

In the Senate of the United States,

June 28, 2005.

Resolved, That the bill from the House of Representatives (H.R. 6) entitled “An Act to ensure jobs for our future with secure, affordable, and reliable energy.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

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

2 (a) *SHORT TITLE.*—*This Act may be cited as the “En-*
3 *ergy Policy Act of 2005”.*

- 1 *(b) TABLE OF CONTENTS.—The table of contents of this*
 2 *Act is as follows:*

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

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

Sec. 101. Energy and water saving measures in congressional buildings.
Sec. 102. Energy management requirements.
Sec. 103. Energy use measurement and accountability.
Sec. 104. Procurement of energy efficient products.
Sec. 105. Energy savings performance contracts.
Sec. 106. Voluntary commitments to reduce industrial energy intensity.
Sec. 107. Federal building performance standards.
Sec. 108. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

Subtitle B—Energy Assistance and State Programs

Sec. 121. Weatherization assistance.
Sec. 122. State energy programs.
Sec. 123. Energy efficient appliance rebate programs.
Sec. 124. Energy efficient public buildings.
Sec. 125. Low income community energy efficiency pilot program.
Sec. 126. State technologies advancement collaborative.
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Sec. 132. HVAC maintenance consumer education program.
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Sec. 134. Energy efficiency public information initiative.
Sec. 135. Energy conservation standards for additional products.
Sec. 136. Energy conservation standards for commercial equipment.
Sec. 137. Expedited rulemaking.
Sec. 138. Energy labeling.
Sec. 139. Energy efficient electric and natural gas utilities study.
Sec. 140. Energy efficiency pilot program.
Sec. 141. Energy efficiency resource programs.
Sec. 142. Fuel efficient engine technology for aircraft.
Sec. 143. Motor vehicle tires supporting maximum fuel efficiency.

Subtitle D—Measures to Conserve Petroleum

Sec. 151. Reduction of dependence on imported petroleum.

Subtitle E—Energy Efficiency in Housing

Sec. 161. Public Housing Capital Fund.
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Sec. 164. Energy strategy for the Department of Housing and Urban Development.

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Sec. 201. Assessment of renewable energy resources.

Sec. 202. Renewable energy production incentive.

Sec. 203. Federal purchase requirement.

Subtitle B—Reliable Fuels

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Sec. 212. Renewable fuel.

Sec. 213. Survey of renewable fuels consumption.

Subtitle C—Federal Reformulated Fuels

Sec. 221. Short title.

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Sec. 223. Restrictions on the use of MTBE.

Sec. 224. Elimination of oxygen content requirement for reformulated gasoline.

Sec. 225. Public health and environmental impacts of fuels and fuel additives.

Sec. 226. Analyses of motor vehicle fuel changes.

Sec. 227. Additional opt-in areas under reformulated gasoline program.

Sec. 228. Federal enforcement of State fuels requirements.

Sec. 229. Fuel system requirements harmonization study.

Sec. 230. Advanced biofuel technologies program.

Sec. 231. Sugar cane ethanol program.

Sec. 232. National Priority Project Designation.

Sec. 233. Rural and remote community electrification grants.

Sec. 234. Waste-derived ethanol and biodiesel.

Subtitle D—Insular Energy

Sec. 241. Definitions.

Sec. 242. Assessment.

Sec. 243. Project feasibility studies.

Sec. 244. Implementation.

Sec. 245. Authorization of appropriations.

Subtitle E—Biomass Energy

Sec. 251. Definitions.

Sec. 252. Biomass commercial utilization grant program.

Sec. 253. Improved biomass utilization program.

Sec. 254. Report.

Subtitle F—Geothermal Energy

Sec. 261. Competitive lease sale requirements.

Sec. 262. Direct use.

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Sec. 264. Geothermal leasing and permitting on Federal land.

Sec. 265. Assessment of geothermal energy potential.

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Sec. 267. Royalty on byproducts.

- Sec. 268. Lease duration and work commitment requirements.*
Sec. 269. Annual rental.
Sec. 270. Advanced royalties required for cessation of production.
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- Sec. 281. Alternative conditions and fishways.*
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- Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.*
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- Sec. 311. Definition of Secretary.*
Sec. 312. Program on oil and gas royalties in-kind.
Sec. 313. Marginal property production incentives.
Sec. 314. Incentives for natural gas production from deep wells in the shallow waters of the Gulf of Mexico.
Sec. 315. Royalty relief for deep water production.
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Sec. 318. North slope science initiative.
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Sec. 320. Combined hydrocarbon leasing.
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Sec. 322. Preservation of geological and geophysical data.
Sec. 323. Oil and gas lease acreage limitations.
Sec. 324. Assessment of dependence of State of Hawaii on oil.
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Sec. 327. Review and demonstration program for oil and natural gas production.
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- Sec. 341. Federal onshore oil and gas leasing practices.*
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Sec. 387. Deadline for decision on appeals of consistency determination under the Coastal Zone Management Act of 1972.
Sec. 388. Federal-State liquefied natural gas forums.
Sec. 389. Prohibition of trading and serving by certain persons.

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Sec. 391. Federal coalbed methane regulation.

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Sec. 403. Report.
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TITLE V—INDIAN ENERGY

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- Sec. 622. Safe disposal of greater-than-class C radioactive waste.*
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TITLE VII—VEHICLES AND FUELS

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- Sec. 701. Use of alternative fuels by dual-fueled vehicles.*
- Sec. 702. Fuel use credits.*
- Sec. 703. Incremental cost allocation.*
- Sec. 704. Alternative compliance and flexibility.*
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Subtitle B—Automobile Efficiency

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- Sec. 711. Revised considerations for decisions on maximum feasible average fuel economy.*
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TITLE VIII—HYDROGEN

- Sec. 801. Hydrogen research, development, and demonstration.*

TITLE IX—RESEARCH AND DEVELOPMENT

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- Sec. 902. Goals.*
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- Sec. 1505. Treatment of income of certain electric cooperatives.*
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- Sec. 1507. Credit for production from advanced nuclear power facilities.*
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Sec. 1528. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
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- Sec. 1541. 10-year recovery period for underground natural gas storage facility property.*
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Sec. 1545. Credit for equipment for processing or sorting materials gathered through recycling.
Sec. 1546. 5-year net operating loss carryover if any resulting refund is used for electric transmission equipment.
Sec. 1547. Credit for qualifying pollution control equipment.
Sec. 1548. Credit for production of coal owned by Indian tribes.
Sec. 1549. Credit for replacement stoves meeting environmental standards in non-attainment areas.
Sec. 1550. Exemption for equipment for transporting bulk beds of farm crops from excise tax on retail sale of heavy trucks and trailers.
Sec. 1551. National Academy of Sciences study and report.
Sec. 1552. Income tax exclusion for certain fuel costs of rural carpools.
Sec. 1553. 3-year applicable recovery period for depreciation of qualified energy management devices.

Sec. 1554. Exception from volume cap for certain cooling facilities.

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- Sec. 1561. Treatment of kerosene for use in aviation.*
Sec. 1562. Repeal of ultimate vendor refund claims with respect to farming.
Sec. 1563. Refunds of excise taxes on exempt sales of fuel by credit card.
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Sec. 1567. Reconciliation of on-loaded cargo to entered cargo.
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Sec. 1570. Penalty with respect to certain adulterated fuels.
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- Sec. 1611. Climate change technology deployment in developing countries.*
Sec. 1612. Sense of the Senate on climate change.

1 SEC. 2. DEFINITIONS.

2 *In this Act:*

3 (1) DEPARTMENT.—*The term “Department”*
4 *means the Department of Energy.*

5 (2) INSTITUTION OF HIGHER EDUCATION.—

6 (A) IN GENERAL.—*The term “institution of*
**7 *higher education” has the meaning given the*
8 *term in section 101(a) of the Higher Education*
9 *Act of 1065 (20 U.S.C. 1001(a)).***

1 (B) *INCLUSION.*—*The term “institution of*
2 *higher education” includes an organization*
3 *that—*

4 (i) *is organized, and at all times there-*
5 *after operated, exclusively for the benefit of,*
6 *to perform the functions of, or to carry out*
7 *the functions of 1 or more organizations re-*
8 *ferred to in subparagraph (A); and*

9 (ii) *is operated, supervised, or con-*
10 *trolled by or in connection with 1 or more*
11 *of those organizations.*

12 (3) *NATIONAL LABORATORY.*—*The term “Na-*
13 *tional Laboratory” means any of the following lab-*
14 *oratories owned by the Department:*

15 (A) *Ames Laboratory.*

16 (B) *Argonne National Laboratory.*

17 (C) *Brookhaven National Laboratory.*

18 (D) *Fermi National Accelerator Laboratory.*

19 (E) *Idaho National Laboratory.*

20 (F) *Lawrence Berkeley National Labora-*
21 *tory.*

22 (G) *Lawrence Livermore National Labora-*
23 *tory.*

24 (H) *Los Alamos National Laboratory.*

1 (I) *National Energy Technology Labora-*
2 *tory.*

3 (J) *National Renewable Energy Laboratory.*

4 (K) *Oak Ridge National Laboratory.*

5 (L) *Pacific Northwest National Laboratory.*

6 (M) *Princeton Plasma Physics Laboratory.*

7 (N) *Sandia National Laboratories.*

8 (O) *Savannah River National Laboratory.*

9 (P) *Stanford Linear Accelerator Center.*

10 (Q) *Thomas Jefferson National Accelerator*
11 *Facility.*

12 (4) *SECRETARY.*—*The term “Secretary” means*
13 *the Secretary of Energy.*

14 (5) *SMALL BUSINESS CONCERN.*—*The term*
15 *“small business concern” has the meaning given the*
16 *term in section 3 of the Small Business Act (15*
17 *U.S.C. 632).*

18 **TITLE I—ENERGY EFFICIENCY**

19 **Subtitle A—Federal Programs**

20 **SEC. 101. ENERGY AND WATER SAVING MEASURES IN CON-** 21 **GRESSIONAL BUILDINGS.**

22 (a) *IN GENERAL.*—*Part 3 of title V of the National*
23 *Energy Conservation Policy Act (42 U.S.C. 8251 et seq.)*
24 *is amended—*

1 (1) *by redesignating section 551 (42 U.S.C.*
2 8259) *as section 553; and*

3 (2) *by inserting after section 550 (42 U.S.C.*
4 8258b) *the following:*

5 **“SEC. 551. ENERGY AND WATER SAVINGS MEASURES IN**
6 **CONGRESSIONAL BUILDINGS.**

7 “(a) *DEFINITIONS.—In this section:*

8 “(1) *CONGRESSIONAL BUILDING.—The term ‘con-*
9 *gressional building’ means a facility administered by*
10 *Congress.*

11 “(2) *PLAN.—The term ‘plan’ means an energy*
12 *conservation and management plan developed under*
13 *subsection (b)(1).*

14 “(b) *PLAN.—*

15 “(1) *IN GENERAL.—The Architect of the Capitol*
16 *shall develop, update, and implement a cost-effective*
17 *energy conservation and management plan for con-*
18 *gressional buildings to meet the energy performance*
19 *requirements for Federal buildings established under*
20 *section 543(a)(1).*

21 “(2) *REQUIREMENTS.—The plan shall include—*

22 “(A) *a description of the life-cycle cost anal-*
23 *ysis used to determine the cost-effectiveness of*
24 *proposed energy efficiency projects;*

1 “(B) a schedule that ensures that complete
2 energy surveys of all congressional buildings are
3 conducted every 5 years to determine the cost
4 and payback period of energy and water con-
5 servation measures;

6 “(C) a strategy for installation of life-cycle
7 cost-effective energy and water conservation
8 measures;

9 “(D) the results of a study of the costs and
10 benefits of installation of submetering in congres-
11 sional buildings; and

12 “(E) information packages and ‘how-to’
13 guides for each Member and employing authority
14 of Congress that describe simple and cost-effective
15 methods to save energy and taxpayer dollars in
16 congressional buildings.

17 “(3) SUBMISSION TO CONGRESS.—Not later than
18 180 days after the date of enactment of the Energy
19 Policy Act of 2005, the Architect of the Capitol shall
20 submit to Congress the plan developed under para-
21 graph (1).

22 “(c) ANNUAL REPORT.—

23 “(1) IN GENERAL.—The Architect of the Capitol
24 shall annually submit to Congress a report on con-
25 gressional energy management and conservation pro-

1 *grams carried out for congressional buildings under*
 2 *this section.*

3 “(2) *REQUIREMENTS.*—*A report submitted under*
 4 *paragraph (1) shall describe in detail—*

5 “(A) *energy expenditures and savings esti-*
 6 *mates for each congressional building;*

7 “(B) *any energy management and conserva-*
 8 *tion projects for congressional buildings; and*

9 “(C) *future priorities to ensure compliance*
 10 *with this section.”.*

11 (b) *CONFORMING AMENDMENT.*—*The table of contents*
 12 *of the National Energy Conservation Policy Act is*
 13 *amended—*

14 (1) *by redesignating the item relating to section*
 15 *551 as section 553; and*

16 (2) *by inserting after the item relating to section*
 17 *550 the following:*

 “*Sec. 551. Energy and water savings measures in congressional buildings.*”.

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

20 ***SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.***

21 (a) *ENERGY REDUCTION GOALS.*—*Section 543(a) of*
 22 *the National Energy Conservation Policy Act (42 U.S.C.*
 23 *8253(a)) is amended—*

24 (1) *in paragraph (1), by striking “Subject to”*
 25 *and all that follows and inserting “(A) Subject to*

1 paragraph (2), each agency shall apply energy con-
 2 servation measures to, and shall improve the design
 3 for the construction of, the Federal buildings of the
 4 agency (including each industrial or laboratory facil-
 5 ity) so that the energy consumption for each gross
 6 square foot of the Federal buildings of the agency for
 7 fiscal years 2006 through 2015 is reduced, as com-
 8 pared with the energy consumption for each gross
 9 square foot of the Federal buildings of the agency for
 10 fiscal year 2004, by the percentage specified in the
 11 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.

12 “(B) The energy reduction goals and baseline estab-
 13 lished in subparagraph (A) supersede—

14 “(i) all goals and baselines under this paragraph
 15 in effect on the day before the date of enactment of
 16 this subparagraph; and

17 “(ii) any related reporting requirements.”; and

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

19 “(3) Not later than December 31, 2013, the Secretary
 20 shall—

1 “(A) review the results of the implementation of
2 the energy performance requirement established under
3 paragraph (1); and

4 “(B) submit to Congress recommendations con-
5 cerning energy performance requirements for each of
6 fiscal years 2015 through 2024.”.

7 (b) *EXCLUSIONS; REVIEW BY SECRETARY; CRI-*
8 *TERIA.*—Section 543(c) of the National Energy Conserva-
9 tion Policy Act (42 U.S.C. 8253(c)) is amended—

10 (1) in paragraph (1), by striking “An agency
11 may exclude” and all that follows and inserting “(A)
12 An agency may exclude, from the energy performance
13 requirement for a fiscal year established under sub-
14 section (a) and the energy management requirement
15 established under subsection (b), any Federal building
16 or collection of Federal buildings, if the head of the
17 agency finds that—

18 “(i) compliance with those requirements would
19 be impracticable;

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

22 “(iii) the agency has achieved compliance with
23 the energy efficiency requirements of this Act, the En-
24 ergy Policy Act of 1992 (42 U.S.C. 13201 et seq.), Ex-
25 ecutive orders, and other Federal law; and

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

5 “(B) A finding of impracticability under subpara-
6 graph (A)(i) shall be based on—

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

10 “(ii) the fact that the Federal building or collec-
11 tion of Federal buildings is used in the performance
12 of a national security function.”;

13 (2) in paragraph (2)—

14 (A) in the second sentence—

15 (i) by striking “impracticability stand-
16 ards” and inserting “standards for exclu-
17 sion”; and

18 (ii) by striking “a finding of imprac-
19 ticability” and inserting “the exclusion”;
20 and

21 (B) in the third sentence, by striking “en-
22 ergy consumption requirements” and inserting
23 “requirements of subsections (a) and (b)(1)”; and
24 (3) by adding at the end the following:

1 “(3) Not later than 180 days after the date of enact-
2 ment of this paragraph, the Secretary shall issue guidelines
3 that establish criteria for exclusions under paragraph (1).”.

4 (c) *RETENTION OF ENERGY AND WATER SAVINGS.*—
5 Section 546 of the National Energy Conservation Policy Act
6 (42 U.S.C. 8256) is amended—

7 (1) in subsection (d)(2)(G), by inserting “of the
8 Energy Policy Act of 1992 (42 U.S.C. 8262e)” after
9 “159”; and

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

11 “(e) *RETENTION OF ENERGY AND WATER SAVINGS.*—
12 (1) An agency may retain any funds appropriated to the
13 agency for energy expenditures, water expenditures, or
14 wastewater treatment expenditures, at buildings subject to
15 the requirements of subsections (a) and (b) of section 543,
16 that are not expended because of energy savings or water
17 savings.

18 “(2) Except as otherwise provided by law, funds de-
19 scribed in paragraph (1) may be used by an agency only
20 for energy efficiency, water conservation, or unconventional
21 and renewable energy resources projects.”.

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

24 (1) in the subsection heading, by inserting “*THE*
25 *PRESIDENT AND*” before “*CONGRESS*”; and

1 (2) by inserting “President and” before “Con-
2 gress”.

3 (e) *CONFORMING AMENDMENT.*—Section 550(d) of the
4 *National Energy Conservation Policy Act* (42 U.S.C.
5 8258b(d)) is amended in the second sentence by striking
6 “the 20 percent reduction goal established under section
7 543(a) of the *National Energy Conservation Policy Act* (42
8 U.S.C. 8253(a)).” and inserting “each of the energy reduc-
9 tion goals established under section 543(a).”.

10 **SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNT-**
11 **ABILITY.**

12 Section 543 of the *National Energy Conservation Pol-*
13 *icy Act* (42 U.S.C. 8253) is amended by adding at the end
14 the following:

15 “(e) *METERING OF ENERGY USE.*—(1)(A) Not later
16 than October 1, 2012, in accordance with guidelines estab-
17 lished by the Secretary under paragraph (2), each Federal
18 building shall, for the purposes of efficient use of energy
19 and reduction in the cost of electricity used in the building,
20 be metered or submetered.

21 “(B) Each agency shall use, to the maximum extent
22 practicable, advanced meters or advanced metering devices
23 that provide data at least daily on, and that measure at
24 least hourly, consumption of electricity in the Federal
25 buildings of the agency.

1 “(C) *The data shall be—*

2 “(i) *incorporated into Federal energy tracking*
3 *systems; and*

4 “(ii) *made available to Federal facility energy*
5 *managers.*

6 “(2)(A) *Not later than 180 days after the date of enact-*
7 *ment of this subsection, the Secretary (in consultation with*
8 *the Secretary of Defense, the Administrator of General Serv-*
9 *ices, representatives from the metering industry, utility in-*
10 *dustry, energy services industry, energy efficiency industry,*
11 *energy efficiency advocacy organizations, national labora-*
12 *tories, and universities, and Federal facility energy man-*
13 *agers) shall establish guidelines for agencies to carry out*
14 *paragraph (1).*

15 “(B) *The guidelines shall—*

16 “(i) *take into consideration—*

17 “(I) *the cost of metering and submetering*
18 *and the reduced cost of operation and mainte-*
19 *nance expected to result from metering and sub-*
20 *metering;*

21 “(II) *the extent to which metering and sub-*
22 *metering are expected to result in increased po-*
23 *tential for energy management, increased poten-*
24 *tial for energy savings and energy efficiency im-*

1 *provement, and cost and energy savings because*
2 *of utility contract aggregation; and*

3 *“(III) the measurement and verification*
4 *protocols of the Department of Energy;*

5 *“(ii) include recommendations concerning the*
6 *amount of funds and the number of trained personnel*
7 *necessary to gather and use the metering information*
8 *to track and reduce energy use;*

9 *“(iii) establish priorities for types and locations*
10 *of buildings to be metered and submetered based on*
11 *cost-effectiveness and a schedule of 1 or more dates,*
12 *not later than 1 year after the date of issuance of the*
13 *guidelines, on which paragraph (1) takes effect; and*

14 *“(iv) establish exclusions from the requirements*
15 *of paragraph (1) based on the de minimis quantity*
16 *of energy use of a Federal building, industrial proc-*
17 *ess, or structure.*

18 *“(3) Not later than 180 days after the date on which*
19 *guidelines are established under paragraph (2), in a report*
20 *submitted by an agency under section 548(a), the agency*
21 *shall submit to the Secretary a plan describing the manner*
22 *in which the agency will implement paragraph (1),*
23 *including—*

1 “(A) *the manner in which the agency will des-*
2 *ignate personnel primarily responsible for carrying*
3 *out that implementation; and*

4 “(B) *demonstration by the agency, complete with*
5 *documentation, of any finding that the use of ad-*
6 *vanced meters or advanced metering devices described*
7 *in paragraph (1) is not practicable.”.*

8 **SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PROD-**
9 **UCTS.**

10 (a) *REQUIREMENTS.—Part 3 of title V of the National*
11 *Energy Conservation Policy Act (42 U.S.C. 8251 et seq.)*
12 *(as amended by section 101(a)) is amended by inserting*
13 *after section 551 the following:*

14 **“SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT**
15 **PRODUCTS.**

16 “(a) *DEFINITIONS.—In this section:*

17 “(1) *The term ‘Energy Star product’ means a*
18 *product that is rated for energy efficiency under an*
19 *Energy Star program.*

20 “(2) *The term ‘Energy Star program’ means the*
21 *program established by section 324A of the Energy*
22 *Policy and Conservation Act.*

23 “(3) *The term ‘executive agency’ has the mean-*
24 *ing given the term in section 4 of the Office of Federal*
25 *Procurement Policy Act (41 U.S.C. 403).*

1 “(4) *The term ‘FEMP designated product’ means*
2 *a product that is designated under the Federal En-*
3 *ergy Management Program of the Department of En-*
4 *ergy as being among the highest 25 percent of equiva-*
5 *lent products for energy efficiency.*

6 “(b) *PROCUREMENT OF ENERGY EFFICIENT PROD-*
7 *UCTS.—(1) Except as provided in paragraph (2), to meet*
8 *the requirements of an executive agency for an energy con-*
9 *suming product, the head of the executive agency shall*
10 *procure—*

11 “(A) *an Energy Star product; or*

12 “(B) *a FEMP designated product.*

13 “(2) *The head of an executive agency shall not be re-*
14 *quired to comply with paragraph (1) if the head of the exec-*
15 *utive agency specifies in writing that—*

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

19 “(B) *no Energy Star product or FEMP des-*
20 *ignated product is reasonably available that meets the*
21 *functional requirements of the executive agency.*

22 “(3) *The head of an executive agency shall incorporate*
23 *criteria for energy efficiency that are consistent with the*
24 *criteria used for rating Energy Star products and FEMP*
25 *designated products into—*

1 “(A) the specifications for any procurements in-
2 volving energy consuming products and systems,
3 including—

4 “(i) guide specifications;

5 “(ii) project specifications; and

6 “(iii) construction, renovation, and services
7 contracts that include the provision of energy
8 consuming products and systems; and

9 “(B) the factors for the evaluation of offers re-
10 ceived for the procurement.

11 “(c) *LISTING OF ENERGY EFFICIENT PRODUCTS IN*
12 *FEDERAL CATALOGS.—(1) Any inventory or listing of*
13 *products by the General Services Administration or the De-*
14 *fense Logistics Agency shall clearly identify and promi-*
15 *nently display Energy Star products and FEMP designated*
16 *products.*

17 “(2)(A) *Except as provided in subparagraph (B), the*
18 *General Services Administration or the Defense Logistics*
19 *Agency shall supply only Energy Star products or FEMP*
20 *designated products for all product categories covered by the*
21 *Energy Star program or the Federal Energy Management*
22 *Program.*

23 “(B) *Subparagraph (A) shall not apply if an agency*
24 *ordering a product specifies in writing that—*

1 “(i) taking into account energy cost savings, no
2 *Energy Star* product or *FEMP* designated product is
3 cost-effective for the intended application over the life
4 of the product; or

5 “(ii) no *Energy Star* product or *FEMP* des-
6 ignated product is available to meet the functional re-
7 quirements of the ordering agency.

8 “(d) *SPECIFIC PRODUCTS*.—(1) In the case of an elec-
9 tric motor of 1 to 500 horsepower, an executive agency shall
10 select only a premium efficient motor that meets the stand-
11 ard established by the Secretary under paragraph (2).

12 “(2) Not later than 120 days after the date of enact-
13 ment of this subsection and after considering the rec-
14 ommendations of associated electric motor manufacturers
15 and energy efficiency groups, the Secretary shall establish
16 a standard for premium efficient motors.

17 “(3)(A) Each Federal agency is encouraged to take ac-
18 tions (such as appropriate cleaning and maintenance) to
19 maximize the efficiency of air conditioning and refrigera-
20 tion equipment, including the use of a system treatment or
21 additive that—

22 “(i) would reduce the electricity consumed by air
23 conditioning and refrigeration equipment; and

24 “(ii) meets the criteria specified in subparagraph
25 (B).

1 “(B) A system treatment or additive referred to in sub-
2 paragraph (A) shall be—

3 “(i) determined by the Secretary to be effective
4 in increasing the efficiency of air conditioning and
5 refrigeration equipment without having an adverse
6 impact on—

7 “(I) air conditioning and refrigeration per-
8 formance (including cooling capacity); or

9 “(II) the useful life of the equipment;

10 “(ii) determined by the Administrator of the En-
11 vironmental Protection Agency to be environmentally
12 safe; and

13 “(iii) shown, in tests conducted by the National
14 Institute of Standards and Technology, in accordance
15 with Department of Energy test procedures, to in-
16 crease the seasonal energy efficiency ratio (SEER) or
17 energy efficiency ratio (EER) without having any ad-
18 verse impact on the system, system components, the
19 refrigerant or lubricant, or other materials in the sys-
20 tem.

21 “(4) The results of the tests described in paragraph
22 (3)(B)(iii) shall be published in the Federal Register for
23 public review and comment.

24 “(5) For purposes of this subsection, a hardware device
25 or primary refrigerant shall not be considered an additive.

1 “(e) *REGULATIONS.*—Not later than 180 days after the
2 date of enactment of this section, the Secretary shall issue
3 guidelines to carry out this section.”.

4 (b) *CONFORMING AMENDMENT.*—The table of contents
5 of the *National Energy Conservation Policy Act* (as amend-
6 ed by section 101(b)) is amended by inserting after the item
7 relating to section 551 the following:

 “Sec. 552. *Federal procurement of energy efficient products.*”.

8 **SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

9 (a) *PERMANENT EXTENSION.*—Section 801(c) of the
10 *National Energy Conservation Policy Act* (42 U.S.C.
11 8287(c)) is amended by striking “2006” and inserting
12 “2016”.

13 (b) *EXTENSION OF AUTHORITY.*—Any energy savings
14 performance contract entered into under section 801 of the
15 *National Energy Conservation Policy Act* (42 U.S.C. 8287)
16 after October 1, 2003, and before the date of enactment of
17 this Act, shall be considered to have been entered into under
18 that section.

19 **SEC. 106. VOLUNTARY COMMITMENTS TO REDUCE INDUS-**
20 **TRIAL ENERGY INTENSITY.**

21 (a) *DEFINITION OF ENERGY INTENSITY.*—In this sec-
22 tion, the term “energy intensity” means the primary energy
23 consumed for each unit of physical output in an industrial
24 process.

1 (b) *VOLUNTARY AGREEMENTS.*—*The Secretary may*
2 *enter into voluntary agreements with 1 or more persons in*
3 *industrial sectors that consume significant quantities of*
4 *primary energy for each unit of physical output to reduce*
5 *the energy intensity of the production activities of the per-*
6 *sons.*

7 (c) *GOAL.*—*Voluntary agreements under this section*
8 *shall have as a goal the reduction of energy intensity by*
9 *not less than 2.5 percent each year during the period of*
10 *calendar years 2007 through 2016.*

11 (d) *RECOGNITION.*—*The Secretary, in cooperation*
12 *with other appropriate Federal agencies, shall develop*
13 *mechanisms to recognize and publicize the achievements of*
14 *participants in voluntary agreements under this section.*

15 (e) *TECHNICAL ASSISTANCE.*—*A person that enters*
16 *into an agreement under this section and continues to make*
17 *a good faith effort to achieve the energy efficiency goals*
18 *specified in the agreement shall be eligible to receive from*
19 *the Secretary a grant or technical assistance, as appro-*
20 *priate, to assist in the achievement of those goals.*

21 (f) *REPORT.*—*Not later than each of June 30, 2012,*
22 *and June 30, 2017, the Secretary shall submit to Congress*
23 *a report that—*

24 (1) *evaluates the success of the voluntary agree-*
25 *ments under this section; and*

1 (2) provides independent verification of a sample
2 of the energy savings estimates provided by partici-
3 pating firms.

4 **SEC. 107. FEDERAL BUILDING PERFORMANCE STANDARDS.**

5 Section 305(a) of the Energy Conservation and Pro-
6 duction Act (42 U.S.C. 6834(a)) is amended—

7 (1) in paragraph (2)(A), by striking “CABO
8 Model Energy Code, 1992 (in the case of residential
9 buildings) or ASHRAE Standard 90.1–1989” and in-
10 serting “the 2004 International Energy Conservation
11 Code (in the case of residential buildings) or
12 ASHRAE Standard 90.1–2004”; and

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

14 “(3)(A) Not later than 1 year after the date of enact-
15 ment of this paragraph, the Secretary shall establish, by
16 rule, revised Federal building energy efficiency performance
17 standards that require that—

18 “(i) if life-cycle cost-effective for new Federal
19 buildings—

20 “(I) the buildings be designed to achieve en-
21 ergy consumption levels that are at least 30 per-
22 cent below the levels established in the version of
23 the ASHRAE Standard or the International En-
24 ergy Conservation Code, as appropriate, that is

1 *in effect as of the date of enactment of this para-*
2 *graph; and*

3 “(II) *sustainable design principles are ap-*
4 *plied to the siting, design, and construction of*
5 *all new and replacement buildings; and*

6 “(i) *if water is used to achieve energy efficiency,*
7 *water conservation technologies shall be applied to the*
8 *extent that the technologies are life-cycle cost-effective.*

9 “(B) *Not later than 1 year after the date of approval*
10 *of each subsequent revision of the ASHRAE Standard or*
11 *the International Energy Conservation Code, as appro-*
12 *priate, the Secretary shall determine, based on the cost-effec-*
13 *tiveness of the requirements under the amendment, whether*
14 *the revised standards established under this paragraph*
15 *should be updated to reflect the amendment.*

16 “(C) *In the budget request of the Federal agency for*
17 *each fiscal year and each report submitted by the Federal*
18 *agency under section 548(a) of the National Energy Con-*
19 *servation Policy Act (42 U.S.C. 8258(a)), the head of each*
20 *Federal agency shall include—*

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

23 “(ii) *a statement specifying whether the Federal*
24 *buildings meet or exceed the revised standards estab-*
25 *lished under this paragraph.”.*

1 **SEC. 108. INCREASED USE OF RECOVERED MINERAL COM-**
2 **PONENT IN FEDERALLY FUNDED PROJECTS**
3 **INVOLVING PROCUREMENT OF CEMENT OR**
4 **CONCRETE.**

5 (a) *AMENDMENT.*—*Subtitle F of the Solid Waste Dis-*
6 *posal Act (42 U.S.C. 6961 et seq.) is amended by adding*
7 *at the end the following:*

8 “*INCREASED USE OF RECOVERED MINERAL COMPONENT IN*
9 *FEDERALLY FUNDED PROJECTS INVOLVING PROCURE-*
10 *MENT OF CEMENT OR CONCRETE*

11 “*SEC. 6005. (a) DEFINITIONS.*—*In this section:*

12 “(1) *AGENCY HEAD.*—*The term ‘agency head’*
13 *means—*

14 “(A) *the Secretary of Transportation; and*

15 “(B) *the head of any other Federal agency*
16 *that, on a regular basis, procures, or provides*
17 *Federal funds to pay or assist in paying the cost*
18 *of procuring, material for cement or concrete*
19 *projects.*

20 “(2) *CEMENT OR CONCRETE PROJECT.*—*The*
21 *term ‘cement or concrete project’ means a project for*
22 *the construction or maintenance of a highway or*
23 *other transportation facility or a Federal, State, or*
24 *local government building or other public facility*
25 *that—*

1 “(A) involves the procurement of cement or
2 concrete; and

3 “(B) is carried out, in whole or in part,
4 using Federal funds.

5 “(3) *RECOVERED MINERAL COMPONENT*.—The
6 term ‘recovered mineral component’ means—

7 “(A) ground granulated blast furnace slag;

8 “(B) coal combustion fly ash; and

9 “(C) any other waste material or byproduct
10 recovered or diverted from solid waste that the
11 Administrator, in consultation with an agency
12 head, determines should be treated as recovered
13 mineral component under this section for use in
14 cement or concrete projects paid for, in whole or
15 in part, by the agency head.

16 “(b) *IMPLEMENTATION OF REQUIREMENTS*.—

17 “(1) *IN GENERAL*.—Not later than 1 year after
18 the date of enactment of this section, the Adminis-
19 trator and each agency head shall take such actions
20 as are necessary to implement fully all procurement
21 requirements and incentives in effect as of the date of
22 enactment of this section (including guidelines under
23 section 6002) that provide for the use of cement and
24 concrete incorporating recovered mineral component
25 in cement or concrete projects.

1 “(2) *PRIORITY.*—*In carrying out paragraph (1),*
2 *an agency head shall give priority to achieving great-*
3 *er use of recovered mineral component in cement or*
4 *concrete projects for which recovered mineral compo-*
5 *nents historically have not been used or have been*
6 *used only minimally.*

7 “(3) *FEDERAL PROCUREMENT REQUIREMENTS.*—
8 *The Administrator and each agency head shall carry*
9 *out this subsection in accordance with section 6002.*

10 “(c) *FULL IMPLEMENTATION STUDY.*—

11 “(1) *IN GENERAL.*—*The Administrator, in co-*
12 *operation with the Secretary of Transportation and*
13 *the Secretary of Energy, shall conduct a study to de-*
14 *termine the extent to which procurement require-*
15 *ments, when fully implemented in accordance with*
16 *subsection (b), may realize energy savings and envi-*
17 *ronmental benefits attainable with substitution of re-*
18 *covered mineral component in cement used in cement*
19 *or concrete projects.*

20 “(2) *MATTERS TO BE ADDRESSED.*—*The study*
21 *shall—*

22 “(A) *quantify—*

23 “(i) *the extent to which recovered min-*
24 *eral components are being substituted for*

1 *Portland cement, particularly as a result of*
2 *procurement requirements; and*

3 *“(ii) the energy savings and environ-*
4 *mental benefits associated with the substi-*
5 *tution;*

6 *“(B) identify all barriers in procurement*
7 *requirements to greater realization of energy sav-*
8 *ings and environmental benefits, including bar-*
9 *riers resulting from exceptions from the law; and*

10 *“(C)(i) identify potential mechanisms to*
11 *achieve greater substitution of recovered mineral*
12 *component in types of cement or concrete projects*
13 *for which recovered mineral components histori-*
14 *cally have not been used or have been used only*
15 *minimally;*

16 *“(ii) evaluate the feasibility of establishing*
17 *guidelines or standards for optimized substi-*
18 *tution rates of recovered mineral component in*
19 *those cement or concrete projects; and*

20 *“(iii) identify any potential environmental*
21 *or economic effects that may result from greater*
22 *substitution of recovered mineral component in*
23 *those cement or concrete projects.*

1 “(3) *REPORT.*—Not later than 30 months after
2 the date of enactment of this section, the Adminis-
3 trator shall submit to Congress a report on the study.

4 “(d) *ADDITIONAL PROCUREMENT REQUIREMENTS.*—
5 Unless the study conducted under subsection (c) identifies
6 any effects or other problems described in subsection
7 (c)(2)(C)(iii) that warrant further review or delay, the Ad-
8 ministrators and each agency head shall, not later than 1
9 year after the date on which the report under subsection
10 (c)(3) is submitted, take additional actions under this Act
11 to establish procurement requirements and incentives that
12 provide for the use of cement and concrete with increased
13 substitution of recovered mineral component in the con-
14 struction and maintenance of cement or concrete projects—

15 “(1) to realize more fully the energy savings and
16 environmental benefits associated with increased sub-
17 stitution; and

18 “(2) to eliminate barriers identified under sub-
19 section (c)(2)(B).

20 “(e) *EFFECT OF SECTION.*—Nothing in this section af-
21 fects the requirements of section 6002 (including the guide-
22 lines and specifications for implementing those require-
23 ments).”.

1 (b) *CONFORMING AMENDMENT.*—*The table of contents*
2 *of the Solid Waste Disposal Act is amended by adding after*
3 *the item relating to section 6004 the following:*

 “*Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.*”.

4 ***Subtitle B—Energy Assistance and***
5 ***State Programs***

6 ***SEC. 121. WEATHERIZATION ASSISTANCE.***

7 *Section 422 of the Energy Conservation and Produc-*
8 *tion Act (42 U.S.C. 6872) is amended by striking “for fiscal*
9 *years 1999 through 2003 such sums as may be necessary”*
10 *and inserting “\$325,000,000 for fiscal year 2006,*
11 *\$400,000,000 for fiscal year 2007, and \$500,000,000 for fis-*
12 *cal year 2008”.*

13 ***SEC. 122. STATE ENERGY PROGRAMS.***

14 (a) *STATE ENERGY CONSERVATION PLANS.*—*Section*
15 *362 of the Energy Policy and Conservation Act (42 U.S.C.*
16 *6322) is amended by adding at the end the following:*

17 “(g)(1) *The Secretary shall, at least once every 3 years,*
18 *invite the Governor of each State to review and, if nec-*
19 *essary, revise the energy conservation plan of the State sub-*
20 *mitted under subsection (b) or (e).*

21 “(2) *A review conducted under paragraph (1) should—*

22 “(A) *consider the energy conservation plans of*
23 *other States within the region; and*

1 “(B) *identify opportunities and actions carried*
2 *out in pursuit of common energy conservation goals.*”.

3 (b) *STATE ENERGY EFFICIENCY GOALS.*—Section 364
4 *of the Energy Policy and Conservation Act (42 U.S.C.*
5 *6324) is amended to read as follows:*

6 “*STATE ENERGY EFFICIENCY GOALS*

7 “*SEC. 364. Each State energy conservation plan with*
8 *respect to which assistance is made available under this*
9 *part on or after the date of enactment of the Energy Policy*
10 *Act of 2005—*

11 “(1) *shall contain a goal, consisting of an im-*
12 *provement of 25 percent or more in the efficiency of*
13 *use of energy in the State concerned in calendar year*
14 *2012 as compared to calendar year 1992; and*

15 “(2) *may contain interim goals.*”.

16 (c) *AUTHORIZATION OF APPROPRIATIONS.*—Section
17 *365(f) of the Energy Policy and Conservation Act (42*
18 *U.S.C. 6325(f)) is amended by striking “for fiscal years*
19 *1999 through 2003 such sums as may be necessary” and*
20 *inserting “\$100,000,000 for each of fiscal years 2006 and*
21 *2007 and \$125,000,000 for fiscal year 2008”.*

22 **SEC. 123. ENERGY EFFICIENT APPLIANCE REBATE PRO-**
23 **GRAMS.**

24 (a) *DEFINITIONS.*—*In this section:*

1 (1) *ELIGIBLE STATE*.—The term “eligible State”
2 means a State that meets the requirements of sub-
3 section (b).

4 (2) *ENERGY STAR PROGRAM*.—The term “Energy
5 Star program” means the program established by sec-
6 tion 324A of the Energy Policy and Conservation Act
7 (as added by section 131(a)).

8 (3) *RESIDENTIAL ENERGY STAR PRODUCT*.—The
9 term “residential Energy Star product” means a
10 product for a residence that is rated for energy effi-
11 ciency under the Energy Star program.

12 (4) *STATE ENERGY OFFICE*.—The term “State
13 energy office” means the State agency responsible for
14 developing State energy conservation plans under sec-
15 tion 362 of the Energy Policy and Conservation Act
16 (42 U.S.C. 6322).

17 (5) *STATE PROGRAM*.—The term “State pro-
18 gram” means a State energy efficient appliance re-
19 bate program described in subsection (b)(1).

20 (b) *ELIGIBLE STATES*.—A State shall be eligible to re-
21 ceive an allocation under subsection (c) if the State—

22 (1) establishes (or has established) a State energy
23 efficient appliance rebate program to provide rebates
24 to residential consumers for the purchase of residen-

1 *tial Energy Star products to replace used appliances*
2 *of the same type;*

3 *(2) submits an application for the allocation at*
4 *such time, in such form, and containing such infor-*
5 *mation as the Secretary may require; and*

6 *(3) provides assurances satisfactory to the Sec-*
7 *retary that the State will use the allocation to suppl-*
8 *ement, but not supplant, funds made available to*
9 *carry out the State program.*

10 *(c) AMOUNT OF ALLOCATIONS.—*

11 *(1) IN GENERAL.—Subject to paragraph (2), for*
12 *each fiscal year, the Secretary shall allocate to the*
13 *State energy office of each eligible State to carry out*
14 *subsection (d) an amount equal to the product ob-*
15 *tained by multiplying—*

16 *(A) the amount made available under sub-*
17 *section (f) for the fiscal year; and*

18 *(B) by the ratio that—*

19 *(i) the population of the State in the*
20 *most recent calendar year for which data*
21 *are available; bears to*

22 *(ii) the total population of all eligible*
23 *States in that calendar year.*

24 *(2) MINIMUM ALLOCATIONS.—For each fiscal*
25 *year, the amounts allocated under this subsection*

1 *shall be adjusted proportionately so that no eligible*
2 *State is allocated a sum that is less than such min-*
3 *imum amount as shall be determined by the Sec-*
4 *retary.*

5 *(d) USE OF ALLOCATED FUNDS.—The allocation to a*
6 *State energy office under subsection (c) may be used to pay*
7 *not more than 50 percent of the cost of establishing and*
8 *carrying out a State program.*

9 *(e) ISSUANCE OF REBATES.—*

10 *(1) IN GENERAL.—A rebate may be provided to*
11 *a residential consumer that meets the requirements of*
12 *the State program.*

13 *(2) AMOUNT.—The amount of a rebate shall be*
14 *determined by the State energy office, taking into*
15 *consideration—*

16 *(A) the amount of the allocation to the*
17 *State energy office under subsection (c);*

18 *(B) the amount of any Federal or State tax*
19 *incentive available for the purchase of the resi-*
20 *dential Energy Star product; and*

21 *(C) the difference between—*

22 *(i) the cost of the residential Energy*
23 *Star product; and*

24 *(ii) the cost of an appliance that is not*
25 *a residential Energy Star product, but is of*

1 *the same type as, and is the nearest capac-*
2 *ity, performance, and other relevant charac-*
3 *teristics (as determined by the State energy*
4 *office) to, the residential Energy Star prod-*
5 *uct.*

6 (f) *AUTHORIZATION OF APPROPRIATIONS.—There is*
7 *authorized to be appropriated to the Secretary to carry out*
8 *this section \$50,000,000 for each of fiscal years 2006*
9 *through 2010.*

10 **SEC. 124. ENERGY EFFICIENT PUBLIC BUILDINGS.**

11 (a) *GRANTS.—The Secretary may make grants to the*
12 *State agency responsible for developing State energy con-*
13 *servation plans under section 362 of the Energy Policy and*
14 *Conservation Act (42 U.S.C. 6322), or a State agency des-*
15 *ignated by the Governor of the State, to assist units of local*
16 *government in the State in improving the energy efficiency*
17 *of public buildings and facilities through—*

18 (1) *construction of new energy efficient public*
19 *buildings that use at least 30 percent less energy than*
20 *a comparable public building constructed in compli-*
21 *ance with standards prescribed in—*

22 (A) *the most recent version of the Inter-*
23 *national Energy Conservation Code; or*

24 (B) *a similar State code intended to achieve*
25 *substantially equivalent efficiency levels; or*

1 (2) *renovation of existing public buildings to*
2 *achieve reductions in energy use of at least 30 percent*
3 *as compared to the baseline energy use in the build-*
4 *ings before renovation, assuming a 3-year, weather-*
5 *normalized average for calculating the baseline.*

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

8 (1) *maintain any records and evidence of com-*
9 *pliance that the Secretary may require; and*

10 (2) *to encourage planning, financing, and design*
11 *of energy efficient public buildings by units of local*
12 *government—*

13 (A) *develop and distribute information and*
14 *materials; and*

15 (B) *conduct programs to provide technical*
16 *services and assistance.*

17 (c) *AUTHORIZATION OF APPROPRIATIONS.—*

18 (1) *IN GENERAL.—There is authorized to be ap-*
19 *propriated to the Secretary to carry out this section*
20 *\$30,000,000 for each of fiscal years 2006 through*
21 *2010.*

22 (2) *ADMINISTRATIVE EXPENSES.—Not more than*
23 *10 percent of amounts made available under para-*
24 *graph (1) shall be used for administrative expenses.*

1 **SEC. 125. LOW INCOME COMMUNITY ENERGY EFFICIENCY**
2 **PILOT PROGRAM.**

3 (a) *DEFINITION OF INDIAN TRIBE.*—In this section,
4 the term “Indian tribe” has the meaning given the term
5 in section 4 of the Indian Self-Determination and Edu-
6 cation Assistance Act (25 U.S.C. 450b).

7 (b) *GRANTS.*—

8 (1) *IN GENERAL.*—The Secretary may provide
9 grants, on a competitive basis, to units of local gov-
10 ernment, private or nonprofit community develop-
11 ment organizations, and economic development enti-
12 ties of Indian tribes—

13 (A) to improve energy efficiency;

14 (B) to identify and develop alternative, re-
15 newable, and distributed energy supplies; and

16 (C) to increase energy conservation in low-
17 income rural and urban communities.

18 (2) *ELIGIBLE ACTIVITIES.*—The following activi-
19 ties are eligible for grants under paragraph (1):

20 (A) Investments that develop alternative, re-
21 newable, and distributed energy supplies.

22 (B) Energy efficiency projects and energy
23 conservation programs.

24 (C) Studies and other activities that im-
25 prove energy efficiency in low-income rural and
26 urban communities.

1 (D) *Planning and development assistance*
2 *for increasing the energy efficiency of buildings*
3 *and facilities.*

4 (E) *Technical and financial assistance to*
5 *units of local government and private entities to*
6 *develop new renewable and distributed sources of*
7 *power or combined heat and power generation.*

8 (c) *AUTHORIZATION OF APPROPRIATIONS.—There is*
9 *authorized to be appropriated to the Secretary to carry out*
10 *this section \$20,000,000 for each of fiscal years 2006*
11 *through 2010.*

12 **SEC. 126. STATE TECHNOLOGIES ADVANCEMENT COLLABO-**
13 **RATIVE.**

14 (a) *IN GENERAL.—The Secretary, in cooperation with*
15 *the States, shall establish a cooperative program for re-*
16 *search, development, demonstration, and deployment of*
17 *technologies in which there is a common Federal and State*
18 *energy efficiency, renewable energy, and fossil energy inter-*
19 *est, to be known as the “State Technologies Advancement*
20 *Collaborative” (referred to in this section as the “Collabo-*
21 *rative”).*

22 (b) *DUTIES.—The Collaborative shall—*

23 (1) *leverage Federal and State funding through*
24 *cost-shared activity;*

1 (2) *reduce redundancies in Federal and State*
2 *funding; and*

3 (3) *create multistate projects to be awarded*
4 *through a competitive process.*

5 (c) *ADMINISTRATION.—The Collaborative shall be ad-*
6 *ministered through an agreement between the Department*
7 *and appropriate State-based organizations.*

8 (d) *FUNDING SOURCES.—Funding for the Collabo-*
9 *rative may be provided from—*

10 (1) *amounts specifically appropriated for the*
11 *Collaborative; or*

12 (2) *amounts that may be allocated from other*
13 *appropriations without changing the purpose for*
14 *which the amounts are appropriated.*

15 (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
16 *authorized to carry out this section such sums as are nec-*
17 *essary for each of fiscal years 2006 through 2010.*

18 **SEC. 127. STATE BUILDING ENERGY EFFICIENCY CODES IN-**
19 **CENTIVES.**

20 *Section 304(e) of the Energy Conservation and Pro-*
21 *duction Act (42 U.S.C. 6833(e)) is amended—*

22 (1) *in paragraph (1), by inserting before the pe-*
23 *riod at the end of the first sentence the following: “,*
24 *including increasing and verifying compliance with*
25 *such codes”;* and

1 (2) by striking paragraph (2) and inserting the
2 following:

3 “(2) Additional funding shall be provided under this
4 subsection for implementation of a plan to achieve and doc-
5 ument at least a 90 percent rate of compliance with residen-
6 tial and commercial building energy efficiency codes, based
7 on energy performance—

8 “(A) to a State that has adopted and is imple-
9 menting, on a statewide basis—

10 “(i) a residential building energy efficiency
11 code that meets or exceeds the requirements of the
12 2004 International Energy Conservation Code,
13 or any succeeding version of that code that has
14 received an affirmative determination from the
15 Secretary under subsection (a)(5)(A); and

16 “(ii) a commercial building energy effi-
17 ciency code that meets or exceeds the require-
18 ments of the ASHRAE Standard 90.1–2004, or
19 any succeeding version of that standard that has
20 received an affirmative determination from the
21 Secretary under subsection (b)(2)(A); or

22 “(B) in a State in which there is no statewide
23 energy code either for residential buildings or for
24 commercial buildings, to a local government that has
25 adopted and is implementing residential and com-

1 *mercial building energy efficiency codes, as described*
 2 *in subparagraph (A).*

3 *“(3) Of the amounts made available under this sub-*
 4 *section, the Secretary may use \$500,000 for each fiscal year*
 5 *to train State and local officials to implement codes de-*
 6 *scribed in paragraph (2).*

7 *“(4)(A) There are authorized to be appropriated to*
 8 *carry out this subsection—*

9 *“(i) \$25,000,000 for each of fiscal years 2006*
 10 *through 2010; and*

11 *“(ii) such sums as are necessary for fiscal year*
 12 *2011 and each fiscal year thereafter.*

13 *“(B) Funding provided to States under paragraph (2)*
 14 *for each fiscal year shall not exceed 1/2 of the excess of fund-*
 15 *ing under this subsection over \$5,000,000 for the fiscal*
 16 *year.”.*

17 ***Subtitle C—Energy Efficient***
 18 ***Products***

19 ***SEC. 131. ENERGY STAR PROGRAM.***

20 *(a) IN GENERAL.—The Energy Policy and Conserva-*
 21 *tion Act is amended by inserting after section 324 (42*
 22 *U.S.C. 6294) the following:*

23 *“ENERGY STAR PROGRAM*

24 *“SEC. 324A. (a) IN GENERAL.—There is established*
 25 *within the Department of Energy and the Environmental*
 26 *Protection Agency a voluntary program to identify and*

1 *promote energy-efficient products and buildings in order to*
2 *reduce energy consumption, improve energy security, and*
3 *reduce pollution through voluntary labeling of, or other*
4 *forms of communication about, products and buildings that*
5 *meet the highest energy conservation standards.*

6 “(b) *DIVISION OF RESPONSIBILITIES.—Responsibil-*
7 *ities under the program shall be divided between the De-*
8 *partment of Energy and the Environmental Protection*
9 *Agency in accordance with the terms of applicable agree-*
10 *ments between those agencies.*

11 “(c) *DUTIES.—The Administrator and the Secretary*
12 *shall—*

13 “(1) *promote Energy Star compliant technologies*
14 *as the preferred technologies in the marketplace for—*

15 “(A) *achieving energy efficiency; and*

16 “(B) *reducing pollution;*

17 “(2) *work to enhance public awareness of the*
18 *Energy Star label, including by providing special*
19 *outreach to small businesses;*

20 “(3) *preserve the integrity of the Energy Star*
21 *label;*

22 “(4) *regularly update Energy Star product cri-*
23 *teria for product categories;*

24 “(5) *solicit comments from interested parties*
25 *prior to establishing or revising an Energy Star*

1 *product category, specification, or criterion (or prior*
2 *to effective dates for any such product category, speci-*
3 *fication, or criterion);*

4 *“(6) on adoption of a new or revised product*
5 *category, specification, or criterion, provide reason-*
6 *able notice to interested parties of any changes (in-*
7 *cluding effective dates) in product categories, speci-*
8 *fications, or criteria, along with—*

9 *“(A) an explanation of the changes; and*

10 *“(B) as appropriate, responses to comments*
11 *submitted by interested parties; and*

12 *“(7) provide appropriate lead time (which shall*
13 *be 270 days, unless the Agency or Department speci-*
14 *fies otherwise) prior to the applicable effective date for*
15 *a new or a significant revision to a product category,*
16 *specification, or criterion, taking into account the*
17 *timing requirements of the manufacturing, product*
18 *marketing, and distribution process for the specific*
19 *product addressed.*

20 *“(d) DEADLINES.—The Secretary shall establish new*
21 *qualifying levels—*

22 *“(1) not later than January 1, 2006, for clothes*
23 *washers and dishwashers, effective beginning January*
24 *1, 2007; and*

1 “(2) not later than January 1, 2008, for clothes
2 washers, effective beginning January 1, 2010.”.

3 (b) *TABLE OF CONTENTS AMENDMENT.*—The table of
4 contents of the *Energy Policy and Conservation Act* (42
5 U.S.C. prec. 6201) is amended by inserting after the item
6 relating to section 324 the following:

“Sec. 324A. *Energy Star program.*”.

7 **SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION**
8 **PROGRAM.**

9 Section 337 of the *Energy Policy and Conservation Act*
10 (42 U.S.C. 6307) is amended by adding at the end the fol-
11 lowing:

12 “(c) *HVAC MAINTENANCE.*—(1) To ensure that in-
13 stalled air conditioning and heating systems operate at
14 maximum rated efficiency levels, the Secretary shall, not
15 later than 180 days after the date of enactment of this sub-
16 section, carry out a program to educate homeowners and
17 small business owners concerning the energy savings from
18 properly conducted maintenance of air conditioning, heat-
19 ing, and ventilating systems.

20 “(2) The Secretary shall carry out the program under
21 paragraph (1), on a cost-shared basis, in cooperation with
22 the Administrator of the *Environmental Protection Agency*
23 and any other entities that the Secretary determines to be
24 appropriate, including industry trade associations, indus-
25 try members, and energy efficiency organizations.

