PROHIBITION.—No electric power or natural gas information processor may make use of the mails or any means or instrumentality of interstate commerce—

(1) to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for, or transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, or

(2) to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Federal Energy Regulatory Commission shall prescribe as necessary or appropriate in the public interest to

(A) prevent the use, distribution, or publication of fraudulent, deceptive, or manipulative information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas;

(B) assure the prompt, accurate, reliable, and fair collection, processing, distribution, and publication of information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas, and the fairness and usefulness of the form and content of such information;

(C) assure that all such information processors may, for purposes of distribution and publication, obtain on fair and reasonable terms such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is collected, processed, or prepared for distribution or publication by any exclusive processor of such information acting in such capacity;

(D) assure that, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the maintenance of fair and orderly markets, all persons may obtain on terms which are not unreasonably discriminatory such information with respect to quotations for and transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas as is published or distributed by any electric power or natural gas information processor;

(E) assure that all electricity and natural gas electronic communication networks transmit and direct orders for the purchase and sale of electricity or natural gas in a manner consistent with the establishment and operation of an efficient, fair, and orderly market system for electricity and natural gas; and

(F) assure equal regulation of all markets involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas and all persons effecting transactions involving the purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas.

(c) RELATED COMMODITIES.—For purposes of this section, the phrase ''purchase or sale of electric power, natural gas, the transmission of electric energy, or the transportation of natural gas'' includes the purchase or sale of any commodity (as defined in the Commodities Exchange Act) relating to any such purchase or sale if such commodity is excluded from regulation under the Commodities Exchange Act pursuant to section 2 of that Act.

(d) PROHIBITION.—No person who owns, controls, or is under the control or ownership of a public utility, a natural gas company, or a public utility holding company may own, control, or operate any electronic computer network or other mulitateral trading facility utilized to trade electricity or natural gas.

SEC. 1287. PENALTIES.

(a) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o(c)) is amended as follows:

(1) By striking ''$5,000'' in subsection (a) and inserting ''$5,000,000 for an individual and $25,000,000 for any other defendant'' and by striking out ''two years'' and inserting ''five years'' .

(2) By striking ''$500'' in subsection (b) and inserting ''$1,000,000''.

(3) By striking subsection (c).

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o091) is amended as follows:

(1) By striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''.

(2) By striking ''$10,000 for each day that such violation continues'' and inserting ''the greater of $1,000,000 or three times the profit made or gain or loss avoided by reason of such violation''.

(3) By adding the following at the end thereof:

''(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

''(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

''(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

''(A) involves the purchase or sale of electricity, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

''(B) arises out of the conduct of the business of transmitting electric energy in interstate commerce or selling or purchasing electric energy at wholesale in interstate commerce;

''(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

''(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

''(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

''(4) Such entity has willfully violated any provision of this Act.

''(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

''(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

''(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

''(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

''(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

''(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

''(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

''(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.''

(4) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.''.

(c) NATURAL GAS ACT PENALTIES.—Section 21 of the Natural Gas Act is amended by adding the following new subsection at the end thereof:

''(c) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM CERTAIN ACTIVITIES.—In any proceeding under this section, the court may censure, place limitations on the activities, functions, or operations of, suspend or revoke the ability of any entity (without regard to section 201(f)) to participate in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use if it finds that such censure, placing of limitations, suspension, or revocation is in the public interest and that one or more of the following applies to such entity:

''(1) Such entity has willfully made or caused to be made in any application or report required to be filed with the Commission or with any other appropriate regulatory agency, or in any proceeding before the Commission, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

''(2) Such entity has been convicted of any felony or misdemeanor or of a substantially equivalent crime by a foreign court of competent jurisdiction which the court finds—

''(A) involves the purchase or sale of natural gas, the taking of a false oath, the making of a false report, bribery, perjury, burglary, any substantially equivalent activity however denominated by the laws of the relevant foreign government, or conspiracy to commit any such offense;

''(B) arises out of the conduct of the business of transmitting natural gas in interstate commerce, or the selling in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

''(C) involves the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds, or securities, or substantially equivalent activity however denominated by the laws of the relevant foreign government; or

''(D) involves the violation of section 152, 1341, 1342, or 1343 or chapter 25 or 47 of title 18, United States Code, or a violation of a substantially equivalent foreign statute.

''(3) Such entity is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, municipal securities dealer, government securities broker, government securities dealer, transfer agent, foreign person performing a function substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or as an affiliated person or employee of any investment company, bank, insurance company, foreign entity substantially equivalent to any of the above, or entity or person required to be registered under the Commodity Exchange Act or any substantially equivalent foreign statute or regulation, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

''(4) Such entity has willfully violated any provision of this Act.

''(5) Such entity has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of this Act, or has failed reasonably to supervise, with a view to preventing violations of the provisions of this Act, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this paragraph no person shall be deemed to have failed reasonably to supervise any other person, if—

''(A) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

''(B) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

''(6) Such entity has been found by a foreign financial or energy regulatory authority to have—

''(A) made or caused to be made in any application or report required to be filed with a foreign regulatory authority, or in any proceeding before a foreign financial or energy regulatory authority, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign regulatory authority any material fact that is required to be stated therein;

''(B) violated any foreign statute or regulation regarding the transmission or sale of electricity or natural gas;

''(C) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign regulatory authority regarding transactions in electricity or natural gas, or contracts of sale of electricity or natural gas, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

''(7) Such entity is subject to any final order of a State commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

''(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

''(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.

''(8) Such entity is subject to statutory disqualification within the meaning of section 3(a)(39) of the Securities Exchange Act of 1934.''.

SEC. 1288. REVIEW OF PUHCA EXEMPTIONS.

Not later than 12 months after the enactment of this Act the Securities and Exchange Commission shall review each exemption granted to any person under section 3(a) of the Public Utility Holding Company Act of 1935 and shall review the action of persons operating pursuant to a claim of exempt status under section 3 to determine if such exemptions and claims are consistent with the requirements of such section 3(a) and whether or not such exemptions or claims of exemption should continue in force and effect.

SEC. 1289. REVIEW OF ACCOUNTING FOR CONTRACTS INVOLVED IN ENERGY TRADING.

Not later than 12 months after the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report of the results of its review of accounting for contracts in energy trading and risk management activities. The review and report shall include, among other issues, the use of mark-to-market accounting and when gains and losses should be recognized, with a view toward improving the transparency of energy trading activities for the benefit of investors, consumers, and the integrity of these markets.

SEC. 1290. PROTECTION OF FERC REGULATED SUBSIDIARIES.

Section 205 of the Federal Power Act is amended by adding after subsection (f) the following new subsection:

''(g) RULES AND PROCEDURES TO PROTECT CONSUMERS OF PUBLIC UTILITIES.—Not later than 9 months after the date of enactment of this Act, the Commission shall adopt rules and procedures for the protection of electric consumers from self-dealing, interaffiliate abuse, and other harmful actions taken by persons owning or controlling public utilities. Such rules shall ensure that no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, and any affiliate of, such public utility company, and no public utility shall acquire or own any securities of the holding company or other affiliates of the holding company unless the Commission has determined that such acquisition or ownership is consistent with the public interest and the protection of consumers of such public utility.''.

SEC. 1291. REFUNDS UNDER THE FEDERAL POWER ACT.

Section 206(b) of the Federal Power Act is amended as follows:

(1) By amending the first sentence to read as follows: ''In any proceeding under this section, the refund effective date shall be the date of the filing of a complaint or the date of the Commission motion initiating the proceeding, except that in the case of a complaint with regard to market-based rates, the Commission may establish an earlier refund effective date.''.

(2) By striking the second and third sentences.

(3) By striking out ''the refund effective date or by'' and '', whichever is earlier,'' in the fifth sentence.

(4) In the seventh sentence by striking ''through a date fifteen months after such refund effective date'' and insert ''and prior to the conclusion of the proceeding'' and by striking the proviso.

SEC. 1292. ACCOUNTS AND REPORTS.