1 “(d) *SMALL BUSINESS EDUCATION AND ASSIST-*
2 *ANCE.—(1) The Administrator of the Small Business Ad-*
3 *ministration, in consultation with the Secretary and the*
4 *Administrator of the Environmental Protection Agency,*
5 *shall develop and coordinate a Government-wide program,*
6 *building on the Energy Star for Small Business Program,*
7 *to assist small businesses in—*

8 “(A) *becoming more energy efficient;*

9 “(B) *understanding the cost savings from im-*
10 *proved energy efficiency;*

11 “(C) *understanding and accessing Federal pro-*
12 *curement opportunities with regard to Energy Star*
13 *technologies and products; and*

14 “(D) *identifying financing options for energy ef-*
15 *iciency upgrades.*

16 “(2) *The Secretary, the Administrator of the Environ-*
17 *mental Protection Agency, and the Administrator of the*
18 *Small Business Administration shall make program infor-*
19 *mation available to small business concerns directly*
20 *through the district offices and resource partners of the*
21 *Small Business Administration, including small business*
22 *development centers, women’s business centers, and the*
23 *Service Corps of Retired Executives (SCORE), and through*
24 *other Federal agencies, including the Federal Emergency*
25 *Management Agency and the Department of Agriculture.*

1 “(3) *The Secretary, on a cost shared basis in coopera-*
2 *tion with the Administrator of the Environmental Protec-*
3 *tion Agency, shall provide to the Small Business Adminis-*
4 *tration all advertising, marketing, and other written mate-*
5 *rials necessary for the dissemination of information under*
6 *paragraph (2).*

7 “(4) *There are authorized to be appropriated such*
8 *sums as may be necessary to carry out this subsection,*
9 *which shall remain available until expended.*”.

10 **SEC. 133. PUBLIC ENERGY EDUCATION PROGRAM.**

11 (a) *IN GENERAL.*—*Not later than 180 days after the*
12 *date of enactment of this Act, the Secretary shall convene*
13 *an organizational conference for the purpose of establishing*
14 *an ongoing, self-sustaining national public energy edu-*
15 *cation program.*

16 (b) *PARTICIPANTS.*—*The Secretary shall invite to par-*
17 *ticipate in the conference individuals and entities rep-*
18 *resenting all aspects of energy production and distribution,*
19 *including—*

20 (1) *industrial firms;*

21 (2) *professional societies;*

22 (3) *educational organizations;*

23 (4) *trade associations; and*

24 (5) *governmental agencies.*

25 (c) *PURPOSE, SCOPE, AND STRUCTURE.*—

1 (1) *PURPOSE.*—*The purpose of the conference*
2 *shall be to establish an ongoing, self-sustaining na-*
3 *tional public energy education program to examine*
4 *and recognize interrelationships between energy*
5 *sources in all forms, including—*

6 (A) *conservation and energy efficiency;*

7 (B) *the role of energy use in the economy;*

8 *and*

9 (C) *the impact of energy use on the environ-*
10 *ment.*

11 (2) *SCOPE AND STRUCTURE.*—*Taking into con-*
12 *sideration the purpose described in paragraph (1), the*
13 *participants in the conference invited under sub-*
14 *section (b) shall design the scope and structure of the*
15 *program described in subsection (a).*

16 (d) *TECHNICAL ASSISTANCE.*—*The Secretary shall*
17 *provide technical assistance and other guidance necessary*
18 *to carry out the program described in subsection (a).*

19 (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
20 *authorized to be appropriated such sums as are necessary*
21 *to carry out this section.*

1 **SEC. 134. ENERGY EFFICIENCY PUBLIC INFORMATION INI-**
2 **TIATIVE.**

3 (a) *IN GENERAL.*—The Secretary shall carry out a
4 comprehensive national program, including advertising
5 and media awareness, to inform consumers about—

6 (1) *the need to reduce energy consumption dur-*
7 *ing the 4-year period beginning on the date of enact-*
8 *ment of this Act;*

9 (2) *the benefits to consumers of reducing con-*
10 *sumption of electricity, natural gas, and petroleum,*
11 *particularly during peak use periods;*

12 (3) *the importance of low energy costs to eco-*
13 *nomie growth and preserving manufacturing jobs in*
14 *the United States; and*

15 (4) *practical, cost-effective measures that con-*
16 *sumers can take to reduce consumption of electricity,*
17 *natural gas, and gasoline, including—*

18 (A) *maintaining and repairing heating and*
19 *cooling ducts and equipment;*

20 (B) *weatherizing homes and buildings;*

21 (C) *purchasing energy efficient products;*

22 *and*

23 (D) *proper tire maintenance.*

24 (b) *COOPERATION.*—The program carried out under
25 subsection (a) shall—

1 (1) include collaborative efforts with State and
2 local government officials and the private sector; and
3 (2) incorporate, to the maximum extent prac-
4 ticable, successful State and local public education
5 programs.

6 (c) *REPORT*.—Not later than July 1, 2009, the Sec-
7 retary shall submit to Congress a report describing the effec-
8 tiveness of the program under this section.

9 (d) *TERMINATION OF AUTHORITY*.—The program car-
10 ried out under this section shall terminate on December 31,
11 2010.

12 (e) *AUTHORIZATION OF APPROPRIATIONS*.—There are
13 authorized to be appropriated to carry out this section
14 \$90,000,000 for each of fiscal years 2006 through 2010.

15 **SEC. 135. ENERGY CONSERVATION STANDARDS FOR ADDI-**
16 **TIONAL PRODUCTS.**

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

19 (1) in paragraph (29)—

20 (A) in subparagraph (D)—

21 (i) in clause (i), by striking “C78.1–
22 1978(R1984)” and inserting “C78.81–2003
23 (Data Sheet 7881–ANSI–1010–1)”;

1 (ii) in clause (ii), by striking “C78.1–
2 1978(R1984)” and inserting “C78.81–2003
3 (Data Sheet 7881–ANSI–3007–1)”; and

4 (iii) in clause (iii), by striking
5 “C78.1–1978(R1984)” and inserting
6 “C78.81–2003 (Data Sheet 7881–ANSI–
7 1019–1)”; and

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

9 “(M) The term ‘F34T12 lamp’ (also known as a
10 ‘F40T12/ES lamp’) means a nominal 34 watt tubu-
11 lar fluorescent lamp that is 48 inches in length and
12 1½ inches in diameter, and conforms to ANSI stand-
13 ard C78.81–2003 (Data Sheet 7881–ANSI–1006–1).

14 “(N) The term ‘F96T12/ES lamp’ means a
15 nominal 60 watt tubular fluorescent lamp that is 96
16 inches in length and 1½ inches in diameter, and con-
17 forms to ANSI standard C78.81–2003 (Data Sheet
18 7881–ANSI–3006–1).

19 “(O) The term ‘F96T12HO/ES lamp’ means a
20 nominal 95 watt tubular fluorescent lamp that is 96
21 inches in length and 1½ inches in diameter, and con-
22 forms to ANSI standard C78.81–2003 (Data Sheet
23 7881–ANSI–1017–1).

24 “(P) The term ‘replacement ballast’ means a bal-
25 last that—

1 “(i) is designed for use to replace an exist-
2 ing ballast in a previously installed luminaire;

3 “(ii) is marked ‘FOR REPLACEMENT
4 USE ONLY’;

5 “(iii) is shipped by the manufacturer in
6 packages containing not more than 10 ballasts;
7 and

8 “(iv) has output leads that when fully ex-
9 tended are a total length that is less than the
10 length of the lamp with which the ballast is in-
11 tended to be operated.”;

12 (2) in paragraph (30)(S)—

13 (A) by inserting “(i)” before “The term”;
14 and

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

16 “(ii) The term “medium base compact fluo-
17 rescent lamp” does not include—

18 “(I) any lamp that is—

19 “(aa) specifically designed to be
20 used for special purpose applications;
21 and

22 “(bb) unlikely to be used in gen-
23 eral purpose applications, such as the
24 applications described in subparagraph
25 (D); or

1 “(II) any lamp not described in sub-
2 paragraph (D) that is excluded by the Sec-
3 retary, by rule, because the lamp is—

4 “(aa) designed for special appli-
5 cations; and

6 “(bb) unlikely to be used in gen-
7 eral purpose applications.”; and

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

9 “(32) The term ‘battery charger’ means a device
10 that charges batteries for consumer products, includ-
11 ing battery chargers embedded in other consumer
12 products.

13 “(33)(A) The term ‘commercial prerinse spray
14 valve’ means a handheld device designed and mar-
15 keted for use with commercial dishwashing and ware
16 washing equipment that sprays water on dishes, flat-
17 ware, and other food service items for the purpose of
18 removing food residue before cleaning the items.

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

21 “(i) to include products—

22 “(I) that are extensively used in con-
23 junction with commercial dishwashing and
24 ware washing equipment;

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

4 “(III) the application of standards to
5 which would meet the criteria specified in
6 section 325(o)(4); and

7 “(ii) to exclude products—

8 “(I) that are used for special food serv-
9 ice applications;

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

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

16 “(34) The term ‘dehumidifier’ means a self-con-
17 tained, electrically operated, and mechanically en-
18 cased assembly consisting of—

19 “(A) a refrigerated surface (evaporator) that
20 condenses moisture from the atmosphere;

21 “(B) a refrigerating system, including an
22 electric motor;

23 “(C) an air-circulating fan; and

24 “(D) means for collecting or disposing of the
25 condensate.

1 “(35)(A) *The term ‘distribution transformer’*
2 *means a transformer that—*

3 “(i) *has an input voltage of 34.5 kilovolts or*
4 *less;*

5 “(ii) *has an output voltage of 600 volts or*
6 *less; and*

7 “(iii) *is rated for operation at a frequency*
8 *of 60 Hertz.*

9 “(B) *The term ‘distribution transformer’ does*
10 *not include—*

11 “(i) *a transformer with multiple voltage*
12 *taps, the highest of which equals at least 20 per-*
13 *cent more than the lowest;*

14 “(ii) *a transformer that is designed to be*
15 *used in a special purpose application and is un-*
16 *likely to be used in general purpose applications,*
17 *such as a drive transformer, rectifier trans-*
18 *former, auto-transformer, Uninterruptible Power*
19 *System transformer, impedance transformer, reg-*
20 *ulating transformer, sealed and nonventilating*
21 *transformer, machine tool transformer, welding*
22 *transformer, grounding transformer, or testing*
23 *transformer; or*

1 “(iii) any transformer not listed in clause
2 (ii) that is excluded by the Secretary by rule
3 because—

4 “(I) the transformer is designed for a
5 special application;

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

8 “(III) the application of standards to
9 the transformer would not result in signifi-
10 cant energy savings.

11 “(36) The term ‘external power supply’ means
12 an external power supply circuit that is used to con-
13 vert household electric current into DC current or
14 lower-voltage AC current to operate a consumer prod-
15 uct.

16 “(37) The term ‘illuminated exit sign’ means a
17 sign that—

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

20 “(B) consists of an electrically powered in-
21 tegral light source that—

22 “(i) illuminates the legend ‘EXIT’ and
23 any directional indicators; and

1 “(ii) provides contrast between the leg-
2 end, any directional indicators, and the
3 background.

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

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

8 “(B) is air-cooled; and

9 “(C) does not use oil as a coolant.

10 “(39) The term ‘pedestrian module’ means a
11 light signal used to convey movement information to
12 pedestrians.

13 “(40) The term ‘refrigerated bottled or canned
14 beverage vending machine’ means a commercial re-
15 frigerator that cools bottled or canned beverages and
16 dispenses the bottled or canned beverages on payment.

17 “(41) The term ‘standby mode’ means the lowest
18 power consumption mode, as established on an indi-
19 vidual product basis by the Secretary, that—

20 “(A) cannot be switched off or influenced by
21 the user; and

22 “(B) may persist for an indefinite time
23 when an appliance is—

24 “(i) connected to the main electricity
25 supply; and

1 “(ii) used in accordance with the in-
2 structions of the manufacturer.

3 “(42) The term ‘torchiere’ means a portable elec-
4 tric lamp with a reflector bowl that directs light up-
5 ward to give indirect illumination.

6 “(43) The term ‘traffic signal module’ means a
7 standard 8-inch (200mm) or 12-inch (300mm) traffic
8 signal indication that—

9 “(A) consists of a light source, a lens, and
10 all other parts necessary for operation; and

11 “(B) communicates movement messages to
12 drivers through red, amber, and green colors.

13 “(44) The term ‘transformer’ means a device
14 consisting of 2 or more coils of insulated wire that
15 transfers alternating current by electromagnetic in-
16 duction from 1 coil to another to change the original
17 voltage or current value.

18 “(45)(A) The term ‘unit heater’ means a self-con-
19 tained fan-type heater designed to be installed within
20 the heated space.

21 “(B) The term ‘unit heater’ does not include a
22 warm air furnace.

23 “(46)(A) The term ‘high intensity discharge
24 lamp’ means an electric-discharge lamp in which—

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

3 “(ii) the arc tube has a bulb wall loading
4 in excess of 3 Watts/cm².

5 “(B) The term ‘high intensity discharge lamp’
6 includes mercury vapor, metal halide, and high-pres-
7 sure sodium lamps described in subparagraph (A).

8 “(47)(A) The term ‘mercury vapor lamp’ means
9 a high intensity discharge lamp in which the major
10 portion of the light is produced by radiation from
11 mercury operating at a partial pressure in excess of
12 100,000 Pa (approximately 1 atm).

13 “(B) The term ‘mercury vapor lamp’ includes
14 clear, phosphor-coated, and self-ballasted lamps de-
15 scribed in subparagraph (A).

16 “(48) The term ‘mercury vapor lamp ballast’
17 means a device that is designed and marketed to start
18 and operate mercury vapor lamps by providing the
19 necessary voltage and current.”.

20 (b) *TEST PROCEDURES.*—Section 323 of the Energy
21 Policy and Conservation Act (42 U.S.C. 6293) is
22 amended—

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

1 “(9) *Test procedures for illuminated exit signs shall*
2 *be based on the test method used under version 2.0 of the*
3 *Energy Star program of the Environmental Protection*
4 *Agency for illuminated exit signs.*

5 “(10)(A) *Test procedures for distribution transformers*
6 *and low voltage dry-type distribution transformers shall be*
7 *based on the ‘Standard Test Method for Measuring the En-*
8 *ergy Consumption of Distribution Transformers’ prescribed*
9 *by the National Electrical Manufacturers Association*
10 *(NEMA TP 2–1998).*

11 “(B) *The Secretary may review and revise the test pro-*
12 *cedures established under subparagraph (A).*

13 “(C) *For purposes of section 346(a), the test procedures*
14 *established under subparagraph (A) shall be considered to*
15 *be the testing requirements prescribed by the Secretary*
16 *under section 346(a)(1) for distribution transformers for*
17 *which the Secretary makes a determination that energy con-*
18 *servations standards would—*

19 “(i) *be technologically feasible and economically*
20 *justified; and*

21 “(ii) *result in significant energy savings.*

22 “(11) *Test procedures for traffic signal modules and*
23 *pedestrian modules shall be based on the test method used*
24 *under the Energy Star program of the Environmental Pro-*

1 *tection Agency for traffic signal modules, as in effect on*
2 *the date of enactment of this paragraph.*

3 “(12)(A) *Test procedures for medium base compact flu-*
4 *orescent lamps shall be based on the test methods for com-*
5 *pact fluorescent lamps used under the August 9, 2001,*
6 *version of the Energy Star program of the Environmental*
7 *Protection Agency and the Department of Energy.*

8 “(B) *Except as provided in subparagraph (C), me-*
9 *dium base compact fluorescent lamps shall meet all test re-*
10 *quirements for regulated parameters of section 325(cc).*

11 “(C) *Notwithstanding subparagraph (B), if manufac-*
12 *turers document engineering predictions and analysis that*
13 *support expected attainment of lumen maintenance at 40*
14 *percent rated life and lamp lifetime, medium base compact*
15 *fluorescent lamps may be marketed before completion of the*
16 *testing of lamp life and lumen maintenance at 40 percent*
17 *of rated life.*

18 “(13) *Test procedures for dehumidifiers shall be based*
19 *on the test criteria used under the Energy Star Program*
20 *Requirements for Dehumidifiers developed by the Environ-*
21 *mental Protection Agency, as in effect on the date of enact-*
22 *ment of this paragraph unless revised by the Secretary pur-*
23 *suant to this section.*

24 “(14) *The test procedure for measuring flow rate for*
25 *commercial prerinse spray valves shall be based on Amer-*

1 *ican Society for Testing and Materials Standard F2324,*
2 *entitled ‘Standard Test Method for Pre-Rinse Spray*
3 *Valves.’*

4 “(15) *The test procedure for refrigerated bottled or*
5 *canned beverage vending machines shall be based on Amer-*
6 *ican National Standards Institute/American Society of*
7 *Heating, Refrigerating and Air-Conditioning Engineers*
8 *Standard 32.1–2004, entitled ‘Methods of Testing for Rat-*
9 *ing Vending Machines for Bottled, Canned or Other Sealed*
10 *Beverages.’*”; and

11 (2) *by adding at the end the following:*

12 “(f) *ADDITIONAL CONSUMER AND COMMERCIAL PROD-*
13 *UCTS.—(1) Not later than 2 years after the date of enact-*
14 *ment of this subsection, the Secretary shall prescribe testing*
15 *requirements for—*

16 “(A) *suspended ceiling fans; and*

17 “(B) *refrigerated bottled or canned beverage*
18 *vending machines.*

19 “(2) *To the maximum extent practicable, the testing*
20 *requirements prescribed under paragraph (1) shall be based*
21 *on existing test procedures used in industry.”*

22 (c) *STANDARD SETTING AUTHORITY.—Section 325 of*
23 *the Energy Policy and Conservation Act (42 U.S.C. 6295)*
24 *is amended—*

1 (1) in subsection (f)(3), by adding at the end the
2 *following:*

3 “(D) Notwithstanding any other provision of this Act,
4 if the requirements of subsection (o) are met, the Secretary
5 may consider and prescribe energy conservation standards
6 or energy use standards for electricity used for purposes of
7 circulating air through duct work.”;

8 (2) in subsection (g)—

9 (A) in paragraph (6)(B), by inserting “and
10 labeled” after “designed”; and

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

12 “(8)(A) Each fluorescent lamp ballast (other than re-
13 placement ballasts or ballasts described in subparagraph
14 (C))—

15 “(i)(I) manufactured on or after July 1, 2009;

16 “(II) sold by the manufacturer on or after Octo-
17 ber 1, 2009; or

18 “(III) incorporated into a luminaire by a lumi-
19 naire manufacturer on or after July 1, 2010; and

20 “(ii) designed—

21 “(I) to operate at nominal input voltages of
22 120 or 277 volts;

23 “(II) to operate with an input current fre-
24 quency of 60 Hertz; and

1 “(III) for use in connection with F34T12
 2 lamps, F96T12/ES lamps, or F96T12HO/ES
 3 lamps;
 4 shall have a power factor of 0.90 or greater and shall have
 5 a ballast efficacy factor of not less than the following:

Application for operation of	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F34T12 lamp	120/277	34	2.61
Two F34T12 lamps	120/277	68	1.35
Two F96 T12/ES lamps	120/277	120	0.77
Two F96 T12HO/ES lamps	120/277	190	0.42

6 “(B) The standards described in subparagraph (A)
 7 shall apply to all ballasts covered by subparagraph (A)(ii)
 8 that are manufactured on or after July 1, 2010, or sold
 9 by the manufacturer on or after October 1, 2010.

10 “(C) The standards described in subparagraphs (A)
 11 and (B) do not apply to—

12 “(i) a ballast that is designed for dimming to 50
 13 percent or less of the maximum output of the ballast;

14 “(ii) a ballast that is designed for use with 2
 15 F96T12HO lamps at ambient temperatures of 20°F
 16 or less and for use in an outdoor sign; or

17 “(iii) a ballast that has a power factor of less
 18 than 0.90 and is designed and labeled for use only in
 19 residential applications.”;

20 (3) in subsection (o), by adding at the end the
 21 following:

1 “(5) *The Secretary may set more than 1 energy con-*
2 *servation standard for products that serve more than 1*
3 *major function by setting 1 energy conservation standard*
4 *for each major function.*”;

5 (4) *in the first sentence of subsection (p), by*
6 *striking “Any” and inserting the following: “Except*
7 *as provided in subsection (u), any”;* and

8 (5) *by adding at the end the following:*

9 “(u) *SPECIAL RULEMAKING PROCEDURES.—(1) Not-*
10 *withstanding any other provision of law, the Secretary may*
11 *publish a notice of direct final rulemaking based on an en-*
12 *ergy conservation standard recommended by an interested*
13 *person, if—*

14 “(A) *in response to an advance notice of pro-*
15 *posed rulemaking under paragraph (p), the interested*
16 *person (including a representative of a manufacturer*
17 *of a covered product, a conservation advocate, or con-*
18 *sumer) submits a joint comment recommending an*
19 *energy conservation standard; and*

20 “(B) *the Secretary determines that the energy*
21 *conservation standard complies with the substantive*
22 *provisions of this Act that apply to the type (or class)*
23 *of covered products to which the rule may apply.*

24 “(2) *The Secretary shall publish a notice of direct final*
25 *rulemaking under paragraph (1) with a notice of proposed*

1 *rulemaking incorporating by reference the regulatory lan-*
2 *guage of the direct final rule that provides for an effective*
3 *date not earlier than 90 days after the date of publication.*

4 “(3) *The Secretary may withdraw a direct final rule*
5 *published under paragraph (2) before the effective date of*
6 *the rule if an interested person files a significant adverse*
7 *comment in response to the related notice of proposed rule-*
8 *making.*

9 “(v) *BATTERY CHARGER AND EXTERNAL POWER SUP-*
10 *PLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not later*
11 *than 18 months after the date of enactment of this sub-*
12 *section, the Secretary shall, after providing notice and an*
13 *opportunity for comment, prescribe, by rule, definitions and*
14 *test procedures for the power use of battery chargers and*
15 *external power supplies.*

16 “(B) *In establishing the test procedures under subpara-*
17 *graph (A), the Secretary shall—*

18 “(i) *consider existing definitions and test proce-*
19 *dures used for measuring energy consumption in*
20 *standby mode and other modes; and*

21 “(ii) *assess the current and projected future mar-*
22 *ket for battery chargers and external power supplies.*

23 “(C) *The assessment under subparagraph (B)(ii) shall*
24 *include—*

1 “(i) estimates of the significance of potential en-
2 ergy savings from technical improvements to battery
3 chargers and external power supplies; and

4 “(ii) suggested product classes for energy con-
5 servation standards.

6 “(D) Not later than 18 months after the date of enact-
7 ment of this subsection, the Secretary shall hold a scoping
8 workshop to discuss and receive comments on plans for de-
9 veloping energy conservation standards for energy use for
10 battery chargers and external power supplies.

11 “(E)(i) Not later than 3 years after the date of enact-
12 ment of this subsection, the Secretary shall issue a final
13 rule that determines whether energy conservation standards
14 shall be issued for battery chargers and external power sup-
15 plies or classes of battery chargers and external power sup-
16 plies.

17 “(ii) For each product class, any energy conservation
18 standards issued under clause (i) shall be set at the lowest
19 level of energy use that—

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

22 “(II) would result in significant overall annual
23 energy savings, considering standby mode and other
24 operating modes.

1 “(2) *In determining under section 323 whether test*
2 *procedures and energy conservation standards under this*
3 *section should be revised with respect to covered products*
4 *that are major sources of standby mode energy consump-*
5 *tion, the Secretary shall consider whether to incorporate*
6 *standby mode into the test procedures and energy conserva-*
7 *tion standards, taking into account standby mode power*
8 *consumption compared to overall product energy consump-*
9 *tion.*

10 “(3) *The Secretary shall not propose an energy con-*
11 *servation standard under this section, unless the Secretary*
12 *has issued applicable test procedures for each product under*
13 *section 323.*

14 “(4) *Any energy conservation standard issued under*
15 *this subsection shall be applicable to products manufactured*
16 *or imported beginning on the date that is 3 years after the*
17 *date of issuance.*

18 “(5) *The Secretary and the Administrator shall col-*
19 *laborate and develop programs (including programs under*
20 *section 324A and other voluntary industry agreements or*
21 *codes of conduct) that are designed to reduce standby mode*
22 *energy use.*

23 “(w) *SUSPENDED CEILING FANS AND REFRIGERATED*
24 *BEVERAGE VENDING MACHINES.—(1) Not later than 4*
25 *years after the date of enactment of this subsection, the Sec-*

1 *retary shall prescribe, by rule, energy conservation stand-*
2 *ards for—*

3 “(A) *suspended ceiling fans; and*

4 “(B) *refrigerated bottled or canned beverage*
5 *vending machines.*

6 “(2) *In establishing energy conservation standards*
7 *under this subsection, the Secretary shall use the criteria*
8 *and procedures prescribed under subsections (o) and (p).*

9 “(3) *Any energy conservation standard prescribed*
10 *under this subsection shall apply to products manufactured*
11 *3 years after the date of publication of a final rule estab-*
12 *lishing the energy conservation standard.*

13 “(x) *ILLUMINATED EXIT SIGNS.—An illuminated exit*
14 *sign manufactured on or after January 1, 2006, shall meet*
15 *the version 2.0 Energy Star Program performance require-*
16 *ments for illuminated exit signs prescribed by the Environ-*
17 *mental Protection Agency.*

18 “(y) *TORCHIERES.—A torchiere manufactured on or*
19 *after January 1, 2006—*

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

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

24 “(z) *LOW VOLTAGE DRY-TYPE DISTRIBUTION TRANS-*
25 *FORMERS.—The efficiency of a low voltage dry-type dis-*

1 *tribution transformer manufactured on or after January 1,*
 2 *2007, shall be the Class I Efficiency Levels for distribution*
 3 *transformers specified in table 4-2 of the ‘Guide for Deter-*
 4 *mining Energy Efficiency for Distribution Transformers’*
 5 *published by the National Electrical Manufacturers Asso-*
 6 *ciation (NEMA TP-1-2002).*

7 “(aa) *TRAFFIC SIGNAL MODULES AND PEDESTRIAN*
 8 *MODULES.—Any traffic signal module or pedestrian mod-*
 9 *ule manufactured on or after January 1, 2006, shall—*

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

14 “(2) *be installed with compatible, electrically*
 15 *connected signal control interface devices and conflict*
 16 *monitoring systems.*

17 “(bb) *UNIT HEATERS.—A unit heater manufactured*
 18 *on or after the date that is 3 years after the date of enact-*
 19 *ment of this subsection shall—*

20 “(1) *be equipped with an intermittent ignition*
 21 *device; and*

22 “(2) *have power venting or an automatic flue*
 23 *damper.*

24 “(cc) *MEDIUM BASE COMPACT FLUORESCENT*
 25 *LAMPS.—(1) A bare lamp and covered lamp (no reflector)*

1 *medium base compact fluorescent lamp manufactured on or*
2 *after January 1, 2006, shall meet the following require-*
3 *ments prescribed by the August 9, 2001, version of the En-*
4 *ergy Star Program Requirements for Compact Fluorescent*
5 *Lamps, Energy Star Eligibility Criteria, Energy-Effi-*
6 *ciency Specification issued by the Environmental Protec-*
7 *tion Agency and Department of Energy:*

8 “(A) *Minimum initial efficacy.*

9 “(B) *Lumen maintenance at 1000 hours.*

10 “(C) *Lumen maintenance at 40 percent of rated*
11 *life.*

12 “(D) *Rapid cycle stress test.*

13 “(E) *Lamp life.*

14 “(2) *The Secretary may, by rule, establish require-*
15 *ments for color quality (CRI), power factor, operating fre-*
16 *quency, and maximum allowable start time based on the*
17 *requirements prescribed by the August 9, 2001, version of*
18 *the Energy Star Program Requirements for Compact Fluo-*
19 *rescent Lamps.*

20 “(3) *The Secretary may, by rule—*

21 “(A) *revise the requirements established under*
22 *paragraph (2); or*

23 “(B) *establish other requirements, after consid-*
24 *ering energy savings, cost effectiveness, and consumer*
25 *satisfaction.*

1 “(dd) *DEHUMIDIFIERS.—(1) Dehumidifiers manufac-*
 2 *tured on or after October 1, 2007, shall have an Energy*
 3 *Factor that meets or exceeds the following values:*

“Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25.00 or less	1.00
25.01 – 35.00	1.20
35.01 – 54.00	1.30
54.01 – 74.99	1.50
75.00 or more	2.25.

4 “(2)(A) *Not later than October 1, 2009, the Secretary*
 5 *shall publish a final rule in accordance with subsections*
 6 *(o) and (p), to determine whether the energy conservation*
 7 *standards established under paragraph (1) should be*
 8 *amended.*

9 “(B) *The final rule published under subparagraph (A)*
 10 *shall—*

11 “(i) *contain any amendment by the Secretary;*
 12 *and*

13 “(ii) *provide that the amendment applies to*
 14 *products manufactured on or after October 1, 2012.*

15 “(C) *If the Secretary does not publish an amendment*
 16 *that takes effect by October 1, 2012, dehumidifiers manufac-*
 17 *tured on or after October 1, 2012, shall have an Energy*
 18 *Factor that meets or exceeds the following values:*

“Product Capacity (pints/day):	Minimum Energy Factor (Liters/kWh)
25.00 or less	1.20
25.01 – 35.00	1.30
35.01 – 45.00	1.40
45.01 – 54.00	1.50
54.01 – 74.99	1.60
75.00 or more	2.5.

1 “(ee) *COMMERCIAL PRERINSE SPRAY VALVES.*—Com-
2 *mercial prerinse spray valves manufactured on or after*
3 *January 1, 2006, shall have a flow rate of not more than*
4 *1.6 gallons per minute.*

5 “(ff) *MERCURY VAPOR LAMP BALLASTS.*—*Mercury*
6 *vapor lamp ballasts shall not be manufactured or imported*
7 *after January 1, 2008.*

8 “(gg) *APPLICATION DATE.*—*Section 327 applies—*

9 “(1) *to products for which energy conservation*
10 *standards are to be established under subsection (l),*
11 *(u), (v), or (w) beginning on the date on which a*
12 *final rule is issued by the Secretary, except that any*
13 *State or local standard prescribed or enacted for the*
14 *product before the date on which the final rule is*
15 *issued shall not be preempted until the energy con-*
16 *servation standard established under subsection*
17 *(l),(u), (v), or (w) for the product takes effect; and*

18 “(2) *to products for which energy conservation*
19 *standards are established under subsections (x)*
20 *through (ff) on the date of enactment of those sub-*
21 *sections, except that any State or local standard pre-*
22 *scribed or enacted before the date of enactment of*
23 *those subsections shall not be preempted until the en-*
24 *ergy conservation standards established under sub-*
25 *sections (x) through (ff) take effect.”.*

1 (d) *GENERAL RULE OF PREEMPTION.—Section 327(c)*
2 *of the Energy Policy and Conservation Act (42 U.S.C.*
3 *6297(c)) is amended—*

4 (1) *in paragraph (5), by striking “or” at the*
5 *end;*

6 (2) *in paragraph (6), by striking the period at*
7 *the end and inserting “; or”; and*

8 (3) *by adding at the end the following:*

9 “(7)(A) *is a regulation concerning standards for*
10 *commercial prerinse spray valves adopted by the*
11 *California Energy Commission before January 1,*
12 *2005; or*

13 “(B) *is an amendment to a regulation described*
14 *in subparagraph (A) that was developed to align*
15 *California regulations with changes in American So-*
16 *cietly for Testing and Materials Standard F2324;*

17 “(8)(A) *is a regulation concerning standards for*
18 *pedestrian modules adopted by the California Energy*
19 *Commission before January 1, 2005; or*

20 “(B) *is an amendment to a regulation described*
21 *in subparagraph (A) that was developed to align*
22 *California regulations to changes in the Institute for*
23 *Transportation Engineers standards, entitled ‘Per-*
24 *formance Specification: Pedestrian Traffic Control*
25 *Signal Indications’.*”

1 **SEC. 136. ENERGY CONSERVATION STANDARDS FOR COM-**
2 **MERCIAL EQUIPMENT.**

3 (a) *DEFINITIONS.*—Section 340 of the Energy Policy
4 and Conservation Act (42 U.S.C. 6311) is amended—

5 (1) in paragraph (1)—

6 (A) by redesignating subparagraphs (D)
7 through (G) as subparagraphs (H) through (K),
8 respectively; and

9 (B) by inserting after subparagraph (C) the
10 following:

11 “(D) Very large commercial package air
12 conditioning and heating equipment.

13 “(E) Commercial refrigerators, freezers, and
14 refrigerator-freezers.

15 “(F) Automatic commercial ice makers.

16 “(G) Commercial clothes washers.”;

17 (2) in paragraph (2)(B), by striking “small and
18 large commercial package air conditioning and heat-
19 ing equipment” and inserting “commercial package
20 air conditioning and heating equipment, commercial
21 refrigerators, freezers, and refrigerator-freezers, auto-
22 matic commercial ice makers, commercial clothes
23 washers”;

24 (3) by striking paragraphs (8) and (9) and in-
25 serting the following:

1 “(8)(A) *The term ‘commercial package air condi-*
2 *tioning and heating equipment’ means air-cooled,*
3 *water-cooled, evaporatively-cooled, or water source*
4 *(not including ground water source) electrically oper-*
5 *ated, unitary central air conditioners and central air*
6 *conditioning heat pumps for commercial application.*

7 “(B) *The term ‘small commercial package air*
8 *conditioning and heating equipment’ means commer-*
9 *cial package air conditioning and heating equipment*
10 *that is rated below 135,000 Btu per hour (cooling ca-*
11 *capacity).*

12 “(C) *The term ‘large commercial package air*
13 *conditioning and heating equipment’ means commer-*
14 *cial package air conditioning and heating equipment*
15 *that is rated—*

16 “(i) *at or above 135,000 Btu per hour; and*

17 “(ii) *below 240,000 Btu per hour (cooling*
18 *capacity).*

19 “(D) *The term ‘very large commercial package*
20 *air conditioning and heating equipment’ means com-*
21 *mercial package air conditioning and heating equip-*
22 *ment that is rated—*

23 “(i) *at or above 240,000 Btu per hour; and*

24 “(ii) *below 760,000 Btu per hour (cooling*
25 *capacity).*

1 “(9)(A) *The term ‘commercial refrigerator, freez-*
2 *er, and refrigerator-freezer’ means refrigeration equip-*
3 *ment that—*

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

6 “(ii) *is not designed and marketed exclu-*
7 *sively for medical, scientific, or research pur-*
8 *poses;*

9 “(iii) *operates at a chilled, frozen, combina-*
10 *tion chilled and frozen, or variable temperature;*

11 “(iv) *displays or stores merchandise and*
12 *other perishable materials horizontally,*
13 *semivertically, or vertically;*

14 “(v) *has transparent or solid doors, sliding*
15 *or hinged doors, a combination of hinged, slid-*
16 *ing, transparent, or solid doors, or no doors;*

17 “(vi) *is designed for pull-down temperature*
18 *applications or holding temperature applica-*
19 *tions; and*

20 “(vii) *is connected to a self-contained con-*
21 *densing unit or to a remote condensing unit.*

22 “(B) *The term ‘holding temperature application’*
23 *means a use of commercial refrigeration equipment*
24 *other than a pull-down temperature application, ex-*
25 *cept a blast chiller or freezer.*

1 “(C) *The term ‘integrated average temperature’*
2 *means the average temperature of all test package*
3 *measurements taken during the test.*

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

10 “(E) *The term ‘remote condensing unit’ means a*
11 *factory-made assembly of refrigerating components*
12 *designed to compress and liquefy a specific refrigerant*
13 *that is remotely located from the refrigerated equip-*
14 *ment and consists of 1 or more refrigerant compres-*
15 *sors, refrigerant condensers, condenser fans and mo-*
16 *tors, and factory supplied accessories.*

17 “(F) *The term ‘self-contained condensing unit’*
18 *means a factory-made assembly of refrigerating com-*
19 *ponents designed to compress and liquefy a specific*
20 *refrigerant that is an integral part of the refrigerated*
21 *equipment and consists of 1 or more refrigerant com-*
22 *pressors, refrigerant condensers, condenser fans and*
23 *motors, and factory supplied accessories.”; and*

24 (4) *by adding at the end the following:*

1 “(19) *The term ‘automatic commercial ice*
2 *maker’ means a factory-made assembly (not nec-*
3 *essarily shipped in 1 package) that—*

4 “(A) *consists of a condensing unit and ice-*
5 *making section operating as an integrated unit,*
6 *with means for making and harvesting ice; and*

7 “(B) *may include means for storing ice,*
8 *dispensing ice, or storing and dispensing ice.*

9 “(20) *The term ‘commercial clothes washer’*
10 *means a soft-mount front-loading or soft-mount top-*
11 *loading clothes washer that—*

12 “(A) *has a clothes container compartment*
13 *that—*

14 “(i) *for horizontal-axis clothes washers,*
15 *is not more than 3.5 cubic feet ; and*

16 “(ii) *for vertical-axis clothes washers,*
17 *is not more than 4.0 cubic feet; and*

18 “(B) *is designed for use in—*

19 “(i) *applications in which the occu-*
20 *pants of more than 1 household will be*
21 *using the clothes washer, such as multi-fam-*
22 *ily housing common areas and coin laun-*
23 *dries; or*

24 “(ii) *other commercial applications.*

1 “(21) *The term ‘harvest rate’ means the amount*
2 *of ice (at 32 degrees F) in pounds produced per 24*
3 *hours.*”.

4 **(b) STANDARDS FOR COMMERCIAL PACKAGE AIR CON-**
5 **DITIONING AND HEATING EQUIPMENT.**—*Section 342(a) of*
6 *the Energy Policy and Conservation Act (42 U.S.C.*
7 *6313(a)) is amended—*

8 (1) *in the subsection heading, by striking*
9 *“SMALL AND LARGE” and inserting “SMALL, LARGE,*
10 *AND VERY LARGE”;*

11 (2) *in paragraph (1), by inserting “but before*
12 *January 1, 2010,” after “January 1, 1994,”;*

13 (3) *in paragraph (2), by inserting “but before*
14 *January 1, 2010,” after “January 1, 1995,”; and*

15 (4) *in paragraph (6)—*

16 (A) *in subparagraph (A)—*

17 (i) *by inserting “(i)” after “(A)”;*

18 (ii) *by striking “the date of enactment*
19 *of the Energy Policy Act of 1992” and in-*
20 *serting “January 1, 2010”;*

21 (iii) *by inserting after “large commer-*
22 *cial package air conditioning and heating*
23 *equipment,” the following: “and very large*
24 *commercial package air conditioning and*
25 *heating equipment, or if ASHRAE/IES*

1 *Standard 90.1, as in effect on October 24,*
2 *1992, is amended with respect to any”;* and

3 *(iv) by adding at the end the following:*

4 *“(ii) If ASHRAE/IES Standard 90.1 is not amended*
5 *with respect to small commercial package air conditioning*
6 *and heating equipment, large commercial package air con-*
7 *ditioning and heating equipment, and very large commer-*
8 *cial package air conditioning and heating equipment dur-*
9 *ing the 5-year period beginning on the effective date of a*
10 *standard, the Secretary may initiate a rulemaking to deter-*
11 *mine whether a more stringent standard—*

12 *“(I) would result in significant additional con-*
13 *servation of energy; and*

14 *“(II) is technologically feasible and economically*
15 *justified.”;* and

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

21 *(5) by adding at the end the following:*

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

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

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

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

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

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

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

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

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

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

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

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

12 *“(ii) 10.8 for equipment with all other heat-*
13 *ing system types that are integrated into the*
14 *equipment (at a standard rating of 95 degrees F*
15 *db).*

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

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

23 *“(ii) 10.4 for equipment with all other heat-*
24 *ing system types that are integrated into the*

1 *equipment (at a standard rating of 95 degrees F*
2 *db).*

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

9 “(9) *Very large commercial package air conditioning*
10 *and heating equipment manufactured on or after January*
11 *1, 2010, shall meet the following standards:*

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

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

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

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

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

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

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

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

15 (c) *STANDARDS FOR COMMERCIAL REFRIGERATORS,*
16 *FREEZERS, AND REFRIGERATOR-FREEZERS.—Section 342*
17 *of the Energy Policy and Conservation Act (42 U.S.C.*
18 *6313) is amended by adding at the end the following:*

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

21 “(A) *The term ‘AV’ means the adjusted volume*
22 *(ft³) (defined as 1.63 x frozen temperature compart-*
23 *ment volume (ft³) + chilled temperature compart-*
24 *ment volume (ft³)) with compartment volumes meas-*

1 *ured in accordance with the Association of Home Ap-*
 2 *pliance Manufacturers Standard HRF1–1979.*

3 *“(B) The term ‘V’ means the chilled or frozen*
 4 *compartment volume (ft³) (as defined in the Associa-*
 5 *tion of Home Appliance Manufacturers Standard*
 6 *HRF1–1979).*

7 *“(C) Other terms have such meanings as may be*
 8 *established by the Secretary, based on industry-ac-*
 9 *cepted definitions and practice.*

10 *“(2) Each commercial refrigerator, freezer, and refrig-*
 11 *erator-freezer with a self-contained condensing unit de-*
 12 *signed for holding temperature applications manufactured*
 13 *on or after January 1, 2010, shall have a daily energy con-*
 14 *sumption (in kilowatt hours per day) that does not exceed*
 15 *the following:*

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

16 *“(3) Each commercial refrigerator with a self-con-*
 17 *tained condensing unit designed for pull-down temperature*
 18 *applications and transparent doors manufactured on or*
 19 *after January 1, 2010, shall have a daily energy consump-*
 20 *tion (in kilowatt hours per day) of not more than 0.126*
 21 *V + 3.51.*

1 “(4)(A) Not later than January 1, 2009, the Secretary
2 shall issue, by rule, standard levels for ice-cream freezers,
3 self-contained commercial refrigerators, freezers, and refrig-
4 erator-freezers without doors, and remote condensing com-
5 mercial refrigerators, freezers, and refrigerator-freezers,
6 with the standard levels effective for equipment manufac-
7 tured on or after January 1, 2012.

8 “(B) The Secretary may issue, by rule, standard levels
9 for other types of commercial refrigerators, freezers, and re-
10 frigerator-freezers not covered by paragraph (2)(A) with the
11 standard levels effective for equipment manufactured 3 or
12 more years after the date on which the final rule is pub-
13 lished.

14 “(5)(A) Not later than January 1, 2013, the Secretary
15 shall issue a final rule to determine whether the standards
16 established under this subsection should be amended.

17 “(B) Not later than 3 years after the effective date of
18 any amended standards under subparagraph (A) or the
19 publication of a final rule determining that the standards
20 should not be amended, the Secretary shall issue a final
21 rule to determine whether the standards established under
22 this subsection or the amended standards, as applicable,
23 should be amended.

24 “(C) If the Secretary issues a final rule under subpara-
25 graph (A) or (B) establishing amended standards, the final

1 rule shall provide that the amended standards apply to
2 products manufactured on or after the date that is—

3 “(i) 3 years after the date on which the final
4 amended standard is published; or

5 “(ii) if the Secretary determines, by rule, that 3
6 years is inadequate, not later than 5 years after the
7 date on which the final rule is published.”.

8 (d) *STANDARDS FOR AUTOMATIC COMMERCIAL ICE*
9 *MAKERS.*—Section 342 of the Energy Policy and Conserva-
10 tion Act (42 U.S.C. 6313) (as amended by subsection (c))
11 is amended by adding at the end the following:

12 “(d) *AUTOMATIC COMMERCIAL ICE MAKERS.*—(1)
13 Each automatic commercial ice maker that produces cube
14 type ice with capacities between 50 and 2500 pounds per
15 24-hour period when tested according to the test standard
16 established in section 343(a)(7) and is manufactured on or
17 after January 1, 2010, shall meet the following standard
18 levels:

<i>Equipment Type</i>	<i>Type of Cooling</i>	<i>Harvest Rate (lbs ice/24 hours)</i>	<i>Maximum Energy Use (kWh/100 lbs Ice)</i>	<i>Maximum Condenser Water Use (gal/100 lbs Ice)</i>
<i>Ice Making Head</i>	<i>Water</i>	<i><500</i>	<i>7.80–0.0055H</i>	<i>200–0.022H</i>
		<i>≥500 and <1436</i>	<i>5.58–0.0011H</i>	<i>200–0.022H</i>
		<i>≥1436</i>	<i>4.0</i>	<i>200–0.022H</i>
<i>Ice Making Head</i>	<i>Air</i>	<i><450</i>	<i>10.26–0.0086H</i>	<i>Not Applicable</i>
		<i>≥450</i>	<i>6.89–0.0011H</i>	<i>Not Applicable</i>

<i>Equipment Type</i>	<i>Type of Cooling</i>	<i>Harvest Rate (lbs ice/24 hours)</i>	<i>Maximum Energy Use (kWh/100 lbs Ice)</i>	<i>Maximum Condenser Water Use (gal/100 lbs Ice)</i>
<i>Remote Condensing (but not remote compressor)</i>	<i>Air</i>	<i><1000</i>	<i>8.85–0.0038H</i>	<i>Not Applicable</i>
		<i>≥1000</i>	<i>5.10</i>	<i>Not Applicable</i>
<i>Remote Condensing and Remote Compressor</i>	<i>Air</i>	<i><934</i>	<i>8.85–0.0038H</i>	<i>Not Applicable</i>
		<i>≥934</i>	<i>5.3</i>	<i>Not Applicable</i>
<i>Self Contained</i>	<i>Water</i>	<i><200</i>	<i>11.40–0.019H</i>	<i>191–0.0315H</i>
		<i>≥200</i>	<i>7.60</i>	<i>191–0.0315H</i>
<i>Self Contained</i>	<i>Air</i>	<i><175</i>	<i>18.0–0.0469H</i>	<i>Not Applicable</i>
		<i>≥175</i>	<i>9.80</i>	<i>Not Applicable</i>

H = Harvest rate in pounds per 24 hours.

Water use is for the condenser only and does not include potable water used to make ice.

1 “(2)(A) *The Secretary may issue, by rule, standard*
2 *levels for types of automatic commercial ice makers that*
3 *are not covered by paragraph (1).*

4 “(B) *The standards established under subparagraph*
5 *(A) shall apply to products manufactured on or after the*
6 *date that is—*

7 “(i) *3 years after the date on which the rule is*
8 *published under subparagraph (A); or*

9 “(ii) *if the Secretary determines, by rule, that 3*
10 *years is inadequate, not later than 5 years after the*
11 *date on which the final rule is published.*

12 “(3)(A) *Not later than January 1, 2015, with respect*
13 *to the standards established under paragraph (1), and, with*
14 *respect to the standards established under paragraph (2),*

1 *not later than 5 years after the date on which the standards*
2 *take effect, the Secretary shall issue a final rule to deter-*
3 *mine whether amending the applicable standards is techno-*
4 *logically feasible and economically justified.*

5 “(B) *Not later than 5 years after the effective date of*
6 *any amended standards under subparagraph (A) or the*
7 *publication of a final rule determining that amending the*
8 *standards is not technologically feasible or economically*
9 *justified, the Secretary shall issue a final rule to determine*
10 *whether amending the standards established under para-*
11 *graph (1) or the amended standards, as applicable, is tech-*
12 *nologically feasible or economically justified.*

13 “(C) *If the Secretary issues a final rule under subpara-*
14 *graph (A) or (B) establishing amended standards, the final*
15 *rule shall provide that the amended standards apply to*
16 *products manufactured on or after the date that is—*

17 “(i) *3 years after the date on which the final*
18 *amended standard is published; or*

19 “(ii) *if the Secretary determines, by rule, that 3*
20 *years is inadequate, not later than 5 years after the*
21 *date on which the final amended standard is pub-*
22 *lished.*

23 “(4) *A final rule issued under paragraph (2) or (3)*
24 *shall establish standards at the maximum level that is tech-*

1 *nically feasible and economically justified, as provided in*
2 *subsections (o) and (p) of section 325.”.*

3 *(e) STANDARDS FOR COMMERCIAL CLOTHES WASH-*
4 *ERS.—Section 342 of the Energy Policy and Conservation*
5 *Act (42 U.S.C. 6313) (as amended by subsection (d)) is*
6 *amended by adding at the end the following:*

7 *“(e) COMMERCIAL CLOTHES WASHERS.—(1) Each*
8 *commercial clothes washer manufactured on or after Janu-*
9 *ary 1, 2007, shall have—*

10 *“(A) a Modified Energy Factor of at least 1.26;*

11 *and*

12 *“(B) a Water Factor of not more than 9.5.*

13 *“(2)(A)(i) Not later than January 1, 2010, the Sec-*
14 *retary shall publish a final rule to determine whether the*
15 *standards established under paragraph (1) should be*
16 *amended.*

17 *“(ii) The rule published under clause (i) shall provide*
18 *that any amended standard shall apply to products manu-*
19 *factured 3 years after the date on which the final amended*
20 *standard is published.*

21 *“(B)(i) Not later than January 1, 2015, the Secretary*
22 *shall publish a final rule to determine whether the stand-*
23 *ards established under paragraph (1) should be amended.*

24 *“(ii) The rule published under clause (i) shall provide*
25 *that any amended standard shall apply to products manu-*

1 *factured 3 years after the date on which the final amended*
2 *standard is published.”.*

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

6 (1) *in subsection (a)—*

7 (A) *in paragraph (4)—*

8 (i) *in subparagraph (A), by inserting*
9 *“very large commercial package air condi-*
10 *tioning and heating equipment,” after*
11 *“large commercial package air conditioning*
12 *and heating equipment,”; and*

13 (ii) *in subparagraph (B), by inserting*
14 *“very large commercial package air condi-*
15 *tioning and heating equipment,” after*
16 *“large commercial package air conditioning*
17 *and heating equipment,”; and*

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

19 “(6)(A)(i) *In the case of commercial refrigerators,*
20 *freezers, and refrigerator-freezers, the test procedures shall*
21 *be—*

22 “(I) *the test procedures determined by the Sec-*
23 *retary to be generally accepted industry testing proce-*
24 *dures; or*

1 “(II) rating procedures developed or recognized
2 by the ASHRAE or by the American National Stand-
3 ards Institute.

4 “(ii) In the case of self-contained refrigerators, freezers,
5 and refrigerator-freezers to which standards are applicable
6 under paragraphs (2) and (3) of section 342(c), the initial
7 test procedures shall be the ASHRAE 117 test procedure
8 that is in effect on January 1, 2005.

9 “(B)(i) In the case of commercial refrigerators, freez-
10 ers, and refrigerators-freezers with doors covered by the
11 standards adopted in February 2002, by the California En-
12 ergy Commission, the rating temperatures shall be the inte-
13 grated average temperature of 38 degrees F (± 2 degrees
14 F) for refrigerator compartments and 0 degrees F (± 2 de-
15 grees F) for freezer compartments.

16 “(C) The Secretary shall issue a rule in accordance
17 with paragraphs (2) and (3) to establish the appropriate
18 rating temperatures for the other products for which stand-
19 ards will be established under subsection 342(c)(4).

20 “(D) In establishing the appropriate test temperatures
21 under this subparagraph, the Secretary shall follow the pro-
22 cedures and meet the requirements under section 323(e).

23 “(E)(i) Not later than 180 days after the publication
24 of the new ASHRAE 117 test procedure, if the ASHRAE
25 117 test procedure for commercial refrigerators, freezers,

1 *and refrigerator-freezers is amended, the Secretary shall, by*
2 *rule, amend the test procedure for the product as necessary*
3 *to ensure that the test procedure is consistent with the*
4 *amended ASHRAE 117 test procedure, unless the Secretary*
5 *makes a determination, by rule, and supported by clear and*
6 *convincing evidence, that to do so would not meet the re-*
7 *quirements for test procedures under paragraphs (2) and*
8 *(3).*

9 *“(ii) If the Secretary determines that 180 days is an*
10 *insufficient period during which to review and adopt the*
11 *amended test procedure or rating procedure under clause*
12 *(i), the Secretary shall publish a notice in the Federal Reg-*
13 *ister stating the intent of the Secretary to wait not longer*
14 *than 1 additional year before putting into effect an amend-*
15 *ed test procedure or rating procedure.*

16 *“(F)(i) If a test procedure other than the ASHRAE*
17 *117 test procedure is approved by the American National*
18 *Standards Institute, the Secretary shall, by rule—*

19 *“(I) review the relative strengths and weaknesses*
20 *of the new test procedure relative to the ASHRAE 117*
21 *test procedure; and*

22 *“(II) based on that review, adopt 1 new test pro-*
23 *cedure for use in the standards program.*

24 *“(ii) If a new test procedure is adopted under clause*
25 *(i)—*

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

2 “(II) subparagraph (B) shall apply to the adopt-
3 ed test procedure.

4 “(7)(A) In the case of automatic commercial ice mak-
5 ers, the test procedures shall be the test procedures specified
6 in Air-Conditioning and Refrigeration Institute Standard
7 810–2003, as in effect on January 1, 2005.

8 “(B)(i) If Air-Conditioning and Refrigeration Insti-
9 tute Standard 810–2003 is amended, the Secretary shall
10 amend the test procedures established in subparagraph (A)
11 as necessary to be consistent with the amended Air-Cond-
12 itioning and Refrigeration Institute Standard, unless the
13 Secretary determines, by rule, published in the Federal Reg-
14 ister and supported by clear and convincing evidence, that
15 to do so would not meet the requirements for test procedures
16 under paragraphs (2) and (3).

17 “(ii) If the Secretary issues a rule under clause (i) con-
18 taining a determination described in clause (ii), the rule
19 may establish an amended test procedure for the product
20 that meets the requirements of paragraphs (2) and (3).

21 “(C) The Secretary shall comply with section 323(e)
22 in establishing any amended test procedure under this
23 paragraph.

24 “(8) With respect to commercial clothes washers, the
25 test procedures shall be the same as the test procedures es-

1 *tablished by the Secretary for residential clothes washers*
2 *under section 325(g).”; and*

3 *(2) in subsection (d)(1), by inserting “very large*
4 *commercial package air conditioning and heating*
5 *equipment, commercial refrigerators, freezers, and re-*
6 *frigerator-freezers, automatic commercial ice makers,*
7 *commercial clothes washers,” after “large commercial*
8 *package air conditioning and heating equipment,”.*

9 *(g) LABELING.—Section 344(e) of the Energy Policy*
10 *and Conservation Act (42 U.S.C. 6315(e)) is amended by*
11 *inserting “very large commercial package air conditioning*
12 *and heating equipment, commercial refrigerators, freezers,*
13 *and refrigerator-freezers, automatic commercial ice makers,*
14 *commercial clothes washers,” after “large commercial pack-*
15 *age air conditioning and heating equipment,” each place*
16 *it appears.*

17 *(h) ADMINISTRATION, PENALTIES, ENFORCEMENT,*
18 *AND PREEMPTION.—Section 345 of the Energy Policy and*
19 *Conservation Act (42 U.S.C. 6316) is amended—*

20 *(1) in subsection (a)—*

21 *(A) in paragraph (7), by striking “and” at*
22 *the end;*

23 *(B) in paragraph (8), by striking the period*
24 *at the end and inserting “; and”;* and

25 *(C) by adding at the end the following:*

1 “(9) in the case of commercial clothes washers,
2 section 327(b)(1) shall be applied as if the National
3 Appliance Energy Conservation Act of 1987 was the
4 Energy Policy Act of 2005.”;

5 (2) in the first sentence of subsection (b)(1), by
6 striking “part B” and inserting “part A”; and

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

8 “(d)(1) Except as provided in paragraphs (2) and (3),
9 section 327 shall apply with respect to very large commer-
10 cial package air conditioning and heating equipment to the
11 same extent and in the same manner as section 327 applies
12 under part A on the date of enactment of this subsection.

13 “(2) Any State or local standard issued before the date
14 of enactment of this subsection shall not be preempted until
15 the standards established under section 342(a)(9) take effect
16 on January 1, 2010.

17 “(e)(1)(A) Subsections (a), (b), and (d) of section 326,
18 subsections (m) through (s) of section 325, and sections 328
19 through 336 shall apply with respect to commercial refrig-
20 erators, freezers, and refrigerator-freezers to the same extent
21 and in the same manner as those provisions apply under
22 part A.

23 “(B) In applying those provisions to commercial re-
24 frigerators, freezers, and refrigerator-freezers, paragraphs
25 (1), (2), (3), and (4) of subsection (a) shall apply.

1 “(2)(A) Section 327 shall apply to commercial refrig-
2 erators, freezers, and refrigerator-freezers for which stand-
3 ards are established under paragraphs (2) and (3) of section
4 342(c) to the same extent and in the same manner as those
5 provisions apply under part A on the date of enactment
6 of this subsection, except that any State or local standard
7 issued before the date of enactment of this subsection shall
8 not be preempted until the standards established under
9 paragraphs (2) and (3) of section 342(c) take effect.

10 “(B) In applying section 327 in accordance with sub-
11 paragraph (A), paragraphs (1), (2), and (3) of subsection
12 (a) shall apply.

13 “(3)(A) Section 327 shall apply to commercial refrig-
14 erators, freezers, and refrigerator-freezers for which stand-
15 ards are established under section 342(c)(4) to the same ex-
16 tent and in the same manner as the provisions apply under
17 part A on the date of publication of the final rule by the
18 Secretary, except that any State or local standard issued
19 before the date of publication of the final rule by the Sec-
20 retary shall not be preempted until the standards take effect.

21 “(B) In applying section 327 in accordance with sub-
22 paragraph (A), paragraphs (1), (2), and (3) of subsection
23 (a) shall apply.

24 “(4)(A) If the Secretary does not issue a final rule for
25 a specific type of commercial refrigerator, freezer, or refrig-

1 erator-freezer within the time frame specified in section
2 342(c)(5), subsections (b) and (c) of section 327 shall not
3 apply to that specific type of refrigerator, freezer, or refrig-
4 erator-freezer for the period beginning on the date that is
5 2 years after the scheduled date for a final rule and ending
6 on the date on which the Secretary publishes a final rule
7 covering the specific type of refrigerator, freezer, or refrig-
8 erator-freezer.

9 “(B) Any State or local standard issued before the date
10 of publication of the final rule shall not be preempted until
11 the final rule takes effect.

12 “(5)(A) In the case of any commercial refrigerator,
13 freezer, or refrigerator-freezer to which standards are appli-
14 cable under paragraphs (2) and (3) of section 342(c), the
15 Secretary shall require manufacturers to certify, through an
16 independent, nationally recognized testing or certification
17 program, that the commercial refrigerator, freezer, or refrig-
18 erator-freezer meets the applicable standard.

19 “(B) The Secretary shall, to the maximum extent prac-
20 ticable, encourage the establishment of at least 2 inde-
21 pendent testing and certification programs.

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

1 “(f)(1)(A)(i) *Except as provided in clause (ii), section*
2 *327 shall apply to automatic commercial ice makers for*
3 *which standards have been established under section*
4 *342(d)(1) to the same extent and in the same manner as*
5 *the section applies under part A on the date of enactment*
6 *of this subsection.*

7 “(ii) *Any State standard issued before the date of en-*
8 *actment of this subsection shall not be preempted until the*
9 *standards established under section 342(d)(1) take effect.*

10 “(B) *In applying section 327 to the equipment under*
11 *subparagraph (A), paragraphs (1), (2), and (3) of sub-*
12 *section (a) shall apply.*

13 “(2)(A)(i) *Except as provided in clause (ii), section*
14 *327 shall apply to automatic commercial ice makers for*
15 *which standards have been established under section*
16 *342(d)(2) to the same extent and in the same manner as*
17 *the section applies under part A on the date of publication*
18 *of the final rule by the Secretary.*

19 “(ii) *Any State standard issued before the date of pub-*
20 *lication of the final rule by the Secretary shall not be pre-*
21 *empted until the standards established under section*
22 *342(d)(2) take effect.*

23 “(B) *In applying section 327 in accordance with sub-*
24 *paragraph (A), paragraphs (1), (2), and (3) of subsection*
25 *(a) shall apply.*

1 “(3)(A) *If the Secretary does not issue a final rule for*
2 *a specific type of automatic commercial ice maker within*
3 *the time frame specified in subsection 342(d), subsections*
4 *(b) and (c) of section 327 shall no longer apply to the spe-*
5 *cific type of automatic commercial ice maker for the period*
6 *beginning on the day after the scheduled date for a final*
7 *rule and ending on the date on which the Secretary pub-*
8 *lishes a final rule covering the specific type of automatic*
9 *commercial ice maker.*

10 “(B) *Any State standard issued before the publication*
11 *of the final rule shall not be preempted until the standards*
12 *established in the final rule take effect.*

13 “(4)(A) *The Secretary shall monitor whether manufac-*
14 *turers are reducing harvest rates below tested values for the*
15 *purpose of bringing non-complying equipment into compli-*
16 *ance.*

17 “(B) *If the Secretary finds that there has been a sub-*
18 *stantial amount of manipulation with respect to harvest*
19 *rates under subparagraph (A), the Secretary shall take steps*
20 *to minimize the manipulation, such as requiring harvest*
21 *rates to be within 5 percent of tested values.*

22 “(g)(1)(A) *If the Secretary does not issue a final rule*
23 *for commercial clothes washers within the timeframe speci-*
24 *fied in section 342(e)(2), subsections (b) and (c) of section*
25 *327 shall not apply to commercial clothes washers for the*

1 *period beginning on the day after the scheduled date for*
2 *a final rule and ending on the date on which the Secretary*
3 *publishes a final rule covering commercial clothes washers.*

4 “(B) *Any State or local standard issued before the date*
5 *on which the Secretary publishes a final rule shall not be*
6 *preempted until the standards established under section*
7 *342(e)(2) take effect.*

8 “(2) *The Secretary shall undertake an educational pro-*
9 *gram to inform owners of laundromats, multifamily hous-*
10 *ing, and other sites where commercial clothes washers are*
11 *located about the new standard, including impacts on wash-*
12 *er purchase costs and options for recovering those costs*
13 *through coin collection.”.*

14 **SEC. 137. EXPEDITED RULEMAKING.**

15 (a) *ADMINISTRATIVE PROCEDURE.—The first sentence*
16 *of section 325(p) of the Energy Policy and Conservation*
17 *Act (42 U.S.C. 6295(p)) is amended by striking “Any” and*
18 *inserting “Except as provided in subsection (u), any”.*

19 (b) *ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-*
20 *VIEW.—The first sentence of section 336(b)(2) of the Energy*
21 *Policy and Conservation Act (42 U.S.C. 6306(b)(2)) is*
22 *amended by striking “such chapter.” and inserting “that*
23 *chapter, except, notwithstanding section 706(2)(D) of title*
24 *5, United States Code, no direct final rule prescribed or*
25 *withdrawn under section 325(u) may be held unlawful or*

1 *set aside because of the failure of the Secretary to observe*
2 *a procedure required by law other than the procedures re-*
3 *quired under section 325(u).”.*

4 *(c) CONFORMING AMENDMENT.—Section 345(b)(1) of*
5 *the Energy Policy and Conservation Act (42 U.S.C.*
6 *6316(b)(1)) is amended by inserting “section 325(u),” be-*
7 *fore “section 326(a).”.*

8 **SEC. 138. ENERGY LABELING.**

9 *(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER*
10 *PRODUCT LABELING.—Section 324(a)(2) of the Energy Pol-*
11 *icy and Conservation Act (42 U.S.C. 6294(a)(2)) is amend-*
12 *ed by adding at the end the following:*

13 *“(F)(i) Not later than 90 days after the date of enact-*
14 *ment of this subparagraph, the Commission shall initiate*
15 *a rulemaking to consider—*

16 *“(I) the effectiveness of the consumer products la-*
17 *beling program in assisting consumers in making*
18 *purchasing decisions and improving energy efficiency;*
19 *and*

20 *“(II) changes to the labeling rules (including cat-*
21 *egorical labeling) that would improve the effectiveness*
22 *of consumer product labels.*

23 *“(ii) Not later than 2 years after the date of enactment*
24 *of this subparagraph, the Commission shall complete the*
25 *rulemaking initiated under clause (i).”.*

1 (b) *RULEMAKING ON LABELING FOR ADDITIONAL*
2 *PRODUCTS.*—Section 324(a) of the Energy Policy and Con-
3 *servation Act (42 U.S.C. 6294(a)) is amended by adding*
4 *at the end the following:*

5 “(5)(A) *For covered products described in subsections*
6 *(u) through (ee) of section 325, after a test procedure has*
7 *been prescribed under section 323, the Secretary or the*
8 *Commission, as appropriate, may prescribe, by rule, under*
9 *this section labeling requirements for the products.*

10 “(B) *In the case of products to which TP–1 standards*
11 *under section 325(y) apply, labeling requirements shall be*
12 *based on the ‘Standard for the Labeling of Distribution*
13 *Transformer Efficiency’ prescribed by the National Elec-*
14 *trical Manufacturers Association (NEMA TP–3) as in effect*
15 *on the date of enactment of this paragraph.*

16 “(C) *In the case of dehumidifiers covered under section*
17 *325(dd), the Commission shall not require an ‘Energy*
18 *Guide’ label.”.*

19 **SEC. 139. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS**
20 **UTILITIES STUDY.**

21 (a) *IN GENERAL.*—Not later than 1 year after the date
22 *of enactment of this Act, the Secretary, in consultation with*
23 *the National Association of Regulatory Utility Commis-*
24 *sioners and the National Association of State Energy Offi-*
25 *cials, shall conduct a study of State and regional policies*

1 *that promote cost-effective programs to reduce energy con-*
2 *sumption (including energy efficiency programs) that are*
3 *carried out by—*

4 *(1) utilities that are subject to State regulation;*

5 *and*

6 *(2) nonregulated utilities.*

7 *(b) CONSIDERATION.—In conducting the study under*
8 *subsection (a), the Secretary shall take into consideration—*

9 *(1) performance standards for achieving energy*
10 *use and demand reduction targets;*

11 *(2) funding sources, including rate surcharges;*

12 *(3) infrastructure planning approaches (includ-*
13 *ing energy efficiency programs) and infrastructure*
14 *improvements;*

15 *(4) the costs and benefits of consumer education*
16 *programs conducted by State and local governments*
17 *and local utilities to increase consumer awareness of*
18 *energy efficiency technologies and measures; and*

19 *(5) methods of—*

20 *(A) removing disincentives for utilities to*
21 *implement energy efficiency programs;*

22 *(B) encouraging utilities to undertake vol-*
23 *untary energy efficiency programs; and*

24 *(C) ensuring appropriate returns on energy*
25 *efficiency programs.*

1 (c) *REPORT.*—Not later than 1 year after the date of
2 enactment of this Act, the Secretary shall submit to Con-
3 gress a report that includes—

4 (1) *the findings of the study; and*

5 (2) *any recommendations of the Secretary, in-*
6 *cluding recommendations on model policies to pro-*
7 *mote energy efficiency programs.*

8 **SEC. 140. ENERGY EFFICIENCY PILOT PROGRAM.**

9 (a) *IN GENERAL.*—The Secretary shall establish a
10 pilot program under which the Secretary provides financial
11 assistance to at least 3, but not more than 7, States to carry
12 out pilot projects in the States for—

13 (1) *planning and adopting statewide programs*
14 *that encourage, for each year in which the pilot*
15 *project is carried out—*

16 (A) *energy efficiency; and*

17 (B) *reduction of consumption of electricity*
18 *or natural gas in the State by at least 0.75 per-*
19 *cent, as compared to a baseline determined by*
20 *the Secretary for the period preceding the imple-*
21 *mentation of the program; or*

22 (2) *for any State that has adopted a statewide*
23 *program as of the date of enactment of this Act, ac-*
24 *tivities that reduce energy consumption in the State*
25 *by expanding and improving the program.*

1 (b) *VERIFICATION.*—A State that receives financial as-
2 sistance under subsection (a)(1) shall submit to the Sec-
3 retary independent verification of any energy savings
4 achieved through the statewide program.

5 (c) *AUTHORIZATION OF APPROPRIATIONS.*—There is
6 authorized to be appropriated to carry out this section
7 \$5,000,000 for each of fiscal years 2006 through 2010, to
8 remain available until expended.

9 **SEC. 141. ENERGY EFFICIENCY RESOURCE PROGRAMS.**

10 (a) *ELECTRIC UTILITY PROGRAMS.*—Section 111 of
11 the Public Utilities Regulatory Policy Act of 1978 (16
12 U.S.C. 2621) is amended by adding at the end the following:

13 “(e) *ENERGY EFFICIENCY RESOURCE PROGRAMS.*—

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

15 “(A) *DEMAND BASELINE.*—The term ‘de-
16 mand baseline’ means the baseline determined by
17 the Secretary for an appropriate period pre-
18 ceding the implementation of an energy effi-
19 ciency resource program.

20 “(B) *ENERGY EFFICIENCY RESOURCE PRO-*
21 *GRAMS.*—The term ‘energy efficiency resource
22 program’ means an energy efficiency or other de-
23 mand reduction program that is designed to re-
24 duce annual electricity consumption or peak de-
25 mand of consumers served by an electric utility

1 *by a percentage of the demand baseline of the*
2 *utility that is equal to not less than 0.75 percent*
3 *of the number of years during which the pro-*
4 *gram is in effect.*

5 “(2) *PUBLIC HEARINGS; DETERMINATIONS.*—

6 “(A) *As soon as practicable after the date of*
7 *enactment of this subsection, but not later than*
8 *3 years after that date, each State regulatory au-*
9 *thority (with respect to each electric utility over*
10 *which the State has ratemaking authority) and*
11 *each nonregulated electric utility shall, after no-*
12 *tice, conduct a public hearing on the benefits and*
13 *feasibility of implementing an energy efficiency*
14 *resource program.*

15 “(B) *A State regulatory authority or non-*
16 *regulated utility shall implement an energy effi-*
17 *ciency resource program if, on the basis of a*
18 *hearing under subparagraph (A), the State regu-*
19 *latory authority or nonregulated utility deter-*
20 *mines that the program would—*

21 “(i) *benefit end-use customers;*

22 “(ii) *be cost-effective based on total re-*
23 *source cost;*

24 “(iii) *serve the public welfare; and*

25 “(iv) *be feasible to implement.*

1 “(3) *IMPLEMENTATION.*—

2 “(A) *STATE REGULATORY AUTHORITIES.*—

3 *If a State regulatory authority makes a deter-*
4 *mination under paragraph (2)(B), the State reg-*
5 *ulatory authority shall—*

6 “(i) *require each electric utility over*
7 *which the State has ratemaking authority*
8 *to implement an energy efficiency resource*
9 *program; and*

10 “(ii) *allow such a utility to recover*
11 *any expenditures incurred by the utility in*
12 *implementing the energy efficiency resource*
13 *program.*

14 “(B) *NONREGULATED ELECTRIC UTILI-*
15 *TIES.*—*If a nonregulated electric utility makes a*
16 *determination under paragraph (2)(B), the util-*
17 *ity shall implement an energy efficiency resource*
18 *program.*

19 “(4) *UPDATING REGULATIONS.*—*A State regu-*
20 *latory authority or nonregulated utility may update*
21 *periodically a determination under paragraph (2)(B)*
22 *to determine whether an energy efficiency resource*
23 *program should be—*

24 “(A) *continued;*

25 “(B) *modified; or*

1 “(C) *terminated.*

2 “(5) *EXCEPTION.—Paragraph (2) shall not*
3 *apply to a State regulatory authority (or any non-*
4 *regulated electric utility operating in the State) that*
5 *demonstrates to the Secretary that an energy effi-*
6 *ciency resource program is in effect in the State.”.*

7 “(b) *GAS UTILITIES.—Section 303 of the Public Utili-*
8 *ties Regulatory Policy Act of 1978 (15 U.S.C. 3203) is*
9 *amended by adding at the end the following:*

10 “(e) *ENERGY EFFICIENCY RESOURCE PROGRAMS.—*

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

12 “(A) *DEMAND BASELINE.—The term ‘de-*
13 *mand baseline’ means the baseline determined by*
14 *the Secretary for an appropriate period pre-*
15 *ceding the implementation of an energy effi-*
16 *ciency resource program.*

17 “(B) *ENERGY EFFICIENCY RESOURCE PRO-*
18 *GRAMS.—The term ‘energy efficiency resource*
19 *program’ means an energy efficiency or other de-*
20 *mand reduction program that is designed to re-*
21 *duce annual gas consumption or peak demand of*
22 *consumers served by a gas utility by a percent-*
23 *age of the demand baseline of the utility that is*
24 *equal to not less than 0.75 percent of the number*
25 *of years during which the program is in effect.*

1 “(2) *PUBLIC HEARINGS; DETERMINATIONS.*—

2 “(A) *As soon as practicable after the date of*
3 *enactment of this subsection, but not later than*
4 *3 years after that date, each State regulatory au-*
5 *thority (with respect to each gas utility over*
6 *which the State has ratemaking authority) and*
7 *each nonregulated gas utility shall, after notice,*
8 *conduct a public hearing on the benefits and fea-*
9 *sibility of implementing an energy efficiency re-*
10 *source program.*

11 “(B) *A State regulatory authority or non-*
12 *regulated utility shall implement an energy effi-*
13 *ciency resource program if, on the basis of a*
14 *hearing under subparagraph (A), the State regu-*
15 *latory authority or nonregulated utility deter-*
16 *mines that the program would—*

17 “(i) *benefit end-use customers;*

18 “(ii) *be cost-effective based on total re-*
19 *source cost;*

20 “(iii) *serve the public welfare; and*

21 “(iv) *be feasible to implement.*

22 “(3) *IMPLEMENTATION.*—

23 “(A) *STATE REGULATORY AUTHORITIES.*—
24 *If a State regulatory authority makes a deter-*

1 *mination under paragraph (2)(B), the State reg-*
2 *ulatory authority shall—*

3 *“(i) require each gas utility over which*
4 *the State has ratemaking authority to im-*
5 *plement an energy efficiency resource pro-*
6 *gram; and*

7 *“(ii) allow such a utility to recover*
8 *any expenditures incurred by the utility in*
9 *implementing the energy efficiency resource*
10 *program.*

11 *“(B) NONREGULATED GAS UTILITIES.—If a*
12 *nonregulated gas utility makes a determination*
13 *under paragraph (2)(B), the utility shall imple-*
14 *ment an energy efficiency resource program.*

15 *“(4) UPDATING REGULATIONS.—A State regu-*
16 *latory authority or nonregulated utility may update*
17 *periodically a determination under paragraph (2)(B)*
18 *to determine whether an energy efficiency resource*
19 *program should be—*

20 *“(A) continued;,”*

21 *“(B) modified; or*

22 *“(C) terminated.*

23 *“(5) EXCEPTION.—Paragraph (2) shall not*
24 *apply to a State regulatory authority (or any non-*
25 *regulated gas utility operating in the State) that*

1 *demonstrates to the Secretary that an energy effi-*
2 *ciency resource program is in effect in the State.”.*

3 **SEC. 142. FUEL EFFICIENT ENGINE TECHNOLOGY FOR AIR-**
4 **CRAFT.**

5 (a) *IN GENERAL.*—*The Secretary and the Adminis-*
6 *trator of the National Aeronautics and Space Administra-*
7 *tion shall enter into a cooperative agreement to carry out*
8 *a multi-year engine development program to advance tech-*
9 *nologies to enable more fuel efficient, turbine-based propul-*
10 *sion and power systems for aeronautical and industrial ap-*
11 *plications.*

12 (b) *PERFORMANCE OBJECTIVE.*—*The fuel efficiency*
13 *performance objective for the program shall be to achieve*
14 *a fuel efficiency improvement of more than 10 percent by*
15 *exploring—*

16 (1) *advanced concepts, alternate propulsion, and*
17 *power configurations, including hybrid fuel cell pow-*
18 *ered systems; and*

19 (2) *the use of alternate fuel in conventional or*
20 *nonconventional turbine-based systems.*

21 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
22 *authorized to be appropriated to the Secretary to carry out*
23 *this section \$60,000,000 for each of fiscal years 2006*
24 *through 2010.*

1 **SEC. 143. MOTOR VEHICLE TIRES SUPPORTING MAXIMUM**
2 **FUEL EFFICIENCY.**

3 (a) *STANDARDS FOR TIRES MANUFACTURED FOR*
4 *INTERSTATE COMMERCE.*—Section 30123 of title 49,
5 *United States Code, is amended—*

6 (1) *in subsection (b), by inserting after the first*
7 *sentence the following: “The grading system shall in-*
8 *clude standards for rating the fuel efficiency of tires*
9 *designed for use on passenger cars and light trucks.”;*
10 *and*

11 (2) *by adding at the end the following:*

12 “(d) *NATIONAL TIRE FUEL EFFICIENCY PROGRAM.*—

13 (1) *The Secretary shall develop and carry out a national*
14 *tire fuel efficiency program for tires designed for use on*
15 *passenger cars and light trucks.*

16 “(2) *The program shall include the following:*

17 “(A) *Policies and procedures for testing and la-*
18 *beling tires for fuel economy to enable tire buyers to*
19 *make informed purchasing decisions about the fuel*
20 *economy of tires.*

21 “(B) *Policies and procedures to promote the pur-*
22 *chase of energy-efficient replacement tires, including*
23 *purchase incentives, website listings on the Internet,*
24 *printed fuel economy guide booklets, and mandatory*
25 *requirements for tire retailers to provide tire buyers*
26 *with fuel-efficiency information on tires.*

1 “(C) *Minimum fuel economy standards for tires,*
2 *promulgated by the Secretary.*

3 “(3) *The minimum fuel economy standards for tires*
4 *shall—*

5 “(A) *ensure that the average fuel economy of re-*
6 *placement tires is equal to or better than the average*
7 *fuel economy of tires sold as original equipment;*

8 “(B) *secure the maximum technically feasible*
9 *and cost-effective fuel savings;*

10 “(C) *not adversely affect tire safety;*

11 “(D) *not adversely affect the average tire life of*
12 *replacement tires;*

13 “(E) *incorporate the results from—*

14 “(i) *laboratory testing; and*

15 “(ii) *to the extent appropriate and avail-*
16 *able, on-road fleet testing programs conducted by*
17 *the manufacturers; and*

18 “(F) *not adversely affect efforts to manage scrap*
19 *tires.*

20 “(4) *The policies, procedures, and standards developed*
21 *under paragraph (2) shall apply to all types and models*
22 *of tires that are covered by the uniform tire quality grading*
23 *standards under section 575.104 of title 49, Code of Federal*
24 *Regulations (or any successor regulation).*

1 “(5) Not less often than every three years, the Secretary
2 shall review the minimum fuel economy standards in effect
3 for tires under this subsection and revise the standards as
4 necessary to ensure compliance with requirements under
5 paragraph (3). The Secretary may not, however, reduce the
6 average fuel economy standards applicable to replacement
7 tires.

8 “(6) Nothing in this chapter shall be construed to pre-
9 empt any provision of State law relating to higher fuel
10 economy standards applicable to replacement tires designed
11 for use on passenger cars and light trucks.

12 “(7) Nothing in this chapter shall apply to—

13 “(A) a tire or group of tires with the same SKU,
14 plant, and year, for which the volume of tires pro-
15 duced or imported is less than 15,000 annually;

16 “(B) a deep tread, winter-type snow tire, space-
17 saver tire, or temporary use spare tire;

18 “(C) a tire with a normal rim diameter of 12
19 inches or less;

20 “(D) a motorcycle tire; or

21 “(E) a tire manufactured specifically for use in
22 an off-road motorized recreational vehicle.

23 “(8) In this subsection, the term ‘fuel economy’, with
24 respect to tires, means the extent to which the tires con-

1 *tribute to the fuel economy of the motor vehicles on which*
2 *the tires are mounted.*

3 (b) *CONFORMING AMENDMENT.*—Section 30103(b) of
4 *title 49, United States Code, is amended in paragraph (1)*
5 *by striking “When” and inserting “Except as provided in*
6 *section 30123(d) of this title, when”.*

7 (c) *TIME FOR IMPLEMENTATION.*—The Secretary of
8 *Transportation shall ensure that the national tire fuel effi-*
9 *ciency program required under subsection (d) of section*
10 *30123 of title 49, United States Code (as added by sub-*
11 *section (a)(2)), is administered so as to apply the policies,*
12 *procedures, and standards developed under paragraph (2)*
13 *of such subsection (d) beginning not later than March 31,*
14 *2008.*

15 ***Subtitle D—Measures to Conserve***
16 ***Petroleum***

17 ***SEC. 151. REDUCTION OF DEPENDENCE ON IMPORTED PE-***
18 ***TROLEUM.***

19 (a) *REPORT.*—

20 (1) *IN GENERAL.*—Not later than February 1,
21 2006, and annually thereafter, the President shall
22 submit to Congress a report, based on the most recent
23 edition of the Annual Energy Outlook published by
24 the Energy Information Administration, assessing the
25 progress made by the United States toward the goal

1 *of reducing dependence on imported petroleum sources*
2 *by 2015.*

3 (2) *CONTENTS.—The report under paragraph (1)*
4 *shall—*

5 (A) *include a description of the implemen-*
6 *tation, during the previous fiscal year, of provi-*
7 *sions under this Act relating to domestic crude*
8 *petroleum production;*

9 (B) *assess the effectiveness of those provi-*
10 *sions in meeting the goal described in paragraph*
11 *(1); and*

12 (C) *describe the progress in developing and*
13 *implementing measures under subsection (b).*

14 (b) *MEASURES TO REDUCE IMPORT DEPENDENCE*
15 *THROUGH INCREASED DOMESTIC PETROLEUM CONSERVA-*
16 *TION.—*

17 (1) *IN GENERAL.—Not later than 1 year after*
18 *the date of enactment of this Act, the President shall*
19 *develop and implement measures to conserve petro-*
20 *leum in end-uses throughout the economy of the*
21 *United States sufficient to reduce total demand for*
22 *petroleum in the United States by 1,000,000 barrels*
23 *per day from the amount projected for calendar year*
24 *2015 in the reference case contained in the report of*

1 *the Energy Information Administration entitled “Annual*
 2 *Energy Outlook 2005”.*

3 (2) *CONTENTS.—The measures under paragraph*
 4 *(1) shall be designed to ensure continued reliable and*
 5 *affordable energy for consumers.*

6 (3) *IMPLEMENTATION.—The measures under*
 7 *paragraph (1) shall be implemented under existing*
 8 *authorities of appropriate Federal executive agencies*
 9 *identified by the President.*

10 ***Subtitle E—Energy Efficiency in***
 11 ***Housing***

12 ***SEC. 161. PUBLIC HOUSING CAPITAL FUND.***

13 *Section 9 of the United States Housing Act of 1937*
 14 *(42 U.S.C. 1437g) is amended—*

15 (1) *in subsection (d)(1)—*

16 (A) *in subparagraph (I), by striking “;*
 17 *and” and inserting a semicolon;*

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

20 (C) *by adding at the end the following:*

21 “(K) *improvement of energy and water-use*
 22 *efficiency by installing fixtures and fittings that*
 23 *conform to the American Society of Mechanical*
 24 *Engineers/American National Standards Insti-*
 25 *tute standards A112.19.2–1998 and A112.18.1–*

1 2000, or any revision thereto, applicable at the
2 time of installation, and by increasing energy ef-
3 ficiency and water conservation by such other
4 means as the Secretary determines are appro-
5 priate; and

6 “(L) integrated utility management and
7 capital planning to maximize energy conserva-
8 tion and efficiency measures.”; and

9 (2) in subsection (e)(2)(C)—

10 (A) by striking “The treatment” and insert-
11 ing the following:

12 “(i) IN GENERAL.—The treatment”;

13 and

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

15 “(ii) THIRD PARTY CONTRACTS.—Con-
16 tracts described in clause (i) may include
17 contracts for—

18 “(I) equipment conversions to less
19 costly utility sources;

20 “(II) projects with resident-paid
21 utilities; and

22 “(III) adjustments to frozen base
23 year consumption, including systems
24 repaired to meet applicable building
25 and safety codes and adjustments for

1 *occupancy rates increased by rehabili-*
2 *tation.*

3 “(iii) *TERM OF CONTRACT.—The total*
4 *term of a contract described in clause (i)*
5 *shall not exceed 20 years to allow longer*
6 *payback periods for retrofits, including—*

7 “(I) *windows;*

8 “(II) *heating system replacements;*

9 “(III) *wall insulation;*

10 “(IV) *site-based generation; and*

11 “(V) *advanced energy savings*
12 *technologies, including renewable en-*
13 *ergy generation and other such retro-*
14 *fits.”.*

15 **SEC. 162. ENERGY EFFICIENT APPLIANCES.**

16 *In purchasing appliances, a public housing agency*
17 *shall purchase energy-efficient appliances that are Energy*
18 *Star products or FEMP designated products, as such terms*
19 *are defined in section 552 of the National Energy Conserva-*
20 *tion Policy Act (42 U.S.C. 8251 et seq.) (as amended by*
21 *section 104) unless the purchase of energy-efficient appli-*
22 *ances is not cost-effective to the agency.*

23 **SEC. 163. ENERGY EFFICIENCY STANDARDS.**

24 *Section 109 of the Cranston-Gonzalez National Afford-*
25 *able Housing Act (42 U.S.C. 12709) is amended—*

1 (1) *in subsection (a)—*

2 (A) *in paragraph (1)—*

3 (i) *by striking “ 1 year after the date*
4 *of enactment of the Energy Policy Act of*
5 *1992” and inserting “September 30, 2006”;*

6 (ii) *in subparagraph (A), by striking*
7 *“; and” and inserting a semicolon;*

8 (iii) *in subparagraph (B), by striking*
9 *the period at the end and inserting “; and”;*
10 *and*

11 (iv) *by adding at the end the following:*

12 “(C) *rehabilitation and new construction of*
13 *public and assisted housing funded by HOPE VI*
14 *revitalization grants, established under section*
15 *24 of the United States Housing Act of 1937 (42*
16 *U.S.C. 1437v), where such standards are deter-*
17 *mined to be cost effective by the Secretary of*
18 *Housing and Urban Development.”; and*

19 (B) *in paragraph (2), in the first sentence,*
20 *by inserting “, and, with respect to rehabilita-*
21 *tion and new construction of public and assisted*
22 *housing funded by HOPE VI revitalization*
23 *grants, established under section 24 of the United*
24 *States Housing Act of 1937 (42 U.S.C. 1437v),*

1 *the 2003 International Energy Conservation*
2 *Code” after “Standard 90.1–1989”);*

3 *(2) in subsection (b)—*

4 *(A) by striking “within 1 year after the*
5 *date of enactment of the Energy Policy Act of*
6 *1992” and inserting “by September 30, 2006”;*
7 *and*

8 *(B) by inserting “, and, with respect to re-*
9 *habilitation and new construction of public and*
10 *assisted housing funded by HOPE VI revitaliza-*
11 *tion grants, established under section 24 of the*
12 *United States Housing Act of 1937 (42 U.S.C.*
13 *1437v), the 2003 International Energy Conserva-*
14 *tion Code” after “Standard 90.1–1989”; and*

15 *(3) in subsection (c)—*

16 *(A) in the heading, by inserting “AND THE*
17 *INTERNATIONAL ENERGY CONSERVATION CODE”*
18 *after “MODEL ENERGY CODE”; and*

19 *(B) by inserting “, or, with respect to reha-*
20 *ilitation and new construction of public and as-*
21 *sisted housing funded by HOPE VI revitaliza-*
22 *tion grants, established under section 24 of the*
23 *United States Housing Act of 1937 (42 U.S.C.*
24 *1437v), the 2003 International Energy Conserva-*
25 *tion Code” after “Standard 90.1–1989”.*

1 **SEC. 164. ENERGY STRATEGY FOR THE DEPARTMENT OF**
2 **HOUSING AND URBAN DEVELOPMENT.**

3 (a) *DEVELOPMENT OF STRATEGY.*—The Secretary of
4 *Housing and Urban Development shall develop and imple-*
5 *ment an integrated energy strategy to reduce utility ex-*
6 *penses through cost-effective energy conservation and effi-*
7 *ciency measures and energy efficient design and construc-*
8 *tion of public and assisted housing.*

9 (b) *CONTENTS OF STRATEGY.*—The energy strategy re-
10 *quired under subsection (a) shall include the development*
11 *of energy reduction goals and incentives for public housing*
12 *agencies.*

13 (c) *REPORT.*—Not later than 1 year after the date of
14 *enactment of this Act, and every 2 years thereafter, the Sec-*
15 *retary of Housing and Urban Development shall submit to*
16 *Congress a report describing—*

17 (1) *the energy strategy required under subsection*
18 *(a);*

19 (2) *the actions taken by the Department of Hous-*
20 *ing and Urban Development to monitor the energy*
21 *usage of public housing agencies; and*

22 (3) *the progress, if any, in implementing the en-*
23 *ergy strategy required under subsection (a).*

1 **TITLE II—RENEWABLE ENERGY**

2 **Subtitle A—General Provisions**

3 **SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RE-**
4 **SOURCES.**

5 (a) *RESOURCE ASSESSMENTS.*—Not later than 180
6 days after the date of enactment of this Act and each year
7 thereafter, the Secretary shall—

8 (1) *review the available assessments of renewable*
9 *energy resources within the United States, including*
10 *solar, wind, biomass, ocean (tidal, wave, current, and*
11 *thermal), geothermal, and hydroelectric energy re-*
12 *sources; and*

13 (2) *undertake new assessments as necessary, tak-*
14 *ing into account changes in market conditions, avail-*
15 *able technologies, and other relevant factors.*

16 (b) *REPORTS.*—

17 (1) *IN GENERAL.*—Not later than 1 year after
18 the date of enactment of this Act and each year there-
19 after, the Secretary shall publish a report based on
20 the most recent assessment under subsection (a).

21 (2) *CONTENTS.*—The report shall contain—

22 (A) *a detailed inventory describing the*
23 *available quantity and characteristics of the re-*
24 *newable energy resources; and*

1 (B) such other information as the Secretary
2 determines would be useful in developing the re-
3 newable energy resources, including—

4 (i) descriptions of surrounding terrain,
5 population and load centers, nearby energy
6 infrastructure, and the location of energy
7 and water resources;

8 (ii) available estimates of the costs
9 needed to develop each resource;

10 (iii) an identification of any barriers
11 to providing adequate transmission for re-
12 mote sources of renewable energy resources
13 to current and emerging markets;

14 (iv) recommendations for removing or
15 addressing those barriers; and

16 (v) recommendations for providing ac-
17 cess to the electrical grid that do not un-
18 fairly disadvantage renewable or other en-
19 ergy producers.

20 (c) *AUTHORIZATION OF APPROPRIATIONS.*—There are
21 authorized to be appropriated to the Secretary to carry out
22 this section \$10,000,000 for each of fiscal years 2006
23 through 2010.

1 **SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

2 (a) *INCENTIVE PAYMENTS.*—Section 1212(a) of the
3 *Energy Policy Act of 1992 (42 U.S.C. 13317(a))* is
4 *amended—*

5 (1) *by striking the last sentence;*

6 (2) *by designating the first, second, and third*
7 *sentences as paragraphs (1), (2), and (3), respectively;*

8 (3) *in paragraph (3) (as so designated), by strik-*
9 *ing “and which satisfies” and all that follows through*
10 *“deems necessary”; and*

11 (4) *by adding at the end the following:*

12 “(4)(A) *Subject to subparagraph (B), if there are in-*
13 *sufficient appropriations to make full payments for electric*
14 *production from all qualified renewable energy facilities for*
15 *a fiscal year, the Secretary shall assign—*

16 (i) *60 percent of appropriated funds for the fis-*
17 *cal year to facilities that use solar, wind, ocean*
18 *(tidal, wave, current, and thermal), geothermal, or*
19 *closed-loop (dedicated energy crops) biomass tech-*
20 *nologies to generate electricity; and*

21 (ii) *40 percent of appropriated funds for the*
22 *fiscal year to other projects.*

23 (B) *After submitting to Congress an explanation of*
24 *the reasons for the alteration, the Secretary may alter the*
25 *percentage requirements of subparagraph (A).”.*

1 (b) *QUALIFIED RENEWABLE ENERGY FACILITY.*—Section
2 *tion 1212(b) of the Energy Policy Act of 1992 (42 U.S.C.*
3 *13317(b)) is amended—*

4 (1) *by striking “a State or any political” and*
5 *all that follows through “nonprofit electrical coopera-*
6 *tive” and inserting “a not-for-profit electric coopera-*
7 *tive, a public utility described in section 115 of the*
8 *Internal Revenue Code of 1986, a State, Common-*
9 *wealth, territory, or possession of the United States,*
10 *or the District of Columbia, or a political subdivision*
11 *thereof, an Indian tribal government or subdivision*
12 *thereof, or a Native Corporation (as defined in section*
13 *3 of the Alaska Native Claims Settlement Act (43*
14 *U.S.C. 1602)),”; and*

15 (2) *by inserting “landfill gas,” after “wind, bio-*
16 *mass,”.*

17 (c) *ELIGIBILITY WINDOW.*—Section 1212(c) of the *En-*
18 *ergy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended*
19 *by striking “during the 10-fiscal year period beginning*
20 *with the first full fiscal year occurring after the enactment*
21 *of this section” and inserting “before October 1, 2016”.*

22 (d) *PAYMENT PERIOD.*—Section 1212(d) of the *Energy*
23 *Policy Act of 1992 (42 U.S.C. 13317(d)) is amended in the*
24 *second sentence by inserting “, or in which the Secretary*
25 *determines that all necessary Federal and State authoriza-*

1 tions have been obtained to begin construction of the facil-
2 ity” after “eligible for such payments”.

3 (e) *AMOUNT OF PAYMENT.*—Section 1212(e)(1) of the
4 *Energy Policy Act of 1992* (42 U.S.C. 13317(e)(1)) is
5 amended in the first sentence by inserting “landfill gas,”
6 after “wind, biomass,”.

7 (f) *TERMINATION OF AUTHORITY.*—Section 1212(f) of
8 the *Energy Policy Act of 1992* (42 U.S.C. 13317(f)) is
9 amended by striking “the expiration of” and all that follows
10 through “of this section” and inserting “September 30,
11 2026”.

12 (g) *AUTHORIZATION OF APPROPRIATIONS.*—Section
13 1212 of the *Energy Policy Act of 1992* (42 U.S.C. 13317)
14 is amended by striking subsection (g) and inserting the fol-
15 lowing:

16 “(g) *AUTHORIZATION OF APPROPRIATIONS.*—There
17 are authorized to be appropriated such sums as are nec-
18 essary to carry out this section for each of fiscal years 2006
19 through 2026, to remain available until expended.”.

20 **SEC. 203. FEDERAL PURCHASE REQUIREMENT.**

21 (a) *DEFINITIONS.*—In this section:

22 (1) *BIOMASS.*—The term “biomass” means any
23 solid, nonhazardous, cellulosic material that is de-
24 rived from—

1 (A) any of the following forest-related re-
2 sources: mill residue, precommercial thinning,
3 slash, brush, or nonmerchantable material;

4 (B) a solid wood waste material—

5 (i) including a waste pallet, crate,
6 dunnage, manufacturing and construction
7 wood waste (other than pressure-treated,
8 chemically-treated, or painted wood waste),
9 and landscape or right-of-way tree trim-
10 ming; but

11 (ii) not including municipal solid
12 waste (garbage), gas derived from the bio-
13 degradation of solid waste, or paper that is
14 commonly recycled;

15 (C) agriculture waste, including an orchard
16 tree crop, vineyard, grain, legume, sugar, and
17 other crop byproduct or residue, and a livestock
18 waste nutrient; or

19 (D) a plant that is grown exclusively as a
20 fuel for the production of electricity.

21 (2) *RENEWABLE ENERGY*.—The term “renewable
22 energy” means electric energy generated from solar,
23 wind, biomass, ocean (tidal, wave, current, and ther-
24 mal), landfill gas, geothermal, municipal solid waste,
25 or new hydroelectric generation capacity achieved

1 *from increased efficiency or additions of new capacity*
2 *at an existing hydroelectric project.*

3 **(b) REQUIREMENT.**—*The President, acting through the*
4 *Secretary, shall seek to ensure that, to the extent economi-*
5 *cally feasible and technically practicable, of the total quan-*
6 *tity of electric energy the Federal Government consumes*
7 *during any fiscal year, the following amounts shall be re-*
8 *newable energy:*

9 *(1) Not less than 3 percent in each of fiscal years*
10 *2007 through 2009.*

11 *(2) Not less than 5 percent in each of fiscal years*
12 *2010 through 2012.*

13 *(3) Not less than 7.5 percent in fiscal year 2013*
14 *and each fiscal year thereafter.*

15 **(c) CALCULATION.**—*For purposes of determining com-*
16 *pliance with the requirement of this section, the quantity*
17 *of renewable energy shall be doubled if—*

18 *(1) the renewable energy is produced and used*
19 *onsite at a Federal facility;*

20 *(2) the renewable energy is produced on Federal*
21 *land and used at a Federal facility; or*

22 *(3) the renewable energy is produced on Indian*
23 *land (as defined in section 2601 of the Energy Policy*
24 *Act of 1992) and used at a Federal facility.*

1 (d) *REPORT*.—Not later than April 15, 2007, and
 2 every 2 years thereafter, the Secretary shall provide to Con-
 3 gress a report on the progress of the Federal Government
 4 in meeting the goals established by this section.

5 ***Subtitle B—Reliable Fuels***

6 **SEC. 211. RENEWABLE CONTENT OF GASOLINE.**

7 (a) *IN GENERAL*.—Section 211 of the Clean Air Act
 8 (42 U.S.C. 7545) is amended—

9 (1) by redesignating subsection (o) as subsection
 10 (r); and

11 (2) by inserting after subsection (n) the fol-
 12 lowing:

13 “(o) *RENEWABLE FUEL PROGRAM*.—

14 “(1) *DEFINITIONS*.—In this section:

15 “(A) *CELLULOSIC BIOMASS ETHANOL*.—The
 16 term ‘cellulosic biomass ethanol’ means ethanol
 17 derived from any lignocellulosic or hemicellulosic
 18 matter that is available on a renewable or recur-
 19 ring basis, including—

20 “(i) dedicated energy crops and trees;

21 “(ii) wood and wood residues;

22 “(iii) plants;

23 “(iv) grasses;

24 “(v) agricultural residues;

25 “(vi) fibers;

1 “(vii) *animal wastes and other waste*
2 *materials; and*

3 “(viii) *municipal solid waste.*

4 “(B) *RENEWABLE FUEL.—*

5 “(i) *IN GENERAL.—The term ‘renew-*
6 *able fuel’ means motor vehicle fuel that—*

7 “(I)(aa) *is produced from grain,*
8 *starch, oilseeds, sugarcane, sugar beets,*
9 *sugar components, tobacco, potatoes, or*
10 *other biomass; or*

11 “(bb) *is natural gas produced*
12 *from a biogas source, including a land-*
13 *fill, sewage waste treatment plant,*
14 *feedlot, or other place where decaying*
15 *organic material is found; and*

16 “(II) *is used to replace or reduce*
17 *the quantity of fossil fuel present in a*
18 *fuel mixture used to operate a motor*
19 *vehicle.*

20 “(ii) *INCLUSION.—The term ‘renewable*
21 *fuel’ includes—*

22 “(I) *cellulosic biomass ethanol;*
23 *and*

1 “(II) *biodiesel* (as defined in sec-
2 tion 312(f) of the *Energy Policy Act of*
3 1992 (42 U.S.C. 13220(f))).

4 “(C) *SMALL REFINERY*.—The term ‘*small*
5 *refinery*’ means a refinery for which the average
6 aggregate daily crude oil throughput for a cal-
7 endar year (as determined by dividing the aggre-
8 gate throughput for the calendar year by the
9 number of days in the calendar year) does not
10 exceed 75,000 barrels.

11 “(2) *RENEWABLE FUEL PROGRAM*.—

12 “(A) *REGULATIONS*.—

13 “(i) *IN GENERAL*.—Not later than 1
14 year after the date of enactment of this
15 paragraph, the Administrator shall promul-
16 gate regulations to ensure that gasoline sold
17 or introduced into commerce in the United
18 States (except in noncontiguous States or
19 territories), on an annual average basis,
20 contains the applicable volume of renewable
21 fuel determined in accordance with sub-
22 paragraph (B).

23 “(ii) *NONCONTIGUOUS STATE OPT-*
24 *IN*.—

1 “(I) *IN GENERAL.*—On the peti-
2 tion of a noncontiguous State or terri-
3 tory, the Administrator may allow the
4 renewable fuel program established
5 under this subsection to apply in the
6 noncontiguous State or territory at the
7 same time or any time after the Ad-
8 ministrator promulgates regulations
9 under this subparagraph.

10 “(II) *OTHER ACTIONS.*—In car-
11 rying out this clause, the Adminis-
12 trator may—

13 “(aa) issue or revise regula-
14 tions under this paragraph;

15 “(bb) establish applicable
16 percentages under paragraph (3);

17 “(cc) provide for the genera-
18 tion of credits under paragraph
19 (5); and

20 “(dd) take such other actions
21 as are necessary to allow for the
22 application of the renewable fuels
23 program in a noncontiguous State
24 or territory.

1 “(iii) *PROVISIONS OF REGULATIONS.*—
2 *Regardless of the date of promulgation, the*
3 *regulations promulgated under clause (i)—*

4 “(I) *shall contain compliance pro-*
5 *visions applicable to refineries, blend-*
6 *ers, distributors, and importers, as ap-*
7 *propriate, to ensure that the require-*
8 *ments of this paragraph are met; but*

9 “(II) *shall not—*

10 “(aa) *restrict geographic*
11 *areas in which renewable fuel*
12 *may be used; or*

13 “(bb) *impose any per-gallon*
14 *obligation for the use of renewable*
15 *fuel.*

16 “(iv) *REQUIREMENT IN CASE OF FAIL-*
17 *URE TO PROMULGATE REGULATIONS.*—*If*
18 *the Administrator does not promulgate reg-*
19 *ulations under clause (i), the percentage of*
20 *renewable fuel in gasoline sold or dispensed*
21 *to consumers in the United States, on a vol-*
22 *ume basis, shall be 3.2 percent for calendar*
23 *year 2006.*

24 “(B) *APPLICABLE VOLUME.*—

1 “(i) *CALENDAR YEARS 2006 THROUGH*
 2 *2012.—For the purpose of subparagraph (A),*
 3 *the applicable volume for any of calendar*
 4 *years 2006 through 2012 shall be deter-*
 5 *mined in accordance with the following*
 6 *table:*

“Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	8.0.

7 “(ii) *CALENDAR YEAR 2013 AND*
 8 *THEREAFTER.—Subject to clauses (iii) and*
 9 *(iv), for the purposes of subparagraph (A),*
 10 *the applicable volume for calendar year*
 11 *2013 and each calendar year thereafter*
 12 *shall be determined by the Administrator,*
 13 *in coordination with the Secretary of Agri-*
 14 *culture and the Secretary of Energy, based*
 15 *on a review of the implementation of the*
 16 *program during calendar years 2006*
 17 *through 2012, including a review of—*

18 “(I) *the impact of the use of re-*
 19 *newable fuels on the environment, air*

1 *quality, energy security, job creation,*
2 *and rural economic development; and*

3 “(II) *the expected annual rate of*
4 *future production of renewable fuels,*
5 *including cellulosic ethanol.*

6 “(iii) *MINIMUM QUANTITY DERIVED*
7 *FROM CELLULOSIC BIOMASS.—For calendar*
8 *year 2013 and each calendar year*
9 *thereafter—*

10 “(I) *the applicable volume re-*
11 *ferred to in clause (ii) shall contain a*
12 *minimum of 250,000,000 gallons that*
13 *are derived from cellulosic biomass;*
14 *and*

15 “(II) *the 2.5-to-1 ratio referred to*
16 *in paragraph (4) shall not apply.*

17 “(iv) *MINIMUM APPLICABLE VOL-*
18 *UME.—For the purpose of subparagraph*
19 *(A), the applicable volume for calendar year*
20 *2013 and each calendar year thereafter*
21 *shall be not less than the product obtained*
22 *by multiplying—*

23 “(I) *the number of gallons of gaso-*
24 *line that the Administrator estimates*

1 *will be sold or introduced into com-*
2 *merce in the calendar year; and*

3 “(II) *the ratio that—*

4 “(aa) *8,000,000,000 gallons*
5 *of renewable fuel; bears to*

6 “(bb) *the number of gallons*
7 *of gasoline sold or introduced into*
8 *commerce in calendar year 2012.*

9 “(3) *APPLICABLE PERCENTAGES.—*

10 “(A) *PROVISION OF ESTIMATE OF VOLUMES*
11 *OF GASOLINE SALES.—Not later than October 31*
12 *of each of calendar years 2005 through 2011, the*
13 *Administrator of the Energy Information Ad-*
14 *ministration shall provide to the Administrator*
15 *of the Environmental Protection Agency an esti-*
16 *mate, with respect to the following calendar year,*
17 *of the volumes of gasoline projected to be sold or*
18 *introduced into commerce in the United States.*

19 “(B) *DETERMINATION OF APPLICABLE PER-*
20 *CENTAGES.—*

21 “(i) *IN GENERAL.—Not later than No-*
22 *vember 30 of each of calendar years 2005*
23 *through 2012, based on the estimate pro-*
24 *vided under subparagraph (A), the Admin-*
25 *istrator of the Environmental Protection*

1 *Agency shall determine and publish in the*
2 *Federal Register, with respect to the fol-*
3 *lowing calendar year, the renewable fuel ob-*
4 *ligation that ensures that the requirements*
5 *of paragraph (2) are met.*

6 “(ii) *REQUIRED ELEMENTS.—The re-*
7 *newable fuel obligation determined for a*
8 *calendar year under clause (i) shall—*

9 “(I) *be applicable to refineries,*
10 *blenders, and importers, as appro-*
11 *priate;*

12 “(II) *be expressed in terms of a*
13 *volume percentage of gasoline sold or*
14 *introduced into commerce in the*
15 *United States; and*

16 “(III) *subject to subparagraph*
17 *(C)(i), consist of a single applicable*
18 *percentage that applies to all categories*
19 *of persons specified in subclause (I).*

20 “(C) *ADJUSTMENTS.—In determining the*
21 *applicable percentage for a calendar year, the*
22 *Administrator shall make adjustments—*

23 “(i) *to prevent the imposition of redun-*
24 *dant obligations on any person specified in*
25 *subparagraph (B)(ii)(I); and*

1 “(ii) to account for the use of renew-
2 able fuel during the previous calendar year
3 by small refineries that are exempt under
4 paragraph (9).

5 “(4) CELLULOSIC BIOMASS ETHANOL.—For the
6 purpose of paragraph (2), 1 gallon of cellulosic bio-
7 mass ethanol shall be considered to be the equivalent
8 of 2.5 gallons of renewable fuel.

9 “(5) CREDIT PROGRAM.—

10 “(A) IN GENERAL.—The regulations pro-
11 mulgated under paragraph (2)(A) shall
12 provide—

13 “(i) for the generation of an appro-
14 priate amount of credits by any person that
15 refines, blends, or imports gasoline that con-
16 tains a quantity of renewable fuel that is
17 greater than the quantity required under
18 paragraph (2);

19 “(ii) for the generation of an appro-
20 priate amount of credits for biodiesel; and

21 “(iii) for the generation of credits by
22 small refineries in accordance with para-
23 graph (9)(C).

24 “(B) USE OF CREDITS.—A person that gen-
25 erates credits under subparagraph (A) may use

1 *the credits, or transfer all or a portion of the*
2 *credits to another person, for the purpose of com-*
3 *plying with paragraph (2).*

4 “(C) *DURATION OF CREDITS.*—*A credit gen-*
5 *erated under this paragraph shall be valid to*
6 *show compliance for the calendar year in which*
7 *the credit was generated.*

8 “(D) *INABILITY TO GENERATE OR PUR-*
9 *CHASE SUFFICIENT CREDITS.*—*The regulations*
10 *promulgated under paragraph (2)(A) shall in-*
11 *clude provisions allowing any person that is un-*
12 *able to generate or purchase sufficient credits to*
13 *meet the requirements of paragraph (2) to carry*
14 *forward a renewable fuel deficit on condition*
15 *that the person, in the calendar year following*
16 *the year in which the renewable fuel deficit is*
17 *created—*

18 “(i) *achieves compliance with the re-*
19 *newable fuel requirement under paragraph*
20 *(2); and*

21 “(ii) *generates or purchases additional*
22 *renewable fuel credits to offset the renewable*
23 *fuel deficit of the previous year.*

24 “(6) *SEASONAL VARIATIONS IN RENEWABLE*
25 *FUEL USE.*—

1 “(A) *STUDY.*—*For each of calendar years*
2 *2006 through 2012, the Administrator of the En-*
3 *ergy Information Administration shall conduct a*
4 *study of renewable fuel blending to determine*
5 *whether there are excessive seasonal variations in*
6 *the use of renewable fuel.*

7 “(B) *REGULATION OF EXCESSIVE SEASONAL*
8 *VARIATIONS.*—*If, for any calendar year, the Ad-*
9 *ministrator of the Energy Information Adminis-*
10 *tration, based on the study under subparagraph*
11 *(A), makes the determinations specified in sub-*
12 *paragraph (C), the Administrator of the Envi-*
13 *ronmental Protection Agency shall promulgate*
14 *regulations to ensure that 35 percent or more of*
15 *the quantity of renewable fuel necessary to meet*
16 *the requirements of paragraph (2) is used during*
17 *each of the 2 periods specified in subparagraph*
18 *(D) of each subsequent calendar year.*

19 “(C) *DETERMINATIONS.*—*The determina-*
20 *tions referred to in subparagraph (B) are that—*

21 “(i) *less than 35 percent of the quan-*
22 *tity of renewable fuel necessary to meet the*
23 *requirements of paragraph (2) has been*
24 *used during 1 of the 2 periods specified in*
25 *subparagraph (D) of the calendar year; and*

1 “(ii) a pattern of excessive seasonal
2 variation described in clause (i) will con-
3 tinue in subsequent calendar years.