Section 318 of the Federal Power Act is amended by adding the following at the end thereof: ''This section shall not apply to sections 301 and 304 of this Act.''.

SEC. 1293. MARKET-BASED RATES.

Section 205 of the Federal Power Act is amended by adding the following new subsection at the end thereof:

''(g) For each public utility granted the authority by the Commission to sell electric energy at market-based rates, the Commission shall review the activities and characteristics of such utility not less frequently than annually to determine whether such rates are just and reasonable. Each such utility shall notify the Commission promptly of any change in the activities and characteristics relied upon by the Commission in granting such public utility the authority to sell electric energy at market-based rates. If the Commission finds that:

''(1) a rate charged by a public utility authorized to sell electric energy at market-based rates is unjust, unreasonable, unduly discriminatory or preferential,

''(2) the public utility has intentionally engaged in an activity that violates any other rule, tariff, or order of the Commission, or

''(3) any violation of the Electric Reliability Act of 2005,

the Commission shall issue an order immediately modifying or revoking the authority of that public utility to sell electric energy at market-based rates.''.

SEC. 1294. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended as follows:

(1) By inserting ''electric utility,'' after ''Any person,''.

(2) By inserting '', transmitting utility,'' after ''licensee'' each place it appears.

(b) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''person,'' in the first 2 places it appears and by striking ''any person unless such person'' and inserting ''any entity unless such entity''.

(c) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended as follows:

(1) By inserting '', electric utility, transmitting utility, or other entity'' after ''person'' each time it appears.

(2) By striking the period at the end of the first sentence and inserting the following: ''or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce.''.

SEC. 1295. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) PRIVACY.—The Federal Trade Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(b) SLAMMING.—The Federal Trade Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(c) CRAMMING.—The Federal Trade Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(d) RULEMAKING.—The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(e) STATE AUTHORITY.—If the Federal Trade Commission determines that a State's regulations provide equivalent or greater protection than the provisions of this section, such State regulations shall apply in that State in lieu of the regulations issued by the Commission under this section.

(f) DEFINITIONS.—For purposes of this section:

(1) STATE REGULATORY AUTHORITY.—The term ''State regulatory authority'' has the meaning given that term in section 3(21) of the Federal Power Act (16 U.S.C. 796(21)).

(2) ELECTRIC CONSUMER AND ELECTRIC UTILITY.—The terms ''electric consumer'' and ''electric utility'' have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

''(d) The Commission shall, by rule or order, require each person or other entity engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and each broker, dealer, and power marketer involved in any such transportation or sale, to maintain, and periodically submit to the Commission, such records, in electronic form, of each transaction relating to such transmission or sale as may be necessary to determine whether any person has employed any fraudulent, manipulative, or deceptive device or contrivance in contravention of rules promulgated by the Commission.''.

SEC. 1296. SAVINGS PROVISION.

Nothing in this title or in any amendment made by this title shall be construed to affect the authority of any court to make a determination in any proceeding commenced before the enactment of this Act regarding the authority of the Federal Energy Regulatory Commission to permit any person to sell or distribute electric energy at market-based rates.

In section 25C(b)(1)(A) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after clause (iii) the following new clauses:

(iv) $150 for each electric heat pump water heater,

(v) $200 for each advanced natural gas, oil, propane furnace, or hot water boiler installed in 2006 ($150 for equipment installed in 2007, $100 for equipment installed in 2008),

(vi) $150 for each advanced natural gas, oil, or propane water heater,

(vii) $50 for each mid-efficiency natural gas, oil, or propane water heater,

(viii) $50 for an advanced main air circulating fan which is installed in a furnace with an Annual Fuel Utilization Efficiency of less than 92 percent,

(ix) $150 for each advanced combination space and water heating system,

(x) $50 for each mid-efficiency combination space and water heating system,

(xi) $250 for each geothermal heat pump, and

(xii) $250 for each advanced central air conditioner or central heat pump ($150 for equipment installed in 2008).

In section 25C(a) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after paragraph (3) the following new paragraph:

(4) the energy efficient building property described in clauses (iv) through (xii) of subsection (b)(1)(A).

In section 25C(b) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, insert after paragraph (2) the following new paragraph:

(3) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property specified in clause (iv) through (xii) of paragraph (1) unless such property meets the performance and quality standards, and the certification requirements (if any), which—

(A) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

(B) in the case of the energy efficiency ratio (EER) for property described in clause (viii) or (ix) of subsection (d)(1)(B)—

(i) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

(ii) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

(C) are in effect at the time of the acquisition of the property.

In section 25C(c) of the Internal Revenue Code of 1986, as proposed to be added by section 1311 of the bill, add at the end the following new paragraphs:

(4) ENERGY EFFICIENT BUILDING PROPERTY.—The term ''energy efficient building property'' means—

(A) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

(B) an advanced natural gas, oil, propane furnace, or hot water boiler which achieves at least 92 percent annual fuel utilization efficiency (AFUE) and which has an advanced main air circulating fan,

(C) an advanced natural gas, oil, or propane water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

(D) a mid-efficiency natural gas, oil, or propane water heater which has an energy factor of at least 0.65 but less than 0.80 in the standard Department of Energy test procedure,

(E) an advanced main air circulating fan which has an annual electricity use of no more than 2 percent of the total annual energy use (as determined in the standard Department of Energy test procedures) and which is used in a new natural gas, propane, or oil-fired furnace,

(F) an advanced combination space and water heating system which has a combined energy factor of at least 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

(G) a mid-efficiency combination space and water heating system which has a combined energy factor of at least 0.65 but less than 0.80 and a combined annual fuel utilization efficiency (AFUE) of at least 78 percent in the standard Department of Energy test procedure,

(H) a geothermal heat pump which has water heating capability by a desuperheater or full-condensing option and which has an energy efficiency ratio (EER) of at least 18 for ground-loop systems, at least 21 for ground-water systems, and at least 17 for direct GeoExchange systems; and

(I) a central air conditioner or central heat pump which meets the Energy Star specifications as set by the Environmental Protection Agency. The specifications must be made effective after December 31, 2005, and must be current as of the date of the expenditure or made effective later in the calendar year of the expenditure.

(5) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property and for piping or wiring to interconnect property described in paragraph (4) to the dwelling unit shall be taken into account for purposes of this section.

In subtitle B of title XIII, add at the end the following:

SEC. 1318. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor with respect to a qualified new energy efficient home, the credit determined under this section for the taxable year with respect to such home is an amount equal to the aggregate adjusted bases of all energy efficient property installed in such home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a dwelling unit shall not exceed—

''(i) in the case of a dwelling unit described in clause (i) or (iii) of subsection (c)(3)(C), $1,000, and

''(ii) in the case of a dwelling unit described in clause (ii) or (iv) of subsection (c)(3)(C), $2,000.

''(B) PRIOR CREDIT AMOUNTS ON SAME DWELLING UNIT TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a dwelling unit in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to such dwelling unit shall be reduced by the sum of the credits allowed under subsection (a) with respect to the dwelling unit for all prior taxable years.

''(2) COORDINATION WITH CERTAIN CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to qualified rehabilitation expenditures (as defined in section 47(c)(2)) or to the energy percentage of energy property (as determined under section 48(a)), and

''(B) expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

''(A) the person who constructed the qualified new energy efficient home, or

''(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

If more than 1 person is described in subparagraph (A) or (B) with respect to any qualified new energy efficient home, such term means the person designated as such by the owner of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment or system, which can, individually or in combination with other components, result in a dwelling unit meeting the requirements of this section.

''(3) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling unit—

''(A) located in the United States,

''(B) the construction of which is substantially completed after the date of the enactment of this section, and

''(C) which is—

''(i) certified to have a level of annual heating and cooling energy consumption which is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction, and to have building envelope component improvements account for at least ⅓ of such 30 percent,

''(ii) certified to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level and to have building envelope component improvements account for at least ⅕ of such 50 percent,

''(iii) a manufactured home which meets the requirements of clause (i) and which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations), or

''(iv) a manufactured home which meets the requirements of clause (ii) and which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations).