4 “(D) PERIODS.—The 2 periods referred to
5 in this paragraph are—

6 “(i) April through September; and

7 “(ii) January through March and Oc-
8 tober through December.

9 “(E) EXCLUSION.—Renewable fuel blended
10 or consumed in calendar year 2006 in a State
11 that has received a waiver under section 209(b)
12 shall not be included in the study under sub-
13 paragraph (A).

14 “(F) STATE EXEMPTION FROM SEASONALITY
15 REQUIREMENTS.—Notwithstanding any other
16 provision of law, the seasonality requirement re-
17 lating to renewable fuel use established by this
18 paragraph shall not apply to any State that has
19 received a waiver under section 209(b).

20 “(7) WAIVERS.—

21 “(A) IN GENERAL.—The Administrator, in
22 consultation with the Secretary of Agriculture
23 and the Secretary of Energy, may waive the re-
24 quirements of paragraph (2) in whole or in part
25 on petition by 1 or more States by reducing the

1 *national quantity of renewable fuel required*
2 *under paragraph (2)—*

3 “(i) *based on a determination by the*
4 *Administrator, after public notice and op-*
5 *portunity for comment, that implementa-*
6 *tion of the requirement would severely harm*
7 *the economy or environment of a State, a*
8 *region, or the United States; or*

9 “(ii) *based on a determination by the*
10 *Administrator, after public notice and op-*
11 *portunity for comment, that there is an in-*
12 *adequate domestic supply.*

13 “(B) *PETITIONS FOR WAIVERS.—The Ad-*
14 *ministrator, in consultation with the Secretary*
15 *of Agriculture and the Secretary of Energy, shall*
16 *approve or disapprove a State petition for a*
17 *waiver of the requirements of paragraph (2)*
18 *within 90 days after the date on which the peti-*
19 *tion is received by the Administrator.*

20 “(C) *TERMINATION OF WAIVERS.—A waiver*
21 *granted under subparagraph (A) shall terminate*
22 *after 1 year, but may be renewed by the Admin-*
23 *istrator after consultation with the Secretary of*
24 *Agriculture and the Secretary of Energy.*

1 “(8) *STUDY AND WAIVER FOR INITIAL YEAR OF*
2 *PROGRAM.—*

3 “(A) *IN GENERAL.—Not later than 180*
4 *days after the date of enactment of this para-*
5 *graph, the Secretary of Energy shall conduct for*
6 *the Administrator a study assessing whether the*
7 *renewable fuel requirement under paragraph (2)*
8 *will likely result in significant adverse impacts*
9 *on consumers in 2006, on a national, regional,*
10 *or State basis.*

11 “(B) *REQUIRED EVALUATIONS.—The study*
12 *shall evaluate renewable fuel—*

13 “(i) *supplies and prices;*

14 “(ii) *blendstock supplies; and*

15 “(iii) *supply and distribution system*
16 *capabilities.*

17 “(C) *RECOMMENDATIONS BY THE SEC-*
18 *RETARY.—Based on the results of the study, the*
19 *Secretary of Energy shall make specific rec-*
20 *ommendations to the Administrator concerning*
21 *waiver of the requirements of paragraph (2), in*
22 *whole or in part, to prevent any adverse impacts*
23 *described in subparagraph (A).*

24 “(D) *WAIVER.—*

1 “(i) *IN GENERAL.*—Not later than 270
2 *days after the date of enactment of this*
3 *paragraph, the Administrator shall, if and*
4 *to the extent recommended by the Secretary*
5 *of Energy under subparagraph (C), waive,*
6 *in whole or in part, the renewable fuel re-*
7 *quirement under paragraph (2) by reducing*
8 *the national quantity of renewable fuel re-*
9 *quired under paragraph (2) in calendar*
10 *year 2006.*

11 “(ii) *NO EFFECT ON WAIVER AUTHOR-*
12 *ITY.*—*Clause (i) does not limit the author-*
13 *ity of the Administrator to waive the re-*
14 *quirements of paragraph (2) in whole, or in*
15 *part, under paragraph (7).*

16 “(9) *SMALL REFINERIES.*—

17 “(A) *TEMPORARY EXEMPTION.*—

18 “(i) *IN GENERAL.*—*The requirements*
19 *of paragraph (2) shall not apply to small*
20 *refineries until calendar year 2011.*

21 “(ii) *EXTENSION OF EXEMPTION.*—

22 “(I) *STUDY BY SECRETARY OF*
23 *ENERGY.*—*Not later than December 31,*
24 *2008, the Secretary of Energy shall*
25 *conduct for the Administrator a study*

1 to determine whether compliance with
2 the requirements of paragraph (2)
3 would impose a disproportionate eco-
4 nomic hardship on small refineries.

5 “(II) *EXTENSION OF EXEMP-*
6 *TION.—In the case of a small refinery*
7 *that the Secretary of Energy deter-*
8 *mines under subclause (I) would be*
9 *subject to a disproportionate economic*
10 *hardship if required to comply with*
11 *paragraph (2), the Administrator shall*
12 *extend the exemption under clause (i)*
13 *for the small refinery for a period of*
14 *not less than 2 additional years.*

15 “(B) *PETITIONS BASED ON DISPROPOR-*
16 *TIONATE ECONOMIC HARDSHIP.—*

17 “(i) *EXTENSION OF EXEMPTION.—A*
18 *small refinery may at any time petition the*
19 *Administrator for an extension of the ex-*
20 *emption under subparagraph (A) for the*
21 *reason of disproportionate economic hard-*
22 *ship.*

23 “(ii) *EVALUATION OF PETITIONS.—In*
24 *evaluating a petition under clause (i), the*
25 *Administrator, in consultation with the*

1 *Secretary of Energy, shall consider the find-*
2 *ings of the study under subparagraph*
3 *(A)(ii) and other economic factors.*

4 *“(iii) DEADLINE FOR ACTION ON PETI-*
5 *TIONS.—The Administrator shall act on*
6 *any petition submitted by a small refinery*
7 *for a hardship exemption not later than 90*
8 *days after the date of receipt of the petition.*

9 *“(C) CREDIT PROGRAM.—If a small refin-*
10 *ery notifies the Administrator that the small re-*
11 *finery waives the exemption under subparagraph*
12 *(A), the regulations promulgated under para-*
13 *graph (2)(A) shall provide for the generation of*
14 *credits by the small refinery under paragraph*
15 *(5) beginning in the calendar year following the*
16 *date of notification.*

17 *“(D) OPT-IN FOR SMALL REFINERIES.—A*
18 *small refinery shall be subject to the require-*
19 *ments of paragraph (2) if the small refinery no-*
20 *tifies the Administrator that the small refinery*
21 *waives the exemption under subparagraph (A).*

22 *“(10) ETHANOL MARKET CONCENTRATION ANAL-*
23 *YSIS.—*

24 *“(A) ANALYSIS.—*

1 “(i) *IN GENERAL.*—Not later than 180
2 days after the date of enactment of this
3 paragraph, and annually thereafter, the
4 Federal Trade Commission shall perform a
5 market concentration analysis of the ethanol
6 production industry using the Herfindahl-
7 Hirschman Index to determine whether
8 there is sufficient competition among indus-
9 try participants to avoid price-setting and
10 other anticompetitive behavior.

11 “(ii) *SCORING.*—For the purpose of
12 scoring under clause (i) using the
13 Herfindahl-Hirschman Index, all marketing
14 arrangements among industry participants
15 shall be considered.

16 “(B) *REPORT.*—Not later than December 1,
17 2005, and annually thereafter, the Federal Trade
18 Commission shall submit to Congress and the
19 Administrator a report on the results of the mar-
20 ket concentration analysis performed under sub-
21 paragraph (A)(i).

22 “(p) *RENEWABLE FUEL SAFE HARBOR.*—

23 “(1) *IN GENERAL.*—

24 “(A) *SAFE HARBOR.*—Notwithstanding any
25 other provision of Federal or State law, no re-

1 newable fuel (as defined in subsection (o)(1))
2 used or intended to be used as a motor vehicle
3 fuel, nor any motor vehicle fuel containing re-
4 newable fuel, shall be deemed to be defective in
5 design or manufacture by reason of the fact that
6 the fuel is, or contains, renewable fuel, if—

7 “(i) the fuel does not violate a control
8 or prohibition imposed by the Adminis-
9 trator under this section; and

10 “(ii) the manufacturer of the fuel is in
11 compliance with all requests for information
12 under subsection (b).

13 “(B) *SAFE HARBOR NOT APPLICABLE.*—In
14 any case in which subparagraph (A) does not
15 apply to a quantity of fuel, the existence of a de-
16 sign defect or manufacturing defect with respect
17 to the fuel shall be determined under otherwise
18 applicable law.

19 “(2) *EXCEPTION.*—This subsection does not
20 apply to ethers.

21 “(3) *APPLICABILITY.*—This subsection applies
22 with respect to all claims filed on or after the date
23 of enactment of this subsection.”.

24 (b) *PENALTIES AND ENFORCEMENT.*—Section 211(d)
25 of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

1 (1) *in paragraph (1)—*

2 (A) *in the first sentence, by striking “or*
3 *(n)” each place it appears and inserting “(n), or*
4 *(o)”;* and

5 (B) *in the second sentence, by striking “or*
6 *(m)” and inserting “(m), or (o)”;* and

7 (2) *in the first sentence of paragraph (2), by*
8 *striking “and (n)” each place it appears and insert-*
9 *ing “(n), and (o)”.*

10 (c) *EXCLUSION FROM ETHANOL WAIVER.—Section*
11 *211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is*
12 *amended—*

13 (1) *by redesignating paragraph (5) as para-*
14 *graph (6); and*

15 (2) *by inserting after paragraph (4) the fol-*
16 *lowing:*

17 “(5) *EXCLUSION FROM ETHANOL WAIVER.—*

18 “(A) *PROMULGATION OF REGULATIONS.—*

19 *Upon notification, accompanied by supporting*
20 *documentation, from the Governor of a State*
21 *that the Reid vapor pressure limitation estab-*
22 *lished by paragraph (4) will increase emissions*
23 *that contribute to air pollution in any area in*
24 *the State, the Administrator shall, by regulation,*
25 *apply, in lieu of the Reid vapor pressure limita-*

1 tion established by paragraph (4), the Reid
2 vapor pressure limitation established by para-
3 graph (1) to all fuel blends containing gasoline
4 and 10 percent denatured anhydrous ethanol
5 that are sold, offered for sale, dispensed, sup-
6 plied, offered for supply, transported, or intro-
7 duced into commerce in the area during the high
8 ozone season.

9 “(B) *DEADLINE FOR PROMULGATION.*—The
10 Administrator shall promulgate regulations
11 under subparagraph (A) not later than 90 days
12 after the date of receipt of a notification from a
13 Governor under that subparagraph.

14 “(C) *EFFECTIVE DATE.*—

15 “(i) *IN GENERAL.*—With respect to an
16 area in a State for which the Governor sub-
17 mits a notification under subparagraph
18 (A), the regulations under that subpara-
19 graph shall take effect on the later of—

20 “(I) the first day of the first high
21 ozone season for the area that begins
22 after the date of receipt of the notifica-
23 tion; or

24 “(II) 1 year after the date of re-
25 ceipt of the notification.

1 “(i) *EXTENSION OF EFFECTIVE DATE*
2 *BASED ON DETERMINATION OF INSUFFI-*
3 *CIENT SUPPLY.—*

4 “(I) *IN GENERAL.—If, after re-*
5 *ceipt of a notification with respect to*
6 *an area from a Governor of a State*
7 *under subparagraph (A), the Adminis-*
8 *trator determines, on the Administra-*
9 *tor’s own motion or on petition of any*
10 *person and after consultation with the*
11 *Secretary of Energy, that the promul-*
12 *gation of regulations described in sub-*
13 *paragraph (A) would result in an in-*
14 *sufficient supply of gasoline in the*
15 *State, the Administrator, by*
16 *regulation—*

17 “(aa) *shall extend the effec-*
18 *tive date of the regulations under*
19 *clause (i) with respect to the area*
20 *for not more than 1 year; and*

21 “(bb) *may renew the exten-*
22 *sion under item (aa) for 2 addi-*
23 *tional periods, each of which shall*
24 *not exceed 1 year.*

1 “(II) *DEADLINE FOR ACTION ON*
2 *PETITIONS.—The Administrator shall*
3 *act on any petition submitted under*
4 *subclause (I) not later than 180 days*
5 *after the date of receipt of the peti-*
6 *tion.”.*

7 **SEC. 212. RENEWABLE FUEL.**

8 (a) *IN GENERAL.—The Clean Air Act is amended by*
9 *inserting after section 211 (42 U.S.C. 7411) the following:*

10 **“SEC. 212. RENEWABLE FUEL.**

11 “(a) *DEFINITIONS.—In this section:*

12 “(1) *MUNICIPAL SOLID WASTE.—The term ‘mu-*
13 *nicipal solid waste’ has the meaning given the term*
14 *‘solid waste’ in section 1004 of the Solid Waste Dis-*
15 *posal Act (42 U.S.C. 6903).*

16 “(2) *RFG STATE.—The term ‘RFG State’ means*
17 *a State in which is located 1 or more covered areas*
18 *(as defined in section 211(k)(10)(D)).*

19 “(3) *SECRETARY.—The term ‘Secretary’ means*
20 *the Secretary of Energy.*

21 “(b) *SURVEY OF RENEWABLE FUEL MARKET.—*

22 “(1) *SURVEY AND REPORT.—Not later than De-*
23 *cember 1, 2006, and annually thereafter, the Admin-*
24 *istrator shall—*

1 “(A) conduct, with respect to each conven-
2 tional gasoline use area and each reformulated
3 gasoline use area in each State, a survey to de-
4 termine the market shares of—

5 “(i) conventional gasoline containing
6 ethanol;

7 “(ii) reformulated gasoline containing
8 ethanol;

9 “(iii) conventional gasoline containing
10 renewable fuel; and

11 “(iv) reformulated gasoline containing
12 renewable fuel; and

13 “(B) submit to Congress, and make publicly
14 available, a report on the results of the survey
15 under subparagraph (A).

16 “(2) *RECORDKEEPING AND REPORTING REQUIRE-*
17 *MENTS.—*

18 “(A) *IN GENERAL.—*The Administrator
19 may require any refiner, blender, or importer to
20 keep such records and make such reports as are
21 necessary to ensure that the survey conducted
22 under paragraph (1) is accurate.

23 “(B) *RELIANCE ON EXISTING REQUIRE-*
24 *MENTS.—*To avoid duplicative requirements, in
25 carrying out subparagraph (A), the Adminis-

1 *trator shall rely, to the maximum extent prac-*
2 *ticable, on reporting and recordkeeping require-*
3 *ments in effect on the date of enactment of this*
4 *section.*

5 “(3) *CONFIDENTIALITY.*—*Activities carried out*
6 *under this subsection shall be conducted in a manner*
7 *designed to protect confidentiality of individual re-*
8 *sponses.*

9 “(c) *CELLULOSIC BIOMASS ETHANOL AND MUNICIPAL*
10 *SOLID WASTE LOAN GUARANTEE PROGRAM.*—

11 “(1) *IN GENERAL.*—*Funds may be provided for*
12 *the cost (as defined in the Federal Credit Reform Act*
13 *of 1990 (2 U.S.C. 661 et seq.)) of loan guarantees*
14 *issued under title XIV of the Energy Policy Act of*
15 *2005 to carry out commercial demonstration projects*
16 *for cellulosic biomass and sucrose-derived ethanol.*

17 “(2) *DEMONSTRATION PROJECTS.*—

18 “(A) *IN GENERAL.*—*The Secretary shall*
19 *issue loan guarantees under this section to carry*
20 *out not more than 4 projects to commercially*
21 *demonstrate the feasibility and viability of pro-*
22 *ducing cellulosic biomass ethanol or sucrose-de-*
23 *derived ethanol, including at least 1 project that*
24 *uses cereal straw as a feedstock and 1 project*
25 *that uses municipal solid waste as a feedstock.*

1 “(B) *DESIGN CAPACITY.*—*Each project shall*
2 *have a design capacity to produce at least*
3 *30,000,000 gallons of cellulosic biomass ethanol*
4 *each year.*

5 “(3) *APPLICANT ASSURANCES.*—*An applicant for*
6 *a loan guarantee under this section shall provide as-*
7 *surances, satisfactory to the Secretary, that—*

8 “(A) *the project design has been validated*
9 *through the operation of a continuous process fa-*
10 *ility with a cumulative output of at least*
11 *50,000 gallons of ethanol;*

12 “(B) *the project has been subject to a full*
13 *technical review;*

14 “(C) *the project is covered by adequate*
15 *project performance guarantees;*

16 “(D) *the project, with the loan guarantee, is*
17 *economically viable; and*

18 “(E) *there is a reasonable assurance of re-*
19 *payment of the guaranteed loan.*

20 “(4) *LIMITATIONS.*—

21 “(A) *MAXIMUM GUARANTEE.*—*Except as*
22 *provided in subparagraph (B), a loan guarantee*
23 *under this section may be issued for up to 80*
24 *percent of the estimated cost of a project, but*
25 *may not exceed \$250,000,000 for a project.*

1 “(B) *ADDITIONAL GUARANTEES.*—

2 “(i) *IN GENERAL.*—*The Secretary may*
3 *issue additional loan guarantees for a*
4 *project to cover up to 80 percent of the ex-*
5 *cess of actual project cost over estimated*
6 *project cost but not to exceed 15 percent of*
7 *the amount of the original guarantee.*

8 “(ii) *PRINCIPAL AND INTEREST.*—*Sub-*
9 *ject to subparagraph (A), the Secretary*
10 *shall guarantee 100 percent of the principal*
11 *and interest of a loan made under subpara-*
12 *graph (A).*

13 “(5) *EQUITY CONTRIBUTIONS.*—*To be eligible for*
14 *a loan guarantee under this section, an applicant for*
15 *the loan guarantee shall have binding commitments*
16 *from equity investors to provide an initial equity con-*
17 *tribution of at least 20 percent of the total project*
18 *cost.*

19 “(6) *INSUFFICIENT AMOUNTS.*—*If the amount*
20 *made available to carry out this section is insufficient*
21 *to allow the Secretary to make loan guarantees for 3*
22 *projects described in subsection (b), the Secretary*
23 *shall issue loan guarantees for 1 or more qualifying*
24 *projects under this section in the order in which the*

1 *applications for the projects are received by the Sec-*
2 *retary.*

3 “(7) *APPROVAL.*—*An application for a loan*
4 *guarantee under this section shall be approved or dis-*
5 *approved by the Secretary not later than 90 days*
6 *after the application is received by the Secretary.*

7 “(d) *AUTHORIZATION OF APPROPRIATIONS FOR RE-*
8 *SOURCE CENTER.*—*There is authorized to be appropriated,*
9 *for a resource center to further develop bioconversion tech-*
10 *nology using low-cost biomass for the production of ethanol*
11 *at the Center for Biomass-Based Energy at the Mississippi*
12 *State University and the Oklahoma State University,*
13 *\$4,000,000 for each of fiscal years 2005 through 2007.*

14 “(e) *RENEWABLE FUEL PRODUCTION RESEARCH AND*
15 *DEVELOPMENT GRANTS.*—

16 “(1) *IN GENERAL.*—*The Administrator shall pro-*
17 *vide grants for the research into, and development*
18 *and implementation of, renewable fuel production*
19 *technologies in RFG States with low rates of ethanol*
20 *production, including low rates of production of cel-*
21 *lulosic biomass ethanol.*

22 “(2) *ELIGIBILITY.*—

23 “(A) *IN GENERAL.*—*The entities eligible to*
24 *receive a grant under this subsection are aca-*
25 *demically institutions in RFG States, and consortia*

1 *made up of combinations of academic institu-*
2 *tions, industry, State government agencies, or*
3 *local government agencies in RFG States, that*
4 *have proven experience and capabilities with rel-*
5 *evant technologies.*

6 “(B) *APPLICATION.*—*To be eligible to re-*
7 *ceive a grant under this subsection, an eligible*
8 *entity shall submit to the Administrator an ap-*
9 *plication in such manner and form, and accom-*
10 *panied by such information, as the Adminis-*
11 *trator may specify.*

12 “(3) *AUTHORIZATION OF APPROPRIATIONS.*—
13 *There is authorized to be appropriated to carry out*
14 *this subsection \$25,000,000 for each of fiscal years*
15 *2006 through 2010.*

16 “(f) *CELLULOSIC BIOMASS ETHANOL CONVERSION AS-*
17 *SISTANCE.*—

18 “(1) *IN GENERAL.*—*The Secretary may provide*
19 *grants to merchant producers of cellulosic biomass*
20 *ethanol in the United States to assist the producers*
21 *in building eligible production facilities described in*
22 *paragraph (2) for the production of cellulosic biomass*
23 *ethanol.*

1 “(2) *ELIGIBLE PRODUCTION FACILITIES.*—A pro-
2 duction facility shall be eligible to receive a grant
3 under this subsection if the production facility—

4 “(A) is located in the United States; and

5 “(B) uses cellulosic biomass feedstocks de-
6 rived from agricultural residues or municipal
7 solid waste.

8 “(3) *AUTHORIZATION OF APPROPRIATIONS.*—
9 There is authorized to be appropriated to carry out
10 this subsection—

11 “(A) \$250,000,000 for fiscal year 2005; and

12 “(B) \$400,000,000 for fiscal year 2006.”.

13 (b) *CONFORMING AMENDMENT.*—The table of contents
14 for the Clean Air Act (42 U.S.C. 7401 prec.) is amended
15 by inserting after the item relating to section 211 the fol-
16 lowing:

 “Sec. 212. Renewable fuels”.

17 **SEC. 213. SURVEY OF RENEWABLE FUELS CONSUMPTION.**

18 Section 205 of the Department of Energy Organization
19 Act (42 U.S.C. 7135) is amended by adding at the end the
20 following:

21 “(m) *SURVEY OF RENEWABLE FUELS CONSUMP-*
22 *TION.*—

23 “(1) *IN GENERAL.*—In order to improve the abil-
24 ity to evaluate the effectiveness of the Nation’s renew-
25 able fuels mandate, the Administrator shall conduct

1 *and publish the results of a survey of renewable fuels*
2 *consumption in the motor vehicle fuels market in the*
3 *United States monthly, and in a manner designed to*
4 *protect the confidentiality of individual responses.*

5 “(2) *ELEMENTS OF SURVEY.—In conducting the*
6 *survey, the Administrator shall collect information*
7 *retrospectively to 1998, on a national basis and a re-*
8 *gional basis, including—*

9 “(A) *the quantity of renewable fuels pro-*
10 *duced;*

11 “(B) *the cost of production;*

12 “(C) *the cost of blending and marketing;*

13 “(D) *the quantity of renewable fuels blend-*
14 *ed;*

15 “(E) *the quantity of renewable fuels im-*
16 *ported; and*

17 “(F) *market price data.”.*

18 ***Subtitle C—Federal Reformulated*** 19 ***Fuels***

20 ***SEC. 221. SHORT TITLE.***

21 *This subtitle may be cited as the “Federal Reformu-*
22 *lated Fuels Act of 2005”.*

23 ***SEC. 222. LEAKING UNDERGROUND STORAGE TANKS.***

24 *(a) USE OF LUST FUNDS FOR REMEDIATION OF CON-*
25 *TAMINATION FROM ETHER FUEL ADDITIVES.—Section*

1 9003(h) of the Solid Waste Disposal Act (42 U.S.C.
2 6991b(h)) is amended—

3 (1) in paragraph (7)(A)—

4 (A) by striking “paragraphs (1) and (2) of
5 this subsection” and inserting “paragraphs (1),
6 (2), and (12)”; and

7 (B) by inserting “and section 9010” before
8 “if”; and

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

10 “(12) *REMEDICATION OF CONTAMINATION FROM*
11 *ETHER FUEL ADDITIVES.*—

12 “(A) *IN GENERAL.*—*The Administrator and*
13 *the States may use funds made available under*
14 *section 9013(1) to carry out corrective actions*
15 *with respect to a release of methyl tertiary butyl*
16 *ether or other ether fuel additive that presents a*
17 *threat to human health, welfare, or the environ-*
18 *ment.*

19 “(B) *APPLICABLE AUTHORITY.*—*Subpara-*
20 *graph (A) shall be carried out—*

21 “(i) *in accordance with paragraph (2),*
22 *except that a release with respect to which*
23 *a corrective action is carried out under sub-*
24 *paragraph (A) shall not be required to be*
25 *from an underground storage tank; and*

1 “(ii) in the case of a State, in accord-
2 ance with a cooperative agreement entered
3 into by the Administrator and the State
4 under paragraph (7).”.

5 (b) *RELEASE PREVENTION AND COMPLIANCE.*—Sub-
6 title I of the Solid Waste Disposal Act (42 U.S.C. 6991 et
7 seq.) is amended by striking section 9010 and inserting the
8 following:

9 “**SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.**

10 “Funds made available under section 9013(2) from the
11 Leaking Underground Storage Tank Trust Fund may be
12 used for conducting inspections, or for issuing orders or
13 bringing actions under this subtitle—

14 “(1) by a State (pursuant to section 9003(h)(7))
15 acting under—

16 “(A) a program approved under section
17 9004; or

18 “(B) State requirements regulating under-
19 ground storage tanks that are similar or iden-
20 tical to this subtitle, as determined by the Ad-
21 ministrator; and

22 “(2) by the Administrator, acting under this
23 subtitle or a State program approved under section
24 9004.

1 **“SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.**

2 *“In addition to amounts made available under section*
3 *2007(f), there are authorized to be appropriated from the*
4 *Leaking Underground Storage Tank Trust Fund, notwith-*
5 *standing section 9508(c)(1) of the Internal Revenue Code*
6 *of 1986—*

7 *“(1) to carry out section 9003(h)(12),*
8 *\$200,000,000 for fiscal year 2005, to remain available*
9 *until expended; and*

10 *“(2) to carry out section 9010—*

11 *“(A) \$50,000,000 for fiscal year 2005; and*

12 *“(B) \$30,000,000 for fiscal years 2006*
13 *through 2010.”.*

14 (c) *TECHNICAL AMENDMENTS.—*

15 (1) *Section 1001 of the Solid Waste Disposal Act*
16 *(42 U.S.C. prec. 6901) is amended by striking the*
17 *item relating to section 9010 and inserting the fol-*
18 *lowing:*

“Sec. 9010. Release prevention and compliance.

“Sec. 9011. Authorization of appropriations.”.

19 (2) *Section 9001(3)(A) of the Solid Waste Dis-*
20 *posal Act (42 U.S.C. 6991(3)(A)) is amended by*
21 *striking “sustances” and inserting “substances”.*

22 (3) *Section 9003(f)(1) of the Solid Waste Dis-*
23 *posal Act (42 U.S.C. 6991b(f)(1)) is amended by*
24 *striking “subsection (c) and (d) of this section” and*
25 *inserting “subsections (c) and (d)”.*

1 (4) *Section 9004(a) of the Solid Waste Disposal*
2 *Act (42 U.S.C. 6991c(a)) is amended in the second*
3 *sentence by striking “referred to” and all that follows*
4 *and inserting “referred to in subparagraph (A) or*
5 *(B), or both, of section 9001(2).”.*

6 (5) *Section 9005 of the Solid Waste Disposal Act*
7 *(42 U.S.C. 6991d) is amended—*

8 (A) *in subsection (a), by striking “study*
9 *taking” and inserting “study, taking”;*

10 (B) *in subsection (b)(1), by striking*
11 *“relevent” and inserting “relevant”; and*

12 (C) *in subsection (b)(4), by striking*
13 *“Evironmental” and inserting “Environmental”.*

14 **SEC. 223. RESTRICTIONS ON THE USE OF MTBE.**

15 (a) *FINDINGS.—Congress finds that—*

16 (1) *since 1979, methyl tertiary butyl ether (re-*
17 *ferred to in this section as “MTBE”) has been used*
18 *nationwide at low levels in gasoline to replace lead as*
19 *an octane booster or anti-knocking agent;*

20 (2) *Public Law 101–549 (commonly known as*
21 *the “Clean Air Act Amendments of 1990”) (42 U.S.C.*
22 *7401 et seq.) established a fuel oxygenate standard*
23 *under which reformulated gasoline must contain at*
24 *least 2 percent oxygen by weight;*

1 (3) *at the time of the adoption of the fuel oxygen-*
2 *ate standard, Congress was aware that—*

3 (A) *increased use of MTBE could result*
4 *from the adoption of that standard; and*

5 (B) *the use of MTBE would likely be needed*
6 *to implement that standard;*

7 (4) *Congress is aware that gasoline and its com-*
8 *ponent additives have leaked from storage tanks, with*
9 *consequences for water quality;*

10 (5) *the fuel industry responded to the fuel oxy-*
11 *genate standard established by Public Law 101–549*
12 *by making substantial investments in—*

13 (A) *MTBE production capacity; and*

14 (B) *systems to deliver MTBE-containing*
15 *gasoline to the marketplace;*

16 (6) *when leaked or spilled into the environment,*
17 *MTBE may cause serious problems of drinking water*
18 *quality;*

19 (7) *in recent years, MTBE has been detected in*
20 *water sources throughout the United States;*

21 (8) *MTBE can be detected by smell and taste at*
22 *low concentrations;*

23 (9) *while small quantities of MTBE can render*
24 *water supplies unpalatable, the precise human health*

1 *effects of MTBE consumption at low levels are yet un-*
2 *known as of the date of enactment of this Act;*

3 *(10) in the report entitled “Achieving Clean Air*
4 *and Clean Water: The Report of the Blue Ribbon*
5 *Panel on Oxygenates in Gasoline” and dated Sep-*
6 *tember 1999, Congress was urged—*

7 *(A) to eliminate the fuel oxygenate stand-*
8 *ard;*

9 *(B) to greatly reduce use of MTBE; and*

10 *(C) to maintain the environmental perform-*
11 *ance of reformulated gasoline;*

12 *(11) Congress has—*

13 *(A) reconsidered the relative value of MTBE*
14 *in gasoline; and*

15 *(B) decided to eliminate use of MTBE as a*
16 *fuel additive;*

17 *(12) the timeline for elimination of use of MTBE*
18 *as a fuel additive must be established in a manner*
19 *that achieves an appropriate balance among the goals*
20 *of—*

21 *(A) environmental protection;*

22 *(B) adequate energy supply; and*

23 *(C) reasonable fuel prices; and*

24 *(13) it is appropriate for Congress to provide*
25 *some limited transition assistance—*

1 (A) to merchant producers of *MTBE* who
2 produced *MTBE* in response to a market created
3 by the oxygenate requirement contained in the
4 Clean Air Act (42 U.S.C. 7401 et seq.); and

5 (B) for the purpose of mitigating any fuel
6 supply problems that may result from elimi-
7 nation of a widely-used fuel additive.

8 (b) *PURPOSES.*—The purposes of this section are—

9 (1) to eliminate use of *MTBE* as a fuel oxygen-
10 ate; and

11 (2) to provide assistance to merchant producers
12 of *MTBE* in making the transition from producing
13 *MTBE* to producing other fuel additives.

14 (c) *AUTHORITY FOR WATER QUALITY PROTECTION*
15 *FROM FUELS.*—Section 211(c) of the Clean Air Act (42
16 U.S.C. 7545(c)) is amended—

17 (1) in paragraph (1)(A)—

18 (A) by inserting “fuel or fuel additive or”
19 after “Administrator any”; and

20 (B) by striking “air pollution which” and
21 inserting “air pollution, or water pollution,
22 that”;

23 (2) in paragraph (4)(B), by inserting “or water
24 quality protection,” after “emission control,”; and

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

1 “(5) *RESTRICTIONS ON USE OF MTBE.*—

2 “(A) *IN GENERAL.*—Subject to subpara-
3 graph (E), not later than 4 years after the date
4 of enactment of this paragraph, the use of methyl
5 tertiary butyl ether in motor vehicle fuel in any
6 State other than a State described in subpara-
7 graph (C) is prohibited.

8 “(B) *REGULATIONS.*—The Administrator
9 shall promulgate regulations to effect the prohibi-
10 tion in subparagraph (A).

11 “(C) *STATES THAT AUTHORIZE USE.*—A
12 State described in this subparagraph is a State
13 that submits to the Administrator a notice that
14 the State authorizes use of methyl tertiary butyl
15 ether in motor vehicle fuel sold or used in the
16 State.

17 “(D) *PUBLICATION OF NOTICE.*—The Ad-
18 ministrator shall publish in the Federal Register
19 each notice submitted by a State under subpara-
20 graph (C).

21 “(E) *TRACE QUANTITIES.*—In carrying out
22 subparagraph (A), the Administrator may allow
23 trace quantities of methyl tertiary butyl ether,
24 not to exceed 0.5 percent by volume, to be present

1 *in motor vehicle fuel in cases that the Adminis-*
2 *trator determines to be appropriate.*

3 “(6) *MTBE MERCHANT PRODUCER CONVERSION*
4 *ASSISTANCE.*—

5 “(A) *IN GENERAL.*—

6 “(i) *GRANTS.*—*The Secretary of En-*
7 *ergy, in consultation with the Adminis-*
8 *trator, may make grants to merchant pro-*
9 *ducers of methyl tertiary butyl ether in the*
10 *United States to assist the producers in the*
11 *conversion of eligible production facilities*
12 *described in subparagraph (C) to the pro-*
13 *duction of—*

14 “(I) *iso-octane or alkylates, unless*
15 *the Administrator, in consultation*
16 *with the Secretary of Energy, deter-*
17 *mines that transition assistance for the*
18 *production of iso-octane or alkylates is*
19 *inconsistent with the criteria specified*
20 *in subparagraph (B); and*

21 “(II) *any other fuel additive that*
22 *meets the criteria specified in subpara-*
23 *graph (B).*

24 “(B) *CRITERIA.*—*The criteria referred to in*
25 *subparagraph (A) are that—*

1 “(i) use of the fuel additive is con-
2 sistent with this subsection;

3 “(ii) the Administrator has not deter-
4 mined that the fuel additive may reasonably
5 be anticipated to endanger public health or
6 the environment;

7 “(iii) the fuel additive has been reg-
8 istered and tested, or is being tested, in ac-
9 cordance with the requirements of this sec-
10 tion; and

11 “(iv) the fuel additive will contribute
12 to replacing quantities of motor vehicle fuel
13 rendered unavailable as a result of para-
14 graph (5).

15 “(C) *ELIGIBLE PRODUCTION FACILITIES.*—
16 A production facility shall be eligible to receive
17 a grant under this paragraph if the production
18 facility—

19 “(i) is located in the United States;
20 and

21 “(ii) produced methyl tertiary butyl
22 ether for consumption in nonattainment
23 areas during the period—

24 “(I) beginning on the date of en-
25 actment of this paragraph; and

1 “(II) ending on the effective date
2 of the prohibition on the use of methyl
3 tertiary butyl ether under paragraph
4 (5).

5 “(D) AUTHORIZATION OF APPROPRIA-
6 TIONS.—There is authorized to be appropriated
7 to carry out this paragraph \$250,000,000 for
8 each of fiscal years 2005 through 2008.”.

9 (d) NO EFFECT ON LAW CONCERNING STATE AUTHOR-
10 ITY.—The amendments made by subsection (c) have no ef-
11 fect on any law enacted or in effect before the date of enact-
12 ment of this Act concerning the authority of States to limit
13 the use of methyl tertiary butyl ether in motor vehicle fuel.

14 **SEC. 224. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
15 **MENT FOR REFORMULATED GASOLINE.**

16 (a) ELIMINATION.—

17 (1) IN GENERAL.—Section 211(k) of the Clean
18 Air Act (42 U.S.C. 7545(k)) is amended—

19 (A) in paragraph (2)—

20 (i) in the second sentence of subpara-
21 graph (A), by striking “(including the oxy-
22 gen content requirement contained in sub-
23 paragraph (B))”;

24 (ii) by striking subparagraph (B); and

1 (iii) by redesignating subparagraphs
2 (C) and (D) as subparagraphs (B) and (C),
3 respectively;

4 (B) in paragraph (3)(A), by striking clause
5 (v); and

6 (C) in paragraph (7)—

7 (i) in subparagraph (A)—

8 (I) by striking clause (i); and

9 (II) by redesignating clauses (ii)
10 and (iii) as clauses (i) and (ii), respec-
11 tively; and

12 (ii) in subparagraph (C)—

13 (I) by striking clause (ii); and

14 (II) by redesignating clause (iii)
15 as clause (ii).

16 (2) *APPLICABILITY.*—The amendments made by
17 paragraph (1) apply—

18 (A) in the case of a State that has received
19 a waiver under section 209(b) of the Clean Air
20 Act (42 U.S.C. 7543(b)), beginning on the date
21 of enactment of this Act; and

22 (B) in the case of any other State, begin-
23 ning 270 days after the date of enactment of this
24 Act.

1 (b) *MAINTENANCE OF TOXIC AIR POLLUTANT EMIS-*
2 *SION REDUCTIONS.*—Section 211(k)(1) of the Clean Air Act
3 (42 U.S.C. 7545(k)(1)) is amended—

4 (1) by striking “Within 1 year after the enact-
5 ment of the Clean Air Act Amendments of 1990,” and
6 inserting the following:

7 “(A) *IN GENERAL.*—Not later than Novem-
8 ber 15, 1991,”; and

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

10 “(B) *MAINTENANCE OF TOXIC AIR POLLUT-*
11 *ANT EMISSIONS REDUCTIONS FROM REFORMU-*
12 *LATED GASOLINE.*—

13 “(i) *DEFINITION OF PADD.*—In this
14 subparagraph the term ‘PADD’ means a
15 Petroleum Administration for Defense Dis-
16 trict.

17 “(ii) *REGULATIONS CONCERNING EMIS-*
18 *SIONS OF TOXIC AIR POLLUTANTS.*—Not
19 later than 270 days after the date of enact-
20 ment of this subparagraph, the Adminis-
21 trator shall establish by regulation, for each
22 refinery or importer (other than a refiner or
23 importer in a State that has received a
24 waiver under section 209(b) with respect to
25 gasoline produced for use in that State),

1 standards for toxic air pollutants from use
2 of the reformulated gasoline produced or
3 distributed by the refiner or importer that
4 maintain the reduction of the average an-
5 nual aggregate emissions of toxic air pollut-
6 ants for reformulated gasoline produced or
7 distributed by the refiner or importer dur-
8 ing calendar years 2001 and 2002 (as deter-
9 mined on the basis of data collected by the
10 Administrator with respect to the refiner or
11 importer).

12 “(iii) STANDARDS APPLICABLE TO SPE-
13 CIFIC REFINERIES OR IMPORTERS.—

14 “(I) APPLICABILITY OF STAND-
15 ARDS.—For any calendar year, the
16 standards applicable to a refiner or
17 importer under clause (ii) shall apply
18 to the quantity of gasoline produced or
19 distributed by the refiner or importer
20 in the calendar year only to the extent
21 that the quantity is less than or equal
22 to the average annual quantity of re-
23 formulated gasoline produced or dis-
24 tributed by the refiner or importer
25 during calendar years 2001 and 2002.

1 “(II) *APPLICABILITY OF OTHER*
2 *STANDARDS.*—*For any calendar year,*
3 *the quantity of gasoline produced or*
4 *distributed by a refiner or importer*
5 *that is in excess of the quantity subject*
6 *to subclause (I) shall be subject to*
7 *standards for emissions of toxic air*
8 *pollutants promulgated under subpara-*
9 *graph (A) and paragraph (3)(B).*

10 “(iv) *CREDIT PROGRAM.*—*The Admin-*
11 *istrator shall provide for the granting and*
12 *use of credits for emissions of toxic air pol-*
13 *lutants in the same manner as provided in*
14 *paragraph (7).*

15 “(v) *REGIONAL PROTECTION OF TOXICS*
16 *REDUCTION BASELINES.*—

17 “(I) *IN GENERAL.*—*Not later than*
18 *60 days after the date of enactment of*
19 *this subparagraph, and not later than*
20 *April 1 of each calendar year that be-*
21 *gins after that date of enactment, the*
22 *Administrator shall publish in the*
23 *Federal Register a report that specifies,*
24 *with respect to the previous calendar*
25 *year—*

1 “(aa) the quantity of reformulated gasoline produced that is
2 in excess of the average annual
3 quantity of reformulated gasoline
4 produced in 2001 and 2002; and

5 “(bb) the reduction of the average annual aggregate emissions
6 of toxic air pollutants in each
7 PADD, based on retail survey
8 data or data from other appropriate sources.
9

10 “(II) *EFFECT OF FAILURE TO*
11 *MAINTAIN AGGREGATE TOXICS REDUC-*
12 *TIONS.—If, in any calendar year, the*
13 *reduction of the average annual aggregate*
14 *emissions of toxic air pollutants*
15 *in a PADD fails to meet or exceed the*
16 *reduction of the average annual aggregate*
17 *emissions of toxic air pollutants*
18 *in the PADD in calendar years 2001*
19 *and 2002, the Administrator, not later*
20 *than 90 days after the date of publica-*
21 *tion of the report for the calendar year*
22 *under subclause (I), shall—*
23
24

1 “(aa) identify, to the max-
2 imum extent practicable, the rea-
3 sons for the failure, including the
4 sources, volumes, and characteris-
5 tics of reformulated gasoline that
6 contributed to the failure; and

7 “(bb) promulgate revisions to
8 the regulations promulgated under
9 clause (ii), to take effect not ear-
10 lier than 180 days but not later
11 than 270 days after the date of
12 promulgation, to provide that,
13 notwithstanding clause (iii)(II),
14 all reformulated gasoline produced
15 or distributed at each refiner or
16 importer shall meet the standards
17 applicable under clause (iii)(I) be-
18 ginning not later than April 1 of
19 the calendar year following publi-
20 cation of the report under sub-
21 clause (I) and in each calendar
22 year thereafter.

23 “(vi) Not later than July 1, 2007, the
24 Administrator shall promulgate final regu-
25 lations to control hazardous air pollutants

1 *from motor vehicles and motor vehicle fuels,*
2 *as provided for in section 80.1045 of title*
3 *40, Code of Federal Regulations (as in effect*
4 *on the date of enactment of this subpara-*
5 *graph), and as authorized under section*
6 *202(1) of the Clean Air Act. If the Adminis-*
7 *trator promulgates by such date, final regu-*
8 *lations to control hazardous air pollutants*
9 *from motor vehicles and motor vehicle fuels*
10 *that achieve and maintain greater overall*
11 *reductions in emissions of air toxics from*
12 *reformulated gasoline than the reductions*
13 *that would be achieved under section*
14 *211(k)(1)(B) of the Clean Air Act as*
15 *amended by this clause, then sections*
16 *211(k)(1)(i) through 211(k)(1)(v) shall be*
17 *null and void and regulations promulgated*
18 *thereunder shall be rescinded and have no*
19 *further effect.*

20 *(c) COMMINGLING.—*

21 *(1) IN GENERAL.—Section 211(k) of the Clean*
22 *Air Act (42 U.S.C. 7545(k)) is amended by adding at*
23 *the end the following:*

24 *“(11) COMMINGLING.—The regulations under*
25 *paragraph (1) shall permit the commingling at a re-*

1 *tail station of reformulated gasoline containing eth-*
2 *anol and reformulated gasoline that does not contain*
3 *ethanol if, each time such commingling occurs—*

4 *“(A) the retailer notifies the Administrator*
5 *before the commingling, identifying the exact lo-*
6 *cation of the retail station and the specific tank*
7 *in which the commingling will take place; and*

8 *“(B) the retailer certifies that the reformu-*
9 *lated gasoline resulting from the commingling*
10 *will meet all applicable requirements for refor-*
11 *mulated gasoline, including content and emis-*
12 *sion performance standards.”.*

13 *(d) CONSOLIDATION IN REFORMULATED GASOLINE*
14 *REGULATIONS.—Not later than 180 days after the date of*
15 *enactment of this Act, the Administrator of the Environ-*
16 *mental Protection Agency shall revise the reformulated gas-*
17 *oline regulations under subpart D of part 80 of title 40,*
18 *Code of Federal Regulations, to consolidate the regulations*
19 *applicable to VOC-Control Regions 1 and 2 under section*
20 *80.41 of that title by eliminating the less stringent require-*
21 *ments applicable to gasoline designated for VOC-Control*
22 *Region 2 and instead applying the more stringent require-*
23 *ments applicable to gasoline designated for VOC-Control*
24 *Region 1.*

25 *(e) SAVINGS CLAUSE.—*

1 (1) *IN GENERAL.*—*Nothing in this section or any*
2 *amendment made by this section affects or prejudices*
3 *any legal claim or action with respect to regulations*
4 *promulgated by the Administrator before the date of*
5 *enactment of this Act regarding—*

6 (A) *emissions of toxic air pollutants from*
7 *motor vehicles; or*

8 (B) *the adjustment of standards applicable*
9 *to a specific refinery or importer made under*
10 *those regulations.*

11 (2) *ADJUSTMENT OF STANDARDS.*—

12 (A) *APPLICABILITY.*—*The Administrator*
13 *may apply any adjustments to the standards ap-*
14 *plicable to a refinery or importer under subpara-*
15 *graph (B)(iii)(I) of section 211(k)(1) of the*
16 *Clean Air Act (as added by subsection (b)(2)),*
17 *except that—*

18 (i) *the Administrator shall revise the*
19 *adjustments to be based only on calendar*
20 *years 2001 and 2002;*

21 (ii) *any such adjustment shall not be*
22 *made at a level below the average percent-*
23 *age of reductions of emissions of toxic air*
24 *pollutants for reformulated gasoline sup-*

1 *plied to PADD I during calendar years*
2 *2001 and 2002; and*

3 *(iii) in the case of an adjustment based*
4 *on toxic air pollutant emissions from refor-*
5 *mulated gasoline significantly below the na-*
6 *tional annual average emissions of toxic air*
7 *pollutants from all reformulated gasoline—*

8 *(I) the Administrator may revise*
9 *the adjustment to take account of the*
10 *scope of the prohibition on methyl ter-*
11 *tiary butyl ether imposed by para-*
12 *graph (5) of section 211(c) of the Clean*
13 *Air Act (as added by section 211(c));*
14 *and*

15 *(II) any such adjustment shall re-*
16 *quire the refiner or importer, to the*
17 *maximum extent practicable, to main-*
18 *tain the reduction achieved during cal-*
19 *endar years 2001 and 2002 in the av-*
20 *erage annual aggregate emissions of*
21 *toxic air pollutants from reformulated*
22 *gasoline produced or distributed by the*
23 *refiner or importer.*

1 **SEC. 225. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS**
2 **OF FUELS AND FUEL ADDITIVES.**

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

5 *(1) in paragraph (2)—*

6 *(A) by striking “may also” and inserting*
7 *“shall, on a regular basis,”; and*

8 *(B) by striking subparagraph (A) and in-*
9 *serting the following:*

10 *“(A) to conduct tests to determine potential*
11 *public health and environmental effects of the*
12 *fuel or additive (including carcinogenic,*
13 *teratogenic, or mutagenic effects); and”;*

14 *(2) by adding at the end the following:*

15 *“(4) STUDY ON CERTAIN FUEL ADDITIVES AND*
16 *BLENDSTOCKS.—*

17 *“(A) IN GENERAL.—Not later than 2 years*
18 *after the date of enactment of this paragraph, the*
19 *Administrator shall—*

20 *“(i) conduct a study on the effects on*
21 *public health (including the effects on chil-*
22 *dren, pregnant women, minority or low-in-*
23 *come communities, and other sensitive pop-*
24 *ulations), air quality, and water resources*
25 *of increased use of, and the feasibility of*

1 *using as substitutes for methyl tertiary*
2 *butyl ether in gasoline—*

3 “(I) *ethyl tertiary butyl ether;*

4 “(II) *tertiary amyl methyl ether;*

5 “(III) *di-isopropyl ether;*

6 “(IV) *tertiary butyl alcohol;*

7 “(V) *other ethers and heavy alco-*
8 *hols, as determined by then Adminis-*
9 *trator;*

10 “(VI) *ethanol;*

11 “(VII) *iso-octane; and*

12 “(VIII) *alkylates; and*

13 “(ii) *conduct a study on the effects on*
14 *public health (including the effects on chil-*
15 *dren, pregnant women, minority or low-in-*
16 *come communities, and other sensitive pop-*
17 *ulations), air quality, and water resources*
18 *of the adjustment for ethanol-blended refor-*
19 *mulated gasoline to the volatile organic*
20 *compounds performance requirements that*
21 *are applicable under paragraphs (1) and*
22 *(3) of section 211(k); and*

23 “(iii) *submit to the Committee on En-*
24 *vironment and Public Works of the Senate*
25 *and the Committee on Energy and Com-*

1 merce of the House of Representatives a re-
2 port describing the results of the studies
3 under clauses (i) and (ii).

4 “(B) *CONTRACTS FOR STUDY.*—In carrying
5 out this paragraph, the Administrator may enter
6 into 1 or more contracts with nongovernmental
7 entities such as—

8 “(i) the national energy laboratories;
9 and

10 “(ii) institutions of higher education
11 (as defined in section 101 of the Higher
12 Education Act of 1965 (20 U.S.C. 1001)).”.

13 **SEC. 226. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

14 Section 211 of the Clean Air Act (42 U.S.C. 7545) (as
15 amended by section 205(a)) is amended by inserting after
16 subsection (p) the following:

17 “(q) *ANALYSES OF MOTOR VEHICLE FUEL CHANGES*
18 *AND EMISSIONS MODEL.*—

19 “(1) *ANTI-BACKSLIDING ANALYSIS.*—

20 “(A) *DRAFT ANALYSIS.*—Not later than 4
21 years after the date of enactment of this para-
22 graph, the Administrator shall publish for public
23 comment a draft analysis of the changes in emis-
24 sions of air pollutants and air quality due to the
25 use of motor vehicle fuel and fuel additives re-

1 *sulting from implementation of the amendments*
2 *made by the Federal Reformulated Fuels Act of*
3 *2005.*

4 “(B) *FINAL ANALYSIS.*—*After providing a*
5 *reasonable opportunity for comment but not*
6 *later than 5 years after the date of enactment of*
7 *this paragraph, the Administrator shall publish*
8 *the analysis in final form.*

9 “(2) *EMISSIONS MODEL.*—*For the purposes of*
10 *this section, not later than 4 years after the date of*
11 *enactment of this paragraph, the Administrator shall*
12 *develop and finalize an emissions model that reflects,*
13 *to the maximum extent practicable, the effects of gaso-*
14 *line characteristics or components on emissions from*
15 *vehicles in the motor vehicle fleet during calendar*
16 *year 2007.*

17 “(3) *PERMEATION EFFECTS STUDY.*—

18 “(A) *IN GENERAL.*—*Not later than 1 year*
19 *after the date of enactment of this paragraph, the*
20 *Administrator shall conduct a study, and report*
21 *to Congress the results of the study, on the effects*
22 *of ethanol content in gasoline on permeation, the*
23 *process by which fuel molecules migrate through*
24 *the elastomeric materials (rubber and plastic*

1 *parts) that make up the fuel and fuel vapor sys-*
 2 *tems of a motor vehicle.*

3 “(B) *EVAPORATIVE EMISSIONS.*—*The study*
 4 *shall include estimates of the increase in total*
 5 *evaporative emissions likely to result from the*
 6 *use of gasoline with ethanol content in a motor*
 7 *vehicle, and the fleet of motor vehicles, due to*
 8 *permeation.”.*

9 **SEC. 227. ADDITIONAL OPT-IN AREAS UNDER REFORMU-**
 10 **LATED GASOLINE PROGRAM.**

11 *Section 211(k)(6) of the Clean Air Act (42 U.S.C.*
 12 *7545(k)(6)) is amended—*

13 (1) *by striking “(6) OPT-IN AREAS.—(A) Upon”*
 14 *and inserting the following:*

15 “(6) *OPT-IN AREAS.*—

16 “(A) *CLASSIFIED AREAS.*—

17 “(i) *IN GENERAL.*—*Upon”;*

18 (2) *in subparagraph (B), by striking “(B) If”*
 19 *and inserting the following:*

20 “(ii) *EFFECT OF INSUFFICIENT DO-*
 21 *MESTIC CAPACITY TO PRODUCE REFORMU-*
 22 *LATED GASOLINE.—If”;*

23 (3) *in subparagraph (A)(ii) (as redesignated by*
 24 *paragraph (2))—*

1 (A) *in the first sentence, by striking “sub-*
2 *paragraph (A)” and inserting “clause (i)”*; and

3 (B) *in the second sentence, by striking “this*
4 *paragraph” and inserting “this subparagraph”*;
5 *and*

6 *(4) by adding at the end the following:*

7 “(B) OZONE TRANSPORT REGION.—

8 “(i) APPLICATION OF PROHIBITION.—

9 “(I) IN GENERAL.—*On applica-*
10 *tion of the Governor of a State in the*
11 *ozone transport region established by*
12 *section 184(a), the Administrator, not*
13 *later than 180 days after the date of*
14 *receipt of the application, shall apply*
15 *the prohibition specified in paragraph*
16 *(5) to any area in the State (other*
17 *than an area classified as a marginal,*
18 *moderate, serious, or severe ozone non-*
19 *attainment area under subpart 2 of*
20 *part D of title I) unless the Adminis-*
21 *trator determines under clause (iii)*
22 *that there is insufficient capacity to*
23 *supply reformulated gasoline.*

24 “(II) PUBLICATION OF APPLICA-
25 *TION.—As soon as practicable after the*

1 *date of receipt of an application under*
2 *subclause (I), the Administrator shall*
3 *publish the application in the Federal*
4 *Register.*

5 “(ii) *PERIOD OF APPLICABILITY.—*
6 *Under clause (i), the prohibition specified*
7 *in paragraph (5) shall apply in a State—*

8 “(I) *commencing as soon as prac-*
9 *ticable but not later than 2 years after*
10 *the date of approval by the Adminis-*
11 *trator of the application of the Gov-*
12 *ernor of the State; and*

13 “(II) *ending not earlier than 4*
14 *years after the commencement date de-*
15 *termined under subclause (I).*

16 “(iii) *EXTENSION OF COMMENCEMENT*
17 *DATE BASED ON INSUFFICIENT CAPACITY.—*

18 “(I) *IN GENERAL.—If, after re-*
19 *ceipt of an application from a Gov-*
20 *ernor of a State under clause (i), the*
21 *Administrator determines, on the Ad-*
22 *ministrator’s own motion or on peti-*
23 *tion of any person, after consultation*
24 *with the Secretary of Energy, that*
25 *there is insufficient capacity to supply*

1 reformulated gasoline, the Adminis-
 2 trator, by regulation—

3 “(aa) shall extend the com-
 4 mencement date with respect to
 5 the State under clause (ii)(I) for
 6 not more than 1 year; and

7 “(bb) may renew the exten-
 8 sion under item (aa) for 2 addi-
 9 tional periods, each of which shall
 10 not exceed 1 year.

11 “(II) DEADLINE FOR ACTION ON
 12 PETITIONS.—The Administrator shall
 13 act on any petition submitted under
 14 subclause (I) not later than 180 days
 15 after the date of receipt of the peti-
 16 tion.”.

17 **SEC. 228. FEDERAL ENFORCEMENT OF STATE FUELS RE-**
 18 **QUIREMENTS.**

19 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
 20 7545(c)(4)(C)) is amended—

21 (1) by striking “(C) A State” and inserting the
 22 following:

23 “(C) AUTHORITY OF STATE TO CONTROL
 24 FUELS AND FUEL ADDITIVES FOR REASONS OF
 25 NECESSITY.—

1 “(i) *IN GENERAL.—A State*”; and
 2 (2) *by adding at the end the following:*

3 “(ii) *ENFORCEMENT BY THE ADMINIS-*
 4 *TRATOR.—In any case in which a State*
 5 *prescribes and enforces a control or prohibi-*
 6 *tion under clause (i), the Administrator, at*
 7 *the request of the State, shall enforce the*
 8 *control or prohibition as if the control or*
 9 *prohibition had been adopted under the*
 10 *other provisions of this section.”.*

11 **SEC. 229. FUEL SYSTEM REQUIREMENTS HARMONIZATION**
 12 **STUDY.**

13 (a) *STUDY.—*

14 (1) *IN GENERAL.—The Administrator of the En-*
 15 *vironmental Protection Agency and the Secretary of*
 16 *Energy shall jointly conduct a study of Federal,*
 17 *State, and local requirements concerning motor vehi-*
 18 *cle fuels, including—*

19 (A) *requirements relating to reformulated*
 20 *gasoline, volatility (measured in Reid vapor*
 21 *pressure), oxygenated fuel, and diesel fuel; and*

22 (B) *other requirements that vary from State*
 23 *to State, region to region, or locality to locality.*

24 (2) *REQUIRED ELEMENTS.—The study shall*
 25 *assess—*

1 (A) the effect of the variety of requirements
2 described in paragraph (1) on the supply, qual-
3 ity, and price of motor vehicle fuels available to
4 the consumer;

5 (B) the effect of the requirements described
6 in paragraph (1) on achievement of—

7 (i) national, regional, and local air
8 quality standards and goals; and

9 (ii) related environmental and public
10 health protection standards and goals (in-
11 cluding the protection of children, pregnant
12 women, minority or low-income commu-
13 nities, and other sensitive populations);

14 (C) the effect of Federal, State, and local
15 motor vehicle fuel regulations, including multiple
16 motor vehicle fuel requirements, on—

17 (i) domestic refiners;

18 (ii) the fuel distribution system; and

19 (iii) industry investment in new ca-
20 pacity;

21 (D) the effect of the requirements described
22 in paragraph (1) on emissions from vehicles, re-
23 finers, and fuel handling facilities;

24 (E) the feasibility of developing national or
25 regional motor vehicle fuel states for the 48 con-

1 *tiguous States that, while protecting and im-*
2 *proving air quality at the national, regional,*
3 *and local levels, could—*

4 *(i) enhance flexibility in the fuel dis-*
5 *tribution infrastructure and improve fuel*
6 *fungibility;*

7 *(ii) reduce price volatility and costs to*
8 *consumers and producers;*

9 *(iii) provide increased liquidity to the*
10 *gasoline market; and*

11 *(iv) enhance fuel quality, consistency,*
12 *and supply; and*

13 *(F) the feasibility of providing incentives,*
14 *and the need for the development of national*
15 *standards necessary, to promote cleaner burning*
16 *motor vehicle fuel.*

17 ***(b) REPORT.—***

18 ***(1) IN GENERAL.—****Not later than June 1, 2008,*
19 *the Administrator of the Environmental Protection*
20 *Agency and the Secretary of Energy shall submit to*
21 *Congress a report on the results of the study con-*
22 *ducted under subsection (a).*

23 ***(2) RECOMMENDATIONS.—***

1 (A) *IN GENERAL.*—*The report shall contain*
2 *recommendations for legislative and administra-*
3 *tive actions that may be taken—*

4 *(i) to improve air quality;*

5 *(ii) to reduce costs to consumers and*
6 *producers; and*

7 *(iii) to increase supply liquidity.*

8 (B) *REQUIRED CONSIDERATIONS.*—*The rec-*
9 *ommendations under subparagraph (A) shall*
10 *take into account the need to provide advance*
11 *notice of required modifications to refinery and*
12 *fuel distribution systems in order to ensure an*
13 *adequate supply of motor vehicle fuel in all*
14 *States.*

15 (3) *CONSULTATION.*—*In developing the report,*
16 *the Administrator of the Environmental Protection*
17 *Agency and the Secretary of Energy shall consult*
18 *with—*

19 (A) *the Governors of the States;*

20 (B) *automobile manufacturers;*

21 (C) *State and local air pollution control*
22 *regulators;*

23 (D) *public health experts;*

24 (E) *motor vehicle fuel producers and dis-*
25 *tributors; and*

1 (F) the public.

2 **SEC. 230. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.**

3 (a) *IN GENERAL.*—Subject to the availability of appro-
4 priations under subsection (d), the Administrator of the En-
5 vironmental Protection Agency shall, in consultation with
6 the Secretary of Agriculture and the Biomass Research and
7 Development Technical Advisory Committee established
8 under section 306 of the Biomass Research and Develop-
9 ment Act of 2000 (Public Law 106–224; 7 U.S.C. 8101
10 note), establish a program, to be known as the “Advanced
11 Biofuel Technologies Program”, to demonstrate advanced
12 technologies for the production of alternative transportation
13 fuels.

14 (b) *PRIORITY.*—In carrying out the program under
15 subsection (a), the Administrator shall give priority to
16 projects that enhance the geographical diversity of alter-
17 native fuels production and utilize feedstocks that represent
18 10 percent or less of ethanol or biodiesel fuel production
19 in the United States during the previous fiscal year.

20 (c) *DEMONSTRATION PROJECTS.*—

21 (1) *IN GENERAL.*—As part of the program under
22 subsection (a), the Administrator shall fund dem-
23 onstration projects—

1 (A) to develop not less than 4 different con-
2 version technologies for producing cellulosic bio-
3 mass ethanol; and

4 (B) to develop not less than 5 technologies
5 for coproducing value-added bioproducts (such as
6 fertilizers, herbicides, and pesticides) resulting
7 from the production of biodiesel fuel.

8 (2) *ADMINISTRATION.*—*Demonstration projects*
9 *under this subsection shall be—*

10 (A) conducted based on a merit-reviewed,
11 competitive process; and

12 (B) subject to the cost-sharing requirements
13 of section 1002.

14 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
15 *authorized to be appropriated to carry out this section*
16 *\$110,000,000 for each of fiscal years 2005 through 2009.*

17 **SEC. 231. SUGAR CANE ETHANOL PROGRAM.**

18 (a) *DEFINITION OF PROGRAM.*—*In this section, the*
19 *term “program” means the Sugar Cane Ethanol Program*
20 *established by subsection (b).*

21 (b) *ESTABLISHMENT.*—*There is established within the*
22 *Environmental Protection Agency a program to be known*
23 *as the “Sugar Cane Ethanol Program”.*

24 (c) *PROJECT.*—

1 (1) *IN GENERAL.*—Subject to the availability of
2 appropriations under subsection (d), in carrying out
3 the program, the Administrator of the Environmental
4 Protection Agency shall establish a project that is—

5 (A) carried out in multiple States—

6 (i) in each of which is produced cane
7 sugar that is eligible for loans under section
8 156 of the Federal Agriculture Improvement
9 and Reform Act of 1996 (7 U.S.C. 7272), or
10 a similar subsequent authority; and

11 (ii) at the option of each such State,
12 that have an incentive program that re-
13 quires the use of ethanol in the State; and

14 (B) designed to study the production of eth-
15 anol from cane sugar, sugarcane, and sugarcane
16 byproducts.

17 (2) *REQUIREMENTS.*—A project described in
18 paragraph (1) shall—

19 (A) be limited to the production of ethanol
20 in the States of Florida, Louisiana, Texas, and
21 Hawaii in a way similar to the existing pro-
22 gram for the processing of corn for ethanol to
23 demonstrate that the process may be applicable
24 to cane sugar, sugarcane, and sugarcane byprod-
25 ucts;

1 (B) include information on the ways in
 2 which the scale of production may be replicated
 3 once the sugar cane industry has located sites
 4 for, and constructed, ethanol production facili-
 5 ties; and

6 (C) not last more than 3 years.

7 (d) *AUTHORIZATION OF APPROPRIATIONS.*—There is
 8 authorized to be appropriated to carry out this section
 9 \$36,000,000, to remain available until expended.

10 **SEC. 232. NATIONAL PRIORITY PROJECT DESIGNATION.**

11 (a) *DESIGNATION OF NATIONAL PRIORITY*
 12 *PROJECTS.*—

13 (1) *IN GENERAL.*—There is established the Na-
 14 tional Priority Project Designation (referred to in
 15 this section as the “Designation”), which shall be evi-
 16 denced by a medal bearing the inscription “National
 17 Priority Project”.

18 (2) *DESIGN AND MATERIALS.*—The medal shall
 19 be of such design and materials and bear such addi-
 20 tional inscriptions as the President may prescribe.

21 (b) *MAKING AND PRESENTATION OF DESIGNATION.*—

22 (1) *IN GENERAL.*—The President, on the basis of
 23 recommendations made by the Secretary, shall annu-
 24 ally designate organizations that have—

1 (A) advanced the field of renewable energy
2 technology and contributed to North American
3 energy independence; and

4 (B) been certified by the Secretary under
5 subsection (e).

6 (2) *PRESENTATION*.—The President shall des-
7 ignate projects with such ceremonies as the President
8 may prescribe.

9 (3) *USE OF DESIGNATION*.—An organization
10 that receives a Designation under this section may
11 publicize the Designation of the organization as a Na-
12 tional Priority Project in advertising.

13 (4) *CATEGORIES IN WHICH THE DESIGNATION*
14 *MAY BE GIVEN*.—Separate Designations shall be made
15 to qualifying projects in each of the following cat-
16 egories:

17 (A) Wind and biomass energy generation
18 projects.

19 (B) Photovoltaic and fuel cell energy gen-
20 eration projects.

21 (C) Energy efficient building and renewable
22 energy projects.

23 (D) First-in-Class projects.

24 (c) *SELECTION CRITERIA*.—

1 (1) *IN GENERAL.*—*Certification and selection of*
2 *the projects to receive the Designation shall be based*
3 *on criteria established under this subsection.*

4 (2) *WIND, BIOMASS, AND BUILDING PROJECTS.*—
5 *In the case of a wind, biomass, or building project,*
6 *the project shall demonstrate that the project will in-*
7 *stall not less than 30 megawatts of renewable energy*
8 *generation capacity.*

9 (3) *SOLAR PHOTOVOLTAIC AND FUEL CELL*
10 *PROJECTS.*—*In the case of a solar photovoltaic or fuel*
11 *cell project, the project shall demonstrate that the*
12 *project will install not less than 3 megawatts of re-*
13 *newable energy generation capacity.*

14 (4) *ENERGY EFFICIENT BUILDING AND RENEW-*
15 *ABLE ENERGY PROJECTS.*—*In the case of an energy*
16 *efficient building or renewable energy project, in ad-*
17 *dition to meeting the criteria established under para-*
18 *graph (2), each building project shall demonstrate*
19 *that the project will—*

20 (A) *comply with third-party certification*
21 *standards for high-performance, sustainable*
22 *buildings;*

23 (B) *use whole-building integration of energy*
24 *efficiency and environmental performance design*

1 *and technology, including advanced building*
2 *controls;*

3 *(C) use renewable energy for at least 50 per-*
4 *cent of the energy consumption of the project;*

5 *(D) comply with applicable Energy Star*
6 *standards; and*

7 *(E) include at least 5,000,000 square feet of*
8 *enclosed space.*

9 (5) *FIRST-IN-CLASS USE.—Notwithstanding*
10 *paragraphs (2) through (4), a new building project*
11 *may qualify under this section if the Secretary deter-*
12 *mines that the project—*

13 *(A) represents a First-In-Class use of re-*
14 *newable energy; or*

15 *(B) otherwise establishes a new paradigm of*
16 *building integrated renewable energy use or en-*
17 *ergy efficiency.*

18 (d) *APPLICATION.—*

19 (1) *INITIAL APPLICATIONS.—No later than 120*
20 *days after the date of enactment of this Act, and an-*
21 *nually thereafter, the Secretary shall publish in the*
22 *Federal Register an invitation and guidelines for sub-*
23 *mitting applications, consistent with this section.*

1 (2) *CONTENTS.*—*The application shall describe*
2 *the project, or planned project, and the plans to meet*
3 *the criteria established under subsection (c).*

4 *(e) CERTIFICATION.*—

5 (1) *IN GENERAL.*—*Not later than 60 days after*
6 *the application period described in subsection (d),*
7 *and annually thereafter, the Secretary shall certify*
8 *projects that are reasonably expected to meet the cri-*
9 *teria established under subsection (c).*

10 (2) *CERTIFIED PROJECTS.*—*The Secretary shall*
11 *designate personnel of the Department to work with*
12 *persons carrying out each certified project and ensure*
13 *that the personnel—*

14 (A) *provide each certified project with guid-*
15 *ance in meeting the criteria established under*
16 *subsection (c);*

17 (B) *identify programs of the Department,*
18 *including National Laboratories and Technology*
19 *Centers, that will assist each project in meeting*
20 *the criteria established under subsection (c); and*

21 (C) *ensure that knowledge and transfer of*
22 *the most current technology between the applica-*
23 *ble resources of the Federal Government (includ-*
24 *ing the National Laboratories and Technology*
25 *Centers, the Department, and the Environmental*

1 Protection Agency) and the certified projects is
 2 being facilitated to accelerate commercialization
 3 of work developed through those resources.

4 (f) *AUTHORIZATION OF APPROPRIATIONS.*—There are
 5 authorized to be appropriated such sums as are necessary
 6 to carry out this section for each of fiscal years 2006
 7 through 2010.

8 **SEC. 233. RURAL AND REMOTE COMMUNITY ELECTRIFICA-**
 9 **TION GRANTS.**

10 *The Public Utility Regulatory Policies Act of 1978 (16*
 11 *U.S.C. 2601 et seq.) is amended in title VI by adding at*
 12 *the end the following:*

13 **“SEC. 609. RURAL AND REMOTE COMMUNITIES ELEC-**
 14 **TRIFICATION GRANTS.**

15 “(a) *DEFINITIONS.*—In this section:

16 “(1) *The term ‘eligible grantee’ means a local*
 17 *government or municipality, peoples’ utility district,*
 18 *irrigation district, and cooperative, nonprofit, or lim-*
 19 *ited-dividend association in a rural area.*

20 “(2) *The term ‘incremental hydropower’ means*
 21 *additional generation achieved from increased effi-*
 22 *ciency after January 1, 2005, at a hydroelectric dam*
 23 *that was placed in service before January 1, 2005.*

24 “(3) *The term ‘renewable energy’ means elec-*
 25 *tricity generated from—*

1 “(A) a renewable energy source; or

2 “(B) hydrogen, other than hydrogen pro-
3 duced from a fossil fuel, that is produced from
4 a renewable energy source.

5 “(4) The term ‘renewable energy source’ means—

6 “(A) wind;

7 “(B) ocean waves;

8 “(C) biomass;

9 “(D) solar

10 “(E) landfill gas;

11 “(F) incremental hydropower;

12 “(G) livestock methane; or

13 “(H) geothermal energy.

14 “(5) The term ‘rural area’ means a city, town,
15 or unincorporated area that has a population of not
16 more than 10,000 inhabitants.

17 “(b) GRANTS.—The Secretary, in consultation with the
18 Secretary of Agriculture and the Secretary of the Interior,
19 may provide grants under this section to eligible grantees
20 for the purpose of—

21 “(1) increasing energy efficiency, siting or up-
22 grading transmission and distribution lines serving
23 rural areas,; or

24 “(2) providing or modernizing electric genera-
25 tion facilities that serve rural areas.

1 “(c) *GRANT ADMINISTRATION.*—(1) *The Secretary*
2 *shall make grants under this section based on a determina-*
3 *tion of cost-effectiveness and the most effective use of the*
4 *funds to achieve the purposes described in subsection (b).*

5 “(2) *For each fiscal year, the Secretary shall allocate*
6 *grant funds under this section equally between the purposes*
7 *described in paragraphs (1) and (2) of subsection (b).*

8 “(3) *In making grants for the purposes described in*
9 *subsection (b)(2), the Secretary shall give preference to re-*
10 *newable energy facilities.*

11 “(d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
12 *authorized to be appropriated to the Secretary to carry out*
13 *this section \$20,000,000 for each of fiscal years 2006*
14 *through 2012.”.*

15 **SEC. 234. WASTE-DERIVED ETHANOL AND BIODIESEL.**

16 *Section 312(f)(1) of the Energy Policy Act of 1992 (42*
17 *U.S.C. 13220(f)(1)) is amended—*

18 (1) *by striking “biodiesel’ means” and inserting*
19 *the following: “biodiesel—*

20 *“(A) means”; and*

21 (2) *in subparagraph (A) (as designated by para-*
22 *graph (1)) by striking “and” at the end and inserting*
23 *the following:*

24 *“(B) includes biodiesel derived from—*

1 “(i) animal wastes, including poultry
2 fats and poultry wastes, and other waste
3 materials; or

4 “(ii) municipal solid waste and
5 sludges and oils derived from wastewater
6 and the treatment of wastewater; and”.”

7 ***Subtitle D—Insular Energy***

8 **SEC. 241. DEFINITIONS.**

9 *In this subtitle:*

10 (1) *DISTRIBUTED GENERATION.*—The term “dis-
11 tributed generation” means energy supplied in a
12 rural or off-grid area.

13 (2) *INSULAR AREA.*—The term “insular area”
14 means—

15 (A) *Guam;*

16 (B) *American Samoa;*

17 (C) *the Commonwealth of the Northern*
18 *Mariana Islands;*

19 (D) *the Federated States of Micronesia;*

20 (E) *the Republic of the Marshall Islands;*

21 (F) *the Republic of Palau;*

22 (G) *the United States Virgin Islands; and*

23 (H) *the Commonwealth of Puerto Rico.*

1 **SEC. 242. ASSESSMENT.**

2 (a) *IN GENERAL.*—Not later than 1 year after the date
3 of enactment of this Act, the Secretary (in consultation with
4 the Secretary of Interior) shall—

5 (1) *conduct an assessment of the energy needs of*
6 *insular areas; and*

7 (2) *submit a report describing the results of the*
8 *assessment to—*

9 (A) *the Committee on Energy and Natural*
10 *Resources of the Senate;*

11 (B) *the Committee on Energy and Com-*
12 *merce of the House of Representatives; and*

13 (C) *the Committee on Resources of the*
14 *House of Representatives.*

15 (b) *STRATEGIES AND PROJECTS.*—In conducting the
16 assessment, for each of the insular areas, the Secretary shall
17 identify and evaluate the strategies or projects with the
18 greatest potential for reducing the dependence of the insular
19 area on imported fossil fuels as used for the generation of
20 electricity, including strategies and projects for—

21 (1) *improved supply-side efficiency of centralized*
22 *electrical generation, transmission, and distribution*
23 *systems;*

24 (2) *improved demand-side management*
25 *through—*

1 (A) the application of established standards
2 for energy efficiency for appliances;

3 (B) the conduct of energy audits for busi-
4 ness and industrial customers; and

5 (C) the use of energy savings performance
6 contracts;

7 (3) increased use of renewable energy,
8 including—

9 (A) solar thermal energy for electric genera-
10 tion;

11 (B) solar thermal energy for water heating
12 in large buildings, such as hotels, hospitals, gov-
13 ernment buildings, and residences;

14 (C) photovoltaic energy;

15 (D) wind energy;

16 (E) hydroelectric energy;

17 (F) wave energy;

18 (G) energy from ocean thermal resources,
19 including ocean thermal-cooling for community
20 air conditioning;

21 (H) water vapor condensation for the pro-
22 duction of potable water;

23 (I) fossil fuel and renewable hybrid elec-
24 trical generation systems; and

1 (J) other strategies or projects that the Sec-
2 retary may identify as having significant poten-
3 tial; and

4 (4) fuel substitution and minimization with in-
5 digenous biofuels, such as coconut oil.

6 (c) *DISTRIBUTED GENERATION.*—In conducting the
7 assessment, for each insular area with a significant need
8 for distributed generation, the Secretary shall identify and
9 evaluate the most promising strategies and projects de-
10 scribed in paragraphs (3) and (4) of subsection (b) for meet-
11 ing that need.

12 (d) *FACTORS.*—In assessing the potential of any strat-
13 egy or project under this section, the Secretary shall
14 consider—

15 (1) the estimated cost of the power or energy to
16 be produced, including—

17 (A) any additional costs associated with the
18 distribution of the generation; and

19 (B) the long-term availability of the genera-
20 tion source;

21 (2) the capacity of the local electrical utility to
22 manage, operate, and maintain any project that may
23 be undertaken; and

24 (3) other factors the Secretary considers to be ap-
25 propriate.

1 **SEC. 243. PROJECT FEASIBILITY STUDIES.**

2 (a) *IN GENERAL.*—On a request described in sub-
3 section (b), the Secretary shall conduct a feasibility study
4 of a project to implement a strategy or project identified
5 under section 222 as having the potential to—

6 (1) significantly reduce the dependence of an in-
7 sular area on imported oil; or

8 (2) provide needed distributed generation to an
9 insular area.

10 (b) *REQUEST.*—The Secretary shall conduct a feasi-
11 bility study under subsection (a) on—

12 (1) the request of an electric utility located in an
13 insular area that commits to fund at least 10 percent
14 of the cost of the study; and

15 (2) if the electric utility is located in the Fed-
16 erated States of Micronesia, the Republic of the Mar-
17 shall Islands, or the Republic of Palau, written sup-
18 port for that request by the President or the Amba-
19 sador of the affected freely associated state.

20 (c) *CONSULTATION.*—The Secretary shall consult with
21 regional utility organizations in—

22 (1) conducting feasibility studies under sub-
23 section (a); and

24 (2) determining the feasibility of potential
25 projects.

1 (d) *FEASIBILITY.*—For the purpose of a feasibility
2 study under subsection (a), a project shall be determined
3 to be feasible if the project would significantly reduce the
4 dependence of an insular area on imported fossil fuels, or
5 provide needed distributed generation to an insular area,
6 at a reasonable cost.

7 **SEC. 244. IMPLEMENTATION.**

8 (a) *IN GENERAL.*—On a determination by the Sec-
9 retary (in consultation with the Secretary of the Interior)
10 that a project is feasible under section 223 and a commit-
11 ment by an electric utility to operate and maintain the
12 project, the Secretary may provide such technical and fi-
13 nancial assistance as the Secretary determines is appro-
14 priate for the implementation of the project.

15 (b) *REGIONAL UTILITY ORGANIZATIONS.*—In pro-
16 viding assistance under subsection (a), the Secretary shall
17 consider providing the assistance through regional utility
18 organizations.

19 **SEC. 245. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) *IN GENERAL.*—There are authorized to be appro-
21 priated to the Secretary—

22 (1) \$500,000 for the completion of the assessment
23 under section 222;

24 (2) \$500,000 for each fiscal year for project feasi-
25 bility studies under section 223; and

1 (3) \$5,000,000 for each fiscal year for project
2 implementation under section 224.

3 (b) *LIMITATION OF FUNDS RECEIVED BY INSULAR*
4 *AREAS.*—No insular area may receive, during any 3-year
5 period, more than 20 percent of the total funds made avail-
6 able during that 3-year period under paragraphs (2) and
7 (3) of subsection (a) unless the Secretary determines that
8 providing funding in excess of that percentage best advances
9 existing opportunities to meet the objectives of this subtitle.

10 ***Subtitle E—Biomass Energy***

11 ***SEC. 251. DEFINITIONS.***

12 *In this subtitle:*

13 (1) *BIOMASS.*—The term “biomass” means non-
14 merchantable material from, or precommercial
15 thinnings of, trees and woody plants produced from
16 treatments—

17 (A) to reduce hazardous fuels;

18 (B) to reduce or contain disease or insect
19 infestations; or

20 (C) to restore forest health.

21 (2) *ELIGIBLE COMMUNITY.*—The term “eligible
22 community” means an Indian Reservation, or a
23 county, town, township, municipality, or other simi-
24 lar unit of local government with a population of not
25 more than 50,000 individuals that the Secretary de-

1 *termines is located in an area near Federal or Indian*
2 *land, that is—*

3 *(A) at significant risk of catastrophic wild-*
4 *fire, disease, or insect infestation; or*

5 *(B) diseased or infested by insects.*

6 *(3) ELIGIBLE OPERATION.—The term “eligible*
7 *operation” means a facility that—*

8 *(A) is located within the boundaries of an*
9 *eligible community; and*

10 *(B) uses biomass from Federal or Indian*
11 *land as a raw material to produce electric en-*
12 *ergy, sensible heat, or transportation fuels.*

13 *(4) GREEN TON.—The term “green ton” means*
14 *2,000 pounds of biomass that has not been mechani-*
15 *cally or artificially dried.*

16 *(5) INDIAN TRIBE.—The term “Indian tribe” has*
17 *the meaning given the term in section 4(e) of the In-*
18 *Indian Self-Determination and Education Assistance*
19 *Act (25 U.S.C. 450b(e)).*

20 *(6) PERSON.—The term “person” includes—*

21 *(A) an individual;*

22 *(B) an eligible community;*

23 *(C) an Indian tribe;*

24 *(D) a small business or a corporation that*
25 *is incorporated in the United States; and*

1 (E) a nonprofit organization.

2 (7) SECRETARY.—The term “Secretary”
3 means—

4 (A) the Secretary of Agriculture, with re-
5 spect to land within the National Forest System;
6 or

7 (B) the Secretary of the Interior, with re-
8 spect to Federal land under the jurisdiction of
9 the Secretary of the Interior and Indian land.

10 **SEC. 252. BIOMASS COMMERCIAL UTILIZATION GRANT PRO-**
11 **GRAM.**

12 (a) IN GENERAL.—The Secretary may make grants to
13 any person that owns or operates an eligible operation to
14 offset the costs incurred to purchase biomass for use by the
15 eligible operation.

16 (b) PRIORITY.—In making grants under subsection
17 (a), the Secretary shall give priority to eligible operations
18 that use biomass from the highest risk areas, as determined
19 by the Secretary.

20 (c) GRANT AMOUNT.—A grant provided under this sec-
21 tion may not exceed \$20 per green ton of biomass delivered.

22 (d) MONITORING OF GRANT RECIPIENT ACTIVITIES.—
23 (1) IN GENERAL.—As a condition of a grant
24 under this section, the grant recipient shall keep such
25 records as the Secretary may require to fully and cor-

1 *rectly disclose the use of the grant funds and all*
2 *transactions involved in the purchase of biomass.*

3 (2) *ACCESS.*—*On notice by the Secretary, the*
4 *grant recipient shall provide the Secretary reasonable*
5 *access to examine the inventory and records of the eli-*
6 *gible operation.*

7 (e) *AUTHORIZATION OF APPROPRIATIONS.*—

8 (1) *IN GENERAL.*—*There are authorized to be ap-*
9 *propriated to carry out this section for each of fiscal*
10 *years 2006 through 2010—*

11 (A) *\$12,500,000 to the Secretary of Agri-*
12 *culture; and*

13 (B) *\$12,500,000 to the Secretary of the Inte-*
14 *rior.*

15 (2) *AVAILABILITY.*—*Amounts made available*
16 *under paragraph (1) shall remain available until ex-*
17 *pended.*

18 **SEC. 253. IMPROVED BIOMASS UTILIZATION PROGRAM.**

19 (a) *IN GENERAL.*—*The Secretary may provide grants*
20 *to persons in eligible communities to offset the costs of devel-*
21 *oping or researching proposals to improve the use of bio-*
22 *mass or add value to biomass utilization.*

23 (b) *SELECTION.*—*Grant recipients shall be selected*
24 *based on the potential of a proposal to—*

1 (1) *develop affordable thermal or electric energy*
2 *resources for the benefit of an eligible community;*

3 (2) *provide opportunities for the creation or ex-*
4 *ansion of small business concerns within an eligible*
5 *community;*

6 (3) *create new job opportunities within an eligi-*
7 *ble community;*

8 (4) *improve efficiency or develop cleaner tech-*
9 *nologies for biomass utilization; and*

10 (5) *reduce the hazardous fuel from the highest*
11 *risk areas.*

12 (c) *LIMITATION.*—*No grant provided under this section*
13 *shall exceed \$500,000.*

14 (d) *AUTHORIZATION OF APPROPRIATIONS.*—

15 (1) *IN GENERAL.*—*There are authorized to be ap-*
16 *propriated to carry out this section for each of fiscal*
17 *years 2006 through 2010—*

18 (A) *\$12,500,000 to the Secretary of Agri-*
19 *culture; and*

20 (B) *\$12,500,000 to the Secretary of the Inte-*
21 *rior.*

22 (2) *AVAILABILITY.*—*Amounts made available*
23 *under paragraph (1) shall remain available until ex-*
24 *pended.*

1 **SEC. 254. REPORT.**

2 *Not later than 3 years after the date of enactment of*
3 *this Act, the Secretary of Agriculture and the Secretary of*
4 *the Interior shall jointly submit to Congress a report that*
5 *describes the interim results of the programs carried out*
6 *under sections 232 and 233.*

7 **Subtitle F—Geothermal Energy**

8 **SEC. 261. COMPETITIVE LEASE SALE REQUIREMENTS.**

9 *Section 4 of the Geothermal Steam Act of 1970 (30*
10 *U.S.C. 1003) is amended to read as follows:*

11 **“SEC. 4. LEASING PROCEDURES.**

12 *“(a) NOMINATIONS.—The Secretary shall accept nomi-*
13 *nations of land to be leased at any time from qualified com-*
14 *panies and individuals under this Act.*

15 *“(b) COMPETITIVE LEASE SALE REQUIRED.—*

16 *“(1) IN GENERAL.—Except as otherwise specifi-*
17 *cally provided by this Act, all land to be leased that*
18 *is not subject to leasing under subsection (c) shall be*
19 *leased as provided in this subsection to the highest re-*
20 *sponsible qualified bidder, as determined by the Sec-*
21 *retary.*

22 *“(2) COMPETITIVE LEASE SALES.—The Secretary*
23 *shall hold a competitive lease sale at least once every*
24 *2 years for land in a State that has nominations*
25 *pending under subsection (a) if the land is otherwise*
26 *available for leasing.*

1 “(c) *NONCOMPETITIVE LEASING.*—*The Secretary shall*
2 *make available for a period of 2 years for noncompetitive*
3 *leasing any tract for which a competitive lease sale is held,*
4 *but for which the Secretary does not receive any bids in*
5 *a competitive lease sale.*

6 “(d) *PENDING LEASE APPLICATIONS.*—

7 “(1) *IN GENERAL.*—*It shall be a priority for the*
8 *Secretary, and for the Secretary of Agriculture with*
9 *respect to National Forest Systems land, to ensure*
10 *timely completion of administrative actions necessary*
11 *to process applications for geothermal leasing pending*
12 *on May 19, 2005.*

13 “(2) *ADMINISTRATION.*—*An application de-*
14 *scribed in paragraph (1) and any lease issued pursu-*
15 *ant to the application—*

16 “(A) *except as provided in subparagraph*
17 *(B), shall be subject to this section as in effect on*
18 *the day before the date of enactment of this para-*
19 *graph; or*

20 “(B) *at the election of the applicant, shall*
21 *be subject to this section as in effect on the effec-*
22 *tive date of this paragraph.”.*

23 **SEC. 262. DIRECT USE.**

24 “(a) *FEEES FOR DIRECT USE.*—*Section 5 of the Geo-*
25 *thermal Steam Act of 1970 (30 U.S.C. 1004) is amended—*

1 (1) *in subsection (c), by redesignating para-*
2 *graphs (1) and (2) as subparagraphs (A) and (B), re-*
3 *spectively;*

4 (2) *by redesignating subsections (a) through (d)*
5 *as paragraphs (1) through (4), respectively;*

6 (3) *by inserting “(a) IN GENERAL.—” after*
7 *“SEC. 5.”; and*

8 (4) *by adding at the end the following:*
9 *“(d) DIRECT USE.—*

10 *“(1) IN GENERAL.—Notwithstanding subsection*
11 *(a)(1), the Secretary shall establish a schedule of fees,*
12 *in lieu of royalties for geothermal resources, that a*
13 *lessee or its affiliate—*

14 *“(A) uses for a purpose other than the com-*
15 *mercial generation of electricity; and*

16 *“(B) does not sell.*

17 (2) *SCHEDULE OF FEES.—The schedule of*
18 *fees—*

19 *“(A) may be based on the quantity or ther-*
20 *mal content, or both, of geothermal resources*
21 *used or any other basis that the Secretary finds*
22 *appropriate under the circumstances; and*

23 *“(B) shall ensure a fair return to the*
24 *United States for use of the resource.*

1 “(3) *STATE OR LOCAL GOVERNMENTS.*—If a
2 *State or local government is the lessee and uses geo-*
3 *thermal resources without sale and for purposes other*
4 *than commercial generation of electricity, the Sec-*
5 *retary shall charge only a nominal fee for use of the*
6 *resource.”.*

7 **(b) *LEASING FOR DIRECT USE.***—Section 4 of the Geo-
8 *thermal Steam Act of 1970 (30 U.S.C. 1003) (as amended*
9 *by section 241) is amended adding at the end the following:*

10 **“(e) *LEASING FOR DIRECT USE OF GEOTHERMAL RE-***
11 ***SOURCES.***—*Notwithstanding subsection (b), the Secretary*
12 *may identify areas in which the land to be leased under*
13 *this Act exclusively for direct use of geothermal resources*
14 *without sale for purposes other than commercial generation*
15 *of electricity may be leased to any qualified applicant that*
16 *first applies for such a lease under regulations issued by*
17 *the Secretary, if the Secretary—*

18 **“(1) publishes a notice of the land proposed for**
19 ***leasing not later than 120 days before the date of the***
20 ***issuance of the lease;***

21 **“(2) does not receive during the 120-day period**
22 ***beginning on the date of the publication any nomina-***
23 ***tion to include the land concerned in the next com-***
24 ***petitive lease sale; and***

1 “(3) determines there is no competitive interest
2 in the land to be leased.

3 “(f) *AREA SUBJECT TO LEASE FOR DIRECT USE.*—

4 “(1) *IN GENERAL.*—Subject to paragraph (2), a
5 geothermal lease for the direct use of geothermal re-
6 sources shall cover not more than the quantity of
7 acreage determined by the Secretary to be reasonably
8 necessary for the proposed use.

9 “(2) *LIMITATIONS.*—The quantity of acreage cov-
10 ered by the lease shall not exceed the limitations es-
11 tablished under section 7.”.

12 **SEC. 263. ROYALTIES.**

13 (a) *CALCULATION OF ROYALTIES.*—

14 (1) *IN GENERAL.*—Not later than 1 year after
15 the date of enactment of this Act, the Secretary of the
16 Interior shall issue a final regulation that provides a
17 simplified methodology for calculating the royalty
18 under subsection (a)(1) of section 5 of the Geothermal
19 Steam Act of 1970 (30 U.S.C. 1004) (as amended by
20 section 242(a)).

21 (2) *CONSIDERATIONS.*—In issuing the final regu-
22 lation under paragraph (1), the Secretary shall—

23 (A) consider the use of a method based on
24 gross proceeds from the sale of electricity; and

1 (B) ensure that the final regulation issued
2 under paragraph (1) results in the same level of
3 royalty revenues over a 10-year period as the
4 regulation in effect on the day before the date of
5 enactment of this Act.

6 (b) *ROYALTY UNDER EXISTING LEASES.*—

7 (1) *IN GENERAL.*—Any lessee under a lease
8 issued under the Geothermal Steam Act of 1970 (30
9 U.S.C. 1001 et seq.) before the date of enactment of
10 this Act may, within the time period specified in
11 paragraph (2), submit to the Secretary of the Interior
12 a request to modify the terms of the lease relating to
13 payment of royalties to comply with—

14 (A) in the case of a lease that meets the re-
15 quirements of subsection (b) of section 5 of the
16 Geothermal Steam Act of 1970 (30 U.S.C. 1004)
17 (as amended by section 242(a)), the schedule of
18 fees established under that section; and

19 (B) in the case of any other lease, the meth-
20 odology established under subsection (a).

21 (2) *TIMING.*—A request for a modification under
22 paragraph (1) shall be submitted to the Secretary by
23 the date that is not later than—

24 (A) in the case of a lease for direct use, 18
25 months after the effective date of the schedule of

1 *fees established by the Secretary under section 5*
2 *of the Geothermal Steam Act of 1970 (30 U.S.C.*
3 *1004); or*

4 *(B) in the case of any other lease, 18*
5 *months after the effective date of the final regula-*
6 *tion issued under subsection (a).*

7 (3) *APPLICATION OF MODIFICATION.—If the les-*
8 *see requests modification of a lease under paragraph*
9 *(1)—*

10 *(A) the Secretary shall modify the lease to*
11 *comply with—*

12 *(i) in the case of a lease for direct use,*
13 *the schedule of fees established by the Sec-*
14 *retary under section 5 of the Geothermal*
15 *Steam Act of 1970 (30 U.S.C. 1004); or*

16 *(ii) in the case of any other lease, the*
17 *methodology established under subsection*
18 *(a); and*

19 *(B) the modification shall apply to any use*
20 *of geothermal steam and any associated geo-*
21 *thermal resources to which subsection (a) applies*
22 *that occurs after the date of the modification.*

23 (4) *CONSULTATION.—The Secretary shall consult*
24 *with the State and local governments affected by any*

1 *proposed changes in lease royalty terms under this*
2 *subsection.*

3 **SEC. 264. GEOTHERMAL LEASING AND PERMITTING ON**
4 **FEDERAL LAND.**

5 *(a) IN GENERAL.—Not later than 180 days after the*
6 *date of enactment of this section, the Secretary of the Inte-*
7 *rior and the Secretary of Agriculture shall enter into, and*
8 *submit to Congress, a memorandum of understanding in*
9 *accordance with this section regarding leasing and permit-*
10 *ting for geothermal development of public land and Na-*
11 *tional Forest System land under the respective jurisdictions*
12 *of the Secretaries.*

13 *(b) LEASE AND PERMIT APPLICATIONS.—The memo-*
14 *randum of understanding shall—*

15 *(1) identify areas with geothermal potential on*
16 *land included in the National Forest System and, if*
17 *necessary, require review of management plans to*
18 *consider leasing under the Geothermal Steam Act of*
19 *1970 (30 U.S.C. 1001 et seq.) as a land use; and*

20 *(2) establish an administrative procedure for*
21 *processing geothermal lease applications, including*
22 *lines of authority, steps in application processing,*
23 *and time limits for application processing.*

1 (c) *DATA RETRIEVAL SYSTEM.*—*The memorandum of*
2 *understanding shall establish a joint data retrieval system*
3 *that—*

4 (1) *is capable of tracking lease and permit ap-*
5 *plications; and*

6 (2) *provides to the applicant information as to*
7 *the status of an application within the Departments*
8 *of the Interior and Agriculture, including an estimate*
9 *of the time required for administrative action.*

10 **SEC. 265. ASSESSMENT OF GEOTHERMAL ENERGY POTEN-**
11 **TIAL.**

12 *Not later than 3 years after the date of enactment of*
13 *this Act and thereafter as the availability of data and devel-*
14 *opments in technology warrants, the Secretary of the Inte-*
15 *rior, acting through the Director of the United States Geo-*
16 *logical Survey and in cooperation with the States, shall—*

17 (1) *update the Assessment of Geothermal Re-*
18 *sources made during 1978; and*

19 (2) *submit to Congress the updated assessment.*

20 **SEC. 266. COOPERATIVE OR UNIT PLANS.**

21 *Section 18 of the Geothermal Steam Act of 1970 (30*
22 *U.S.C. 1017) is amended to read as follows:*

23 **“SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.**

24 **“(a) ADOPTION OF UNITS BY LESSEES.—**

1 “(1) *IN GENERAL.*—*For the purpose of more*
2 *properly conserving the natural resources of any geo-*
3 *thermal reservoir, field, or like area, or any part*
4 *thereof (whether or not any part of the geothermal*
5 *reservoir, field, or like area, is subject to any coopera-*
6 *tive plan of development or operation (referred to in*
7 *this section as a ‘unit agreement’)), lessees thereof and*
8 *their representatives may unite with each other, or*
9 *jointly or separately with others, in collectively adopt-*
10 *ing and operating under a unit agreement for the res-*
11 *ervoir, field, or like area, or any part thereof, includ-*
12 *ing direct use resources, if determined and certified*
13 *by the Secretary to be necessary or advisable in the*
14 *public interest.*

15 “(2) *MAJORITY INTEREST OF SINGLE LEASES.*—
16 *A majority interest of owners of any single lease shall*
17 *have the authority to commit the lease to a unit*
18 *agreement.*

19 “(3) *INITIATIVE OF SECRETARY.*—*The Secretary*
20 *may also initiate the formation of a unit agreement,*
21 *or require an existing Federal lease to commit to a*
22 *unit agreement, if in the public interest.*

23 “(4) *MODIFICATION OF LEASE REQUIREMENTS*
24 *BY SECRETARY.*—

1 “(A) *IN GENERAL.*—*The Secretary may, in*
2 *the discretion of the Secretary and with the con-*
3 *sent of the holders of leases involved, establish,*
4 *alter, change, or revoke rates of operations (in-*
5 *cluding drilling, operations, production, and*
6 *other requirements) of the leases and make condi-*
7 *tions with respect to the leases, with the consent*
8 *of the lessees, in connection with the creation and*
9 *operation of any such unit agreement as the Sec-*
10 *retary may consider necessary or advisable to se-*
11 *ecure the protection of the public interest.*

12 “(B) *UNLIKE TERMS OR RATES.*—*Leases*
13 *with unlike lease terms or royalty rates shall not*
14 *be required to be modified to be in the same unit.*

15 “(b) *REQUIREMENT OF PLANS UNDER NEW*
16 *LEASES.*—*The Secretary may—*

17 “(1) *provide that geothermal leases issued under*
18 *this Act shall contain a provision requiring the lessee*
19 *to operate under a unit agreement; and*

20 “(2) *prescribe the unit agreement under which*
21 *the lessee shall operate, which shall adequately protect*
22 *the rights of all parties in interest, including the*
23 *United States.*

24 “(c) *MODIFICATION OF RATE OF PROSPECTING, DE-*
25 *VELOPMENT, AND PRODUCTION.*—*The Secretary may re-*

1 *quire that any unit agreement authorized by this section*
2 *that applies to land owned by the United States contain*
3 *a provision under which authority is vested in the Sec-*
4 *retary, or any person, committee, or State or Federal officer*
5 *or agency as may be designated in the unit agreement to*
6 *alter or modify, from time to time, the rate of prospecting*
7 *and development and the quantity and rate of production*
8 *under the unit agreement.*

9 “(d) *EXCLUSION FROM DETERMINATION OF HOLDING*
10 *OR CONTROL.—Any land that is subject to a unit agreement*
11 *approved or prescribed by the Secretary under this section*
12 *shall not be considered in determining holdings or control*
13 *under section 7.*

14 “(e) *POOLING OF CERTAIN LAND.—If separate tracts*
15 *of land cannot be independently developed and operated to*
16 *use geothermal steam and associated geothermal resources*
17 *pursuant to any section of this Act—*

18 “(1) *the land, or a portion of the land, may be*
19 *pooled with other land, whether or not owned by the*
20 *United States, for purposes of development and oper-*
21 *ation under a communitization agreement providing*
22 *for an apportionment of production or royalties*
23 *among the separate tracts of land comprising the pro-*
24 *duction unit, if the pooling is determined by the Sec-*
25 *retary to be in the public interest; and*

1 “(2) operation or production pursuant to the
2 *communitization agreement shall be treated as oper-*
3 *ation or production with respect to each tract of land*
4 *that is subject to the communitization agreement.*

5 “(f) *UNIT AGREEMENT REVIEW.*—

6 “(1) *IN GENERAL.*—*Not later than 5 years after*
7 *the date of approval of any unit agreement and at*
8 *least every 5 years thereafter, the Secretary shall—*

9 “(A) *review each unit agreement; and*

10 “(B) *after notice and opportunity for com-*
11 *ment, eliminate from inclusion in the unit agree-*
12 *ment any land that the Secretary determines is*
13 *not reasonably necessary for unit operations*
14 *under the unit agreement.*

15 “(2) *BASIS FOR ELIMINATION.*—*The elimination*
16 *shall—*

17 “(A) *be based on scientific evidence; and*

18 “(B) *occur only if the elimination is deter-*
19 *mined by the Secretary to be for the purpose of*
20 *conserving and properly managing the geo-*
21 *thermal resource.*

22 “(3) *EXTENSION.*—*Any land eliminated under*
23 *this subsection shall be eligible for an extension under*
24 *section 6(g) if the land meets the requirements for the*
25 *extension.*

1 “(g) *DRILLING OR DEVELOPMENT CONTRACTS.*—

2 “(1) *IN GENERAL.*—*The Secretary may, on such*
3 *conditions as the Secretary may prescribe, approve*
4 *drilling or development contracts made by 1 or more*
5 *lessees of geothermal leases, with 1 or more persons,*
6 *associations, or corporations if, in the discretion of*
7 *the Secretary, the conservation of natural resources or*
8 *the public convenience or necessity may require or the*
9 *interests of the United States may be best served by*
10 *the approval.*

11 “(2) *HOLDINGS OR CONTROL.*—*Each lease oper-*
12 *ated under an approved drilling or development con-*
13 *tract, and interest under the contract, shall be ex-*
14 *cepted in determining holdings or control under sec-*
15 *tion 7.*

16 “(h) *COORDINATION WITH STATE GOVERNMENTS.*—
17 *The Secretary shall coordinate unitization and pooling ac-*
18 *tivities with appropriate State agencies.”.*

19 **SEC. 267. ROYALTY ON BYPRODUCTS.**

20 *Section 5 of the Geothermal Steam Act of 1970 (30*
21 *U.S.C. 1004) (as amended by section 242(a)) is amended*
22 *in subsection (a) by striking paragraph (2) and inserting*
23 *the following:*

24 “(2) *a royalty on any byproduct that is a min-*
25 *eral specified in the first section of the Mineral Leas-*

1 *ing Act (30 U.S.C. 181), and that is derived from*
2 *production under the lease, at the rate of the royalty*
3 *that applies under that Act to production of the min-*
4 *eral under a lease under that Act;”.*

5 **SEC. 268. LEASE DURATION AND WORK COMMITMENT RE-**
6 **QUIREMENTS.**

7 *Section 6(i) of the Geothermal Steam Act of 1970 (30*
8 *U.S.C. 1005(i)) is amended by striking paragraph (2) and*
9 *inserting the following:*

10 *“(2) The Secretary shall, by regulation, establish pay-*
11 *ments under this subsection at levels that ensure the diligent*
12 *development of the lease.”.*

13 **SEC. 269. ANNUAL RENTAL.**

14 *(a) ANNUAL RENTAL RATE.—Section 5 of the Geo-*
15 *thermal Steam Act of 1970 (30 U.S.C. 1004) (as amended*
16 *by section 242(a)) is amended in subsection (a) by striking*
17 *paragraph (3) and inserting the following:*

18 *“(3) payment in advance of an annual rental of*
19 *not less than—*

20 *“(A) for each of the first through tenth years*
21 *of the lease—*

22 *“(i) in the case of a lease awarded in*
23 *a noncompetitive lease sale, \$1 per acre or*
24 *fraction thereof; or*

1 “(ii) in the case of a lease awarded in
2 a competitive lease sale, \$2 per acre or frac-
3 tion thereof for the first year and \$3 per
4 acre or fraction thereof for each of the sec-
5 ond through 10th years; and

6 “(B) for each year after the 10th year of the
7 lease, \$5 per acre or fraction thereof;”.

8 (b) *TERMINATION OF LEASE FOR FAILURE TO PAY*
9 *RENTAL.*—Section 5 of the Geothermal Steam Act of 1970
10 (30 U.S.C. 1004) (as amended by section 242(a)) is amend-
11 ed by adding at the end the following:

12 “(c) *TERMINATION OF LEASE FOR FAILURE TO PAY*
13 *RENTAL.*—

14 “(1) *IN GENERAL.*—The Secretary shall termi-
15 nate any lease with respect to which rental is not
16 paid in accordance with this Act and the terms of the
17 lease under which the rental is required, on the expi-
18 ration of the 45-day period beginning on the date of
19 the failure to pay the rental.

20 “(2) *NOTIFICATION.*—The Secretary shall
21 promptly notify a lessee that has not paid rental re-
22 quired under the lease that the lease will be termi-
23 nated at the end of the period referred to in para-
24 graph (1).

1 “(3) *REINSTATEMENT.*—A lease that would oth-
 2 erwise terminate under paragraph (1) shall not ter-
 3 minate under that paragraph if the lessee pays to the
 4 Secretary, before the end of the period referred to in
 5 paragraph (1), the amount of rental due plus a late
 6 fee equal to 10 percent of the amount.”.

7 **SEC. 270. ADVANCED ROYALTIES REQUIRED FOR CES-**
 8 **SATION OF PRODUCTION.**

9 Section 5 of the Geothermal Steam Act of 1970 (30
 10 U.S.C. 1004) (as amended by section 249(b)) is amended
 11 by adding at the end the following:

12 “(d) *ADVANCED ROYALTIES REQUIRED FOR CES-*
 13 *SATION OF PRODUCTION.*—

14 “(1) *IN GENERAL.*—Subject to paragraphs (2)
 15 and (3), if, at any time after commercial production
 16 under a lease is achieved, production ceases for any
 17 reason, the lease shall remain in full force and effect
 18 for a period of not more than an aggregate number
 19 of 10 years beginning on the date production ceases,
 20 if, during the period in which production is ceased,
 21 the lessee pays royalties in advance at the monthly
 22 average rate at which the royalty was paid during
 23 the period of production.

24 “(2) *REDUCTION.*—The amount of any produc-
 25 tion royalty paid for any year shall be reduced (but

1 *not below 0) by the amount of any advanced royalties*
2 *paid under the lease to the extent that the advance*
3 *royalties have not been used to reduce production roy-*
4 *alties for a prior year.*

5 “(3) *EXCEPTIONS.*—*Paragraph (1) shall not*
6 *apply if the cessation in production is required or*
7 *otherwise caused by—*

8 “(A) *the Secretary;*

9 “(B) *the Secretary of the Air Force;*

10 “(C) *the Secretary of the Army;*

11 “(D) *the Secretary of the Navy;*

12 “(E) *a State or a political subdivision of a*
13 *State; or*

14 “(F) *a force majeure.*”.

15 **SEC. 271. LEASING AND PERMITTING ON FEDERAL LAND**

16 **WITHDRAWN FOR MILITARY PURPOSES.**

17 (a) *IN GENERAL.*—*Not later than 2 years after the*
18 *date of enactment of this Act, the Secretary of the Interior*
19 *and the Secretary of Defense, in consultation with the Sec-*
20 *retary of the Air Force, the Secretary of the Army, the Sec-*
21 *retary of the Navy, interested States, political subdivisions*
22 *of States, and representatives of the geothermal industry,*
23 *and other interested persons, shall submit to the appro-*
24 *priate committees of Congress a joint report on leasing and*

1 *permitting activities for geothermal energy on Federal land*
2 *withdrawn for military purposes.*

3 (b) *REQUIREMENTS.—The report required under sub-*
4 *section (a) shall include—*

5 (1) *a description of the military geothermal pro-*
6 *gram, including a description of—*

7 (A) *any differences between the military*
8 *geothermal program and the nonmilitary geo-*
9 *thermal program, including required security*
10 *procedures and operational considerations; and*

11 (B) *the reasons the differences described in*
12 *subparagraph (A) are significant;*

13 (2) *with respect to the military geothermal pro-*
14 *gram, a description of—*

15 (A) *revenues or energy provided to the De-*
16 *partment of Defense and facilities of the Depart-*
17 *ment Defense; and*

18 (B) *royalty structures, as applicable;*

19 (3) *any revenue sharing with States and polit-*
20 *ical subdivisions of States and other benefits from—*

21 (A) *the implementation of the Geothermal*
22 *Steam Act of 1970 (30 U.S.C 1001 et seq.) and*
23 *other applicable Federal law by the Secretary of*
24 *the Interior; and*

1 (B) the administration of geothermal leas-
2 ing under section 2689 of title 10, United States
3 Code, by the Secretary of Defense;

4 (4) if appropriate—

5 (A) a description of the current methods
6 and procedures used to ensure interagency co-
7 ordination, as needed, in developing renewable
8 energy sources on Federal land withdrawn for
9 military purposes; and

10 (B) an identification of any new procedures
11 that would improve interagency coordination to
12 ensure efficient processing and administration of
13 leases or contracts for geothermal energy on Fed-
14 eral land withdrawn for military purposes, con-
15 sistent with the defense purposes of the with-
16 drawals; and

17 (5) recommendations for any legislative or ad-
18 ministrative actions that would increase geothermal
19 production, including—

20 (A) a common royalty structure;

21 (B) leasing procedures; and

22 (C) other changes that—

23 (i) increase production;

24 (ii) offset military operation costs; or

1 (iii) enhance the ability of Federal
2 agencies to develop geothermal resources.

3 (c) *EFFECT.*—Nothing in this section affects the legal
4 status of geothermal leasing and development conducted by
5 the Department of the Interior and the Department of De-
6 fense.