''(4) CONSTRUCTION.—The term 'construction' includes substantial reconstruction and rehabilitation.

''(5) ACQUIRE.—The term 'acquire' includes purchase and, in the case of reconstruction and rehabilitation, such term includes a binding written contract for such reconstruction or rehabilitation.

''(6) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any sealant, insulation material, or system which is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on such dwelling unit,

''(B) exterior windows (including skylights),

''(C) exterior doors, and

''(D) any metal roof installed on a dwelling unit, but only if such roof has appropriate pigmented coatings which—

''(i) are specifically and primarily designed to reduce the heat gain of such dwelling unit, and

''(ii) meet the Energy Star program requirements.

''(d) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—A certification described in subsection (c)(3)(C) shall be determined in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

''(2) FORM.—A certification described in subsection (c)(3)(C) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

''(f) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a dwelling unit, the level of annual heating and cooling energy consumption of the comparable dwelling unit referred to in clauses (i) and (ii) of subsection (c)(3)(C) shall be determined assuming such comparable dwelling unit contains the property for which such deduction or credit has been allowed.

''(g) APPLICATION OF SECTION.—

''(1) 50 PERCENT HOMES.—In the case of any dwelling unit described in clause (ii) or (iv) of subsection (c)(3)(C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2009.

''(2) 30 PERCENT HOMES.—In the case of any dwelling unit described in clause (i) or (iii) of subsection (c)(3)(C), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section, and ending on December 31, 2007.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the new energy efficient home credit determined under section 45K(a).''.

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016 is amended by striking ''and'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', and'', and by adding at the end the following new paragraph:

''(35) to the extent provided in section 45K(e), in the case of amounts with respect to which a credit has been allowed under section 45K.''.

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking ''and'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', and'', and by adding after paragraph (12) the following new paragraph:

''(13) the new energy efficient home credit determined under section 45K(a).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45K. New energy efficient home credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1319. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

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

''SEC. 179C. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

''(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The deduction under subsection (a) with respect to any building for the taxable year and all prior taxable years shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term 'energy efficient commercial building property' means property—

''(A) which is installed on or in any building located in the United States,

''(B) which is installed as part of—

''(i) the interior lighting systems,

''(ii) the heating, cooling, ventilation, and hot water systems, or

''(iii) the building envelope, and

''(C) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1–2001 using methods of calculation under subsection (d)(2).

A building described in subparagraph (A) may include any residential rental property, including any low-rise multifamily structure or single family housing property which is not within the scope of Standard 90.1–2001, but shall not include any qualified new energy efficient home (within the meaning of section 45K(d)(3)) for which a credit under section 45K has been allowed.

''(2) STANDARD 90.1–2001.—The term 'Standard 90.1–2001' means Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

''(d) SPECIAL RULES.—

''(1) PARTIAL ALLOWANCE.—

''(A) IN GENERAL.—Except as provided in subsection (f), if—

''(i) the requirement of subsection (c)(1)(C) is not met, but

''(ii) there is a certification in accordance with paragraph (6) that any system referred to in subsection (c)(1)(B) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(C) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '$.75' for '$2.25'.

''(B) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(B) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(C).

''(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual or, in the case of residential property, the 2005 California Residential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

''(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

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

''(C) The calculation methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this section regardless of whether the heating source is a gas or oil furnace or an electric heat pump. The reference building for a proposed design which employs electric resistance heating shall be modeled as using a heat pump.

''(D) The calculation methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either Standard 90.1–2001 or in the 2005 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

''(i) Natural ventilation.

''(ii) Evaporative cooling.

''(iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(iv) Daylighting.

''(v) Designs utilizing semi-conditioned spaces which maintain adequate comfort conditions without air conditioning or without heating.

''(vi) Improved fan system efficiency, including reductions in static pressure.

''(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(viii) The calculation methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance which exceeds typical performance.

''(ix) On-site generation of electricity, including combined heat and power systems, fuel cells, and renewable energy generation such as solar energy.

''(x) Wiring with lower energy losses than wiring satisfying Standard 90.1–2001 requirements for building power distribution systems.

''(3) COMPUTER SOFTWARE.—

''(A) IN GENERAL.—Any calculation under paragraph (2) shall be prepared by qualified computer software.

''(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

''(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and ''(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

''(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

''(5) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

''(6) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

''(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

''(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

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

''(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

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

''(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

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

''(i) 50, and

''(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

''(C) EXCEPTIONS.—This subsection shall not apply to any system—

''(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not include provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

''(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

''(g) COORDINATION WITH OTHER TAX BENEFITS.—

''(1) NO DOUBLE BENEFIT.—No deduction shall be allowed under subsection (a) with respect to any building for which a credit under section 45K has been allowed.

''(2) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a building, the annual energy and power costs of the reference building referred to in subsection (c)(1)(C) shall be determined assuming such reference building contains the property for which such deduction or credit has been allowed.

''(h) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

''(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

''(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(C) or (d)(1)(A) is not fully implemented.

''(i) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', and'', and by adding at the end the following new paragraph:

''(36) to the extent provided in section 179C(e).''.

(2) Section 1245(a) is amended by inserting ''179C,'' after ''179B,'' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence ''or by section 179C''.

(4) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(5) Section 312(k)(3)(B) is amended by striking ''section 179, 179A, or 179B'' each place it appears in the heading and text and inserting ''section 179, 179A, 179B, or 179C''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new item:

''Sec. 179C. Energy efficient commercial buildings deduction.''.

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

SEC. 1320. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this title, is amended by striking ''or'' at the end of clause (ii), by inserting ''or'' at the end of clause (iii), and by adding at the end the following:

''(iv) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 (relating to energy credit), as amended by this title, is amended by adding at the end the following new subsection:

''(c) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(iv)—

''(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(C) which produces—

''(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(D) the energy efficiency percentage of which exceeds 60 percent, and

''(E) which is placed in service before January 1, 2009.

''(2) SPECIAL RULES.—

''(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

''(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(ii) the denominator of which is the lower heating value of the fuel sources for the system.

''(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

''(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(D) PUBLIC UTILITY PROPERTY.—

''(i) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under subsection (a) if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(ii) CERTAIN EXCEPTION NOT TO APPLY.—The matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

''(E) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankine, stirling, or kalina heat engine systems, paragraph (1) shall be applied without regard to subparagraphs (A), (C), and (D) thereof.

''(3) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse for at least 90 percent of the energy source—

''(A) paragraph (1)(D) shall not apply, but

''(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1320A. EXTENSION THROUGH 2010 FOR PLACING QUALIFIED FACILITIES IN SERVICE FOR PRODUCING RENEWABLE ELECTRIC ENERGY.

(a) IN GENERAL.—Subsection (d) of section 45 is amended by striking ''January 1, 2006'' each place it appears and inserting ''January 1, 2011''.

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

At the end of title XIII, insert after subtitle C the following new subtitle:

Subtitle D—Method of Accounting for Oil, Gas, and Primary Products Thereof

SEC. 1331. PROHIBITION ON USING LAST IN, FIRST-OUT ACCOUNTING FOR OIL, GAS, AND PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Section 472 (relating to last-in, first-out inventories) is amended by adding at the end the following new subsection:

''(h) OIL AND GAS.—Notwithstanding any other provision of this section—

''(1) oil, gas, and any primary product of oil or gas, shall be inventoried separately, and

''(2) a taxpayer may not use the method provided in subsection (b) in inventorying oil, gas, and any primary product of oil or gas.''.

(b) EFFECTIVE DATE AND SPECIAL RULE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendment made by this section to change its method of accounting for its first taxable year beginning after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over a period (not greater than 10 taxable years) beginning with such first taxable year.

SEC. 1332. EMERGING TECHNOLOGIES TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end the following new section:

''SEC. 9511. EMERGING TECHNOLOGIES TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Emerging Technologies Trust Fund', consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—

''(1) IN GENERAL.—There are hereby appropriated to the Emerging Technologies Trust Fund amounts equivalent to the taxes received in the Treasury by reason of section 472(h) (relating to prohibition on use of last-in, first-out inventory accounting for oil and gas).