7 **SEC. 272. TECHNICAL AMENDMENTS.**

8 (a) The Geothermal Steam Act of 1970 (30 U.S.C.
9 1001 et seq.) is amended by striking “geothermal steam and
10 associated geothermal resources” each place it appears and
11 inserting “geothermal resources”.

12 (b) The first section of the Geothermal Steam Act of
13 1970 (30 U.S.C. 1001 note) is amended by striking “That
14 this” and inserting the following:

15 **“SECTION 1. SHORT TITLE.**

16 “*This*”.

17 (c) Section 2 of the Geothermal Steam Act of 1970 (30
18 U.S.C. 1001) is amended—

19 (1) by striking “SEC. 2. As” and inserting the
20 following:

21 **“SEC. 2. DEFINITIONS.**

22 “*As*”; and

23 (2) by striking subsection (e) and inserting the
24 following:

1 “(e) ‘direct use’ means use of geothermal re-
2 sources for commercial, residential, agricultural, pub-
3 lic facilities, or other energy needs other than the
4 commercial production of electricity; and”.

5 (d) Section 3 of the Geothermal Steam Act of 1970 (30
6 U.S.C. 1002) is amended by striking “SEC. 3. Subject” and
7 inserting the following:

8 **“SEC. 3 . LANDS SUBJECT TO GEOTHERMAL LEASING.**

9 “Subject”.

10 (e) Section 5 of the Geothermal Steam Act of 1970 (30
11 U.S.C. 1004) is amended by striking “SEC. 5. Geothermal”
12 and inserting the following:

13 **“SEC. 5. RENTS AND ROYALTIES.**

14 “Geothermal”.

15 (f) Section 6 of the Geothermal Steam Act of 1970 (30
16 U.S.C. 1005) is amended by striking “SEC. 6. (a) The” and
17 inserting the following:

18 **“SEC. 6. DURATION OF LEASES.**

19 “(a) The”.

20 (g) Section 7 of the Geothermal Steam Act of 1970 (30
21 U.S.C. 1006) is amended by striking “SEC. 7. A geo-
22 thermal” and inserting the following:

23 **“SEC. 7. ACREAGE OF GEOTHERMAL LEASE.**

24 “A geothermal”.

1 (h) Section 8 of the Geothermal Steam Act of 1970 (30
2 U.S.C. 1007) is amended by striking “SEC. 8. (a) The” and
3 inserting the following:

4 **“SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDI-**
5 **TIONS.**

6 “(a) The”.

7 (i) Section 9 of the Geothermal Steam Act of 1970 (30
8 U.S.C. 1008) is amended by striking “SEC. 9. If” and in-
9 serting the following:

10 **“SEC. 9. BYPRODUCTS.**

11 “If”.

12 (j) Section 10 of the Geothermal Steam Act of 1970
13 (30 U.S.C. 1009) is amended by striking “SEC. 10. The”
14 and inserting the following:

15 **“SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.**

16 “The”.

17 (k) Section 11 of the Geothermal Steam Act of 1970
18 (30 U.S.C. 1010) is amended by striking “SEC. 11. The”
19 and inserting the following:

20 **“SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.**

21 “The”.

22 (l) Section 12 of the Geothermal Steam Act of 1970
23 (30 U.S.C. 1011) is amended by striking “SEC. 12. Leases”
24 and inserting the following:

1 **“SEC. 12. TERMINATION OF LEASES.**

2 *“Leases”.*

3 *(m) Section 13 of the Geothermal Steam Act of 1970*
4 *(30 U.S.C. 1012) is amended by striking “SEC. 13. The”*
5 *and inserting the following:*

6 **“SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL**
7 **OR ROYALTY.**

8 *“The”.*

9 *(n) Section 14 of the Geothermal Steam Act of 1970*
10 *(30 U.S.C. 1013) is amended by striking “SEC. 14. Subject”*
11 *and inserting the following:*

12 **“SEC. 14. SURFACE LAND USE.**

13 *“Subject”.*

14 *(o) Section 15 of the Geothermal Steam Act of 1970*
15 *(30 U.S.C. 1014) is amended by striking “SEC. 15. (a) Geo-*
16 *thermal” and inserting the following:*

17 **“SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.**

18 *“(a) Geothermal”.*

19 *(p) Section 16 of the Geothermal Steam Act of 1970*
20 *(30 U.S.C. 1015) is amended by striking “SEC. 16. Leases”*
21 *and inserting the following:*

22 **“SEC. 16. REQUIREMENT FOR LESSEES.**

23 *“Leases”.*

24 *(q) Section 17 of the Geothermal Steam Act of 1970*
25 *(30 U.S.C. 1016) is amended by striking “SEC. 17. Admin-*
26 *istration” and inserting the following:*

1 **“SEC. 17. ADMINISTRATION.**

2 *“Administration”.*

3 *(r) Section 19 of the Geothermal Steam Act of 1970*
4 *(30 U.S.C. 1018) is amended by striking “SEC. 19. Upon”*
5 *and inserting the following:*

6 **“SEC. 19. DATA FROM FEDERAL AGENCIES.**

7 *“Upon”.*

8 *(s) Section 20 of the Geothermal Steam Act of 1970*
9 *(30 U.S.C. 1019) is amended by striking “SEC. 20. Subject”*
10 *and inserting the following:*

11 **“SEC. 20. DISPOSITION OF AMOUNTS RECEIVED FROM**
12 **SALES, BONUSES, ROYALTIES, AND RENTALS.**

13 *“Subject”.*

14 *(t) Section 21 of the Geothermal Steam Act of 1970*
15 *(30 U.S.C. 1020) is amended by striking “SEC. 21.” and*
16 *all that follows through “(b) Geothermal” and inserting the*
17 *following:*

18 **“SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVA-**
19 **TION OF MINERAL RIGHTS.**

20 *“Geothermal”.*

21 *(u) Section 22 of the Geothermal Steam Act of 1970*
22 *(30 U.S.C. 1021) is amended by striking “SEC. 22. Noth-*
23 *ing” and inserting the following:*

24 **“SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.**

25 *“Nothing”.*

1 (v) Section 23 of the Geothermal Steam Act of 1970
2 (30 U.S.C. 1022) is amended by striking “SEC. 23. (a) All”
3 and inserting the following:

4 **“SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.**

5 “(a) All”.

6 (w) Section 24 of the Geothermal Steam Act of 1970
7 (30 U.S.C. 1023) is amended by striking “SEC. 24. The”
8 and inserting the following:

9 **“SEC. 24. RULES AND REGULATIONS.**

10 “The”.

11 (x) Section 25 of the Geothermal Steam Act of 1970
12 (30 U.S.C. 1024) is amended by striking “SEC. 25. As” and
13 inserting the following:

14 **“SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER**
15 **CERTAIN OTHER LAWS.**

16 “As”.

17 (y) Section 26 of the Geothermal Steam Act of 1970
18 is amended by striking “SEC. 26. The” and inserting the
19 following:

20 **“SEC. 26. AMENDMENT.**

21 “The”.

22 (z) Section 27 of the Geothermal Steam Act of 1970
23 (30 U.S.C. 1025) is amended by striking “SEC. 27. The”
24 and inserting the following:

1 **“SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL**
2 **RIGHTS.**

3 “The”.

4 (aa) Section 28 of the Geothermal Steam Act of 1970
5 (30 U.S.C. 1026) is amended by striking “SEC. 28. (a)(1)
6 The” and inserting the following:

7 **“SEC. 28. SIGNIFICANT THERMAL FEATURES.**

8 “(a)(1) The”.

9 (bb) Section 29 of the Geothermal Steam Act of 1970
10 (30 U.S.C. 1027) is amended by striking “SEC. 29. The”
11 and inserting the following:

12 **“SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.**

13 “The”.

14 **Subtitle G—Hydroelectric**

15 **SEC. 281. ALTERNATIVE CONDITIONS AND FISHWAYS.**

16 (a) **FEDERAL RESERVATIONS.**—Section 4(e) of the
17 Federal Power Act (16 U.S.C. 797(e)) is amended by insert-
18 ing after “adequate protection and utilization of such res-
19 ervation.” at the end of the first proviso the following: “The
20 license applicant and any party to the proceeding shall be
21 entitled to a determination on the record, after opportunity
22 for an agency trial-type hearing of no more than 90 days,
23 on any disputed issues of material fact with respect to such
24 conditions. All disputed issues of material fact raised by
25 any party shall be determined in a single trial-type hearing
26 to be conducted within a time frame established by the Com-

1 mission for each license proceeding. Within 90 days of the
2 date of enactment of this Act, the Secretaries of the Interior,
3 Commerce, and Agriculture shall establish jointly, by rule,
4 the procedures for such expedited trial-type hearing, includ-
5 ing the opportunity to undertake discovery and cross-exam-
6 ine witnesses, in consultation with the Federal Energy Reg-
7 ulatory Commission.”.

8 (b) *FISHWAYS*.—Section 18 of the Federal Power Act
9 (16 U.S.C. 811) is amended by inserting after “and such
10 fishways as may be prescribed by the Secretary of Com-
11 merce.” the following: “The license applicant and any party
12 to the proceeding shall be entitled to a determination on
13 the record, after opportunity for an agency trial-type hear-
14 ing of no more than 90 days, on any disputed issues of
15 material fact with respect to such fishways. All disputed
16 issues of material fact raised by any party shall be deter-
17 mined in a single trial-type hearing to be conducted within
18 a time frame established by the Commission for each license
19 proceeding. Within 90 days of the date of enactment of this
20 Act, the Secretaries of the Interior, Commerce, and Agri-
21 culture shall establish jointly, by rule, the procedures for
22 such expedited trial-type hearing, including the oppor-
23 tunity to undertake discovery and cross-examine witnesses,
24 in consultation with the Federal Energy Regulatory Com-
25 mission.”.

1 (c) *ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.*—
2 *Part I of the Federal Power Act (16 U.S.C. 791a et seq.)*
3 *is amended by adding the following new section at the end*
4 *thereof:*

5 **“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

6 “(a) *ALTERNATIVE CONDITIONS.*—(1) *Whenever any*
7 *person applies for a license for any project works within*
8 *any reservation of the United States, and the Secretary of*
9 *the department under whose supervision such reservation*
10 *falls (referred to in this subsection as the ‘Secretary’) deems*
11 *a condition to such license to be necessary under the first*
12 *proviso of section 4(e), the license applicant or any other*
13 *party to the license proceeding may propose an alternative*
14 *condition.*

15 “(2) *Notwithstanding the first proviso of section 4(e),*
16 *the Secretary shall accept the proposed alternative condi-*
17 *tion referred to in paragraph (1), and the Commission shall*
18 *include in the license such alternative condition, if the Sec-*
19 *retary determines, based on substantial evidence provided*
20 *by the license applicant, any other party to the proceeding,*
21 *or otherwise available to the Secretary, that such alternative*
22 *condition—*

23 “(A) *provides for the adequate protection and*
24 *utilization of the reservation; and*

1 “(B) the Secretary concurs with the license ap-
2 plicant’s judgment that the alternative condition will
3 either—

4 “(i) cost significantly less to implement; or
5 “(ii) result in improved operation of the
6 project works for electricity production, as com-
7 pared to the condition initially deemed necessary
8 by the Secretary.

9 “(3) The Secretary concerned shall submit into the
10 public record of the Commission proceeding with any condi-
11 tion under section 4(e) or alternative condition it accepts
12 under this section, a written statement explaining the basis
13 for such condition, and reason for not accepting any alter-
14 native condition under this section. The written statement
15 must demonstrate that the Secretary gave equal consider-
16 ation to the effects of the condition adopted and alternatives
17 not accepted on energy supply, distribution, cost, and use;
18 flood control; navigation; water supply; and air quality (in
19 addition to the preservation of other aspects of environ-
20 mental quality); based on such information as may be
21 available to the Secretary, including information volun-
22 tarily provided in a timely manner by the applicant and
23 others. The Secretary shall also submit, together with the
24 aforementioned written statement, all studies, data, and

1 *other factual information available to the Secretary and rel-*
2 *evant to the Secretary's decision.*

3 “(4) *If the Secretary does not accept an applicant's*
4 *alternative condition under this section, and the Commis-*
5 *sion finds that the Secretary's condition would be incon-*
6 *sistent with the purposes of this part, or other applicable*
7 *law, the Commission may refer the dispute to the Commis-*
8 *sion's Dispute Resolution Service. The Dispute Resolution*
9 *Service shall consult with the Secretary and the Commis-*
10 *sion and issue a non-binding advisory within 90 days. The*
11 *Secretary may accept the Dispute Resolution Service advi-*
12 *sory unless the Secretary finds that the recommendation*
13 *will not adequately protect the reservation. The Secretary*
14 *shall submit the advisory and the Secretary's final written*
15 *determination into the record of the Commission's pro-*
16 *ceeding.*

17 “(b) *ALTERNATIVE PRESCRIPTIONS.—(1) Whenever*
18 *the Secretary of the Interior or the Secretary of Commerce*
19 *prescribes a fishway under section 18, the license applicant*
20 *or any other party to the license proceeding may propose*
21 *an alternative to such prescription to construct, maintain,*
22 *or operate a fishway.*

23 “(2) *Notwithstanding section 18, the Secretary of the*
24 *Interior or the Secretary of Commerce, as appropriate, shall*
25 *accept and prescribe, and the Commission shall require, the*

1 *proposed alternative referred to in paragraph (1), if the*
2 *Secretary of the appropriate department determines, based*
3 *on substantial evidence provided by the license applicant,*
4 *any other party to the proceeding, or otherwise available*
5 *to the Secretary, that such alternative—*

6 “(A) *will be no less protective than the fishway*
7 *initially prescribed by the Secretary; and*

8 “(B) *the Secretary concurs with the license ap-*
9 *plicant’s judgment that the alternative prescription*
10 *will either—*

11 “(i) *cost significantly less to implement; or*

12 “(ii) *result in improved operation of the*
13 *project works for electricity production, as com-*
14 *pared to the fishway initially deemed necessary*
15 *by the Secretary.*

16 “(3) *The Secretary concerned shall submit into the*
17 *public record of the Commission proceeding with any pre-*
18 *scription under section 18 or alternative prescription it ac-*
19 *cepts under this section, a written statement explaining the*
20 *basis for such prescription, and reason for not accepting*
21 *any alternative prescription under this section. The written*
22 *statement must demonstrate that the Secretary gave equal*
23 *consideration to the effects of the prescription adopted and*
24 *alternatives not accepted on energy supply, distribution,*
25 *cost, and use; flood control; navigation; water supply; and*

1 *air quality (in addition to the preservation of other aspects*
2 *of environmental quality); based on such information as*
3 *may be available to the Secretary, including information*
4 *voluntarily provided in a timely manner by the applicant*
5 *and others. The Secretary shall also submit, together with*
6 *the aforementioned written statement, all studies, data, and*
7 *other factual information available to the Secretary and rel-*
8 *evant to the Secretary's decision.*

9 “(4) *If the Secretary concerned does not accept an ap-*
10 *plicant's alternative prescription under this section, and*
11 *the Commission finds that the Secretary's prescription*
12 *would be inconsistent with the purposes of this part, or*
13 *other applicable law, the Commission may refer the dispute*
14 *to the Commission's Dispute Resolution Service. The Dis-*
15 *pute Resolution Service shall consult with the Secretary and*
16 *the Commission and issue a non-binding advisory within*
17 *90 days. The Secretary may accept the Dispute Resolution*
18 *Service advisory unless the Secretary finds that the rec-*
19 *ommendation will not adequately protect the fish resources.*
20 *The Secretary shall submit the advisory and the Secretary's*
21 *final written determination into the record of the Commis-*
22 *sion's proceeding.”.*

1 **SEC. 282. ALASKA STATE JURISDICTION OVER SMALL HY-**
2 **DROELECTRIC PROJECTS.**

3 *Section 32 of the Federal Power Act (16 U.S.C. 823c)*
4 *is amended—*

5 *(1) in subsection (a)(3)(C), by inserting “except*
6 *as provided in subsection (j),” before “conditions”;*
7 *and*

8 *(2) by adding at the end the following:*

9 *“(j) FISH AND WILDLIFE.—If the State of Alaska de-*
10 *termines that a recommendation under subsection (a)(3)(C)*
11 *is inconsistent with paragraphs (1) and (2) of subsection*
12 *(a), the State of Alaska may decline to adopt all or part*
13 *of the recommendations in accordance with the procedures*
14 *established under section 10(j)(2).”.*

15 **SEC. 283. FLINT CREEK HYDROELECTRIC PROJECT.**

16 *(a) EXTENSION OF TIME.—Notwithstanding the time*
17 *period specified in section 5 of the Federal Power Act (16*
18 *U.S.C. 798) that would otherwise apply to the Federal En-*
19 *ergy Regulatory Commission (referred to in this section as*
20 *the “Commission”) project numbered 12107, the Commis-*
21 *sion shall—*

22 *(1) if the preliminary permit is in effect on the*
23 *date of enactment of this Act, extend the preliminary*
24 *permit for a period of 3 years beginning on the date*
25 *on which the preliminary permit expires; or*

1 (2) if the preliminary permit expired before the
2 date of enactment of this Act, on request of the per-
3 mittee, reinstate the preliminary permit for an addi-
4 tional 3-year period beginning on the date of enact-
5 ment of this Act.

6 (b) *LIMITATION ON CERTAIN FEES.*—Notwithstanding
7 section 10(e)(1) of the Federal Power Act (16 U.S.C.
8 803(e)(1)) or any other provision of Federal law providing
9 for the payment to the United States of charges for the use
10 of Federal land for the purposes of operating and maintain-
11 ing a hydroelectric development licensed by the Commis-
12 sion, any political subdivision of the State of Montana that
13 holds a Commission license for the Commission project
14 numbered 12107 in Granite and Deer Lodge Counties, Mon-
15 tana, shall be required to pay to the United States for the
16 use of that land for each year during which the political
17 subdivision continues to hold the license for the project, the
18 lesser of—

19 (1) \$25,000; or

20 (2) such annual charge as the Commission or
21 any other department or agency of the Federal Gov-
22 ernment may assess.

**Subtitle H—Renewable Portfolio
Standard**

SEC. 291. RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

“SEC. 609. FEDERAL RENEWABLE PORTFOLIO STANDARD.

“(a) RENEWABLE ENERGY REQUIREMENT.—

“(1) IN GENERAL.—*Each electric utility that sells electricity to electric consumers shall obtain a percentage of the base amount of electricity it sells to electric consumers in any calendar year from new renewable energy or existing renewable energy. The percentage obtained in a calendar year shall not be less than the amount specified in the following table:*

“Calendar year:	Minimum annual percentage:
<i>2008 through 2011</i>	<i>2.5</i>
<i>2012 through 2015</i>	<i>5.0</i>
<i>2016 through 2019</i>	<i>7.5</i>
<i>2020 through 2030</i>	<i>10.0.</i>

“(2) MEANS OF COMPLIANCE.—*An electric utility shall meet the requirements of paragraph (1) by—*

“(A) generating electric energy using new renewable energy or existing renewable energy;

“(B) purchasing electric energy generated by new renewable energy or existing renewable energy;

1 “(C) purchasing renewable energy credits
2 issued under subsection (b); or

3 “(D) a combination of the foregoing.

4 “(b) *RENEWABLE ENERGY CREDIT TRADING PRO-*
5 *GRAM.—*

6 “(1) Not later than January 1, 2007, the Sec-
7 retary shall establish a renewable energy credit trad-
8 ing program to permit an electric utility that does
9 not generate or purchase enough electric energy from
10 renewable energy to meet its obligations under sub-
11 section (a)(1) to satisfy such requirements by pur-
12 chasing sufficient renewable energy credits.

13 “(2) As part of such program the Secretary
14 shall—

15 “(A) issue renewable energy credits to gen-
16 erators of electric energy from new renewable en-
17 ergy;

18 “(B) sell renewable energy credits to electric
19 utilities at the rate of 1.5 cents per kilowatt-hour
20 (as adjusted for inflation under subsection (g));

21 “(C) ensure that a kilowatt hour, including
22 the associated renewable energy credit, shall be
23 used only once for purposes of compliance with
24 this section; and

1 “(D) allow double credits for generation
2 from facilities on Indian Lands, and triple cred-
3 its for generation from small renewable distrib-
4 uted generators (meaning those those no larger
5 than 1 megawatt).

6 “(3) Credits under paragraph (2)(A) may only
7 be used for compliance with this section for 3 years
8 from the date issued.

9 “(c) ENFORCEMENT.—

10 “(1) CIVIL PENALTIES.—Any electric utility that
11 fails to meet the renewable energy requirements of
12 subsection (a) shall be subject to a civil penalty.

13 “(2) AMOUNT OF PENALTY.—The amount of the
14 civil penalty shall be determined by multiplying the
15 number of kilowatt-hours of electric energy sold to
16 electric consumers in violation of subsection (a) by the
17 greater of 1.5 cents (adjusted for inflation under sub-
18 section (g)) or 200 percent of the average market
19 value of renewable energy credits during the year in
20 which the violation occurred.

21 “(3) MITIGATION OR WAIVER.—The Secretary
22 may mitigate or waive a civil penalty under this sub-
23 section if the electric utility was unable to comply
24 with subsection (a) for reasons outside of the reason-
25 able control of the utility. The Secretary shall reduce

1 *the amount of any penalty determined under para-*
2 *graph (2) by an amount paid by the electric utility*
3 *to a State for failure to comply with the requirement*
4 *of a State renewable energy program if the State re-*
5 *quirement is greater than the applicable requirement*
6 *of subsection (a).*

7 *“(4) PROCEDURE FOR ASSESSING PENALTY.—*
8 *The Secretary shall assess a civil penalty under this*
9 *subsection in accordance with the procedures pre-*
10 *scribed by section 333(d) of the Energy Policy and*
11 *Conservation Act of 1954 (42 U.S.C. 6303).*

12 *“(d) STATE RENEWABLE ENERGY ACCOUNT PRO-*
13 *GRAM.—*

14 *“(1) The Secretary shall establish, not later than*
15 *December 31, 2008, a State renewable energy account*
16 *program.*

17 *“(2) All money collected by the Secretary from*
18 *the sale of renewable energy credits and the assess-*
19 *ment of civil penalties under this section shall be de-*
20 *posited into the renewable energy account established*
21 *pursuant to this subsection. The State renewable en-*
22 *ergy account shall be held by the Secretary and shall*
23 *not be transferred to the Treasury Department.*

24 *“(3) Proceeds deposited in the State renewable*
25 *energy account shall be used by the Secretary, subject*

1 to appropriations, for a program to provide grants to
2 the State agency responsible for developing State en-
3 ergy conservation plans under section 362 of the En-
4 ergy Policy and Conservation Act (42 U.S.C. 6322)
5 for the purposes of promoting renewable energy pro-
6 duction, including programs that promote tech-
7 nologies that reduce the use of electricity at customer
8 sites such as solar water heating.

9 “(4) The Secretary may issue guidelines and cri-
10 teria for grants awarded under this subsection. State
11 energy offices receiving grants under this section shall
12 maintain such records and evidence of compliance as
13 the Secretary may require.

14 “(5) In allocating funds under this program, the
15 Secretary shall give preference—

16 “(A) to States in regions which have a dis-
17 proportionately small share of economically sus-
18 tainable renewable energy generation capacity;
19 and

20 “(B) to State programs to stimulate or en-
21 hance innovative renewable energy technologies.

22 “(e) RULES.—The Secretary shall issue rules imple-
23 menting this section not later than 1 year after the date
24 of enactment of this section.

1 “(f) *EXEMPTIONS.*—*This section shall not apply in*
2 *any calendar year to an electric utility—*

3 “(1) *that sold less than 4,000,000 megawatt-*
4 *hours of electric energy to electric consumers during*
5 *the preceding calendar year; or*

6 “(2) *in Hawaii.*

7 “(g) *INFLATION ADJUSTMENT.*—*Not later than Decem-*
8 *ber 31 of each year beginning in 2008, the Secretary shall*
9 *adjust for inflation the price of a renewable energy credit*
10 *under subsection (b)(2)(B) and the amount of the civil pen-*
11 *alty per kilowatt-hour under subsection (c)(2).*

12 “(h) *STATE PROGRAMS.*—*Nothing in this section shall*
13 *diminish any authority of a State or political subdivision*
14 *thereof to adopt or enforce any law or regulation respecting*
15 *renewable energy, but, except as provided in subsection*
16 *(c)(3), no such law or regulation shall relieve any person*
17 *of any requirement otherwise applicable under this section.*
18 *The Secretary, in consultation with States having such re-*
19 *newable energy programs, shall, to the maximum extent*
20 *practicable, facilitate coordination between the Federal pro-*
21 *gram and State programs.*

22 “(i) *DEFINITIONS.*—*For purposes of this section:*

23 “(1) *BASE AMOUNT OF ELECTRICITY.*—*The term*
24 *‘base amount of electricity’ means the total amount of*

1 *electricity sold by an electric utility to electric con-*
2 *sumers in a calendar year, excluding—*

3 *“(A) electricity generated by a hydroelectric*
4 *facility (including a pumped storage facility but*
5 *excluding incremental hydropower); and*

6 *“(B) electricity generated through the incin-*
7 *eration of municipal solid waste.*

8 *“(2) DISTRIBUTED GENERATION FACILITY.—The*
9 *term ‘distributed generation facility’ means a facility*
10 *at a customer site.*

11 *“(3) EXISTING RENEWABLE ENERGY.—The term*
12 *‘existing renewable energy’ means, except as provided*
13 *in paragraph (7)(B), electric energy generated at a*
14 *facility (including a distributed generation facility)*
15 *placed in service prior to the date of enactment of this*
16 *section from solar, wind, or geothermal energy; ocean*
17 *energy; biomass (as defined in section 203(a) of the*
18 *Energy Policy Act of 2005); or landfill gas.*

19 *“(4) GEOTHERMAL ENERGY.—The term ‘geo-*
20 *thermal energy’ means energy derived from a geo-*
21 *thermal deposit (within the meaning of section*
22 *613(e)(2) of the Internal Revenue Code of 1986).*

23 *“(5) INCREMENTAL GEOTHERMAL PRODUC-*
24 *TION.—*

1 “(A) *IN GENERAL.*—The term ‘incremental
2 *geothermal production*’ means for any year the
3 *excess of—*

4 “(i) *the total kilowatt hours of elec-*
5 *tricity produced from a facility (including*
6 *a distributed generation facility) using geo-*
7 *thermal energy, over*

8 “(ii) *the average annual kilowatt hours*
9 *produced at such facility for 5 of the pre-*
10 *vious 7 calendar years before the date of en-*
11 *actment of this section after eliminating the*
12 *highest and the lowest kilowatt hour produc-*
13 *tion years in such 7-year period.*

14 “(B) *SPECIAL RULE.*—A facility described
15 *in subparagraph (A) which was placed in service*
16 *at least 7 years before the date of enactment of*
17 *this section shall commencing with the year in*
18 *which such date of enactment occurs, reduce the*
19 *amount calculated under subparagraph (A)(ii)*
20 *each year, on a cumulative basis, by the average*
21 *percentage decrease in the annual kilowatt hour*
22 *production for the 7-year period described in*
23 *subparagraph (A)(ii) with such cumulative sum*
24 *not to exceed 30 percent.*

1 “(6) *INCREMENTAL HYDROPOWER.*—*The term*
2 *‘incremental hydropower’ means additional energy*
3 *generated as a result of efficiency improvements or*
4 *capacity additions made on or after the date of enact-*
5 *ment of this section or the effective date of an existing*
6 *applicable State renewable portfolio standard pro-*
7 *gram at a hydroelectric facility that was placed in*
8 *service before that date. The term does not include ad-*
9 *ditional energy generated as a result of operational*
10 *changes not directly associated with efficiency im-*
11 *provements or capacity additions. Efficiency im-*
12 *provements and capacity additions shall be measured*
13 *on the basis of the same water flow information used*
14 *to determine a historic average annual generation*
15 *baseline for the hydroelectric facility and certified by*
16 *the Secretary or the Federal Energy Regulatory Com-*
17 *mission.*

18 “(7) *NEW RENEWABLE ENERGY.*—*The term ‘new*
19 *renewable energy’ means—*

20 “(A) *electric energy generated at a facility*
21 *(including a distributed generation facility)*
22 *placed in service on or after January 1, 2003,*
23 *from—*

24 “(i) *solar, wind, or geothermal energy*
25 *or ocean energy;*

1 “(ii) biomass (as defined in section
2 203(a) of the Energy Policy Act of 2005);

3 “(iii) landfill gas; or

4 “(iv) incremental hydropower; and

5 “(B) for electric energy generated at a facil-
6 ity (including a distributed generation facility)
7 placed in service prior to the date of enactment
8 of this section—

9 “(i) the additional energy above the
10 average generation in the 3 years preceding
11 the date of enactment of this section at the
12 facility from—

13 “(I) solar or wind energy or ocean
14 energy;

15 “(II) biomass (as defined in sec-
16 tion 203(a) of the Energy Policy Act of
17 2005);

18 “(III) landfill gas; or

19 “(IV) incremental hydropower.

20 “(ii) the incremental geothermal pro-
21 duction.

22 “(8) OCEAN ENERGY.—The term ‘ocean energy’
23 includes current, wave, tidal, and thermal energy.

24 “(j) SUNSET.—This section expires on December 31,
25 2030.”.

1 **TITLE III—OIL AND GAS**
2 **Subtitle A—Petroleum Reserve and**
3 **Home Heating Oil**

4 **SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRA-**
5 **TEGIC PETROLEUM RESERVE AND OTHER EN-**
6 **ERGY PROGRAMS.**

7 (a) *AMENDMENT TO TITLE I OF THE ENERGY POLICY*
8 *AND CONSERVATION ACT.*—*Title I of the Energy Policy and*
9 *Conservation Act (42 U.S.C. 6212 et seq.) is amended—*
10 (1) *by striking section 166 (42 U.S.C. 6246) and*
11 *inserting the following:*

12 “*AUTHORIZATION OF APPROPRIATIONS*
13 “*SEC. 166. There are authorized to be appropriated*
14 *to the Secretary such sums as are necessary to carry out*
15 *this part and part D, to remain available until expended.*”;
16 (2) *by striking section 186 (42 U.S.C. 6250e);*
17 *and*
18 (3) *by striking part E (42 U.S.C. 6251).*

19 (b) *AMENDMENT TO TITLE II OF THE ENERGY POLICY*
20 *AND CONSERVATION ACT.*—*Title II of the Energy Policy*
21 *and Conservation Act (42 U.S.C. 6271 et seq.) is*
22 *amended—*

23 (1) *by inserting before section 273 (42 U.S.C.*
24 *6283) the following:*

1 “PART C—SUMMER FILL AND FUEL BUDGETING
 2 PROGRAMS”;

3 (2) by striking section 273(e) (42 U.S.C.
 4 6283(e)); and

5 (3) by striking part D (42 U.S.C. 6285).

6 (c) TECHNICAL AMENDMENTS.—The table of contents
 7 for the Energy Policy and Conservation Act is amended—

8 (1) by inserting after the items relating to part
 9 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.”;

10 (2) by amending the items relating to part C of
 11 title II to read as follows:

“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

“Sec. 273. Summer fill and fuel budgeting programs.”;

12 and

13 (3) by striking the items relating to part D of
 14 title II.

15 (d) AMENDMENT TO THE ENERGY POLICY AND CON-
 16 SERVATION ACT.—Section 183(b)(1) of the Energy Policy
 17 and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended
 18 by striking “by more” and all that follows through “mid-
 19 October through March” and inserting “by more than 60
 20 percent over its 5-year rolling average for the months of

1 *mid-October through March (considered as a heating season*
2 *average)*”.

3 (e) *FILL STRATEGIC PETROLEUM RESERVE TO CAPAC-*
4 *ITY.—(1) IN GENERAL.—The Secretary shall, as expedi-*
5 *tiously as practicable, without incurring excessive cost or*
6 *appreciably affecting the price of gasoline or heating oil to*
7 *consumers, acquire petroleum in quantities sufficient to fill*
8 *the Strategic Petroleum Reserve to the 1,000,000,000-barrel*
9 *capacity authorized under section 154(a) of the Energy Pol-*
10 *icy and Conservation Act (42 U.S.C. 6234(a)), in accord-*
11 *ance with the sections 159 and 160 of that Act (42 U.S.C.*
12 *6239, 6240).*

13 (2) *PROCEDURES.—*

14 (A) *IN GENERAL.—The Secretary shall de-*
15 *velop, with an opportunity for public comment,*
16 *procedures to obtain oil for the Reserve with the*
17 *intent of maximizing the overall domestic supply*
18 *of crude oil (including quantities stored in pri-*
19 *vate sector inventories) and minimizing the costs*
20 *to the Department of the Interior and the De-*
21 *partment of Energy of acquiring such oil (in-*
22 *cluding foregone revenues to the Treasury when*
23 *oil for the Reserve is obtained through the roy-*
24 *alty-in-kind program), consistent with national*
25 *security.*

1 (B) *CONSIDERATIONS.*—*The procedures*
2 *shall provide that, for purposes of determining*
3 *whether to acquire oil for the Reserve or defer de-*
4 *liveries of oil, the Secretary shall take into*
5 *account—*

6 (i) *current and future prices, supplies,*
7 *and inventories of oil;*

8 (ii) *national security; and*

9 (iii) *other factors that the Secretary*
10 *determines to be appropriate.*

11 (C) *REVIEW OF REQUESTS FOR DEFERRALS*
12 *OF SCHEDULED DELIVERIES.*—*The procedures*
13 *shall include procedures and criteria for the re-*
14 *view of requests for the deferrals of scheduled de-*
15 *liveries.*

16 (D) *DEADLINES.*—*The Secretary shall—*

17 (i) *propose the procedures required*
18 *under this paragraph not later than 120*
19 *days after the date of enactment of this Act;*

20 (ii) *promulgate the procedures not*
21 *later than 180 days after the date of enact-*
22 *ment of this Act; and*

23 (iii) *comply with the procedures in ac-*
24 *quiring oil for Reserve effective beginning*

1 on the date that is 180 days after the date
2 of enactment of this Act.

3 **SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.**

4 Section 713 of the Energy Act of 2000 (Public Law
5 106–469; 42 U.S.C. 6201 note) is amended by striking “4”
6 and inserting “9”.

7 **SEC. 303. SMALL BUSINESS AND AGRICULTURAL PRODUCER**
8 **ENERGY EMERGENCY DISASTER LOAN PRO-**
9 **GRAM.**

10 (a) *SMALL BUSINESS PRODUCER ENERGY EMER-*
11 *GENCY DISASTER LOAN PROGRAM.*—

12 (1) *DISASTER LOAN AUTHORITY.*—Section 7(b)
13 of the Small Business Act (15 U.S.C. 636(b)) is
14 amended by inserting after paragraph (3) the fol-
15 lowing:

16 “(4)(A) In this paragraph—

17 “(i) the term ‘base price index’ means the
18 moving average of the closing unit price on the
19 New York Mercantile Exchange for heating oil,
20 natural gas, gasoline, or propane for the 10
21 days, in each of the most recent 2 preceding
22 years, which correspond to the trading days de-
23 scribed in clause (ii);

24 “(ii) the term ‘current price index’ means
25 the moving average of the closing unit price on

1 *the New York Mercantile Exchange, for the 10*
2 *most recent trading days, for contracts to pur-*
3 *chase heating oil, natural gas, gasoline, or pro-*
4 *pane during the subsequent calendar month,*
5 *commonly known as the ‘front month’; and*

6 “(iii) the term ‘significant increase’
7 means—

8 “(I) with respect to the price of heating
9 oil, natural gas, gasoline, or propane, any
10 time the current price index exceeds the base
11 price index by not less than 40 percent; and

12 “(II) with respect to the price of ker-
13 osene, any increase which the Adminis-
14 trator, in consultation with the Secretary of
15 Energy, determines to be significant.

16 “(B) The Administration may make such loans,
17 either directly or in cooperation with banks or other
18 lending institutions through agreements to participate
19 on an immediate or deferred basis, to assist a small
20 business concern that has suffered or that is likely to
21 suffer substantial economic injury on or after Janu-
22 ary 1, 2005, as the result of a significant increase in
23 the price of heating oil, natural gas, gasoline, pro-
24 pane, or kerosene occurring on or after January 1,
25 2005.

1 “(C) Any loan or guarantee extended pursuant
2 to this paragraph shall be made at the same interest
3 rate as economic injury loans under paragraph (2).

4 “(D) No loan may be made under this para-
5 graph, either directly or in cooperation with banks or
6 other lending institutions through agreements to par-
7 ticipate on an immediate or deferred basis, if the
8 total amount outstanding and committed to the bor-
9 rower under this subsection would exceed \$1,500,000,
10 unless such borrower constitutes a major source of em-
11 ployment in its surrounding area, as determined by
12 the Administration, in which case the Administra-
13 tion, in its discretion, may waive the \$1,500,000 lim-
14 itation.

15 “(E) For purposes of assistance under this
16 paragraph—

17 “(i) a declaration of a disaster area based
18 on conditions specified in this paragraph shall
19 be required, and shall be made by the President
20 or the Administrator; or

21 “(ii) if no declaration has been made pursu-
22 ant to clause (i), the Governor of a State in
23 which a significant increase in the price of heat-
24 ing oil, natural gas, gasoline, propane, or ker-
25 osene has occurred may certify to the Adminis-

1 *tration that small business concerns have suf-*
2 *fered economic injury as a result of such increase*
3 *and are in need of financial assistance which is*
4 *not otherwise available on reasonable terms in*
5 *that State, and upon receipt of such certifi-*
6 *cation, the Administration may make such loans*
7 *as would have been available under this para-*
8 *graph if a disaster declaration had been issued.*

9 *“(F) Notwithstanding any other provision of*
10 *law, loans made under this paragraph may be used*
11 *by a small business concern described in subpara-*
12 *graph (B) to convert from the use of heating oil, nat-*
13 *ural gas, gasoline, propane, or kerosene to a renew-*
14 *able or alternative energy source, including agri-*
15 *culture and urban waste, geothermal energy, cogen-*
16 *eration, solar energy, wind energy, or fuel cells.”.*

17 *(2) CONFORMING AMENDMENTS.—Section 3(k) of*
18 *the Small Business Act (15 U.S.C. 632(k)) is*
19 *amended—*

20 *(A) by inserting “, significant increase in*
21 *the price of heating oil, natural gas, gasoline,*
22 *propane, or kerosene” after “civil disorders”; and*

23 *(B) by inserting “other” before “economic”.*

24 *(b) AGRICULTURAL PRODUCER EMERGENCY LOANS.—*

1 (1) *IN GENERAL.*—Section 321(a) of the *Consoli-*
2 *dated Farm and Rural Development Act (7 U.S.C.*
3 *1961(a)) is amended—*

4 (A) *in the first sentence—*

5 (i) *by striking “operations have” and*
6 *inserting “operations (i) have”; and*

7 (ii) *by inserting before “: Provided,”*
8 *the following: “, or (ii)(I) are owned or op-*
9 *erated by such an applicant that is also a*
10 *small business concern (as defined in sec-*
11 *tion 3 of the Small Business Act (15 U.S.C.*
12 *632)), and (II) have suffered or are likely to*
13 *suffer substantial economic injury on or*
14 *after January 1, 2005, as the result of a*
15 *significant increase in energy costs or input*
16 *costs from energy sources occurring on or*
17 *after January 1, 2005, in connection with*
18 *an energy emergency declared by the Presi-*
19 *dent or the Secretary”;*

20 (B) *in the third sentence, by inserting before*
21 *the period at the end the following: “or by an en-*
22 *ergy emergency declared by the President or the*
23 *Secretary”; and*

24 (C) *in the fourth sentence—*

1 (i) by inserting “or energy emergency”
2 after “natural disaster” each place that
3 term appears; and

4 (ii) by inserting “or declaration” after
5 “emergency designation”.

6 (2) *FUNDING.*—Funds available on the date of
7 enactment of this Act for emergency loans under sub-
8 title C of the Consolidated Farm and Rural Develop-
9 ment Act (7 U.S.C. 1961 et seq.) shall be available to
10 carry out the amendments made by subparagraph (A)
11 to meet the needs resulting from natural disasters.

12 (c) *GUIDELINES AND RULEMAKING.*—

13 (1) *GUIDELINES.*—Not later than 30 days after
14 the date of enactment of this Act, the Administrator
15 of the Small Business Administration and the Sec-
16 retary of Agriculture shall each issue guidelines to
17 carry out this section and the amendments made by
18 this section, which guidelines shall become effective on
19 the date of their issuance.

20 (2) *RULEMAKING.*—Not later than 30 days after
21 the date of enactment of this Act, the Administrator
22 of the Small Business Administration, after consulta-
23 tion with the Secretary of Energy, shall promulgate
24 regulations specifying the method for determining a
25 significant increase in the price of kerosene under sec-

1 *tion 7(b)(4)(A)(iii)(II) of the Small Business Act (15*
2 *U.S.C. 636(b)(4)(A)(iii)(II)), as added by this section.*

3 *(d) REPORTS.—*

4 *(1) SMALL BUSINESS ADMINISTRATION.—Not*
5 *later than 12 months after the date on which the Ad-*
6 *ministrator of the Small Business Administration*
7 *issues guidelines under subsection (c)(1), and annu-*
8 *ally thereafter, the Administrator shall submit to the*
9 *Committee on Small Business and Entrepreneurship*
10 *of the Senate and the Committee on Small Business*
11 *of the House of Representatives, a report on the effec-*
12 *tiveness of the assistance made available under section*
13 *7(b)(4) of the Small Business Act, as added by this*
14 *section, including—*

15 *(A) the number of small business concerns*
16 *that applied for a loan under such section*
17 *7(b)(4) and the number of those that received*
18 *such loans;*

19 *(B) the dollar value of those loans;*

20 *(C) the States in which the small business*
21 *concerns that received such loans are located;*

22 *(D) the type of energy that caused the sig-*
23 *nificant increase in the cost for the participating*
24 *small business concerns; and*

1 (E) recommendations for ways to improve
2 the assistance provided under such section
3 7(b)(4), if any.

4 (2) DEPARTMENT OF AGRICULTURE.—Not later
5 than 12 months after the date on which the Secretary
6 of Agriculture issues guidelines under subsection
7 (c)(1), and annually thereafter, the Secretary shall
8 submit to the Committee on Small Business and En-
9 trepreneurship and the Committee on Agriculture,
10 Nutrition, and Forestry of the Senate and to the
11 Committee on Small Business and the Committee on
12 Agriculture of the House of Representatives, a report
13 that—

14 (A) describes the effectiveness of the assist-
15 ance made available under section 321(a) of the
16 Consolidated Farm and Rural Development Act
17 (7 U.S.C. 1961(a)), as amended by this section;
18 and

19 (B) contains recommendations for ways to
20 improve the assistance provided under such sec-
21 tion 321(a).

22 (e) EFFECTIVE DATE.—

23 (1) SMALL BUSINESS.—The amendments made
24 by subsection (a) shall apply during the 4-year period
25 beginning on the earlier of the date on which guide-

1 *lines are published by the Administrator of the Small*
2 *Business Administration under subsection (c)(1) or*
3 *30 days after the date of enactment of this Act, with*
4 *respect to assistance under section 7(b)(4) of the*
5 *Small Business Act, as added by this section.*

6 (2) *AGRICULTURE.—The amendments made by*
7 *subsection (b) shall apply during the 4-year period*
8 *beginning on the earlier of the date on which guide-*
9 *lines are published by the Secretary of Agriculture*
10 *under subsection (c)(1) or 30 days after the date of*
11 *enactment of this Act, with respect to assistance*
12 *under section 321(a) of the Consolidated Farm and*
13 *Rural Development Act (7 U.S.C. 1961(a)), as*
14 *amended by this section.*

15 ***Subtitle B—Production Incentives***

16 ***SEC. 311. DEFINITION OF SECRETARY.***

17 *In this subtitle, the term “Secretary” means the Sec-*
18 *retary of the Interior.*

19 ***SEC. 312. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.***

20 (a) *APPLICABILITY OF SECTION.—Notwithstanding*
21 *any other provision of law, this section applies to all roy-*
22 *alty in-kind accepted by the Secretary on or after the date*
23 *of enactment of this Act under any Federal oil or gas lease*
24 *or permit under—*

1 (1) *section 36 of the Mineral Leasing Act (30*
2 *U.S.C. 192);*

3 (2) *section 27 of the Outer Continental Shelf*
4 *Lands Act (43 U.S.C. 1353); or*

5 (3) *any other Federal law governing leasing of*
6 *Federal land for oil and gas development.*

7 (b) *TERMS AND CONDITIONS.—All royalty accruing to*
8 *the United States shall, on the demand of the Secretary,*
9 *be paid in oil or gas. If the Secretary makes such a demand,*
10 *the following provisions apply to the payment:*

11 (1) *SATISFACTION OF ROYALTY OBLIGATION.—*
12 *Delivery by, or on behalf of, the lessee of the royalty*
13 *amount and quality due under the lease satisfies roy-*
14 *alty obligation of the lessee for the amount delivered,*
15 *except that transportation and processing reimburse-*
16 *ments paid to, or deductions claimed by, the lessee*
17 *shall be subject to review and audit.*

18 (2) *MARKETABLE CONDITION.—*

19 (A) *DEFINITION OF MARKETABLE CONDI-*
20 *TION.—In this paragraph, the term “in market-*
21 *able condition” means sufficiently free from im-*
22 *purities and otherwise in a condition that the*
23 *royalty production will be accepted by a pur-*
24 *chaser under a sales contract typical of the field*

1 or area in which the royalty production was
2 produced.

3 (B) *REQUIREMENT.*—Royalty production
4 shall be placed in marketable condition by the
5 lessee at no cost to the United States.

6 (3) *DISPOSITION BY THE SECRETARY.*—The Sec-
7 retary may—

8 (A) sell or otherwise dispose of any royalty
9 production taken in-kind (other than oil or gas
10 transferred under section 27(a)(3) of the Outer
11 Continental Shelf Lands Act (43 U.S.C.
12 1353(a)(3)) for not less than the market price;
13 and

14 (B) transport or process (or both) any roy-
15 alty production taken in-kind.

16 (4) *RETENTION BY THE SECRETARY.*—The Sec-
17 retary may, notwithstanding section 3302 of title 31,
18 United States Code, retain and use a portion of the
19 revenues from the sale of oil and gas taken in-kind
20 that otherwise would be deposited to miscellaneous re-
21 ceipts, without regard to fiscal year limitation, or
22 may use oil or gas received as royalty taken in-kind
23 (referred to in this paragraph as “royalty produc-
24 tion”) to pay the cost of—

25 (A) transporting the royalty production;

1 (B) processing the royalty production;

2 (C) disposing of the royalty production; or

3 (D) any combination of transporting, proc-
4 essing, and disposing of the royalty production.

5 (5) *LIMITATION.*—

6 (A) *IN GENERAL.*—*Except as provided in*
7 *subparagraph (B), the Secretary may not use*
8 *revenues from the sale of oil and gas taken in-*
9 *kind to pay for personnel, travel, or other ad-*
10 *ministrative costs of the Federal Government.*

11 (B) *EXCEPTION.*—*Notwithstanding sub-*
12 *paragraph (A), the Secretary may use a portion*
13 *of the revenues from royalty in-kind sales, with-*
14 *out fiscal year limitation, to pay salaries and*
15 *other administrative costs directly related to the*
16 *royalty in-kind program.*

17 (c) *REIMBURSEMENT OF COST.*—*If a lessee, pursuant*
18 *to an agreement with the United States or as provided in*
19 *the lease, processes the royalty gas or delivers the royalty*
20 *oil or gas at a point not on or adjacent to the lease area,*
21 *the Secretary shall—*

22 (1) *reimburse the lessee for the reasonable costs*
23 *of transportation (not including gathering) from the*
24 *lease to the point of delivery or for processing costs;*
25 *or*

1 (2) *allow the lessee to deduct the transportation*
2 *or processing costs in reporting and paying royalties*
3 *in-value for other Federal oil and gas leases.*

4 (d) *BENEFIT TO THE UNITED STATES REQUIRED.—*

5 *The Secretary may receive oil or gas royalties in-kind only*
6 *if the Secretary determines that receiving royalties in-kind*
7 *provides benefits to the United States that are greater than*
8 *or equal to the benefits that are likely to have been received*
9 *had royalties been taken in-value.*

10 (e) *REPORTS.—*

11 (1) *IN GENERAL.—Not later than September 30,*
12 *2006, the Secretary shall submit to Congress a report*
13 *that addresses—*

14 (A) *actions taken to develop businesses proc-*
15 *esses and automated systems to fully support the*
16 *royalty-in-kind capability to be used in tandem*
17 *with the royalty-in-value approach in managing*
18 *Federal oil and gas revenue; and*

19 (B) *future royalty-in-kind businesses oper-*
20 *ation plans and objectives.*

21 (2) *REPORTS ON OIL OR GAS ROYALTIES TAKEN*
22 *IN-KIND.—For each of fiscal years 2006 through 2015*
23 *in which the United States takes oil or gas royalties*
24 *in-kind from production in any State or from the*
25 *outer Continental Shelf, excluding royalties taken in-*

1 *kind and sold to refineries under subsection (h), the*
2 *Secretary shall submit to Congress a report that*
3 *describes—*

4 *(A) the 1 or more methodologies used by the*
5 *Secretary to determine compliance with sub-*
6 *section (d), including the performance standard*
7 *for comparing amounts received by the United*
8 *States derived from royalties in-kind to amounts*
9 *likely to have been received had royalties been*
10 *taken in-value;*

11 *(B) an explanation of the evaluation that*
12 *led the Secretary to take royalties in-kind from*
13 *a lease or group of leases, including the expected*
14 *revenue effect of taking royalties in-kind;*

15 *(C) actual amounts received by the United*
16 *States derived from taking royalties in-kind and*
17 *costs and savings incurred by the United States*
18 *associated with taking royalties in-kind, includ-*
19 *ing administrative savings and any new or in-*
20 *creased administrative costs; and*

21 *(D) an evaluation of other relevant public*
22 *benefits or detriments associated with taking*
23 *royalties in-kind.*

24 *(f) DEDUCTION OF EXPENSES.—*

1 (1) *IN GENERAL.*—*Before making payments*
2 *under section 35 of the Mineral Leasing Act (30*
3 *U.S.C. 191) or section 8(g) of the Outer Continental*
4 *Shelf Lands Act (43 U.S.C. 1337(g)) of revenues de-*
5 *ived from the sale of royalty production taken in-*
6 *kind from a lease, the Secretary shall deduct amounts*
7 *paid or deducted under subsections (b)(4) and (c) and*
8 *deposit the amount of the deductions in the miscella-*
9 *neous receipts of the Treasury.*

10 (2) *ACCOUNTING FOR DEDUCTIONS.*—*If the Sec-*
11 *retary allows the lessee to deduct transportation or*
12 *processing costs under subsection (c), the Secretary*
13 *may not reduce any payments to recipients of reve-*
14 *nuces derived from any other Federal oil and gas lease*
15 *as a consequence of that deduction.*

16 (g) *CONSULTATION WITH STATES.*—*The Secretary—*

17 (1) *shall consult with a State before conducting*
18 *a royalty in-kind program under this subtitle within*
19 *the State;*

20 (2) *may delegate management of any portion of*
21 *the Federal royalty in-kind program to the State ex-*
22 *cept as otherwise prohibited by Federal law; and*

23 (3) *shall consult annually with any State from*
24 *which Federal oil or gas royalty is being taken in-*
25 *kind to ensure, to the maximum extent practicable,*

1 *that the royalty in-kind program provides revenues to*
2 *the State greater than or equal to the revenues likely*
3 *to have been received had royalties been taken in-*
4 *value.*

5 *(h) SMALL REFINERIES.—*

6 *(1) PREFERENCE.—If the Secretary finds that*
7 *sufficient supplies of crude oil are not available in the*
8 *open market to refineries that do not have their own*
9 *source of supply for crude oil, the Secretary may*
10 *grant preference to those refineries in the sale of any*
11 *royalty oil accruing or reserved to the United States*
12 *under Federal oil and gas leases issued under any*
13 *mineral leasing law, for processing or use in those re-*
14 *fineries at private sale at not less than the market*
15 *price.*

16 *(2) PRORATION AMONG REFINERIES IN PRODUC-*
17 *TION AREA.—In disposing of oil under this subsection,*
18 *the Secretary may, at the discretion of the Secretary,*
19 *prorate the oil among refineries described in para-*
20 *graph (1) in the area in which the oil is produced.*

21 *(i) DISPOSITION TO FEDERAL AGENCIES.—*

22 *(1) ONSHORE ROYALTY.—Any royalty oil or gas*
23 *taken by the Secretary in-kind from onshore oil and*
24 *gas leases may be sold at not less than the market*
25 *price to any Federal agency.*

1 (2) *OFFSHORE ROYALTY.*—Any royalty oil or
2 gas taken in-kind from a Federal oil or gas lease on
3 the outer Continental Shelf may be disposed of only
4 under section 27 of the Outer Continental Shelf Lands
5 Act (43 U.S.C. 1353).

6 (j) *FEDERAL LOW-INCOME ENERGY ASSISTANCE PRO-*
7 *GRAMS.*—

8 (1) *PREFERENCE.*—In disposing of royalty oil or
9 gas taken in-kind under this section, the Secretary
10 may grant a preference to any person, including any
11 Federal or State agency, for the purpose of providing
12 additional resources to any Federal low-income en-
13 ergy assistance program.

14 (2) *REPORT.*—Not later than 3 years after the
15 date of enactment of this Act, the Secretary shall sub-
16 mit a report to Congress—

17 (A) assessing the effectiveness of granting
18 preferences specified in paragraph (1); and

19 (B) providing a specific recommendation on
20 the continuation of authority to grant pref-
21 erences.

22 **SEC. 313. MARGINAL PROPERTY PRODUCTION INCENTIVES.**

23 (a) *DEFINITION OF MARGINAL PROPERTY.*—Until
24 such time as the Secretary issues regulations under sub-
25 section (e) that prescribe a different definition, in this sec-

1 tion, the term “marginal property” means an onshore unit,
2 communitization agreement, or lease not within a unit or
3 communitization agreement, that produces on average the
4 combined equivalent of less than 15 barrels of oil per well
5 per day or 90,000,000 British thermal units of gas per well
6 per day calculated based on the average over the 3 most
7 recent production months, including only wells that produce
8 on more than half of the days during those 3 production
9 months.