''(2) LIMITATION.—The amount appropriated to the Trust Fund under paragraph (1) for any fiscal year shall not exceed $5,000,000,000.

''(c) EXPENDITURES.—Amounts in the Emerging Technologies Trust Fund shall be available to the Secretary of Energy to carry out a program to research and develop emerging technologies for more efficient and renewable energy sources.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

''Sec. 9511. Emerging Technologies Trust Fund.''.

In title XIV, add at the end the following new sections:

SEC. 1452. SMALL BUSINESS COMMERCIALIZATION ASSISTANCE.

(a) AUTHORITY.—The Secretary of Energy shall provide assistance, to small businesses with less than 100 employees and startup companies, for the commercial application of renewable energy and energy efficiency technologies developed by or with support from the Department of Energy. Such assistance shall be provided through a competitive review process.

(b) APPLICATIONS.—The Secretary of Energy shall establish requirements for applications for assistance under this section. Such applications shall contain a commercial application plan, including a description of the financial, business, and technical support (including support from universities and national laboratories) the applicant anticipates in its commercial application effort.

(c) SELECTION.—The Secretary of Energy shall select applicants to receive assistance under this section on the basis of which applications are the most likely to result in commercial application of renewable energy and energy efficiency technologies.

(d) LIMIT ON FEDERAL FUNDING.—The Secretary of Energy shall provide under this section no more than 50 percent of the costs of the project funded.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for carrying out this section $200,000,000 for each of the fiscal years 2006 through 2010, and such sums as may be necessary for each of the fiscal years 2011 through 2026.

SEC. 1453. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President should direct the Federal Trade Commission and Attorney General to exercise vigorous oversight over the oil markets to protect the American people from price gouging and unfair practices at the gasoline pump.

SEC. 1454. TRANSPARENCY.

The Federal Trade Commission, in consultation with the Secretary of Energy, shall issue regulations requiring full disclosure by refiners and distributors of their wholesale motor fuel pricing policies, with a separate listing of each component contributing to prices, including the cost of crude oil (with exploration, extraction, and transportation costs shown separately if the refiner or distributor is also the producer of the crude oil), refining, marketing, transportation, equipment, overhead, and profit, along with ption of any rebates, incentives, and market enhancement allowances.

In title XVI, add at the end the following new section:

SEC. 1614. STUDY OF FINANCING FOR PROTOTYPE TECHNOLOGIES.

(a) INDEPENDENT ASSESSMENT.—The Secretary of Energy shall commission an independent assessment of innovative financing techniques to facilitate construction of new renewable energy and energy efficiency facilities that might not otherwise be built in a competitive market.

(b) CONDUCT OF THE ASSESSMENT.—The Secretary of Energy shall retain an independent contractor with proven expertise in financing large capital projects or in financial services consulting to conduct the assessment under this section.

(c) CONTENT OF THE ASSESSMENT.—The assessment shall include a comprehensive examination of all available techniques to safeguard private investors against risks (including both market-based and government-imposed risks) that are beyond the control of the investors. Such techniques may include Federal loan guarantees, Federal price guarantees, special tax considerations, and direct Federal investment.

(d) REPORT.—The Secretary of Energy shall submit the results of the independent assessment to the Congress not later than 9 months after the date of enactment of this section.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from New York (Mr. BISHOP) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY), the cosponsor of this amendment.

Mr. MARKEY. Mr. Chairman, I thank the gentleman from New York (Mr. BISHOP) for yielding me this time. I thank the gentleman from New York for his leadership on this issue, and I am proud to follow his leadership on this amendment.

Last Thursday, President Bush addressed the American Society of Newspaper Editors. Here is what he said: ''I will tell you, with $55 a barrel oil, we do not need incentives to oil and gas companies to explore. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent. It is really important,'' said the President. ''It is an important part of our economic security and it is an important part of our national security.''

Those were the President's words last week. But the President then went on to call upon Congress to pass the Republican energy bill, a bill replete with a rich assortment of tax and deregulatory incentives for the oil and gas companies to explore, even though they are essentially already drowning in windfall profits. The price of oil has doubled essentially from $25 a barrel to more than $50 a barrel. That is all extra cash in the oil companies' pockets.

So the President, I think, has to rely upon his own Energy Department, because his own Energy Department has acknowledged that this bill that we are debating would result in only negligible changes to overall demand, production, and imports, a bill that the Energy Department acknowledges will actually increase gasoline prices at the pump between 3.5 and 8 cents a gallon. The bill will increase the price of gasoline.

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So even though the President says the oil companies do not need incentives to drill when prices are so high, in this bill we are providing more than $3 billion in tax incentives to Big Oil. This is just at the point at which all of their profits are doubling. We are giving them tax breaks. It is absolutely unbelievable.

So what the gentleman from New York (Mr. BISHOP) has done is put out a series of provisions. If Members do not want to support increasing fuel economy standards for SUVs and automobiles so we can take on OPEC, what we have is another series of alternatives that can be engaged in which are much less Draconian, but will at least give us some improvement in the way this country interrelates with gas, oil, and other energy sources.

If Members feel that the Boehlert-Markey amendment is too radical, this is your cup of tea. I thank the gentleman from New York (Mr. BISHOP) for his help on this amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. BISHOP) and I am pleased to join as a cosponsor of this amendment.

Last Thursday, the President addressed the American Society of Newspaper Editors. He said:

I will tell you with $55 oil we don't need incentives to oil and gas companies to explore. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent. It's really important. It's an important part of our economic security, and it's an important part of our national security.

But the President then went on to call upon Congress to pass the Republican energy bill—a bill replete with a rich assortment of tax and deregulatory "incentives" for the oil and gas companies to explore, a bill that the President's own Energy Department has acknowledged would result in only "negligible" changes to overall demand, production and imports, a bill that the Energy Department acknowledges will actually increase gasoline prices at the pump by between 3.5 and 8 cents a gallon. So, even though the President says the oil companies don't need "incentives" to drill when prices are so high, we are providing more than $3 billion in tax incentives to Big Oil. We are giving them "royalty relief" so they don't have to pay the public a fair price for drilling on public lands.

That is what H.R. 6 offers up as a solution to high oil and gasoline prices. This bill says let's give more tax breaks to oil and gas companies that even a President who was a former Texas oil man has said are not needed. This bill says let's enact proposals that would actullay increase the price that consumers pay to fill up their gas tanks.

That is no solution.

The amendment being offered by the gentleman from New York and myself takes a different approach.

While I continue to believe that the real solution to the current high gas prices is increased efficiency, the House has already debated that issue. This amendment says, if you aren't willing to take the step of mandating higher fuel efficiency standards, are you at least will to take some more modest steps?

On the issue of gas prices, our amendment says, when oil prices are at record highs, let's stop filling the Strategic Petroleum Reserve. Let's return to the principle of considering the impact of oil and gas prices and the economy when we are making decisions about whether and when to fill the Reserve. Are you at least willing to do that?

At the same time, our amendment expresses the Sense of Congress that the Federal Trade Commission and the Justice Department should exercise vigorous oversight of our Nation's oil and gas markets to guard against price gouging or market manipulation. It expresses the Sense of Congress that the President should put pressure on OPEC and non-OPEC oil producers to increase oil production to help bring down prices. It gives the FTC the power to require full disclosure by refiners and distributors of fuel pricing policies, costs, and profits, so consumers will be better able to determine whether the oil companies are profiteering from the current volatility in oil markets. Are you at least willing to do that?

Our amendment also would extend the renewable energy production tax credit for 5 years, so that companies know that there will be incentives out there to make the investment in building new solar, wind, geothermal and biomass technologies, so we can become less dependent on coal and natural gas to generate electricity.

Our amendment strikes the cap on Energy Savings Performance Contracts, an important tool used by the Federal government to reduce the amount of energy consumed in Federal buildings across the country.

Our amendment would put in place three additional appliance efficiency standards—commercial packaged air conditioners and heat pumps, residential dehumidifiers, and commercial spray valves used in restaurants. In addition, under the amendment, efficiency standards for residential and commercial furnaces and boilers, which have been languishing over at the Energy Department for more than 10 years, would be speeded up.

We would strike the Home Depot ceiling fan language that immediately preempts state ceiling fan standards before there's even a Federal standard in place.

We would provide a new 10 percent investment tax credit for high-efficient combined heat and power systems.

We would provide a tax deduction for expenses needed to reduce energy use of new and existing commercial buildings by 50 percent below model commercial codes.

We would provide a tax credit for new homes that reduce energy costs by 20–50 percent, and we'd provide a tax deduction for expenses needed to cut energy use at new and existing commercial buildings.

We would provide for the creation of an Emerging Technology Trust Fund to help develop emerging technologies for more efficient and renewable energy sources, as well as a Small Business Commercialization Program, to provide assistance for small businesses and start-up companies trying to introduce alternative energy and efficiency technologies into the marketplace.

Finally, our amendment includes the Dingell Democratic alternative amendment on electricity, which would preserve the bill's mandatory reliability provisions, but delete its proposed repeal of the Public Utility Holding Company Act. The Dingell language would also give FERC stronger legal authorities to police electricity and natural gas markets for fraud.

The Bishop-Markey Democratic enbloc amendments make some modest but useful steps toward making this energy bill a more a balanced bill and a more consumer friendly bill. I urge my colleagues to vote for the amendment.

Mr. BARTON of Texas. Mr. Chairman, I claim the time in opposition.

The Acting Chairman (Mr. SIMPSON). The Chair recognizes the gentleman from Texas (Mr. BARTON) for 15 minutes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

On the Johnson amendment immediately prior, I was in mild opposition. On this amendment, I want to be recorded in strong opposition.

Here is the amendment. It is 124 pages. It may be great. I do not believe it is, but I have to stipulate it is possible. There has been no hearing on this, no markup on this. Most of the amendments before the body today, there may be a paragraph, a page, most of them are amendments that were at least debated in one of the committees of jurisdiction. This is a 124-page amendment which, I guess, Members could say is a substitute for the entire bill. There are 50 pages of efficient standards in this amendment.

Then there is the Dingell electricity substitute, which we have already had a debate on earlier today, and then at the end there are another 30 pages of tax credits. To top it off, we have some sort of a scheme to fix the price of oil.

What is not in this amendment is anything that would increase production, anything that addresses clean coal technology, I believe, or hydrogen research or any of those things. Again, I will stipulate this is probably a well-intentioned amendment. It is certainly lengthily drafted, but I cannot conceive at this stage of the game after all of the hearings and the markup and the amendments we have already had in this Congress and the debate that went on in the prior Congress, in the conference report that this House voted on two times, that the House would accept this amendment.

With all due respect to the authors, I would urge a strong ''no'' vote on this on a bipartisan basis because I do not think this amendment is right for inclusion or substitution for the underlying bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BISHOP of New York. Mr. Chairman, I yield myself 3 minutes.

I am pleased to offer the Bishop-Markey-McDermott en bloc amendment this evening along with my colleagues. We have an opportunity within our reach to make a real advancement in energy policy, but we are about to do the unimaginable: pass an energy bill that will do nothing to lower gas prices.

Let me say that again because I think it is important to our constituents who are paying $2.25 or more for a gallon of gas, this energy bill will not lower gas prices. In fact, according to the Department of Energy, this bill may actually increase future gas prices.

Fortunately, our amendment will help consumers see immediate relief at the gas pump. The Bishop-Markey-McDermott amendment calls on the President to immediately suspend deliveries to the Strategy Petroleum Reserve until oil prices fall below $40 per barrel. When we have done this in the past, the price of oil has dropped anywhere from $6 to $11 per barrel.

The United States should be the global leader in the development of new and innovative technologies. This amendment will encourage the growth of an energy-efficiency marketplace that fosters and incubates new startups. This will not only lead to exciting new advances, it will help create good-paying jobs for thousands of Americans.

Our amendment will create a $5 billion emerging-technology trust fund, funding the technologies of the future rather than the further counter-productive subsidies to the oil and gas industries provided for in the underlying bill.

The Bishop-Markey-McDermott amendment would also offer grants to States that meet new standards for efficiency in new building development. Under our amendment, the renewable energy production tax credit will be extended for 5 years. We will provide tax credits for new homes that reduce energy use, as well as tax credits for new and existing commercial buildings to reduce energy use; and we would also offer an investment tax credit for the development of higher efficiency heating and cooling systems.

In short, we offer tax cuts and credits that America will embrace and at the same time create a cleaner and healthier environment for our children. We will allow consumers to make more informed decisions about energy-efficient appliances for their homes or businesses by adding greater meaning to the Energy Star label by mandating that only the top 25 percent of products will carry that label. Currently, according to the Alliance to Save Energy, approximately two-thirds of products are eligible to wear the Energy Star label, rendering the distinction almost meaningless.

Mr. Chairman, let us give Americans in the Northeast and on the West Coast something to cheer about. America needs electricity reliability and protection from fraud and blackouts. H.R. 6 would repeal the Public Utility Holding Company Act. Our act would strike that provision. PUHCA is the only line of defense for millions of taxpayers protecting them from skyrocketing energy costs and greedy corporations. We should not allow utility holding companies to use the profits obtained from their regulated business activities squeezed from their captive rate-payers and pour it down the sinkholes of unregulated businesses. PUHCA should not be repealed; it should be applied appropriately and enforced.

Mr. Chairman, H.R. 6 is anti-taxpayer, anti-consumer, and anti-environment. And I will say it again, it does nothing to lower gas prices. We can do better. The Bishop-Markey-McDermott en bloc amendment offers real incentives for energy efficiency and real relief at the pump.

Mr. Chairman, I reserve the balance of my time.

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

Mr. BISHOP of New York. Mr. Chairman, I yield 3 minutes to the gentleman from Washington (Mr. MCDERMOTT).

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

Mr. MCDERMOTT. Mr. Chairman, the Republican energy bill is a license to steal. It sanctions Big Oil's approach to America's energy crisis: do nothing except count the monstrous profits. Profits may be up 400 percent, but this bill allows Big Oil to earn even more money to add to their current $55 billion cash on hand. They will earn it at the pump, and they will earn it at the Treasury Department.

An accounting gimmick allows Big Oil to escape paying anything close to its fair share of taxes. That is the Republican way. The Democrats propose, and I proposed in the Committee on Ways and Means, something radically different in our alternative energy bill, actually paying for it. Imagine that, a bill we paid for on the floor of this House.

We want to eliminate the provision called LIFO. It means last in first out. You buy a barrel of oil at $20, and you buy a barrel 6 months later at $50. When you put it out, you use the $50 barrel. You cut down the profits. Of course, that is what they do. That is the American way of saying to Big Oil: pay now less, and then pay even less later.

Democrats are proposing something else, investing in the 21st century energy sources. We provide a tax credit for new homes that reduce energy by at least 30 percent. That benefits Americans and encourages a paradigm shift in thinking to produce energy by saving it. We will establish an emergency technology trust fund. We want to harness the power of our best minds to chart a course of energy independence.

We want to extend the renewable energy tax credit. America needs the power of wind. My State is full of wind farms provided by Mother Nature, and we can harness it. Democrats see America as strong and free of an addiction to Big Oil. We are addicted to oil; and as long as we remain addicted to oil, we are not going to get any better in this whole area.

We see in America where people are not faced with choosing gasoline over food. At $3 a gallon for gasoline, you are hitting pretty hard on the food budget. Tonight is a defining moment. Republicans want Americans firmly rooted in the past, relying on fuel sources that make us vulnerable to too many foreign countries.

Democrats envision America firmly and finally looking to the future, embracing a path to independence and freedom. Vote for America. Vote for the Democratic alternative energy bill that takes this country where it belongs, into the 21st century. Vote for the Bishop-Markey-McDermott amendment.

Mr. BARTON of Texas. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. MCCRERY), a member of the Committee on Ways and Means that has jurisdiction on tax issues.