10 (b) *CONDITIONS FOR REDUCTION OF ROYALTY*
11 *RATE.*—Until such time as the Secretary issues regulations
12 under subsection (e) that prescribe different standards or
13 requirements, the Secretary shall reduce the royalty rate
14 on—

15 (1) oil production from marginal properties as
16 prescribed in subsection (c) if the spot price of West
17 Texas Intermediate crude oil at Cushing, Oklahoma,
18 is, on average, less than \$15 per barrel (adjusted in
19 accordance with the Consumer Price Index for all-
20 urban consumers, United States city average, as pub-
21 lished by the Bureau of Labor Statistics) for 90 con-
22 secutive trading days; and

23 (2) gas production from marginal properties as
24 prescribed in subsection (c) if the spot price of nat-
25 ural gas delivered at Henry Hub, Louisiana, is, on

1 *average, less than \$2.00 per million British thermal*
2 *units (adjusted in accordance with the Consumer*
3 *Price Index for all-urban consumers, United States*
4 *city average, as published by the Bureau of Labor*
5 *Statistics) for 90 consecutive trading days.*

6 *(c) REDUCED ROYALTY RATE.—*

7 *(1) IN GENERAL.—When a marginal property*
8 *meets the conditions specified in subsection (b), the*
9 *royalty rate shall be the lesser of—*

10 *(A) 5 percent; or*

11 *(B) the applicable rate under any other*
12 *statutory or regulatory royalty relief provision*
13 *that applies to the affected production.*

14 *(2) PERIOD OF EFFECTIVENESS.—The reduced*
15 *royalty rate under this subsection shall be effective be-*
16 *ginning on the first day of the production month fol-*
17 *lowing the date on which the applicable condition*
18 *specified in subsection (b) is met.*

19 *(d) TERMINATION OF REDUCED ROYALTY RATE.—A*
20 *royalty rate prescribed in subsection (c)(1)(A) shall*
21 *terminate—*

22 *(1) with respect to oil production from a mar-*
23 *ginal property, on the first day of the production*
24 *month following the date on which—*

1 (A) *the spot price of West Texas Inter-*
2 *mediate crude oil at Cushing, Oklahoma, on av-*
3 *erage, exceeds \$15 per barrel (adjusted in accord-*
4 *ance with the Consumer Price Index for all-*
5 *urban consumers, United States city average, as*
6 *published by the Bureau of Labor Statistics) for*
7 *90 consecutive trading days; or*

8 (B) *the property no longer qualifies as a*
9 *marginal property; and*

10 (2) *with respect to gas production from a mar-*
11 *ginal property, on the first day of the production*
12 *month following the date on which—*

13 (A) *the spot price of natural gas delivered*
14 *at Henry Hub, Louisiana, on average, exceeds*
15 *\$2.00 per million British thermal units (ad-*
16 *justed in accordance with the Consumer Price*
17 *Index for all-urban consumers, United States*
18 *city average, as published by the Bureau of*
19 *Labor Statistics) for 90 consecutive trading*
20 *days; or*

21 (B) *the property no longer qualifies as a*
22 *marginal property.*

23 (e) *REGULATIONS PRESCRIBING DIFFERENT RE-*
24 *LIEF.—*

1 (1) *DISCRETIONARY REGULATIONS.*—*The Sec-*
2 *retary may by regulation prescribe different param-*
3 *eters, standards, and requirements for, and a different*
4 *degree or extent of, royalty relief for marginal prop-*
5 *erties in lieu of those prescribed in subsections (a)*
6 *through (d).*

7 (2) *ROYALTY RELIEF FOR OFFSHORE WELLS.*—
8 *With respect to royalty relief for oil or gas produced*
9 *from wells located on the outer Continental Shelf, the*
10 *Secretary shall use authority available to the Sec-*
11 *retary as of the day before the date of enactment of*
12 *this Act—*

13 (A) *to accept and consider petitions from*
14 *persons seeking, and providing justification for,*
15 *royalty relief for 1 or more of those wells; and*

16 (B) *not later than 90 days after the date of*
17 *receipt of a petition, on a case-by-case basis—*

18 (i) *approve the petition and provide*
19 *royalty relief or a royalty reduction for oil*
20 *or gas produced from the wells covered by*
21 *the petition; or*

22 (ii) *disapprove the petition.*

23 (3) *CONSIDERATIONS.*—*In issuing regulations*
24 *under this subsection, the Secretary may consider—*

25 (A) *oil and gas prices and market trends;*

1 (B) production costs;

2 (C) abandonment costs;

3 (D) Federal and State tax provisions and
4 the effects of those provisions on production eco-
5 nomics;

6 (E) other royalty relief programs;

7 (F) regional differences in average wellhead
8 prices;

9 (G) national energy security issues; and

10 (H) other relevant matters, as determined
11 by the Secretary.

12 (f) SAVINGS PROVISION.—Nothing in this section pre-
13 vents a lessee from receiving royalty relief or a royalty re-
14 duction pursuant to any other law (including a regulation)
15 that provides more relief than the amounts provided by this
16 section.

17 **SEC. 314. INCENTIVES FOR NATURAL GAS PRODUCTION**
18 **FROM DEEP WELLS IN THE SHALLOW WATERS**
19 **OF THE GULF OF MEXICO.**

20 (a) DEFINITIONS.—In this section:

21 (1) LEASE ISSUED IN SHALLOW WATERS.—The
22 term “lease issued in shallow waters” means—

23 (A) a lease entirely in water less than 200
24 meters deep; or

25 (B) a lease—

1 (i) *partially in water less than 200*
2 *meters deep; and*

3 (ii) *to which no royalty relief provi-*
4 *sions in law or lease terms apply.*

5 (2) *SIDETRACK.—*

6 (A) *IN GENERAL.—The term “sidetrack”*
7 *means a well resulting from drilling an addi-*
8 *tional hole to a new objective bottom-hole loca-*
9 *tion by leaving a previously drilled hole.*

10 (B) *INCLUSION.—The term “sidetrack”*
11 *includes—*

12 (i) *drilling a well from a platform slot*
13 *reclaimed from a previously drilled well;*

14 (ii) *re-entering and deepening a pre-*
15 *viously drilled well; and*

16 (iii) *a bypass from a sidetrack, includ-*
17 *ing drilling around material blocking a hole*
18 *or drilling to straighten a crooked hole.*

19 (3) *ULTRA DEEP WELL.—The term “ultra deep*
20 *well” means a well drilled with a perforated interval,*
21 *the top of which is at least 20,000 feet true vertical*
22 *depth below the datum at mean sea level.*

23 (b) *REGULATIONS.—*

24 (1) *IN GENERAL.—Not later than 180 days after*
25 *the effective date of this section, in addition to any*

1 *other regulations that may provide royalty incentives*
2 *for natural gas produced from deep wells on oil and*
3 *gas leases issued pursuant to, or regulated under, the*
4 *Outer Continental Shelf Lands Act (43 U.S.C. 1331*
5 *et seq.), the Secretary shall issue regulations granting*
6 *royalty relief suspension volumes of not less than*
7 *35,000,000,000 cubic feet with respect to the produc-*
8 *tion of natural gas from ultra deep wells on leases*
9 *issued in shallow waters located in the Gulf of Mexico*
10 *wholly west of 87°, 30" West longitude that are issued*
11 *before the date that is 180 days after the date of en-*
12 *actment of this Act.*

13 (2) *SUSPENSION VOLUMES.—The Secretary may*
14 *grant suspension volumes of less than 35,000,000,000*
15 *cubic feet in any case in which—*

16 (A) *the ultra deep well is a sidetrack; or*

17 (B) *the lease has previously produced from*
18 *wells with a perforated interval the top of which*
19 *is at least 15,000 feet true vertical depth below*
20 *the datum at mean sea level.*

21 (c) *LIMITATION.—The Secretary shall not grant roy-*
22 *alty incentives under this section if the average annual nat-*
23 *ural gas price on the New York Mercantile Exchange exceeds*
24 *a threshold price specified, and adjusted for inflation, by*
25 *the Secretary.*

1 (d) *APPLICABILITY.*—

2 (1) *IN GENERAL.*—*Royalty incentives under this*
3 *subsection apply only to natural gas production from*
4 *ultra deep wells that are drilled after the date of en-*
5 *actment of this Act.*

6 (2) *REVIEW AND SUSPENSION.*—*Not earlier than*
7 *10 years after the date of enactment of this Act, the*
8 *Secretary may—*

9 (A) *review the relief granted under this sec-*
10 *tion; and*

11 (B) *by regulation, modify or suspend the re-*
12 *lief.*

13 (e) *EFFECTIVE DATE.*—*This section takes effect on Oc-*
14 *tober 1, 2006.*

15 **SEC. 315. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.**

16 (a) *IN GENERAL.*—*Subject to subsections (b) and (c),*
17 *for each tract located in water depths of greater than 400*
18 *meters in the Western and Central Planning Area of the*
19 *Gulf of Mexico (including the portion of the Eastern Plan-*
20 *ning Area of the Gulf of Mexico encompassing whole lease*
21 *blocks lying west of 87 degrees, 30 minutes West longitude),*
22 *any oil or gas lease sale under the Outer Continental Shelf*
23 *Lands Act (43 U.S.C. 1331 et seq.) occurring during the*
24 *5-year period beginning on the date of enactment of this*
25 *Act shall use the bidding system authorized under section*

1 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43
2 U.S.C. 1337(a)(1)(H)).

3 (b) *SUSPENSION OF ROYALTIES.*—The suspension of
4 royalties under subsection (a) shall be established at a vol-
5 ume of not less than—

6 (1) 5,000,000 barrels of oil equivalent for each
7 lease in water depths of 400 meters or more but less
8 than 800 meters;

9 (2) 9,000,000 barrels of oil equivalent for each
10 lease in water depths of 800 meters or more but not
11 greater than 1,600 meters; and

12 (3) 12,000,000 barrels of oil equivalent for each
13 lease in water depths greater than 1,600 meters.

14 (c) *LIMITATION.*—The Secretary may place limitations
15 on royalty relief granted under this section based on market
16 price.

17 **SEC. 316. ALASKA OFFSHORE ROYALTY SUSPENSION.**

18 Section 8(a)(3)(B) of the Outer Continental Shelf
19 Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by insert-
20 ing “and in the Planning Areas offshore Alaska,” after
21 “West longitude,”.

22 **SEC. 317. OIL AND GAS LEASING IN THE NATIONAL PETRO-**
23 **LEUM RESERVE IN ALASKA.**

24 (a) *TRANSFER OF AUTHORITY.*—

1 (1) *REDESIGNATION*.—*The Naval Petroleum Re-*
2 *serves Production Act of 1976 (42 U.S.C. 6501 et seq.)*
3 *is amended by redesignating section 107 (42 U.S.C.*
4 *6507) as section 108.*

5 (2) *TRANSFER*.—*The matter under the heading*
6 *“EXPLORATION OF NATIONAL PETROLEUM RESERVE IN*
7 *ALASKA” under the heading “ENERGY AND MIN-*
8 *ERALS” of title I of Public Law 96–514 (42 U.S.C.*
9 *6508) is—*

10 (A) *transferred to the Naval Petroleum Re-*
11 *serves Production Act of 1976 (42 U.S.C. 6501*
12 *et seq.);*

13 (B) *redesignated as section 107 of that Act;*
14 *and*

15 (C) *moved so as to appear after section 106*
16 *of that Act (42 U.S.C. 6506).*

17 (b) *COMPETITIVE LEASING*.—*Section 107 of the Naval*
18 *Petroleum Reserves Production Act of 1976 (as amended by*
19 *subsection (a)(2)) is amended—*

20 (1) *by striking the heading and all that follows*
21 *through “Provided, That (1) activities” and inserting*
22 *the following:*

1 **“SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.**

2 “(a) *IN GENERAL.*—*The Secretary shall conduct an ex-*
3 *peditious program of competitive leasing of oil and gas in*
4 *the Reserve in accordance with this Act.*

5 “(b) *MITIGATION OF ADVERSE EFFECTS.*—

6 “(1) *IN GENERAL.*—*Activities*”;

7 (2) *in subsection (b)(1) (as designated by para-*
8 *graph (1)), by striking “to mitigate” and inserting*
9 *“to prevent to the extent practicable, and to miti-*
10 *gate,”*;

11 (3) *by striking “Alaska (the Reserve); (2) the”*
12 *and inserting “Alaska.*

13 “(2) *CERTAIN RESOURCES AND FACILITIES.*—*In*
14 *carrying out the leasing program under this section,*
15 *the Secretary shall minimize, to the extent prac-*
16 *ticable, the impact to surface resources and consoli-*
17 *date facilities.*

18 “(c) *LAND USE PLANNING; BLM WILDERNESS*
19 *STUDY.*—*The*”;

20 (4) *by striking “Reserve; (3) the” and inserting*
21 *“Reserve.*

22 “(d) *FIRST LEASE SALE.*—*The*”;

23 (5) *by striking “4332); (4) the” and inserting*
24 *“4321 et seq.).*

25 “(e) *WITHDRAWALS.*—*The*”;

1 (6) by striking “herein; (5) bidding” and insert-
2 ing “under this section.

3 “(f) *BIDDING SYSTEMS.—Bidding*”;

4 (7) by striking “629; (6) lease” and inserting
5 “629).

6 “(g) *GEOLOGICAL STRUCTURES.—Lease*”;

7 (8) by striking “structures; (7) the” and insert-
8 ing “structures.

9 “(h) *SIZE OF LEASE TRACTS.—The*”;

10 (9) by striking “Secretary; (8)” and all that fol-
11 lows through “Drilling, production,” and inserting
12 “Secretary.

13 “(i) *TERMS.—*

14 “(1) *IN GENERAL.—Each lease shall be issued for*
15 *an initial period of not more than 10 years, and shall*
16 *be extended for so long thereafter as oil or gas is pro-*
17 *duced from the lease in paying quantities or drilling*
18 *or reworking operations, as approved by the Sec-*
19 *retary, are conducted on the leased land.*

20 “(2) *TERMINATION.—No lease issued under this*
21 *section covering lands capable of producing oil or gas*
22 *in paying quantities shall expire because the lessee*
23 *fails to produce the same unless the lessee is allowed*
24 *a reasonable time, which shall be not less than 60*
25 *days after notice by registered or certified mail, with-*

1 *in which to place the lands in producing status or*
2 *unless, after such status is established, production is*
3 *discontinued on the leased premises without permis-*
4 *sion granted by the Secretary under the provisions of*
5 *this Act.*

6 *“(3) RENEWAL OF LEASES WITHOUT DISCOV-*
7 *ERIES.—At the end of the primary term of a lease,*
8 *the Secretary shall renew for one additional 10-year*
9 *term a lease that does not meet the requirements of*
10 *paragraph (1) if the lessee submits to the Secretary*
11 *an application for renewal not later than 60 days be-*
12 *fore the expiration of the primary lease, pays the Sec-*
13 *retary a renewal fee of \$100 per acre of leased land,*
14 *and—*

15 *“(A) the lessee provides evidence, and the*
16 *Secretary agrees that, the lessee has diligently*
17 *pursued exploration that warrants continuation*
18 *with the intent of continued exploration or fu-*
19 *ture potential development of the leased land; or*

20 *“(B) all or part of the lease*

21 *“(i) is part of a unit agreement cov-*
22 *ering a lease described in subparagraph (A);*
23 *and*

24 *“(ii) has not been previously con-*
25 *tracted out of the unit.*

1 “(4) *APPLICABILITY.*—*This subsection applies to*
2 *a lease that is in effect on or after the date of enact-*
3 *ment of the Energy Policy Act of 2005.*

4 “(j) *UNIT AGREEMENTS.*—

5 “(1) *IN GENERAL.*—*For the purpose of conserva-*
6 *tion of the natural resources of all or part of any oil*
7 *or gas pool, field, reservoir, or like area, lessees (in-*
8 *cluding representatives) of the pool, field, reservoir, or*
9 *like area may unite with each other, or jointly or sep-*
10 *arately with others, in collectively adopting and oper-*
11 *ating under a unit agreement for all or part of the*
12 *pool, field, reservoir, or like area (whether or not any*
13 *other part of the oil or gas pool, field, reservoir, or*
14 *like area is already subject to any cooperative or unit*
15 *plan of development or operation), if the Secretary*
16 *determines the action to be necessary or advisable in*
17 *the public interest. In determining the public interest,*
18 *the Secretary shall, among other things, examine the*
19 *extent to which the unit agreement will minimize the*
20 *impact to surface resources of the leases and will fa-*
21 *facilitate consolidation of facilities.*

22 “(2) *CONSULTATION.*—*In making a determina-*
23 *tion under paragraph (1), the Secretary shall consult*
24 *with the State of Alaska or a Regional Corporation*
25 *(as defined in section 3 of the Alaska Native Claims*

1 *Settlement Act (43 U.S.C. 1602)) with respect to the*
2 *creation or expansion of units that include acreage in*
3 *which the State of Alaska or the Regional Corpora-*
4 *tion has an interest in the mineral estate.*

5 “(3) *PRODUCTION ALLOCATION METHODO-*
6 *LOGY.—(A) The Secretary may use a production al-*
7 *location methodology for each participating area*
8 *within a unit that includes solely Federal land in the*
9 *Reserve.*

10 “(B) *The Secretary shall use a production allo-*
11 *cation methodology for each participating area with-*
12 *in a unit that includes Federal land in the Reserve*
13 *and non-Federal land based on the characteristics of*
14 *each specific oil or gas pool, field, reservoir, or like*
15 *area to take into account reservoir heterogeneity and*
16 *area variation in reservoir producibility across di-*
17 *verse leasehold interests. The implementation of the*
18 *foregoing production allocation methodology shall be*
19 *controlled by agreement among the affected lessors*
20 *and lessees.*

21 “(4) *BENEFIT OF OPERATIONS.—Drilling, pro-*
22 *duction,”;*

23 (10) *by striking “When separate” and inserting*
24 *the following:*

25 “(5) *POOLING.—If separate”;*

1 (11) by inserting “(in consultation with the own-
2 ers of the other land)” after “determined by the Sec-
3 retary of the Interior”;

4 (12) by striking “thereto; (10) to” and all that
5 follows through “the terms provided therein” and in-
6 serting “to the agreement.

7 “(k) *EXPLORATION INCENTIVES.*—

8 “(1) *IN GENERAL.*—

9 “(A) *WAIVER, SUSPENSION, OR REDUC-*
10 *TION.*—To encourage the greatest ultimate recov-
11 ery of oil or gas or in the interest of conserva-
12 tion, the Secretary may waive, suspend, or re-
13 duce the rental fees or minimum royalty, or re-
14 duce the royalty on an entire leasehold (includ-
15 ing on any lease operated pursuant to a unit
16 agreement), whenever (after consultation with the
17 State of Alaska and the North Slope Borough of
18 Alaska and the concurrence of any Regional Cor-
19 poration for leases that include land that was
20 made available for acquisition by the Regional
21 Corporation under the provisions of section
22 1431(o) of the Alaska National Interest Lands
23 Conservation Act (16 U.S.C. 3101 et seq.)) in the
24 judgment of the Secretary it is necessary to do
25 so to promote development, or whenever in the

1 *judgment of the Secretary the leases cannot be*
2 *successfully operated under the terms provided*
3 *therein.*

4 “(B) *APPLICABILITY.*—*This paragraph ap-*
5 *plies to a lease that is in effect on or after the*
6 *date of enactment of the Energy Policy Act of*
7 *2005.”;*

8 (13) *by striking “The Secretary is authorized to”*
9 *and inserting the following:*

10 “(2) *SUSPENSION OF OPERATIONS AND PRODUC-*
11 *TION.*—*The Secretary may”;*

12 (14) *by striking “In the event” and inserting the*
13 *following:*

14 “(3) *SUSPENSION OF PAYMENTS.*—*If”;*

15 (15) *by striking “thereto; and (11) all” and in-*
16 *serting “to the lease.*

17 “(l) *RECEIPTS.*—*All”;*

18 (16) *by redesignating subparagraphs (A), (B),*
19 *and (C) as paragraphs (1), (2), and (3), respectively;*

20 (17) *by striking “Any agency” and inserting the*
21 *following:*

22 “(m) *EXPLORATIONS.*—*Any agency”;*

23 (18) *by striking “Any action” and inserting the*
24 *following:*

25 “(n) *ENVIRONMENTAL IMPACT STATEMENTS.*—

1 “(1) *JUDICIAL REVIEW.*—*Any action*”;
2 (19) by striking “*The detailed*” and inserting the
3 *following*:

4 “(2) *INITIAL LEASE SALES.*—*The detailed*”;
5 (20) by striking “*section 104(b) of the Naval Pe-*
6 *troleum Reserves Production Act of 1976 (90 Stat.*
7 *304; 42 U.S.C. 6504)*” and inserting “*section*
8 *104(a)*”; and

9 (21) by adding at the end the following:
10 “(o) *REGULATIONS.*—*As soon as practicable after the*
11 *date of enactment of the Energy Policy Act of 2005, the*
12 *Secretary shall issue regulations to implement this section.*

13 “(p) *WAIVER OF ADMINISTRATION FOR CONVEYED*
14 *LANDS.*—

15 “(1) *IN GENERAL.*—*Notwithstanding section*
16 *14(g) of the Alaska Native Claims Settlement Act (43*
17 *U.S.C. 1613(g)), the Secretary of the Interior shall*
18 *waive administration of any oil and gas lease to the*
19 *extent that the lease covers any land in the Reserve*
20 *in which all of the subsurface estate is conveyed to the*
21 *Arctic Slope Regional Corporation (referred to in this*
22 *subsection as the ‘Corporation’).*

23 “(2) *PARTIAL CONVEYANCE.*—

24 “(A) *IN GENERAL.*—*In a case in which a*
25 *conveyance of a subsurface estate described in*

1 paragraph (1) does not include all of the land
2 covered by the oil and gas lease, the person that
3 owns the subsurface estate in any particular por-
4 tion of the land covered by the lease shall be enti-
5 tled to all of the revenues reserved under the lease
6 as to that portion, including, without limitation,
7 all the royalty payable with respect to oil or gas
8 produced from or allocated to that portion.

9 “(B) SEGREGATION OF LEASE.—In a case
10 described in subparagraph (A), the Secretary of
11 the Interior shall—

12 “(i) segregate the lease into 2 leases, 1
13 of which shall cover only the subsurface es-
14 tate conveyed to the Corporation; and

15 “(ii) waive administration of the lease
16 that covers the subsurface estate conveyed to
17 the Corporation.

18 “(C) NO CHANGE IN LEASE OBLIGATIONS.—
19 The segregation of the lease described in subpara-
20 graph (B)(i) has no effect on the obligations of
21 the lessee under either of the resulting leases, in-
22 cluding obligations relating to operations, pro-
23 duction, or other circumstances (other than pay-
24 ment of rentals or royalties).

1 “(3) *AUTHORITY TO MANAGE FEDERALLY OWNED*
2 *SURFACE ESTATE.*—*Nothing in this subsection limits*
3 *the authority of the Secretary of the Interior to man-*
4 *age the federally-owned surface estate within the Re-*
5 *serve.”.*

6 (c) *CONFORMING AMENDMENTS.*—*Section 104 of the*
7 *Naval Petroleum Reserves Production Act of 1976 (42*
8 *U.S.C. 6504) is amended—*

9 (1) *by striking subsection (a); and*

10 (2) *by redesignating subsections (b) through (d)*

11 *as subsections (a) through (c), respectively.*

12 **SEC. 318. NORTH SLOPE SCIENCE INITIATIVE.**

13 (a) *ESTABLISHMENT.*—

14 (1) *IN GENERAL.*—*The Secretary of the Interior*
15 *shall establish a long-term initiative to be known as*
16 *the “North Slope Science Initiative” (referred to in*
17 *this section as the “Initiative”).*

18 (2) *PURPOSE.*—*The purpose of the Initiative*
19 *shall be to implement efforts to coordinate collection*
20 *of scientific data that will provide a better under-*
21 *standing of the terrestrial, aquatic, and marine eco-*
22 *systems of the North Slope of Alaska.*

23 (b) *OBJECTIVES.*—*To ensure that the Initiative is con-*
24 *ducted through a comprehensive science strategy and imple-*
25 *mentation plan, the Initiative shall, at a minimum—*

1 (1) *identify and prioritize information needs for*
2 *inventory, monitoring, and research activities to ad-*
3 *dress the individual and cumulative effects of past,*
4 *ongoing, and anticipated development activities and*
5 *environmental change on the North Slope;*

6 (2) *develop an understanding of information*
7 *needs for regulatory and land management agencies,*
8 *local governments, and the public;*

9 (3) *focus on prioritization of pressing natural*
10 *resource management and ecosystem information*
11 *needs, coordination, and cooperation among agencies*
12 *and organizations;*

13 (4) *coordinate ongoing and future inventory,*
14 *monitoring, and research activities to minimize du-*
15 *plication of effort, share financial resources and ex-*
16 *pertise, and assure the collection of quality informa-*
17 *tion;*

18 (5) *identify priority needs not addressed by*
19 *agency science programs in effect on the date of enact-*
20 *ment of this Act and develop a funding strategy to*
21 *meet those needs;*

22 (6) *provide a consistent approach to high caliber*
23 *science, including inventory, monitoring, and re-*
24 *search;*

1 (7) *maintain and improve public and agency ac-*
2 *cess to—*

3 (A) *accumulated and ongoing research; and*

4 (B) *contemporary and traditional local*
5 *knowledge; and*

6 (8) *ensure through appropriate peer review that*
7 *the science conducted by participating agencies and*
8 *organizations is of the highest technical quality.*

9 (c) *MEMBERSHIP.—*

10 (1) *IN GENERAL.—To ensure comprehensive col-*
11 *lection of scientific data, in carrying out the Initia-*
12 *tive, the Secretary shall consult and coordinate with*
13 *Federal, State, and local agencies that have respon-*
14 *sibilities for land and resource management across the*
15 *North Slope.*

16 (2) *COOPERATIVE AGREEMENTS.—The Secretary*
17 *shall enter into cooperative agreements with the State*
18 *of Alaska, the North Slope Borough, the Arctic Slope*
19 *Regional Corporation, and other Federal agencies as*
20 *appropriate to coordinate efforts, share resources, and*
21 *fund projects under this section.*

22 (d) *SCIENCE TECHNICAL ADVISORY PANEL.—*

23 (1) *IN GENERAL.—The Initiative shall include a*
24 *panel to provide advice on proposed inventory, moni-*
25 *toring, and research functions.*

1 (2) *MEMBERSHIP.*—*The panel described in para-*
2 *graph (1) shall consist of a representative group of*
3 *not more than 15 scientists and technical experts*
4 *from diverse professions and interests, including the*
5 *oil and gas industry, subsistence users, Native Alas-*
6 *kan entities, conservation organizations, wildlife*
7 *management organizations, and academia, as deter-*
8 *mined by the Secretary.*

9 (e) *REPORTS.*—*Not later than 3 years after the date*
10 *of enactment of this section and each year thereafter, the*
11 *Secretary shall publish a report that describes the studies*
12 *and findings of the Initiative.*

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

16 **SEC. 319. ORPHANED, ABANDONED, OR IDLED WELLS ON**
17 **FEDERAL LAND.**

18 (a) *IN GENERAL.*—*The Secretary, in cooperation with*
19 *the Secretary of Agriculture, shall establish a program not*
20 *later than 1 year after the date of enactment of this Act*
21 *to remediate, reclaim, and close orphaned, abandoned, or*
22 *idled oil and gas wells located on land administered by the*
23 *land management agencies within the Department of the*
24 *Interior and the Department of Agriculture.*

1 (b) *ACTIVITIES.*—*The program under subsection (a)*
2 *shall—*

3 (1) *include a means of ranking orphaned, aban-*
4 *doned, or idled wells sites for priority in remediation,*
5 *reclamation, and closure, based on public health and*
6 *safety, potential environmental harm, and other land*
7 *use priorities;*

8 (2) *provide for identification and recovery of the*
9 *costs of remediation, reclamation, and closure from*
10 *persons or other entities currently providing a bond*
11 *or other financial assurance required under State or*
12 *Federal law for an oil or gas well that is orphaned,*
13 *abandoned, or idled; and*

14 (3) *provide for recovery from the persons or enti-*
15 *ties identified under paragraph (2), or their sureties*
16 *or guarantors, of the costs of remediation, reclama-*
17 *tion, and closure of such wells.*

18 (c) *COOPERATION AND CONSULTATIONS.*—*In carrying*
19 *out the program under subsection (a), the Secretary shall—*

20 (1) *work cooperatively with the Secretary of Ag-*
21 *riculture and the States within which Federal land is*
22 *located; and*

23 (2) *consult with the Secretary of Energy and the*
24 *Interstate Oil and Gas Compact Commission.*

1 (d) *PLAN.*—Not later than 1 year after the date of en-
2 actment of this Act, the Secretary, in cooperation with the
3 Secretary of Agriculture, shall submit to Congress a plan
4 for carrying out the program under subsection (a).

5 (e) *IDLED WELL.*—For the purposes of this section, a
6 well is idled if—

7 (1) the well has been nonoperational for at least
8 7 years; and

9 (2) there is no anticipated beneficial use for the
10 well.

11 (f) *TECHNICAL ASSISTANCE PROGRAM FOR NON-FED-*
12 *ERAL LAND.*—

13 (1) *IN GENERAL.*—The Secretary of Energy shall
14 establish a program to provide technical and finan-
15 cial assistance to oil and gas producing States to fa-
16 cilitate State efforts over a 10-year period to ensure
17 a practical and economical remedy for environmental
18 problems caused by orphaned or abandoned oil and
19 gas exploration or production well sites on State or
20 private land.

21 (2) *ASSISTANCE.*—The Secretary of Energy shall
22 work with the States, through the Interstate Oil and
23 Gas Compact Commission, to assist the States in
24 quantifying and mitigating environmental risks of

1 *onshore orphaned or abandoned oil or gas wells on*
2 *State and private land.*

3 (3) *ACTIVITIES.—The program under paragraph*
4 *(1) shall include—*

5 (A) *mechanisms to facilitate identification,*
6 *if feasible, of the persons currently providing a*
7 *bond or other form of financial assurance re-*
8 *quired under State or Federal law for an oil or*
9 *gas well that is orphaned or abandoned;*

10 (B) *criteria for ranking orphaned or aban-*
11 *doned well sites based on factors such as public*
12 *health and safety, potential environmental harm,*
13 *and other land use priorities;*

14 (C) *information and training programs on*
15 *best practices for remediation of different types*
16 *of sites; and*

17 (D) *funding of State mitigation efforts on a*
18 *cost-shared basis.*

19 (g) *AUTHORIZATION OF APPROPRIATIONS.—*

20 (1) *IN GENERAL.—There are authorized to be ap-*
21 *propriated to carry out this section \$25,000,000 for*
22 *each of fiscal years 2006 through 2010.*

23 (2) *USE.—Of the amounts authorized under*
24 *paragraph (1), \$5,000,000 are authorized for each fis-*
25 *cal year for activities under subsection (f).*

1 **SEC. 320. COMBINED HYDROCARBON LEASING.**

2 (a) *SPECIAL PROVISIONS REGARDING LEASING.*—Sec-
3 tion 17(b)(2) of the Mineral Leasing Act (30 U.S.C.
4 226(b)(2)) is amended—

5 (1) by inserting “(A)” after “(2)”;

6 (2) in the first sentence of subparagraph (A) (as
7 designated by paragraph (1)), by striking “they shall
8 be” and inserting “the lands may be”; and

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

10 “(B) For any area that contains any combination of
11 tar sand and oil or gas (or both), the Secretary may issue
12 under this Act, separately—

13 “(i) a lease for exploration for and extraction of
14 tar sand; and

15 “(ii) a lease for exploration for and development
16 of oil and gas.

17 “(C) A lease described in subparagraph (B) shall have
18 provisions addressing the appropriate accommodation of re-
19 sources.

20 “(D) A lease issued for tar sand development shall be
21 issued using the same bidding process, annual rental, and
22 posting period as a lease issued for oil and gas, except that
23 the minimum acceptable bid required for a lease issued for
24 tar sand shall be \$2 per acre.”.

25 (b) *CONFORMING AMENDMENT.*—Section 17(b)(1)(B)
26 of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is

1 *amended in the second sentence by inserting “subject to*
2 *paragraph (2)(B),” after “Thereafter,”.*

3 (c) *REGULATIONS.—Not later than 45 days after the*
4 *date of enactment of this Act, the Secretary of the Interior*
5 *shall issue final regulations to implement the amendments*
6 *made by this section.*

7 **SEC. 321. ALTERNATE ENERGY-RELATED USES ON THE**
8 **OUTER CONTINENTAL SHELF.**

9 (a) *AMENDMENT TO OUTER CONTINENTAL SHELF*
10 *LANDS ACT.—Section 8 of the Outer Continental Shelf*
11 *Lands Act (43 U.S.C. 1337) is amended by adding at the*
12 *end the following:*

13 “(p) *LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR*
14 *ENERGY AND RELATED PURPOSES.—*

15 “(1) *IN GENERAL.—The Secretary, in consulta-*
16 *tion with the Secretary of the Department in which*
17 *the Coast Guard is operating and other relevant de-*
18 *partments and agencies of the Federal Government,*
19 *may grant a lease, easement, or right-of-way on the*
20 *outer Continental Shelf for activities not otherwise*
21 *authorized in this Act, the Deepwater Port Act of*
22 *1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal En-*
23 *ergy Conversion Act of 1980 (42 U.S.C. 9101 et seq.),*
24 *or other applicable law, if those activities—*

1 “(A) support exploration, development, or
2 production of oil or natural gas, except that a
3 lease, easement, or right-of-way shall not be
4 granted in an area in which oil and gas
5 preleasing, leasing, and related activities are
6 prohibited by a moratorium;

7 “(B) support transportation of oil or nat-
8 ural gas, excluding shipping activities;

9 “(C) produce or support production, trans-
10 portation, or transmission of energy from sources
11 other than oil and gas; or

12 “(D) use, for energy-related purposes or for
13 other authorized marine-related purposes, facili-
14 ties currently or previously used for activities
15 authorized under this Act, except that any oil
16 and gas energy-related uses shall not be author-
17 ized in areas in which oil and gas preleasing,
18 leasing, and related activities are prohibited by
19 a moratorium.

20 “(2) *PAYMENTS.*—The Secretary shall establish
21 royalties, fees, rentals, bonus, or other payments to
22 ensure a fair return to the United States for any
23 lease, easement, or right-of-way granted under this
24 subsection.

1 “(3) *COMPETITIVE OR NONCOMPETITIVE BASIS.*—
2 *Except with respect to projects that meet the criteria*
3 *established under section 321(d) of the Energy Policy*
4 *Act of 2005, the Secretary shall issue a lease, ease-*
5 *ment, or right-of-way under paragraph (1) on a com-*
6 *petitive basis unless the Secretary determines after*
7 *public notice of a proposed lease, easement, or right-*
8 *of-way that there is no competitive interest.*

9 “(4) *REQUIREMENTS.*—*The Secretary shall en-*
10 *sure that any activity under this subsection is carried*
11 *out in a manner that provides for—*

12 “(A) *safety;*

13 “(B) *protection of the environment;*

14 “(C) *prevention of waste;*

15 “(D) *conservation of the natural resources*
16 *of the outer Continental Shelf;*

17 “(E) *coordination with relevant Federal*
18 *agencies;*

19 “(F) *protection of national security inter-*
20 *ests of the United States;*

21 “(G) *protection of correlative rights in the*
22 *outer Continental Shelf;*

23 “(H) *a fair return to the United States for*
24 *any lease, easement, or right-of-way under this*
25 *subsection;*

1 “(I) prevention of interference with reason-
2 able uses (as determined by the Secretary) of the
3 exclusive economic zone, the high seas, and the
4 territorial seas;

5 “(J) consideration of—

6 “(i) the location of, and any schedule
7 relating to, a lease, easement, or right-of-
8 way for an area of the outer Continental
9 Shelf; and

10 “(ii) any other use of the sea or seabed,
11 including use for a fishery, a sealane, a po-
12 tential site of a deepwater port, or naviga-
13 tion;

14 “(K) public notice and comment on any
15 proposal submitted for a lease, easement, or
16 right-of-way under this subsection; and

17 “(L) oversight, inspection, research, moni-
18 toring, and enforcement relating to a lease, ease-
19 ment, or right-of-way under this subsection.

20 “(5) LEASE DURATION, SUSPENSION, AND CAN-
21 CELLATION.—The Secretary shall provide for the du-
22 ration, issuance, transfer, renewal, suspension, and
23 cancellation of a lease, easement, or right-of-way
24 under this subsection.

1 “(6) *SECURITY.*—*The Secretary shall require the*
2 *holder of a lease, easement, or right-of-way granted*
3 *under this subsection to—*

4 “(A) *furnish a surety bond or other form of*
5 *security, as prescribed by the Secretary;*

6 “(B) *comply with such other requirements*
7 *as the Secretary considers necessary to protect*
8 *the interests of the public and the United States;*
9 *and*

10 “(C) *provide for the restoration of the lease,*
11 *easement, or right-of-way.*

12 “(7) *COORDINATION AND CONSULTATION WITH*
13 *AFFECTED STATE AND LOCAL GOVERNMENTS.*—*The*
14 *Secretary shall provide for coordination and consulta-*
15 *tion with the Governor of any State or the executive*
16 *of any local government that may be affected by a*
17 *lease, easement, or right-of-way under this subsection.*

18 “(8) *REGULATIONS.*—*Not later than 270 days*
19 *after the date of enactment of the Energy Policy Act*
20 *of 2005, the Secretary, in consultation with the Sec-*
21 *retary of Defense, the Secretary of the Department in*
22 *which the Coast Guard is operating, the Secretary of*
23 *Commerce, heads of other relevant departments and*
24 *agencies of the Federal Government, and the Governor*

1 of any affected State, shall issue any necessary regu-
2 lations to carry out this subsection.

3 “(9) *EFFECT OF SUBSECTION.*—Nothing in this
4 subsection displaces, supersedes, limits, or modifies
5 the jurisdiction, responsibility, or authority of any
6 Federal or State agency under any other Federal law.

7 “(10) *APPLICABILITY.*—This subsection does not
8 apply to any area on the outer Continental Shelf
9 within the exterior boundaries of any unit of the Na-
10 tional Park System, National Wildlife Refuge System,
11 or National Marine Sanctuary System, or any Na-
12 tional Monument.”.

13 (b) *COORDINATED OCS MAPPING INITIATIVE.*—

14 (1) *IN GENERAL.*—The Secretary, in cooperation
15 with the Secretary of Commerce, the Commandant of
16 the Coast Guard, and the Secretary of Defense, shall
17 establish an interagency comprehensive digital map-
18 ping initiative for the outer Continental Shelf to as-
19 sist in decisionmaking relating to the siting of activi-
20 ties under subsection (p) of section 8 of the Outer
21 Continental Shelf Lands Act (43 U.S.C. 1337) (as
22 added by subsection (a)).

23 (2) *USE OF DATA.*—The mapping initiative shall
24 use, and develop procedures for accessing, data col-

1 lected before the date on which the mapping initiative
2 is established, to the maximum extent practicable.

3 (3) *INCLUSIONS.*—Mapping carried out under
4 the mapping initiative shall include an indication of
5 the locations on the outer Continental Shelf of—

6 (A) *Federally-permitted activities;*

7 (B) *obstructions to navigation;*

8 (C) *submerged cultural resources;*

9 (D) *undersea cables;*

10 (E) *offshore aquaculture projects; and*

11 (F) *any area designated for the purpose of*
12 *safety, national security, environmental protec-*
13 *tion, or conservation and management of living*
14 *marine resources.*

15 (c) *CONFORMING AMENDMENT.*—Section 8 of the Outer
16 Continental Shelf Lands Act (43 U.S.C. 1337) is amended
17 by striking the section heading and inserting the following:
18 “*LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE*
19 *OUTER CONTINENTAL SHELF.*—”.

20 (d) *SAVINGS PROVISION.*—Nothing in the amendment
21 made by subsection (a) requires the resubmittal of any doc-
22 ument that was previously submitted or the reauthorization
23 of any action that was previously authorized with respect
24 to a project for which, before the date of enactment of this
25 Act—

1 (1) *an offshore test facility has been constructed;*

2 *or*

3 (2) *a request for a proposal has been issued by*
4 *a public authority.*

5 **SEC. 322. PRESERVATION OF GEOLOGICAL AND GEO-**
6 **PHYSICAL DATA.**

7 (a) *SHORT TITLE.*—*This section may be cited as the*
8 *“National Geological and Geophysical Data Preservation*
9 *Program Act of 2005”.*

10 (b) *PROGRAM.*—*The Secretary shall carry out a Na-*
11 *tional Geological and Geophysical Data Preservation Pro-*
12 *gram in accordance with this section—*

13 (1) *to archive geologic, geophysical, and engi-*
14 *neering data, maps, well logs, and samples;*

15 (2) *to provide a national catalog of such archival*
16 *material; and*

17 (3) *to provide technical and financial assistance*
18 *related to the archival material.*

19 (c) *PLAN.*—*Not later than 1 year after the date of en-*
20 *actment of this Act, the Secretary shall submit to Congress*
21 *a plan for the implementation of the Program.*

22 (d) *DATA ARCHIVE SYSTEM.*—

23 (1) *ESTABLISHMENT.*—*The Secretary shall estab-*
24 *lish, as a component of the Program, a data archive*
25 *system to provide for the storage, preservation, and*

1 *archiving of subsurface, surface, geological, geo-*
2 *physical, and engineering data and samples. The Sec-*
3 *retary, in consultation with the Advisory Committee,*
4 *shall develop guidelines relating to the data archive*
5 *system, including the types of data and samples to be*
6 *preserved.*

7 (2) *SYSTEM COMPONENTS.—The system shall be*
8 *comprised of State agencies that elect to be part of the*
9 *system and agencies within the Department of the In-*
10 *terior that maintain geological and geophysical data*
11 *and samples that are designated by the Secretary in*
12 *accordance with this subsection. The Program shall*
13 *provide for the storage of data and samples through*
14 *data repositories operated by such agencies.*

15 (3) *LIMITATION OF DESIGNATION.—The Sec-*
16 *retary may not designate a State agency as a compo-*
17 *nent of the data archive system unless that agency is*
18 *the agency that acts as the geological survey in the*
19 *State.*

20 (4) *DATA FROM FEDERAL LAND.—The data ar-*
21 *chive system shall provide for the archiving of rel-*
22 *evant subsurface data and samples obtained from*
23 *Federal land—*

24 (A) *in the most appropriate repository des-*
25 *ignated under paragraph (2), with preference*

1 *being given to archiving data in the State in*
2 *which the data were collected; and*

3 *(B) consistent with all applicable law and*
4 *requirements relating to confidentiality and pro-*
5 *prietary data.*

6 *(e) NATIONAL CATALOG.—*

7 *(1) IN GENERAL.—As soon as practicable after*
8 *the date of enactment of this Act, the Secretary shall*
9 *develop and maintain, as a component of the Pro-*
10 *gram, a national catalog that identifies—*

11 *(A) data and samples available in the data*
12 *archive system established under subsection (d);*

13 *(B) the repository for particular material*
14 *in the system; and*

15 *(C) the means of accessing the material.*

16 *(2) AVAILABILITY.—The Secretary shall make the*
17 *national catalog accessible to the public on the site of*
18 *the Survey on the Internet, consistent with all appli-*
19 *cable requirements related to confidentiality and pro-*
20 *prietary data.*

21 *(f) ADVISORY COMMITTEE.—*

22 *(1) IN GENERAL.—The Advisory Committee shall*
23 *advise the Secretary on planning and implementation*
24 *of the Program.*

1 (2) *NEW DUTIES.*—*In addition to its duties*
2 *under the National Geologic Mapping Act of 1992 (43*
3 *U.S.C. 31a et seq.), the Advisory Committee shall per-*
4 *form the following duties:*

5 (A) *Advise the Secretary on developing*
6 *guidelines and procedures for providing assist-*
7 *ance for facilities under subsection (g)(1).*

8 (B) *Review and critique the draft imple-*
9 *mentation plan prepared by the Secretary under*
10 *subsection (c).*

11 (C) *Identify useful studies of data archived*
12 *under the Program that will advance under-*
13 *standing of the Nation’s energy and mineral re-*
14 *sources, geologic hazards, and engineering geol-*
15 *ogy.*

16 (D) *Review the progress of the Program in*
17 *archiving significant data and preventing the*
18 *loss of such data, and the scientific progress of*
19 *the studies funded under the Program.*

20 (E) *Include in the annual report to the Sec-*
21 *retary required under section 5(b)(3) of the Na-*
22 *tional Geologic Mapping Act of 1992 (43 U.S.C.*
23 *31d(b)(3)) an evaluation of the progress of the*
24 *Program toward fulfilling the purposes of the*
25 *Program under subsection (b).*

1 (g) *FINANCIAL ASSISTANCE.*—

2 (1) *ARCHIVE FACILITIES.*—Subject to the avail-
3 ability of appropriations, the Secretary shall provide
4 financial assistance to a State agency that is des-
5 ignated under subsection (d)(2) for providing facili-
6 ties to archive energy material.

7 (2) *STUDIES.*—Subject to the availability of ap-
8 propriations, the Secretary shall provide financial as-
9 sistance to any State agency designated under sub-
10 section (d)(2) for studies and technical assistance ac-
11 tivities that enhance understanding, interpretation,
12 and use of materials archived in the data archive sys-
13 tem established under subsection (d).

14 (3) *FEDERAL SHARE.*—The Federal share of the
15 cost of an activity carried out with assistance under
16 this subsection shall be not more than 50 percent of
17 the total cost of the activity.

18 (4) *PRIVATE CONTRIBUTIONS.*—The Secretary
19 shall apply to the non-Federal share of the cost of an
20 activity carried out with assistance under this sub-
21 section the value of private contributions of property
22 and services used for that activity.

23 (h) *REPORT.*—The Secretary shall include in each re-
24 port under section 8 of the National Geologic Mapping Act
25 of 1992 (43 U.S.C. 31g)—

1 (1) *a description of the status of the Program;*

2 (2) *an evaluation of the progress achieved in de-*
3 *veloping the Program during the period covered by*
4 *the report; and*

5 (3) *any recommendations for legislative or other*
6 *action the Secretary considers necessary and appro-*
7 *priate to fulfill the purposes of the Program under*
8 *subsection (b).*

9 (i) *MAINTENANCE OF STATE EFFORT.—It is the intent*
10 *of Congress that the States not use this section as an oppor-*
11 *tunity to reduce State resources applied to the activities*
12 *that are the subject of the Program.*

13 (j) *DEFINITIONS.—In this section:*

14 (1) *ADVISORY COMMITTEE.—The term “Advisory*
15 *Committee” means the advisory committee established*
16 *under section 5 of the National Geologic Mapping Act*
17 *of 1992 (43 U.S.C. 31d).*

18 (2) *PROGRAM.—The term “Program” means the*
19 *National Geological and Geophysical Data Preserva-*
20 *tion Program carried out under this section.*

21 (3) *SECRETARY.—The term “Secretary” means*
22 *the Secretary of the Interior, acting through the Di-*
23 *rector of the United States Geological Survey.*

24 (4) *SURVEY.—The term “Survey” means the*
25 *United States Geological Survey.*

1 (k) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
2 *authorized to be appropriated to carry out this section*
3 *\$30,000,000 for each of fiscal years 2006 through 2010.*

4 **SEC. 323. OIL AND GAS LEASE ACREAGE LIMITATIONS.**

5 *Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C.*
6 *184(d)(1)) is amended by inserting after “acreage held in*
7 *special tar sand areas” the following: “, and acreage under*
8 *any lease any portion of which has been committed to a*
9 *federally approved unit or cooperative plan or*
10 *communitization agreement or for which royalty (including*
11 *compensatory royalty or royalty in-kind) was paid in the*
12 *preceding calendar year,”.*

13 **SEC. 324. ASSESSMENT OF DEPENDENCE OF STATE OF HA-**
14 **WAI ON OIL.**

15 (a) *ASSESSMENT.*—*The Secretary shall assess the eco-*
16 *nomie implications of the dependence of the State of Ha-*
17 *wai on oil as the principal source of energy for the State,*
18 *including—*

19 (1) *the short- and long-term prospects for crude*
20 *oil supply disruption and price volatility and poten-*
21 *tial impacts on the economy of Hawaii;*

22 (2) *the economic relationship between oil-fired*
23 *generation of electricity from residual fuel and refined*
24 *petroleum products consumed for ground, marine,*
25 *and air transportation;*

1 (3) *the technical and economic feasibility of in-*
2 *creasing the contribution of renewable energy re-*
3 *sources for generation of electricity, on an island-by-*
4 *island basis, including—*

5 (A) *siting and facility configuration;*

6 (B) *environmental, operational, and safety*
7 *considerations;*

8 (C) *the availability of technology;*

9 (D) *the effects on the utility system, includ-*
10 *ing reliability;*

11 (E) *infrastructure and transport require-*
12 *ments;*

13 (F) *community support; and*

14 (G) *other factors affecting the economic im-*
15 *pact of such an increase and any effect on the*
16 *economic relationship described in paragraph*
17 *(2);*

18 (4) *the technical and economic feasibility of*
19 *using liquefied natural gas to displace residual fuel*
20 *oil for electric generation, including neighbor island*
21 *opportunities, and the effect of the displacement on*
22 *the economic relationship described in paragraph (2),*
23 *including—*

24 (A) *the availability of supply;*

1 (B) siting and facility configuration for on-
2 shore and offshore liquefied natural gas receiving
3 terminals;

4 (C) the factors described in subparagraphs
5 (B) through (F) of paragraph (3); and

6 (D) other economic factors;

7 (5) the technical and economic feasibility of
8 using renewable energy sources (including hydrogen)
9 for ground, marine, and air transportation energy
10 applications to displace the use of refined petroleum
11 products, on an island-by-island basis, and the eco-
12 nomic impact of the displacement on the relationship
13 described in (2); and

14 (6) an island-by-island approach to—

15 (A) the development of hydrogen from re-
16 newable resources; and

17 (B) the application of hydrogen to the en-
18 ergy needs of Hawaii

19 (b) *CONTRACTING AUTHORITY.*—The Secretary may
20 carry out the assessment under subsection (a) directly or,
21 in whole or in part, through 1 or more contracts with quali-
22 fied public or private entities.

23 (c) *REPORT.*—Not later than 300 days after the date
24 of enactment of this Act, the Secretary shall prepare (in
25 consultation with agencies of the State of Hawaii and other

1 *stakeholders, as appropriate), and submit to Congress, a re-*
2 *port describing the findings, conclusions, and recommenda-*
3 *tions resulting from the assessment.*

4 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
5 *authorized to be appropriated such sums as are necessary*
6 *to carry out this section.*

7 **SEC. 325. DENALI COMMISSION.**

8 (a) *DEFINITION OF COMMISSION.—In this section, the*
9 *term “Commission” means the Denali Commission estab-*
10 *lished by the Denali Commission Act of 1998 (42 U.S.C.*
11 *3121 note; Public Law 105–277).*

12 (b) *ENERGY PROGRAMS.—The Commission shall use*
13 *amounts made available under subsection (d) to carry out*
14 *energy programs, including—*

15 (1) *energy generation and development,*
16 *including—*

17 (A) *fuel cells, hydroelectric, solar, wind,*
18 *wave, and tidal energy; and*

19 (B) *alternative energy sources;*

20 (2) *the construction of energy transmission, in-*
21 *cluding interties;*

22 (3) *the replacement and cleanup of fuel tanks;*

23 (4) *the construction of fuel transportation net-*
24 *works and related facilities;*

25 (5) *power cost equalization programs; and*

1 (6) *projects using coal as a fuel, including coal*
2 *gasification projects.*

3 (c) *OPEN MEETINGS.*—

4 (1) *IN GENERAL.*—*Except as provided in para-*
5 *graph (2), a meeting of the Commission shall be open*
6 *to the public if—*

7 (A) *the Commission members take action on*
8 *behalf of the Commission; or*

9 (B) *the deliberations of the Commission de-*
10 *termine, or result in the joint conduct or disposi-*
11 *tion of, official Commission business.*

12 (2) *EXCEPTIONS.*—*Paragraph (1) shall not*
13 *apply to any portion of a Commission meeting for*
14 *which the Commission, in public session, votes to close*
15 *the meeting for the reasons described in paragraph*
16 *(2), (4), (5), or (6) of subsection (c) of section 552b*
17 *of title 5, United States Code.*

18 (3) *PUBLIC NOTICE.*—

19 (A) *IN GENERAL.*—*At least 1 week before a*
20 *meeting of the Commission, the Commission*
21 *shall make a public announcement of the meeting*
22 *that describes—*

23 (i) *the time, place, and subject matter*
24 *of the meeting;*

1 (ii) whether the meeting is to be open
2 or closed to the public; and

3 (iii) the name and telephone number of
4 an appropriate person to respond to re-
5 quests for information about the meeting.

6 (B) *ADDITIONAL NOTICE.*—The Commission
7 shall make a public announcement of any change
8 to the information made available under sub-
9 paragraph (A) at the earliest practicable time.

10 (4) *MINUTES.*—The Commission shall keep, and
11 make available to the public, a transcript, electronic
12 recording, or minutes from each Commission meeting,
13 except for portions of the meeting closed under para-
14 graph (2).

15 (d) *AUTHORIZATION OF APPROPRIATIONS.*—There is
16 authorized to be appropriated to the Commission not more
17 than \$55,000,000 for each of fiscal years 2006 through 2015
18 to carry out subsection (b).

19 **SEC. 326. COMPREHENSIVE INVENTORY OF OCS OIL AND**
20 **NATURAL GAS RESOURCES.**

21 (a) *IN GENERAL.*—The Secretary of the Interior shall
22 conduct an inventory and analysis of oil and natural gas
23 resources beneath all of the waters of the United States
24 Outer Continental Shelf (“OCS”). The inventory and anal-
25 ysis shall—

1 (1) use available data on oil and gas resources
2 in areas offshore of Mexico and Canada that will pro-
3 vide information on trends of oil and gas accumula-
4 tion in areas of the OCS;

5 (2) use any available technology, except drilling,
6 but including 3-D seismic technology to obtain accu-
7 rate resource estimates;

8 (3) analyze how resource estimates in OCS areas
9 have changed over time in regards to gathering geo-
10 logical and geophysical data, initial exploration, or
11 full field development, including areas such as the
12 deepwater and subsalt areas in the Gulf of Mexico;

13 (4) estimate the effect that understated oil and
14 gas resource inventories have on domestic energy in-
15 vestments; and

16 (5) identify and explain how legislative, regu-
17 latory, and administrative programs or processes re-
18 strict or impede the development of identified re-
19 sources and the extent that they affect domestic sup-
20 ply, such as moratoria, lease terms and conditions,
21 operational stipulations and requirements, approval
22 delays by the Federal government and coastal States,
23 and local zoning restrictions for onshore processing
24 facilities and pipeline landings.

1 **(b) REPORTS.**—*The Secretary of Interior shall submit*
2 *a report to Congress on the inventory of estimates and the*
3 *analysis of restrictions or impediments, together with any*
4 *recommendations, within 6 months of the date of enactment*
5 *of the section. The report shall be publicly available and*
6 *updated at least every 5 years.*

7 **SEC. 327. REVIEW AND DEMONSTRATION PROGRAM FOR OIL**
8 **AND NATURAL GAS PRODUCTION.**

9 **(a) REVIEW.**—

10 **(1) IN GENERAL.**—*Not later than 18 months*
11 *after the date of enactment of this Act, the Secretary*
12 *of the Interior, in consultation with the Secretary of*
13 *Energy (referred to in this section as the “Sec-*
14 *retary”), shall carry out a review of, and submit to*
15 *Congress a report on opportunities to enhance produc-*
16 *tion of oil and natural gas from public land and the*
17 *outer Continental Shelf, and increase sequestration of*
18 *carbon dioxide through the provision of royalty or*
19 *other production incentives to lessees that inject car-*
20 *bon dioxide as a means of enhanced recovery.*

21 **(2) COMPONENTS.**—*The Secretary of the Interior*
22 *shall describe in the review and report under para-*
23 *graph (1)—*

24 **(A) eligibility requirements for incentives;**

1 (B) the appropriate level of royalty relief, if
2 any;

3 (C) other appropriate production incentives,
4 if any;

5 (D) an estimate of the increased quantity of
6 oil and gas production that could be achieved
7 through implementation of those incentives;

8 (E) an estimate of the quantity of carbon
9 sequestration that could be achieved through im-
10 plementation of those incentives;

11 (F) practices (and the extent of the use of
12 the practices) as of the date of enactment of this
13 Act that rely on carbon dioxide injection for en-
14 hanced oil and gas recovery; and

15 (G) any recommendations for implementa-
16 tion of royalty relief or other production incen-
17 tives, including—

18 (i) the period of time during which
19 those incentives should be available; and

20 (ii) any geographic or other limita-
21 tions that should apply to the incentives.

22 (b) DEMONSTRATION PROGRAM.—

23 (1) ESTABLISHMENT.—

24 (A) IN GENERAL.—The Secretary shall es-
25 tablish a competitive grant program to provide

1 *grants to producers of oil and gas to carry out*
2 *projects to inject carbon dioxide for the purpose*
3 *of enhancing recovery of oil or natural gas while*
4 *increasing the sequestration of carbon dioxide.*

5 *(B) PROJECTS.—The demonstration pro-*
6 *gram shall provide for—*

7 *(i) not more than 10 projects in the*
8 *Willistin Basin in North Dakota and Mon-*
9 *tana; and*

10 *(ii) 1 project in the Cook Inlet Basin*
11 *in Alaska.*

12 *(2) REQUIREMENTS.—*

13 *(A) IN GENERAL.—The Secretary shall issue*
14 *requirements relating to applications for grants*
15 *under paragraph (1).*

16 *(B) RULEMAKING.—The issuance of require-*
17 *ments under subparagraph (A) shall not require*
18 *a rulemaking.*

19 *(C) MINIMUM REQUIREMENTS.—At a min-*
20 *imum, the Secretary shall require under sub-*
21 *paragraph (A) that an application for a grant*
22 *include—*

23 *(i) a description of the project proposed*
24 *in the application;*

1 (ii) an estimate of the production in-
2 crease and the duration of the production
3 increase from the project, as compared to
4 conventional recovery techniques, including
5 water flooding;

6 (iii) an estimate of the carbon dioxide
7 sequestered by project, over the life of the
8 project;

9 (iv) a plan to collect and disseminate
10 data relating to each project to be funded by
11 the grant;

12 (v) a description of the means by
13 which the project will be sustainable with-
14 out Federal assistance after the completion
15 of the term of the grant;

16 (vi) a complete description of the costs
17 of the project, including acquisition, con-
18 struction, operation, and maintenance costs
19 over the expected life of the project;

20 (vii) a description of which costs of the
21 project will be supported by Federal assist-
22 ance under this section; and

23 (viii) a description of any secondary
24 or tertiary recovery efforts in the field and

1 *the efficacy of water flood recovery tech-*
2 *niques used.*

3 (3) *PARTNERS.*—*An applicant for a grant under*
4 *paragraph (1) may carry out a project under a pilot*
5 *program in partnership with 1 or more other public*
6 *or private entities.*

7 (4) *SELECTION CRITERIA.*—*In evaluating appli-*
8 *cations under this subsection, the Secretary shall—*

9 (A) *consider the previous experience with*
10 *similar projects of each applicant;*

11 (B) *give priority consideration to applica-*
12 *tions that—*

13 (i) *are most likely to maximize produc-*
14 *tion of oil and gas in a cost-effective man-*
15 *ner;*

16 (ii) *sequester significant quantities of*
17 *carbon dioxide from anthropogenic sources;*

18 (iii) *demonstrate the greatest commit-*
19 *ment on the part of the applicant to ensure*
20 *funding for the proposed project and the*
21 *greatest likelihood that the project will be*
22 *maintained or expanded after Federal as-*
23 *sistance under this section is completed; and*

24 (iv) *minimize any adverse environ-*
25 *mental effects from the project.*

1 (5) *DEMONSTRATION PROGRAM REQUIRE-*
2 *MENTS.—*

3 (A) *MAXIMUM AMOUNT.—The Secretary*
4 *shall not provide more than \$3,000,000 in Fed-*
5 *eral assistance under this subsection to any ap-*
6 *plicant.*

7 (B) *COST SHARING.—The Secretary shall*
8 *require cost-sharing in accordance with section*
9 *1002.*

10 (C) *PERIOD OF GRANTS.—*

11 (i) *IN GENERAL.—A project funded by*
12 *a grant under this subsection shall begin*
13 *construction not later than 2 years after the*
14 *date of provision of the grant, but in any*
15 *case not later than December 31, 2010.*

16 (ii) *TERM.—The Secretary shall not*
17 *provide grant funds to any applicant under*
18 *this subsection for a period of more than 5*
19 *years.*

20 (6) *TRANSFER OF INFORMATION AND KNOWL-*
21 *EDGE.—The Secretary shall establish mechanisms to*
22 *ensure that the information and knowledge gained by*
23 *participants in the program under this subsection are*
24 *transferred among other participants and interested*

1 *parties, including other applicants that submitted ap-*
2 *plications for a grant under this subsection.*

3 (7) *SCHEDULE.—*

4 (A) *PUBLICATION.—Not later than 180*
5 *days after the date of enactment of this Act, the*
6 *Secretary shall publish in the Federal Register,*
7 *and elsewhere, as appropriate, a request for ap-*
8 *plications to carry out projects under this sub-*
9 *section.*

10 (B) *DATE FOR APPLICATIONS.—An applica-*
11 *tion for a grant under this subsection shall be*
12 *submitted not later than 180 days after the date*
13 *of publication of the request under subparagraph*
14 *(A).*

15 (C) *SELECTION.—After the date by which*
16 *applications for grants are required to be sub-*
17 *mitted under subparagraph (B), the Secretary,*
18 *in a timely manner, shall select, after peer re-*
19 *view and based on the criteria under paragraph*
20 *(4), those projects to be awarded a grant under*
21 *this subsection.*

22 (c) *AUTHORIZATION OF APPROPRIATIONS.—There are*
23 *authorized to be appropriated such sums as are necessary*
24 *to carry out this section.*

1 **SEC. 328. NO OIL PRODUCING AND EXPORTING CARTELS.**

2 (a) *SHORT TITLE.*—*This section may be cited as the*
3 *“No Oil Producing and Exporting Cartels Act of 2005” or*
4 *“NOPEC”.*

5 (b) *SHERMAN ACT.*—*The Sherman Act (15 U.S.C. 1*
6 *et seq.) is amended by adding after section 7 the following:*

7 **“SEC. 7A. OIL PRODUCING CARTELS.**

8 “(a) *IN GENERAL.*—*It shall be illegal and a violation*
9 *of this Act for any foreign state, or any instrumentality*
10 *or agent of any foreign state, to act collectively or in com-*
11 *bination with any other foreign state, any instrumentality*
12 *or agent of any other foreign state, or any other person,*
13 *whether by cartel or any other association or form of co-*
14 *operation or joint action—*

15 “(1) *to limit the production or distribution of*
16 *oil, natural gas, or any other petroleum product;*

17 “(2) *to set or maintain the price of oil, natural*
18 *gas, or any petroleum product; or*

19 “(3) *to otherwise take any action in restraint of*
20 *trade for oil, natural gas, or any petroleum product;*
21 *when such action, combination, or collective action has a*
22 *direct, substantial, and reasonably foreseeable effect on the*
23 *market, supply, price, or distribution of oil, natural gas,*
24 *or other petroleum product in the United States.*

25 “(b) *SOVEREIGN IMMUNITY.*—*A foreign state engaged*
26 *in conduct in violation of subsection (a) shall not be im-*

1 mune under the doctrine of sovereign immunity from the
2 jurisdiction or judgments of the courts of the United States
3 in any action brought to enforce this section.

4 “(c) *INAPPLICABILITY OF ACT OF STATE DOCTRINE.*—
5 No court of the United States shall decline, based on the
6 act of state doctrine, to make a determination on the merits
7 in an action brought under this section.

8 “(d) *ENFORCEMENT.*—The Attorney General of the
9 United States and the Federal Trade Commission may
10 bring an action to enforce this section in any district court
11 of the United States as provided under the antitrust laws.”.

12 (c) *SOVEREIGN IMMUNITY.*—Section 1605(a) of title
13 28, United States Code, is amended—

14 (1) in paragraph (6), by striking “or” after the
15 semicolon;

16 (2) in paragraph (7), by striking the period and
17 inserting “; or”; and

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

19 “(8) in which the action is brought under section
20 7A of the Sherman Act.”.

21 ***Subtitle C—Access to Federal Land***

22 ***SEC. 341. FEDERAL ONSHORE OIL AND GAS LEASING PRACTICES.*** 23

24 (a) *REVIEW OF ONSHORE OIL AND GAS LEASING*
25 *PRACTICES.*—The Secretary of the Interior shall make the

1 *necessary arrangements with the National Academy of Pub-*
2 *lic Administration to commission the Academy to perform*
3 *a review of Federal onshore oil and gas leasing practices.*
4 *The Secretary of the Interior shall conduct an internal re-*
5 *view concurrent with the work of the National Academy of*
6 *Public Administration. The reviews shall include the fol-*
7 *lowing:*

8 (1) *The process by which Federal land managers*
9 *accept or reject an offer to lease, including the time-*
10 *frames in which such offers are acted upon, and any*
11 *recommendations for improving and expediting the*
12 *process.*

13 (2) *The process for considering applications for*
14 *permits to drill, including the timeframes in which*
15 *such applications are considered, and any rec-*
16 *ommendations for improving and expediting the proc-*
17 *ess.*

18 (3) *The process for considering surface use plans*
19 *of operation, including the timeframes in which such*
20 *plans are considered, and any recommendations for*
21 *improving and expediting the process.*

22 (4) *The process for administrative appeal of de-*
23 *isions or orders of officers or employees of the Bu-*
24 *reau of Land Management with respect to a Federal*
25 *oil or gas lease, including the timeframes in which*

1 *such appeals are heard and decided, and any rec-*
2 *ommendations for improving and expediting the proc-*
3 *ess.*

4 *(5) The process by which Federal land managers*
5 *identify stipulations to address site-specific concerns*
6 *and conditions, including those relating to the envi-*
7 *ronment and resource use conflicts, whether stipula-*
8 *tions are effective in addressing resource values, and*
9 *any recommendations for expediting and improving*
10 *the identification and effectiveness of stipulations.*

11 *(6) The process by which the Federal land man-*
12 *agement agencies coordinate planning and analysis*
13 *with planning of Federal, State, and local agencies*
14 *having jurisdiction over adjacent areas and other*
15 *land uses, and any recommendations for improving*
16 *and expediting the process.*

17 *(7) The documentation provided to lease appli-*
18 *cants and lessees with respect to determinations to re-*
19 *ject lease applications or to require modification of*
20 *proposed surface use plans of operation and rec-*
21 *ommendations regarding improvement of such docu-*
22 *mentation to more clearly set forth the basis for the*
23 *decision.*

1 (8) *The adequacy of resources available to the*
2 *Secretary of the Interior for administering the Fed-*
3 *eral onshore oil and gas leasing program.*

4 (9) *Actions taken by the Secretary under section*
5 *3 of Executive Order No. 13212 (42 U.S.C. 13201*
6 *note).*

7 (10) *Actions taken by, or plans of, the Secretary*
8 *to improve the Federal onshore oil and gas leasing*
9 *program.*

10 (b) *REPORT.—The Secretary of the Interior and the*
11 *National Academy of Public Administration shall report to*
12 *the Committee on Resources of the House of Representatives*
13 *and to the Committee on Energy and Natural Resources*
14 *of the Senate not later than 18 months after the date of*
15 *the enactment of this Act, summarizing the findings of their*
16 *respective reviews undertaken pursuant to this section and*
17 *making recommendations with respect to improvements in*
18 *the Federal onshore oil and gas leasing program.*

19 **SEC. 342. MANAGEMENT OF FEDERAL OIL AND GAS LEAS-**
20 **ING PROGRAMS.**

21 (a) *TIMELY ACTION ON LEASES AND PERMITS.—*

22 (1) *SECRETARY OF THE INTERIOR.—To ensure*
23 *timely action on oil and gas leases and applications*
24 *for permits to drill on land otherwise available for*

1 *leasing, the Secretary of the Interior (referred to in*
2 *this section as the “Secretary”) shall—*

3 *(A) ensure expeditious compliance with sec-*
4 *tion 102(2)(C) of the National Environmental*
5 *Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and*
6 *any other applicable environmental and cultural*
7 *resources laws;*

8 *(B) improve consultation and coordination*
9 *with the States and the public; and*

10 *(C) improve the collection, storage, and re-*
11 *trieval of information relating to the oil and gas*
12 *leasing activities.*

13 *(2) SECRETARY OF AGRICULTURE.—To ensure*
14 *timely action on oil and gas lease applications for*
15 *permits to drill on land otherwise available for leas-*
16 *ing, the Secretary of Agriculture shall—*

17 *(A) ensure expeditious compliance with all*
18 *applicable environmental and cultural resources*
19 *laws; and*

20 *(B) improve the collection, storage, and re-*
21 *trieval of information relating to the oil and gas*
22 *leasing activities.*

23 *(b) BEST MANAGEMENT PRACTICES.—*

24 *(1) IN GENERAL.—Not later than 18 months*
25 *after the date of enactment of this Act, the Secretary*

1 *shall develop and implement best management prac-*
2 *tices to—*

3 (A) *improve the administration of the on-*
4 *shore oil and gas leasing program under the*
5 *Mineral Leasing Act (30 U.S.C. 181 et seq.); and*

6 (B) *ensure timely action on oil and gas*
7 *leases and applications for permits to drill on*
8 *land otherwise available for leasing.*

9 (2) *REGULATIONS.—Not later than 180 days*
10 *after the development of the best management prac-*
11 *tices under paragraph (1), the Secretary shall pub-*
12 *lish, for public comment, proposed regulations that set*
13 *forth specific timeframes for processing leases and ap-*
14 *plications in accordance with the best management*
15 *practices, including deadlines for—*

16 (A) *approving or disapproving—*

17 (i) *resource management plans and re-*
18 *lated documents;*

19 (ii) *lease applications;*

20 (iii) *applications for permits to drill;*

21 *and*

22 (iv) *surface use plans; and*

23 (B) *related administrative appeals.*

24 (c) *IMPROVED ENFORCEMENT.—The Secretary and the*
25 *Secretary Agriculture shall improve inspection and enforce-*

1 *ment of oil and gas activities, including enforcement of*
2 *terms and conditions in permits to drill on land under the*
3 *jurisdiction of the Secretary and the Secretary of Agri-*
4 *culture, respectively.*

5 *(d) AUTHORIZATION OF APPROPRIATIONS.—In addi-*
6 *tion to amounts made available to carry out activities relat-*
7 *ing to oil and gas leasing on public land administered by*
8 *the Secretary and National Forest System land adminis-*
9 *tered by the Secretary of Agriculture, there are authorized*
10 *to be appropriated for each of fiscal years 2006 through*
11 *2010—*

12 *(1) to the Secretary, acting through the Director*
13 *of the Bureau of Land Management—*

14 *(A) \$40,000,000 to carry out subsections*
15 *(a)(1) and (b); and*

16 *(B) \$20,000,000 to carry out subsection (c);*

17 *(2) to the Secretary, acting through the Director*
18 *of the United States Fish and Wildlife Service,*
19 *\$5,000,000 to carry out subsection (a)(1); and*

20 *(3) to the Secretary of Agriculture, acting*
21 *through the Chief of the Forest Service, \$5,000,000 to*
22 *carry out subsections (a)(2) and (c).*

1 **SEC. 343. CONSULTATION REGARDING OIL AND GAS LEAS-**
2 **ING ON PUBLIC LAND.**

3 (a) *IN GENERAL.*—Not later than 180 days after the
4 date of enactment of this Act, the Secretary of the Interior
5 and the Secretary of Agriculture shall enter into a memo-
6 randum of understanding regarding oil and gas leasing
7 on—

8 (1) *public land under the jurisdiction of the Sec-*
9 *retary of the Interior; and*

10 (2) *National Forest System land under the juris-*
11 *isdiction of the Secretary of Agriculture.*

12 (b) *CONTENTS.*—The memorandum of understanding
13 shall include provisions that—

14 (1) *establish administrative procedures and lines*
15 *of authority that ensure timely processing of—*

16 (A) *oil and gas lease applications;*

17 (B) *surface use plans of operation, includ-*
18 *ing steps for processing surface use plans; and*

19 (C) *applications for permits to drill, includ-*
20 *ing applications for permits to drill consistent*
21 *with applicable timelines;*

22 (2) *eliminate duplication of effort by providing*
23 *for coordination of planning and environmental com-*
24 *pliance efforts;*

25 (3) *ensure that lease stipulations are—*

26 (A) *applied consistently;*

1 (B) coordinated between agencies; and

2 (C) only as restrictive as necessary to pro-
3 tect the resource for which the stipulations are
4 applied;

5 (4) establish a joint data retrieval system that is
6 capable of—

7 (A) tracking applications and formal re-
8 quests made in accordance with procedures of the
9 Federal onshore oil and gas leasing program;
10 and

11 (B) providing information regarding the
12 status of the applications and requests within the
13 Department of the Interior and the Department
14 of Agriculture; and

15 (5) establish a joint geographic information sys-
16 tem mapping system for use in—

17 (A) tracking surface resource values to aid
18 in resource management; and

19 (B) processing surface use plans of oper-
20 ation and applications for permits to drill.

21 **SEC. 344. PILOT PROJECT TO IMPROVE FEDERAL PERMIT**
22 **COORDINATION.**

23 (a) *ESTABLISHMENT.*—The Secretary of the Interior
24 (referred to in this section as the “Secretary”) shall estab-

1 *lish a Federal Permit Streamlining Pilot Project (referred*
2 *to in this section as the “Pilot Project”).*

3 *(b) MEMORANDUM OF UNDERSTANDING.—*

4 *(1) IN GENERAL.—Not later than 90 days after*
5 *the date of enactment of this Act, the Secretary shall*
6 *enter into a memorandum of understanding for pur-*
7 *poses of this section with—*

8 *(A) the Secretary of Agriculture;*

9 *(B) the Administrator of the Environmental*
10 *Protection Agency; and*

11 *(C) the Chief of Engineers.*

12 *(2) STATE PARTICIPATION.—The Secretary may*
13 *request that the Governors of Wyoming, Montana,*
14 *Colorado, Utah, and New Mexico be signatories to the*
15 *memorandum of understanding.*

16 *(c) DESIGNATION OF QUALIFIED STAFF.—*

17 *(1) IN GENERAL.—Not later than 30 days after*
18 *the date of the signing of the memorandum of under-*
19 *standing under subsection (b), all Federal signatory*
20 *parties shall, if appropriate, assign to each of the*
21 *field offices identified in subsection (d) an employee*
22 *who has expertise in the regulatory issues relating to*
23 *the office in which the employee is employed, includ-*
24 *ing, as applicable, particular expertise in—*

1 (A) *the consultations and the preparation of*
2 *biological opinions under section 7 of the Endan-*
3 *gered Species Act of 1973 (16 U.S.C. 1536);*

4 (B) *permits under section 404 of Federal*
5 *Water Pollution Control Act (33 U.S.C. 1344);*

6 (C) *regulatory matters under the Clean Air*
7 *Act (42 U.S.C. 7401 et seq.);*

8 (D) *planning under the National Forest*
9 *Management Act of 1976 (16 U.S.C. 472a et*
10 *seq.); and*

11 (E) *the preparation of analyses under the*
12 *National Environmental Policy Act of 1969 (42*
13 *U.S.C. 4321 et seq.).*

14 (2) *DUTIES.—Each employee assigned under*
15 *paragraph (1) shall—*

16 (A) *not later than 90 days after the date of*
17 *assignment, report to the Bureau of Land Man-*
18 *agement Field Managers in the office to which*
19 *the employee is assigned;*

20 (B) *be responsible for all issues relating to*
21 *the jurisdiction of the home office or agency of*
22 *the employee; and*

23 (C) *participate as part of the team of per-*
24 *sonnel working on proposed energy projects,*
25 *planning, and environmental analyses.*

1 (d) *FIELD OFFICES.*—*The following Bureau of Land*
2 *Management Field Offices shall serve as the Pilot Project*
3 *offices:*

4 (1) *Rawlins, Wyoming.*

5 (2) *Buffalo, Wyoming.*

6 (3) *Miles City, Montana*

7 (4) *Farmington, New Mexico.*

8 (5) *Carlsbad, New Mexico.*

9 (6) *Grand Junction/Glenwood Springs, Colorado.*

10 (7) *Vernal, Utah.*

11 (e) *REPORTS.*—*Not later than 3 years after the date*
12 *of enactment of this Act, the Secretary shall submit to Con-*
13 *gress a report that—*

14 (1) *outlines the results of the Pilot Project to*
15 *date; and*

16 (2) *makes a recommendation to the President re-*
17 *garding whether the Pilot Project should be imple-*
18 *mented throughout the United States.*

19 (f) *ADDITIONAL PERSONNEL.*—*The Secretary shall as-*
20 *sign to each field office identified in subsection (d) any ad-*
21 *ditional personnel that are necessary to ensure the effective*
22 *implementation of—*

23 (1) *the Pilot Project; and*

24 (2) *other programs administered by the field of-*
25 *fices, including inspection and enforcement relating*

1 *to energy development on Federal land, in accordance*
2 *with the multiple use mandate of the Federal Land*
3 *Policy and Management Act of 1976 (43 U.S.C. 1701*
4 *et seq).*

5 *(g) AUTHORIZATION OF APPROPRIATIONS.—*

6 *(1) IN GENERAL.—There are authorized to be ap-*
7 *propriated to the Secretary such sums as are nec-*
8 *essary to carry out this section for each of fiscal years*
9 *2006 through 2010.*

10 *(2) TRANSFER OF FUNDS.—For the purposes of*
11 *coordination and processing of oil and gas use au-*
12 *thorizations on Federal land under the administra-*
13 *tion of the Pilot Project offices identified in subsection*
14 *(d), the Secretary may authorize the expenditure or*
15 *transfer of such funds as are necessary to—*

16 *(A) the United States Fish and Wildlife*

17 *Service;*

18 *(B) the Bureau of Indian Affairs;*

19 *(C) the Forest Service;*

20 *(D) the Environmental Protection Agency;*

21 *(E) the Corps of Engineers; and*

22 *(F) the States of Wyoming, Montana, Colo-*
23 *rado, Utah, and New Mexico.*

24 *(h) SAVINGS PROVISION.—Nothing in this section*
25 *affects—*

- 1 (1) *the operation of any Federal or State law; or*
2 (2) *any delegation of authority made by the head*
3 *of a Federal agency whose employees are partici-*
4 *pating in the Pilot Project.*

5 **SEC. 345. ENERGY FACILITY RIGHTS-OF-WAYS AND COR-**
6 **RIDORS ON FEDERAL LAND.**

7 (a) *DEFINITIONS.—In this section:*

8 (1) *CORRIDOR.—In this section and section 503*
9 *of the Federal Land Policy and Management Act of*
10 *1976 (43 U.S.C. 1763), the term “corridor” means—*

11 (A) *a linear strip of land—*

12 (i) *with a width determined with con-*
13 *sideration given to technological, environ-*
14 *mental, and topographical factors; and*

15 (ii) *that contains, or may in the future*
16 *contain, 1 or more utility facilities;*

17 (B) *a land use designation that is*
18 *established—*

19 (i) *by law;*

20 (ii) *by order of the head of a Federal*
21 *agency;*

22 (iii) *through the land use planning*
23 *process; or*

24 (iv) *by other management decision;*

25 *and*

1 (C) a designation made for the purpose of
2 establishing the preferred location of a compat-
3 ible utility facility.

4 (2) *FEDERAL AUTHORIZATION.*—

5 (A) *IN GENERAL.*—The term “Federal au-
6 thorization” means any authorization required
7 under Federal law in order to site a utility facil-
8 ity.

9 (B) *INCLUSIONS.*—The term “Federal au-
10 thorization” includes such permits, special use
11 authorizations, certifications, opinions, or other
12 approvals as may be required, that are issued by
13 a Federal agency.

14 (3) *FEDERAL LAND.*—

15 (A) *IN GENERAL.*—The term “Federal land”
16 means all land owned by the United States.

17 (B) *EXCLUSIONS.*—The term “Federal
18 land” does not include land—

19 (i) within the National Park System;

20 (ii) within the National Wilderness
21 Preservation System;

22 (iii) designated as a National Monu-
23 ment;

24 (iv) held in trust for an Indian or In-
25 dian tribe; or

1 (v) *on the outer Continental Shelf.*

2 (4) *UTILITY CORRIDOR.—The term “utility cor-*
3 *ridor” means any linear strip of land across Federal*
4 *land referred to in subsection (b) of approved width,*
5 *but limited for use by a utility facility by techno-*
6 *logical, environmental, or topographical factors.*

7 (5) *UTILITY FACILITY.—The term “utility facil-*
8 *ity” means any privately-, publicly-, or coopera-*
9 *tively-owned line, facility, or system—*

10 (A) *for the transportation of—*

11 (i) *oil or natural gas, synthetic liquid*
12 *or gaseous fuel, or any refined product pro-*
13 *duced from any of those materials; or*

14 (ii) *products in support of production,*
15 *or for storage or terminal facilities in con-*
16 *nection with production; or*

17 (B) *for the generation, transmission, or dis-*
18 *tribution of electric energy.*

19 (b) *UTILITY CORRIDORS.—*

20 (1) *IN GENERAL.—Not later than 2 years after*
21 *the document described in subsection (c)(3) is com-*
22 *pleted, the Secretary of the Interior, with respect to*
23 *public lands (as defined in section 103(e) of the Fed-*
24 *eral Land Policy and Management Act of 1976 (43*
25 *U.S.C. 1702(e)), and the Secretary of Agriculture,*

1 *with respect to National Forest System land, shall*
2 *designate utility corridors pursuant to—*

3 *(A) section 503 of the Federal Land Policy*
4 *and Management Act (43 U.S.C. 1763) in the 11*
5 *contiguous Western States (as identified in sec-*
6 *tion 103(o) of that Act (43 U.S.C. 1702(o))); and*

7 *(B) relevant departmental and agency land*
8 *use and resource management plans or equiva-*
9 *lent plans.*

10 *(2) COORDINATION.—The Secretary shall coordi-*
11 *nate with affected Federal agencies to jointly—*

12 *(A) identify potential utility corridors on*
13 *Federal land in States not described in para-*
14 *graph (1)(A); and*

15 *(B) develop a schedule for the designation,*
16 *environmental review, and incorporation of the*
17 *utility corridors into relevant departmental and*
18 *agency land use and resource management plans*
19 *or equivalent plans.*

20 *(3) SPECIFICATIONS OF CORRIDOR.—A corridor*
21 *designated under this section shall specify the center-*
22 *line, width, and compatible uses of the corridor.*

23 *(c) FEDERAL PERMIT COORDINATION.—*

24 *(1) IN GENERAL.—The Secretary shall enter into*
25 *a memorandum of understanding with the Secretary*

1 of the Interior, the Secretary of Agriculture, and the
2 Secretary of Defense for the purpose of coordinating
3 all applicable Federal authorizations and environ-
4 mental reviews relating to a proposed or existing util-
5 ity facility.

6 (2) *ADDITIONAL ENTITIES.*—To the maximum
7 extent practicable under applicable law, the Secretary
8 shall coordinate the process developed through the
9 memorandum of understanding under paragraph (1)
10 with any Indian tribes, multistate entities, and State
11 agencies that are responsible for conducting any sepa-
12 rate permitting and environmental reviews of the af-
13 fected utility facility to ensure timely review and per-
14 mit decisions.

15 (3) *CONTENTS OF MOU.*—The memorandum of
16 understanding under paragraph (1) shall provide
17 for—

18 (A) coordination, among affected Federal
19 agencies, to ensure that the necessary Federal
20 authorizations—

21 (i) are conducted concurrently with
22 applicable State siting processes; and

23 (ii) are considered within a specific
24 time frame identified within the memo-
25 randum of understanding;

1 (B) an agreement among the affected Fed-
2 eral agencies to prepare a programmatic envi-
3 ronmental review document to be used as the un-
4 derlying basis for all Federal authorization deci-
5 sions; and

6 (C) a process to expedite applications to
7 construct or modify utility facilities within util-
8 ity corridors.

9 **SEC. 346. OIL SHALE AND TAR SANDS.**

10 (a) *DECLARATION OF POLICY.*—Congress declares that
11 it is the policy of the United States that—

12 (1) United States oil shale and tar sands are
13 strategically important domestic resources that should
14 be developed through methods that help reduce the
15 growing dependence of the United States on politi-
16 cally and economically unstable sources of foreign oil
17 imports;

18 (2) the development of oil shale and tar sands,
19 for research and commercial development, should be
20 conducted in an economically feasible and environ-
21 mentally sound manner, using practices that mini-
22 mize impacts;

23 (3) development should occur at a deliberate
24 pace, with an emphasis on sustainability, to benefit

1 *the United States while taking into account affected*
2 *States and communities; and*

3 *(4) the Secretary of the Interior should work to-*
4 *ward developing a commercial leasing program for oil*
5 *shale and tar sands so that such a program can be*
6 *implemented when production technologies are com-*
7 *mercially viable.*

8 ***(b) LEASING PROGRAM.—***

9 ***(1) RESEARCH AND DEVELOPMENT.—***

10 ***(A) IN GENERAL.—****In accordance with sec-*
11 *tion 21 of the Mineral Leasing Act (30 U.S.C.*
12 *241) and any other applicable law, except as*
13 *provided in this section, not later than 1 year*
14 *after the date of enactment of this Act, from land*
15 *otherwise available for leasing, the Secretary of*
16 *the Interior (referred to in this section as the*
17 *“Secretary”) shall, for a period determined by*
18 *the Secretary, make available for leasing such*
19 *land as the Secretary considers to be necessary*
20 *to conduct research and development activities*
21 *with respect to innovative technologies for the re-*
22 *covery of shale oil from oil shale resources on*
23 *public land.*

24 ***(B) APPLICATION.—****The Secretary may*
25 *offer to lease the land to persons that submit an*

1 *application for the lease, if the Secretary deter-*
2 *mines that there is no competitive interest in the*
3 *land.*

4 (C) *ADMINISTRATION.*—*In carrying out this*
5 *paragraph, the Secretary shall—*

6 (i) *provide for environmentally sound*
7 *research and development of oil shale;*

8 (ii) *provide for an appropriate return*
9 *to the public, as determined by the Sec-*
10 *retary;*

11 (iii) *before carrying out any activity*
12 *that will disturb the surface of land, provide*
13 *for an adequate bond, surety, or other fi-*
14 *nancial arrangement to ensure reclamation;*

15 (iv) *provide for a primary lease term*
16 *of 10 years, after which the lease term may*
17 *be extended if the Secretary determines that*
18 *diligent research and development activities*
19 *are occurring on the land leased;*

20 (v) *require the owner or operator of a*
21 *project under this subsection, within such*
22 *period as the Secretary may determine—*

23 (I) *to submit a plan of operations;*

24 (II) *to develop an environmental*
25 *protection plan; and*

1 (III) to undertake diligent re-
2 search and development activities;

3 (vi) ensure that leases under this sec-
4 tion are not larger than necessary to con-
5 duct research and development activities
6 under an application under subparagraph
7 (B);

8 (vii) provide for consultation with af-
9 fected State and local governments; and

10 (viii) provide for such requirements as
11 the Secretary determines to be in the public
12 interest.

13 (2) *COMMERCIAL LEASING.*—Prior to conducting
14 commercial leasing, the Secretary shall carry out—

15 (A) the programmatic environmental im-
16 pact statement required under subsection (c);
17 and

18 (B) the analysis required under subsection
19 (d).

20 (3) *MONEYS RECEIVED.*—Any moneys received
21 from a leasing activity under this subsection shall be
22 paid in accordance with section 35 of the Mineral
23 Leasing Act (30 U.S.C. 191).

24 (c) *PROGRAMMATIC ENVIRONMENTAL IMPACT STATE-*
25 *MENT.*—Not later than 18 months after the date of enact-

1 *ment of this Act, in accordance with section 102(2)(C) of*
2 *the National Environmental Policy Act of 1969 (42 U.S.C.*
3 *4332(2)(C)), the Secretary shall complete a programmatic*
4 *environmental impact statement that analyzes potential*
5 *leasing for commercial development of oil shale resources*
6 *on public land.*

7 *(d) ANALYSIS OF POTENTIAL LEASING PROGRAM.—*

8 *(1) IN GENERAL.—Not later than 18 months*
9 *after the date of enactment of this Act, the Secretary*
10 *shall submit to Congress a report (including rec-*
11 *ommendations) analyzing a potential leasing pro-*
12 *gram for the commercial development of oil shale on*
13 *public land.*

14 *(2) INCLUSIONS.—The report under paragraph*
15 *(1) shall include—*

16 *(A) an analysis of technologies and research*
17 *and development programs for the production of*
18 *oil and other materials from oil shale and tar*
19 *sands in existence on the date on which the re-*
20 *port is prepared;*

21 *(B) an analysis of—*

22 *(i) whether leases under the program*
23 *should be issued on a competitive basis;*

24 *(ii) the term of the leases;*

25 *(iii) the maximum size of the leases;*

1 (iv) the use and distribution of bonus
2 bid lease payments;

3 (v) the royalty rate to be applied, in-
4 cluding whether a sliding scale royalty rate
5 should be used;

6 (vi) whether an opportunity should be
7 provided to convert research and develop-
8 ment leases into leases for commercial devel-
9 opment, including the terms and conditions
10 that should apply to the conversion;

11 (vii) the maximum number of leases
12 and maximum acreage to be leased under
13 the leasing program to an individual; and

14 (viii) any infrastructure required to
15 support oil shale development in industry
16 and communities;

17 (C) an identification of events that should
18 serve as a precursor to commercial leasing, in-
19 cluding development of environmentally and
20 commercially viable technologies, and the com-
21 pletion of land use planning and environmental
22 reviews; and

23 (D) an analysis, developed in conjunction
24 with the appropriate State water resource agen-
25 cies, of the demand for, and availability of,

1 *water with respect to the development of oil shale*
2 *and tar sands.*

3 (3) *PUBLIC PARTICIPATION.*—*In preparing the*
4 *report under this subsection, the Secretary shall pro-*
5 *vide notice to, and solicit comment from—*

6 (A) *the public;*

7 (B) *representatives of local governments;*

8 (C) *representatives of industry; and*

9 (D) *other interested parties.*

10 (4) *PARTICIPATION BY CERTAIN STATES.*—*In*
11 *preparing the report under this subsection, the Sec-*
12 *retary shall—*

13 (A) *provide notice to, and solicit comment*
14 *from, the Governors of the States of Colorado,*
15 *Utah, and Wyoming; and*

16 (B) *incorporate into the report submitted to*
17 *Congress under paragraph (1) any response of*
18 *the Secretary to those comments.*

19 (e) *OIL SHALE AND TAR SANDS TASK FORCE.*—

20 (1) *ESTABLISHMENT.*—*The Secretary of Energy,*
21 *in cooperation with the Secretary of the Interior,*
22 *shall establish an Oil Shale and Tar Sands Task*
23 *Force to develop a program to coordinate and accel-*
24 *erate the commercial development of oil shale and tar*
25 *sands in an integrated manner.*

1 (2) *COMPOSITION.—The Task Force shall be com-*
2 *posed of—*

3 (A) *the Secretary of Energy (or the designee*
4 *of the Secretary of Energy);*

5 (B) *the Secretary of Defense (or the designee*
6 *of the Secretary of Defense);*

7 (C) *the Secretary of the Interior (or the des-*
8 *ignee of the Secretary of the Interior);*

9 (D) *the Governors of the affected States; and*

10 (E) *representatives of local governments in*
11 *affected areas.*

12 (3) *DEVELOPMENT OF A 5-YEAR PLAN.—*

13 (A) *IN GENERAL.—The Task Force shall*
14 *formulate a 5-year plan to promote the develop-*
15 *ment of oil shale and tar sands.*

16 (B) *COMPONENTS.—In formulating the*
17 *plan, the Task Force shall—*

18 (i) *identify public actions that are re-*
19 *quired to stimulate prudent development of*
20 *oil shale and tar sands;*

21 (ii) *analyze the costs and benefits of*
22 *those actions;*

23 (iii) *make recommendations con-*
24 *cerning specific actions that should be taken*
25 *to stimulate prudent development of oil*

1 shale and tar sands, including economic,
2 investment, tax, technology, research and
3 development, infrastructure, environmental,
4 education, and socio-economic actions;

5 (iv) consult with representatives of in-
6 dustry and other stakeholders;

7 (v) provide notice and opportunity for
8 public comment on the plan;

9 (vi) identify oil shale and tar sands
10 technologies that—

11 (I) are ready for pilot plant and
12 semiworks development; and

13 (II) have a high probability of
14 leading to advanced technology for
15 first- or second-generation commercial
16 production; and

17 (vii) assess the availability of water
18 from the Green River Formation to meet the
19 potential needs of oil shale and tar sands
20 development.

21 (4) NATIONAL PROGRAM OFFICE.—The Task
22 Force shall analyze and make recommendations re-
23 garding the need for a national program office to ad-
24 minister the plan.

1 (5) *PARTNERSHIP.*—*The Task Force shall rec-*
2 *ommend whether to initiate a partnership with Al-*
3 *berta, Canada, for purposes of sharing information*
4 *relating to the development and production of oil*
5 *from tar sands.*

6 (6) *REPORTS.*—

7 (A) *INITIAL REPORT.*—*Not later than 180*
8 *days after the date of enactment of this Act, the*
9 *Task Force shall submit to the President and*
10 *Congress a report that describes the analysis and*
11 *recommendations of the Task Force and contains*
12 *the 5-year plan.*

13 (B) *SUBSEQUENT REPORTS.*—*The Secretary*
14 *of Energy shall provide an annual report de-*
15 *scribing the progress in carrying out the plan for*
16 *each of the 5 years following submission of the*
17 *report provided for in subparagraph (A).*

18 (f) *MINERAL LEASING ACT AMENDMENTS.*—*Section*
19 *21(a) of the Mineral Leasing Act (30 U.S.C. 241(a)) is*
20 *amended—*

21 (1) *by designating the first, second, and third*
22 *sentences as paragraphs (1), (2), and (3), respectively;*
23 *and*

24 (2) *in paragraph (3) (as designated by para-*
25 *graph (1))—*

1 (A) by striking “rate of 50 cents per acre”
2 and inserting “rate of \$2.00 per acre”; and

3 (B) in the last proviso—

4 (i) by striking “That not more than
5 one lease shall be granted under this section
6 to any” and inserting “That no”; and

7 (ii) by striking “except that with re-
8 spect to leases for” and inserting “shall ac-
9 quire or hold more than 25,000 acres of oil
10 shale leases in the United States. For”.

11 (g) COST-SHARED DEMONSTRATION TECH-
12 NOLOGIES.—

13 (1) IDENTIFICATION.—The Secretary of Energy
14 shall identify technologies for the development of oil
15 shale and tar sands that—

16 (A) are ready for demonstration at a com-
17 mercially-representative scale; and

18 (B) have a high probability of leading to
19 commercial production.

20 (2) ASSISTANCE.—For each technology identified
21 under paragraph (1), the Secretary of Energy may
22 provide—

23 (A) technical assistance;

24 (B) assistance in meeting environmental
25 and regulatory requirements; and

1 (C) *cost-sharing assistance in accordance*
2 *with section 1002.*

3 (h) *TECHNICAL ASSISTANCE.—*

4 (1) *IN GENERAL.—The Secretary of Energy may*
5 *provide technical assistance for the purpose of over-*
6 *coming technical challenges to the development of oil*
7 *shale and tar sands technologies for application in the*
8 *United States.*

9 (2) *ADMINISTRATION.—The Secretary of Energy*
10 *may provide technical assistance under this section*
11 *on a cost-shared basis in accordance with section*
12 *1002.*

13 (i) *NATIONAL OIL SHALE ASSESSMENT.—*

14 (1) *ASSESSMENT.—*

15 (A) *IN GENERAL.—The Secretary shall*
16 *carry out a national assessment of oil shale re-*
17 *sources for the purposes of evaluating and map-*
18 *ping oil shale deposits, in the geographic areas*
19 *described in subparagraph (B).*

20 (B) *GEOGRAPHIC AREAS.—The geographic*
21 *areas referred to in subparagraph (A), listed in*
22 *the order in which the Secretary shall assign pri-*
23 *ority, are—*

24 (i) *the Green River Region of the*
25 *States of Colorado, Utah, and Wyoming;*

1 (ii) the Devonian oil shales of the east-
2 ern United States; and

3 (iii) any remaining area in the central
4 and western United States (including the
5 State of Alaska) that contains oil shale, as
6 determined by the Secretary.

7 (2) *USE OF STATE SURVEYS AND UNIVER-*
8 *SITIES.*—In carrying out the assessment under para-
9 graph (1), the Secretary may request assistance from
10 any State-administered geological survey or univer-
11 sity.

12 (j) *STATE WATER RIGHTS.*—Nothing in this section
13 preempts or affects any State water law or interstate com-
14 pact relating to water.

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

18 **SEC. 347. FINGER LAKES WITHDRAWAL.**

19 All Federal land within the boundary of Finger Lakes
20 National Forest in the State of New York is withdrawn
21 from—

22 (1) all forms of entry, appropriation, or disposal
23 under the public land laws; and

24 (2) disposition under all laws relating to oil and
25 gas leasing.

1 **SEC. 348. REINSTATEMENT OF LEASES.**

2 *Notwithstanding section 31(d)(2)(B) of the Mineral*
3 *Leasing Act (30 U.S.C. 188(d)(2)(B)), the Secretary may*
4 *reinstate any oil and gas lease issued under that Act that*
5 *was terminated for failure of a lessee to pay the full amount*
6 *of rental on or before the anniversary date of the lease, dur-*
7 *ing the period beginning on September 1, 2001, and ending*
8 *on June 30, 2004, if—*

9 *(1) not later than 120 days after the date of en-*
10 *actment of this Act, the lessee—*

11 *(A) files a petition for reinstatement of the*
12 *lease;*

13 *(B) complies with the conditions of section*
14 *31(e) of the Mineral Leasing Act (30 U.S.C.*
15 *188(e)); and*

16 *(C) certifies that the lessee did not receive a*
17 *notice of termination by the date that was 13*
18 *months before the date of termination; and*

19 *(2) the land is available for leasing.*

20 ***Subtitle D—Coastal Programs***

21 **SEC. 371. COASTAL IMPACT ASSISTANCE PROGRAM.**

22 *Section 31 of the Outer Continental Shelf Lands Act*
23 *(43 U.S.C. 1356a) is amended to read as follows:*

24 **“SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.**

25 **“(a) DEFINITIONS.—***In this section:*

1 “(1) *COASTAL POLITICAL SUBDIVISION.*—*The*
2 *term ‘coastal political subdivision’ means a political*
3 *subdivision of a coastal State any part of which polit-*
4 *ical subdivision is—*

5 “(A) *within the coastal zone (as defined in*
6 *section 304 of the Coastal Zone Management Act*
7 *of 1972 (16 U.S.C. 1453)) of the coastal State as*
8 *of the date of enactment of the Energy Policy Act*
9 *of 2005; and*

10 “(B) *not more than 200 nautical miles from*
11 *the geographic center of any leased tract.*

12 “(2) *COASTAL POPULATION.*—*The term ‘coastal*
13 *population’ means the population, as determined by*
14 *the most recent official data of the Census Bureau, of*
15 *each political subdivision any part of which lies with-*
16 *in the designated coastal boundary of a State (as de-*
17 *fin ed in a State’s coastal zone management program*
18 *under the Coastal Zone Management Act of 1972 (16*
19 *U.S.C. 1451 et seq.)).*

20 “(3) *COASTAL STATE.*—*The term ‘coastal State’*
21 *has the meaning given the term in section 304 of the*
22 *Coastal Zone Management Act of 1972 (16 U.S.C.*
23 *1453).*

1 “(4) *COASTLINE*.—The term ‘coastline’ has the
2 meaning given the term ‘coast line’ in section 2 of the
3 *Submerged Lands Act* (43 U.S.C. 1301).

4 “(5) *DISTANCE*.—The term ‘distance’ means the
5 minimum great circle distance, measured in statute
6 miles.

7 “(6) *LEASED TRACT*.—The term ‘leased tract’
8 means a tract that is subject to a lease under section
9 6 or 8 for the purpose of drilling for, developing, and
10 producing oil or natural gas resources.

11 “(7) *LEASING MORATORIA*.—The term ‘leasing
12 moratoria’ means the prohibitions on preleasing, leas-
13 ing, and related activities on any geographic area of
14 the outer Continental Shelf as contained in sections
15 107 through 109 of division E of the Consolidated Ap-
16 propriations Act, 2005 (Public Law 108–447; 118
17 Stat. 3063).

18 “(8) *POLITICAL SUBDIVISION*.—The term ‘polit-
19 ical subdivision’ means the local political jurisdiction
20 immediately below the level of State government, in-
21 cluding counties, parishes, and boroughs.

22 “(9) *PRODUCING STATE*.—

23 “(A) *IN GENERAL*.—The term ‘producing
24 State’ means a coastal State that has a coastal
25 seaward boundary within 200 nautical miles of

1 *the geographic center of a leased tract within*
2 *any area of the outer Continental Shelf.*

3 “(B) *EXCLUSION.*—*The term ‘producing*
4 *State’ does not include a producing State, a ma-*
5 *majority of the coastline of which is subject to leas-*
6 *ing moratoria, unless production was occurring*
7 *on January 1, 2005, from a lease within 10 nau-*
8 *tical miles of the coastline of that State.*

9 “(10) *QUALIFIED OUTER CONTINENTAL SHELF*
10 *REVENUES.*—

11 “(A) *IN GENERAL.*—*The term ‘qualified*
12 *Outer Continental Shelf revenues’ means all*
13 *amounts received by the United States from each*
14 *leased tract or portion of a leased tract—*

15 “(i) *lying—*

16 “(I) *seaward of the zone covered*
17 *by section 8(g); or*

18 “(II) *within that zone, but to*
19 *which section 8(g) does not apply; and*

20 “(ii) *the geographic center of which lies*
21 *within a distance of 200 nautical miles*
22 *from any part of the coastline of any coast-*
23 *al State.*

24 “(B) *INCLUSIONS.*—*The term ‘qualified*
25 *Outer Continental Shelf revenues’ includes bonus*

1 *bids, rents, royalties (including payments for*
2 *royalty taken in kind and sold), net profit share*
3 *payments, and related late-payment interest*
4 *from natural gas and oil leases issued under this*
5 *Act.*

6 “(C) *EXCLUSION.*—*The term ‘qualified*
7 *Outer Continental Shelf revenues’ does not in-*
8 *clude any revenues from a leased tract or portion*
9 *of a leased tract that is located in a geographic*
10 *area subject to a leasing moratorium on Janu-*
11 *ary 1, 2005, unless the lease was in production*
12 *on January 1, 2005.*

13 “(b) *PAYMENTS TO PRODUCING STATES AND COASTAL*
14 *POLITICAL SUBDIVISIONS.*—

15 “(1) *IN GENERAL.*—*The Secretary shall, without*
16 *further appropriation, disburse to producing States*
17 *and coastal political subdivisions in accordance with*
18 *this section \$250,000,000 for each of fiscal years 2007*
19 *through 2010.*

20 “(2) *DISBURSEMENT.*—*In each fiscal year, the*
21 *Secretary shall disburse to each producing State for*
22 *which the Secretary has approved a plan under sub-*
23 *section (c), and to coastal political subdivisions under*
24 *paragraph (4), such funds as are allocated to the pro-*

1 *ducing State or coastal political subdivision, respec-*
2 *tively, under this section for the fiscal year.*

3 “(3) *ALLOCATION AMONG PRODUCING STATES.—*

4 “(A) *IN GENERAL.—Except as provided in*
5 *subparagraph (C) and subject to subparagraph*
6 *(D), the amounts available under paragraph (1)*
7 *shall be allocated to each producing State based*
8 *on the ratio that—*

9 “(i) *the amount of qualified outer Con-*
10 *tinental Shelf revenues generated off the*
11 *coastline of the producing State; bears to*

12 “(ii) *the amount of qualified outer*
13 *Continental Shelf revenues generated off the*
14 *coastline of all producing States.*

15 “(B) *AMOUNT OF OUTER CONTINENTAL*
16 *SHELF REVENUES.—For purposes of subpara-*
17 *graph (A)—*

18 “(i) *the amount of qualified outer Con-*
19 *tinental Shelf revenues for each of fiscal*
20 *years 2007 and 2008 shall be determined*
21 *using qualified outer Continental Shelf reve-*
22 *nuces received for fiscal year 2006; and*

23 “(ii) *the amount of qualified outer*
24 *Continental Shelf revenues for each of fiscal*
25 *years 2009 and 2010 shall be determined*

1 *using qualified outer Continental Shelf reve-*
2 *nues received for fiscal year 2008.*

3 “(C) *MULTIPLE PRODUCING STATES.*—*In a*
4 *case in which more than 1 producing State is lo-*
5 *cated within 200 nautical miles of any portion*
6 *of a leased tract, the amount allocated to each*
7 *producing State for the leased tract shall be in-*
8 *versely proportional to the distance between—*

9 “(i) *the nearest point on the coastline*
10 *of the producing State; and*

11 “(ii) *the geographic center of the leased*
12 *tract.*

13 “(D) *MINIMUM ALLOCATION.*—*The amount*
14 *allocated to a producing State under subpara-*
15 *graph (A) shall be at least 1 percent of the*
16 *amounts available under paragraph (1).*

17 “(4) *PAYMENTS TO COASTAL POLITICAL SUBDIVI-*
18 *SIONS.*—

19 “(A) *IN GENERAL.*—*The Secretary shall pay*
20 *35 percent of the allocable share of each pro-*
21 *ducing State, as determined under paragraph*
22 *(3) to the coastal political subdivisions in the*
23 *producing State.*

1 “(B) *FORMULA.*—Of the amount paid by
2 the Secretary to coastal political subdivisions
3 under subparagraph (A)—

4 “(i) 25 percent shall be allocated to
5 each coastal political subdivision in the pro-
6 portion that—

7 “(I) the coastal population of the
8 coastal political subdivision; bears to

9 “(II) the coastal population of all
10 coastal political subdivisions in the
11 producing State;

12 “(ii) 25 percent shall be allocated to
13 each coastal political subdivision in the pro-
14 portion that—

15 “(I) the number of miles of coast-
16 line of the coastal political subdivision;
17 bears to

18 “(II) the number of miles of coast-
19 line of all coastal political subdivisions
20 in the producing State; and

21 “(iii) 50 percent shall be allocated in
22 amounts that are inversely proportional to
23 the respective distances between the points
24 in each coastal political subdivision that

1 are closest to the geographic center of each
2 leased tract, as determined by the Secretary.

3 “(C) *EXCEPTION FOR THE STATE OF LOU-*
4 *ISIANA.—For the purposes of subparagraph*
5 *(B)(ii), the coastline for coastal political subdivi-*
6 *sions in the State of Louisiana without a coast-*
7 *line shall be considered to be $\frac{1}{3}$ the average*
8 *length of the coastline of all coastal political sub-*
9 *divisions with a coastline in the State of Lou-*
10 *isiana.*

11 “(D) *EXCEPTION FOR THE STATE OF ALAS-*
12 *KA.—For the purposes of carrying out subpara-*
13 *graph (B)(iii) in the State of Alaska, the*
14 *amounts allocated shall be divided equally*
15 *among the 2 coastal political subdivisions that*
16 *are closest to the geographic center of a leased*
17 *tract.*

18 “(E) *EXCLUSION OF CERTAIN LEASED*
19 *TRACTS.—For purposes of subparagraph (B)(iii),*
20 *a leased tract or portion of a leased tract shall*
21 *be excluded if the tract or portion of a leased*
22 *tract is located in a geographic area subject to*
23 *a leasing moratorium on January 1, 2005, un-*
24 *less the lease was in production on that date.*

25 “(6) *NO APPROVED PLAN.—*

1 “(A) *IN GENERAL.*—Subject to subpara-
2 graph (B) and except as provided in subpara-
3 graph (C), in a case in which any amount allo-
4 cated to a producing State or coastal political
5 subdivision under paragraph (4) or (5) is not
6 disbursed because the producing State does not
7 have in effect a plan that has been approved by
8 the Secretary under subsection (c), the Secretary
9 shall allocate the undisbursed amount equally
10 among all other producing States.

11 “(B) *RETENTION OF ALLOCATION.*—The
12 Secretary shall hold in escrow an undisbursed
13 amount described in subparagraph (A) until
14 such date as the final appeal regarding the dis-
15 approval of a plan submitted under subsection
16 (c) is decided.

17 “(C) *WAIVER.*—The Secretary may waive
18 subparagraph (A) with respect to an allocated
19 share of a producing State and hold the allocable
20 share in escrow if the Secretary determines that
21 the producing State is making a good faith effort
22 to develop and submit, or update, a plan in ac-
23 cordance with subsection (c).

24 “(c) *COASTAL IMPACT ASSISTANCE PLAN.*—

25 “(1) *SUBMISSION OF STATE PLANS.*—

1 “(A) *IN GENERAL.*—Not later than July 1,
2 2008, the Governor of a producing State shall
3 submit to the Secretary a coastal impact assist-
4 