Mr. MCCRERY. Mr. Chairman, the previous speaker made some good points. He talked about the need for our country to discover new alternative sources of energy, and I think the gentleman is right. The underlying bill under consideration has some incentives for developing those new alternative sources of energy. Should we do more? Perhaps. I think perhaps when we get the final bill out of conference with the Senate, there may be more in the bill. But to rail against the oil and gas industry, as the gentleman did, and the provisions in the underlying bill that provide tax incentives for exploration and development of our oil and gas reserves in this country, to me rings empty because the substitute or the amendment that is before us that the gentleman spoke in favor of does not strike any of those provisions in the underlying bill.

All this amendment does is add new tax credits to the underlying bill. So all of the rhetoric that we heard about the underlying bill is just talk because this amendment does nothing to affect those provisions the gentleman was speaking against.

What this amendment does do is basically double the cost of this bill, at least the tax provisions in this bill. We have not had time, and the chairman of the Committee on Energy and Commerce spoke about the number of pages in this amendment, we have not had time, frankly, to analyze it from a budgetary aspect to see if it violates the House budget we have already passed. It very well could. But it takes the cost of tax provisions in this bill from about $8 billion over 10 years to about $17 billion over 10 years.

Now, the accounting gimmick, as the gentleman from Washington put it, is called LIFO, last in first out. This is not an accounting principle used just by the oil and gas industry. It is used by every sector of our economy. It is in common usage, and there is a reason. The reason is if we insisted on industry, of whatever kind, accounting for first in first out, it would lead to distortions in the market, and it would lead to business decisions based on tax considerations instead of market considerations. Last in first out is something commonly used throughout industry, not just the oil and gas industry. They cannot game it. There are regulations in place to keep them from shifting their inventory around to take advantage of the accounting rule. So this is not something, some gimmick for the oil and gas industry. It is a very sound accounting principle used throughout industry in this country.

So I would urge this House not to listen to the words of the gentleman, but look at the action embodied in the amendment. This amendment does nothing to the underlying tax provisions in the bill. It doubles the cost of the bill, and it would impose upon the oil and gas industry, just one industrial sector in this country, a retroactive tax increase because under his accounting change, those companies would have to go back and recapture what they would have paid in taxes and pay them prospectively over the next 10 years.

I hope we have concluded in this body that retroactive tax increases are bad policy. So for that reason alone, I would recommend that we reject this amendment.

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Mr. BISHOP of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I rise today in support of the Markey-Bishop amendment. This amendment includes a provision that permanently bans oil and gas drilling in and under our Great Lakes.

I offered this language as an amendment before the Committee on Rules last night. However, the Committee on Rules Republican majority refused to allow my bipartisan amendment to be considered on the floor despite strong bipartisan support for it in the House and by the American people.

The Great Lakes are one of our Nation's greatest natural resources and are vital to more than 30 million Americans who rely upon them for their drinking water. Understanding this, Congress has repeatedly banned oil and gas drilling in and under the Great Lakes to protect this vital resource. In 2001, the House voted overwhelmingly, 265–157, in favor of instituting a ban.

Last week when the Committee on Energy and Commerce marked up this legislation, I offered my amendment. Unfortunately, the gentleman from Michigan (Mr. ROGERS) undermined my amendment in favor of a watered-down version. That amendment is included in the bill we find before us today.

The Rogers amendment does nothing to stop drilling in the Great Lakes. What the Rogers amendment does is leave drilling practices up to the eight Great Lakes States and their legislatures. We could have eight different policies on drilling in our lakes. Plus it is Congress that regulates commerce amongst the several States, as is found in the Constitution in the interstate commerce clause.

The Great Lakes already face a number of threats, invasive species and contamination that leads to beach closures. Given these threats, it makes no sense to further endanger the Great Lakes by opening them up to oil and gas drilling.

The bottomlands of the Great Lakes will not provide enough oil or natural gas to make even a small dent in the amount of America's energy needs that are supplied by imported oil and natural gas. And an oil spill on the shoreline can contaminate our groundwater.

Unfortunately, pollution knows no boundaries. When one or more of the Great Lakes States does not have a ban and a blowout or a spill occurs, those States, all of the States, may be forced to pay the public health and environmental price.

The message is clear. Even an energy crisis is not enough to justify threatening our Great Lakes, the world's largest body of fresh water, to extract what industry experts agree will be a small amount of oil and gas.

I ask that my colleagues approve this amendment to enact a permanent ban on oil and gas drilling in and on the Great Lakes.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume. I would ask to engage in a dialogue with one of the authors of the amendment, if they wish to do so.

I am not being facetious about this. I want to let the gentleman from New York know right up front.

I have spent the last 10 minutes actually trying to look at the amendment to try to get a sense of it. It appears to me that most of it is the Dingell electricity substitute. Would the gentleman from New York agree with that?

Mr. BISHOP of New York. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. BISHOP of New York. Yes, I would, Mr. Chairman.

Mr. BARTON of Texas. In the beginning, he has some efficiency standards. He goes through and sets some specific standards on specific appliances, dishwashers and things like this. But on page 21, there is something beginning on line 16 that I just do not understand and I just want to see.

The gentleman from New York may not understand it either, because he may not have had much advance work in drafting this.

The heading is Administration, Penalties, Enforcement and Preemption. It says, ''Section 345 of the Energy Policy and Conservation Act, 42 U.S. Code 6316, is amended by adding at the end the following.'' It just goes down and says if a State wants to set up a specific standard, that is fine, and that State standard will not be preempted until the Federal standards established under this bill take effect on January 1, 2010. I understand that. He is saying the States can set a standard, but once the standards in the bill kick in on January 1, 2010, the Federal standard preempts. That is a policy debate; we can argue that back and forth.

The next section, I do not understand, subparagraph 3, line 16:

''If the California Energy Commission adopts, not later than March 31, 2005, a regulation concerning the energy efficiency or energy effective after, the standards established under section 342(a)(9) take effect on January 1, 2010.''

What does that mean? While the gentleman is trying to get me an answer, this is the kind of thing that if we had this in regular order in a markup, there would be counsel at the desk and members of the committee of jurisdiction would ask the counsel to explain it; and if it is a drafting error, then that could be corrected. If it is not a drafting error, then at least the members know. I am assuming that is a drafting error, but it may not be.

Mr. BISHOP of New York. It is, in fact, a drafting error. These efficiency standards were taken from the Senate bill from the 108th Congress and it is a drafting error. The date needs to be updated.

Mr. BARTON of Texas. Then right underneath that, we are talking about administration, penalties, enforcement and preemption on efficiency standard for appliances. After that paragraph I just read, then you go back and just out of the blue, it says, ''In determining whether to defer such acquisition, the Secretary shall use market-based practices when deciding to acquire petroleum for the Strategic Petroleum Reserve.''

Again, I am going to assume that this was a cut-and-paste effort and something got left out and that should be in another place. Am I correct or incorrect on that?

Mr. BISHOP of New York. If the gentleman can just give me one second.

Mr. Chairman, I guess what I would say in response is that I understand the questions that the gentleman from Texas is raising and I understand, I guess, the consternation that he has with respect to receiving such a lengthy amendment with little notice. I would only say that the underlying bill is equally complex, equally dense, and that there are sections of the underlying bill that were not subjected to hearings, as well.

Mr. BARTON of Texas. I sincerely respect the intent of the authors of the amendment. I am just trying to point out that even on a cursory examination, there are things that were just kind of hastily put together. They have not been vetted.

The underlying bill has been through countless hearings. The Energy and Commerce markup took 3½ days. The base text is the conference report from the last Congress that was extensively reviewed both inside and out of the conference. At this stage of the game, to adopt this, even as well intentioned as it is, would not put the Congress in the best light. So I really would hope that we would vote it down.

I do want to say one thing about the gentleman from Michigan's amendment on Great Lakes drilling. He offered his amendment in committee. We had a fair debate on it. It was rejected. I do not remember the vote. It was a fairly close vote, but it was rejected.

Then we took a Rogers of Michigan amendment as a substitute that gives the States the right to ban drilling if they wish. It is my understanding, and I could be incorrect about this, that Michigan wishes to ban drilling in the Great Lakes and Ohio perhaps does not. I did not learn whether New York wanted to or did not want to. I think that Canada does allow it.

But the base bill allows a State the right to ban drilling on their portion of jurisdiction of the Great Lakes if they so wish.

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, if the chairman would remember, he did allow me to offer my amendment in committee, but before we had voted to do a permanent ban, it was undermined by the Rogers amendment, which basically says the same thing that it says in the body of the underlying bill, which encourages States to enact a ban.

As the gentleman from Texas knows well, because we have several States who deal with Lake Michigan and four of the five Great Lakes are international borders, a ban, if it is going to come, a permanent ban, which we seek, would have to be Federal legislation because of the interstate commerce clause from which our committee gets its jurisdiction. That is why we were very disappointed in that, especially.

In fact, in 2001, we did have a moratorium on oil and gas drilling in the Great Lakes, and it passed 265–157 with strong bipartisan support. That is why we are disappointed that the Committee on Rules did not make our amendment in order.

Mr. BARTON of Texas. If I could reclaim my time, the gentleman from Michigan is a valued member of the committee and has several amendments that were accepted, that are in the bill. I hope he is at least in a quandary about maybe voting for the bill at some point in time, although he has not yet done so.

But as he just pointed out on the underlying bill, we do encourage States, I think the language is, encourages the States to have such a ban, but we do not have the Federal preemptive ban that the gentleman from Michigan wanted.

Mr. Chairman, in summary, I oppose this amendment. I think we have pointed out a number of flaws in it. I would hope at the appropriate time the body would vote it down.

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

Mr. BISHOP of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I thank the gentleman for yielding me this time.

Mr. Chairman, I want to concur with the gentleman from Michigan (Mr. STUPAK) who spoke in favor of a Federal ban on drilling for oil or gas in the Great Lakes. I represent Cleveland, Ohio, which is a city proud to be part of the Great Lakes community. We in Cleveland understand that the Great Lakes contain 20 percent of the Earth's fresh water surface and supplies drinking water for over 40 million people.

This is not a matter that any State can choose to go along with or against. This is clearly an area for Federal policy. We need a Federal policy which says the people of the United States have a right to clean drinking water.

Water is the oil of the 21st century and we are here acting as though it is not the basis of life on our planet.

The risks of drilling are clear. Because the geologic formations under Lake Erie are low producing, the oil and gas industry would require over 4,200 wells to access the full resource. In Canada, where they permitted drilling, an average of almost one spill per month has been documented. Now, the industry wants to use directional drilling to create new risks. Geologists have noted that leaks will follow the drilling shaft down into the groundwater which flows right into Lake Erie.

This amendment, the Markey-Bishop amendment, is a common-sense way to meet our energy needs, conservation, energy and renewables, and it is also a common-sense way to protect the great water resource we have.

Why should we even be contesting this? Why would any State want to take the responsibility of drilling in the Great Lakes and thus poisoning the well for the rest of America?

This is Federal policy. We have a right to clean water. Support this amendment.

Mr. BISHOP of New York. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. Mr. Chairman, I thank my friend from New York for not only offering the amendment, but providing a very important point in this debate, and that is, unfortunately, the underlying bill is not going to work because it lacks one crucial element, and that is vision, the vision to see that we need to pivot off the status quo of the current energy policy and move to a new energy plan that makes sense for a new century.

The fact of the matter is, and the dirty little secret in this place, those involved in energy policy have to admit it, is that no matter how many incentives we give to the oil companies, how many royalty relief provisions are loaded in this bill, even though the President who comes from the oil industry says that it is not necessary, given the high price of oil, is that we cannot produce our way out of the energy challenge that we are facing in this century.

We are already in a race against China and India for the limited oil supplies that exist throughout the world. This amendment provides the vision for us to start pivoting off from our dependence on fossil fuels generally, but the importation of oil more specifically, by providing incentives for alternative and renewable energy sources, incentives for increased energy efficiency and conservation practices and, hopefully, the incentive to move to a new energy source for a new century, and that is fuel cell development.

I would encourage my colleagues to adopt this amendment.

Mr. BISHOP of New York. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Chairman, I thank the gentleman from New York for yielding me this time and I rise in strong support of the Bishop-Markey substitute.

This amendment contains a number of provisions designed to reduce dependence on nonrenewable energy sources. It is ridiculous that H.R. 6 really offers no relief to the soaring prices of gasoline. I think that is what our constituents really want to see.

The administration's own Energy Information Administration analyzed last year's H.R. 6 and said, changes to production, consumption, imports and prices in it are negligible. It even found that gasoline prices under the bill would actually increase more than if a bill was not enacted.

The Bishop-Markey amendment offers clear measures to lower the price of gas. We should not be filling the Strategic Petroleum Reserve while oil prices are so high. We should urge OPEC to increase oil production. We should instruct the FTC to protect the American people from price gouging at the gas pump. These are reasonable steps. This is what this substitute does. And it will provide reasonable relief from high gas prices.

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I cannot support H.R. 6 as it is written today despite my great affection for our chairman, who was more than fair when we had the markup in the Committee on Energy and Commerce; but this Bishop-Markey amendment would provide critical improvements to it.

Support this amendment today.

The Acting CHAIRMAN (Mr. SIMPSON). The question is on the amendment offered by the gentleman from New York (Mr. BISHOP).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. BISHOP of New York. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. BISHOP) will be postponed.

It is now in order to consider amendment No. 8 printed in House Report 109–49.

AMENDMENT NO. 8 OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Ms. SLAUGHTER:

In title I, subtitle C, add at the end the following new section:

SEC. 135. INTERMITTENT ESCALATORS.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following new subsection:

''(e) INTERMITTENT ESCALATORS.—

''(1) REQUIREMENT.—Except as provided in paragraph (2), any escalator acquired for installation in a Federal building shall be an intermittent escalator.

''(2) EXCEPTION.—Paragraph (1) shall not apply at a location outside the United States where the Federal agency determines that to acquire an intermittent escalator would require substantially greater cost to the Government over the life of the escalator.

''(3) ADDITIONAL ENERGY CONSERVATION MEASURES.—In addition to complying with paragraph (1), Federal agencies shall incorporate other escalator energy conservation measures, as appropriate.

''(4) DEFINITION.—For purposes of this subsection, the term 'intermittent escalator' means an escalator that remains in a stationary position until it automatically operates at the approach of a passenger, returning to a stationary position after the passenger completes passage.''.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentlewoman from New York (Ms. SLAUGHTER) and the gentleman from Texas (Mr. BARTON) each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

In 1998 Congress set a goal for 2005 to improve the energy efficiency in congressional buildings by 20 percent. And I know that the Architect of the Capitol has been working very hard to reach the goal. However, we have not. Yet the skyrocketing gasoline prices remind us that we must do more for conservation.

I am disappointed that the underlying legislation gives 94 percent of its benefits to the oil and gas industry and only 6 percent to conservation and renewable efforts.

My amendment, I think, is a good start at least on some conservation. It would simply require that any new escalator being installed in Federal buildings to be an intermittent escalator. These have been in use in Europe for 30 or 40 years; and I know that when I first saw one, I could hardly believe it. It does not begin until the passenger steps on a pad entering into the escalator and stops when the passengers are off. We would save about 40 percent of the fuel costs, the electricity costs, the energy costs. But in addition to that, what we would save simply on the wear and tear, the pure mechanics of the escalator, probably would be even higher than the energy savings.

Mr. Chairman, the traditional escalators are used more than 90 billion times a year in the United States; and with more than 30,000 of them across the country, escalators move more people than airplanes. And since almost all of them are out of order a good percentage of the time, we know that it is important that we do something to conserve that kind of money and the investment we have made in the escalators.

As I pointed out, the amount of energy consumed is estimated to be 260 million kilowatts an hour, which we would save a cost to the Nation, if all of them were intermittent, of $260 million a year.

I want to quote an analyst at Lawrence Livermore National Laboratory. The intermittent escalators, says Lawrence Livermore, are 40 to 50 percent more energy efficient than traditional escalators. This was borne out by a case study supplied to me from the German Embassy, which found 40 percent savings in Germany. Energy can be particularly saved when the escalator is used only during rush hours.

Replacing all of them would save us an awful lot of money, but this bill does not replace them all. It simply requires that new escalators be of the intermittent variety. And I strongly hope that we will accept this amendment this evening as part of this energy bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to qualify in opposition. And I say ''qualify'' because when I looked at the amendment several days ago, it appeared to me to be a reasonable amendment. Since the gentlewoman was born in Texas, it gave me another reason to say yes. And since she is a member of the Committee on Rules and every now and then I will need a vote from the minority on the Committee on Rules, there was another reason. So we had lots of reasons to say yes, and so we did say yes.

Then we found out that the gentleman from Alaska (Mr. YOUNG), the chairman of Committee on Transportation and Infrastructure, had some concerns about it, and the General Services Administration had some concerns about it. And the concern is that these intermittent escalators sometimes cause a safety problem because they start and stop too soon and they apparently break down more frequently than continuous-operation escalators.

So here is my proposal to the gentlewoman: I am willing to accept it with the understanding that we are going to work with the General Services Administration and the gentleman from Alaska (Chairman YOUNG) to see if there is a meeting of the minds between now and conference. We will go into the base bill. It will be a House position when we go to conference. But if for some reason we cannot satisfy these safety concerns, since I am probably going to be the chairman of the conference, I would reserve the right to drop it in conference after consultation with the gentlewoman if we cannot work out some of these concerns. But for tonight we would take it.

Mr. Chairman, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman very much for his support. I appreciate that. And if it is all right with the chairman, I will inundate him with that information between now and then.

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

Mr. BARTON of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, with that reservation, the majority accepts the gentlewoman's amendment and urges a mild ''yes'' vote.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The Acting CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 109–49.

It is now in order to consider amendment No. 10 printed in House Report 109–49.

Mr. BARTON of Texas. Mr. Chairman, I ask unanimous consent, on the Oberstar amendment, even though he is not here, that the gentleman from Michigan (Mr. DINGELL) be allowed to offer it, and if he will on the gentleman from Minnesota's (Mr. OBERSTAR) behalf, I will accept it.

The Acting CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT NO. 10 OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. DINGELL:

At the end of subtitle A of title II, add the following (and conform the table of contents accordingly):

SEC. 209. INSTALLATION OF PHOTOVOLTAIC SYSTEM.

There is authorized to be appropriated to the General Services Administration to install a photovoltaic system, as set forth in the Sun Wall Design Project, for the headquarters building of the Department of Energy located at 1000 Independence Avenue Southwest in the District of Columbia, commonly know as the Forrestal Building, $20,000,000 for fiscal year 2006. Such sums shall remain available until expended.

The Acting CHAIRMAN. Pursuant to House Resolution 219, the gentleman from Michigan (Mr. DINGELL) and a Member opposed each will each control 5 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

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

Under the unanimous consent request, I assume, then, that I have offered it; and I yield to the gentleman from the great State of Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Chairman, I thank the gentleman for yielding to me. And I would simply say that the gentleman from Minnesota (Mr. OBERSTAR), the ranking member on the Committee on Transportation and Infrastructure, has offered an amendment that would authorize $20 million for the administrator of General Services Administration to proceed with the Sun Wall design project, and the majority is prepared to accept it and work with the gentleman from Michigan (Mr. DINGELL) and the gentleman from Minnesota (Mr. OBERSTAR) to maintain it in conference with the Senate.

I urge a ''yes'' vote.

Mr. DINGELL. Mr. Chairman, reclaiming my time and continuing my comments, I rejoice that the gentleman has accepted it. I commend him for having done so.

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

Mr. OBERSTAR. Mr. Chairman, I rise to express my appreciation to the gentleman from Michigan for offering the amendment I had planned to and was designated to offer, and to the gentleman from Texas for accepting the amendment.

Mr. Chairman, I rise in support of the Oberstar-Norton amendment. The amendment authorizes the Administrator of the General Services Administration to install a photovoltaic solar energy system (photovoltaics) in accordance with the Sun Wall Design Project on the Forrestal Building, the headquarters building of the Department of Energy located on Independence Avenue in Washington, D.C.

The Sun Wall is an engineering and architectural marvel; 24,750 square feet of power generating panels installed on the building's south facing wall. It is also visually exciting, reaching 300 feet wide and 130 feet high. In fact, the Sun Wall design was selected as the winning design in an national contest sponsored jointly by the Department of Energy and the National Renewable Fuels Laboratory. The project design was completed 5 years ago, in 2000. The project design is ready to go. All that is left to do is provide funding for the project so that construction of the Sun Wall can begin.

With ever rising oil prices and our country's ever-increasing dependence on oil, the time has come for the federal government to get serious about alternative, renewable fuels. In fact, the time is long past overdue. The federal government is the Nation's largest energy consumer, a typical office building is estimated to spend one-third of its operating expenses on energy costs. Using alternative sources of energy will help us reduce these costs.

Photovoltaics are a proven, reliable source of energy. Simply put, photovoltaic systems convert solar energy into electricity. They not only reduce the consumption of fossil fuels, but they are highly efficient and have no moving parts, so the need for maintenance is virtually non-existent. Because they emit no harmful pollutants, they are a clean, environmentally-friendly energy source.

H.R. 6 does include provisions aimed at increasing energy efficiency in our public buildings. I am especially pleased to see in the bill section 205 (regarding the procurement and installation of photovoltaics in federal buildings generally), which I offered, and which was accepted, as an amendment during consideration of the energy bill last Congress.

Over 25 Federal buildings throughout the country, from Boston, Massachusetts to San Francisco, California, already use photovoltaics to great effect. We ought to add the national headquarters of the Department of Energy to that list.

The Sun Wall Project is an opportunity to have the Department of Energy Headquarters building in our Nation's capital—the building where energy policy is debated and refined—stand as a testament to the utility and promise of photovoltaics. In a city of monuments, the Sun Wall Project would be a monument to America's commitment to advanced technologies, alternative energy and a cleaner environment.

I urge my colleagues to support the amendment.

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

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

REQUEST TO OFFER AMENDMENT NO. 9

Mr. WAXMAN. Mr. Chairman, I have an amendment at the desk, and I ask unanimous consent to be able to go back to that amendment.

Mr. BARTON of Texas. Mr. Chairman, I reserve the right to object, and I will not object.

The Acting CHAIRMAN. The gentleman will have to offer his amendment in the full House. We cannot go back to the amendment.

Mr. BARTON of Texas. Mr. Chairman, I reserve the right to object.

The Acting CHAIRMAN. The Chair is not entertaining the motion because we cannot go back to the amendment.

PARLIAMENTARY INQUIRY

Mr. BARTON of Texas. Mr. Chairman, parliamentary inquiry.

The Acting CHAIRMAN. The gentleman may inquire.

Mr. BARTON of Texas. Mr. Chairman, since the gentleman from California is a member of the committee of jurisdiction and since he offered this in committee and it was made in order by the Committee on Rules to be offered, even though he was somewhat tardy in arriving, would a unanimous consent request, if made and not objected to, give him the right to offer the amendment now?

The Acting CHAIRMAN. Such a request may only be entertained in the full House.

Mr. BARTON of Texas. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FLAKE) having assumed the chair, Mr. SIMPSON, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, had come to no resolution thereon.

MAKING IN ORDER AT ANY TIME WAXMAN AMENDMENT NO. 9 DURING FURTHER CONSIDERATION OF H.R. 6, ENERGY POLICY ACT OF 2005

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that Waxman amendment No. 9 be allowed to be offered at any time to H.R. 6.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ENERGY POLICY ACT OF 2005

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

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IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy, with Mr. SIMPSON (Acting Chairman) in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose earlier today, amendment No. 10 printed in House Report 109–49 offered by the gentleman from Michigan (Mr. DINGELL) had been disposed of.

AMENDMENT NO. 9 OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows: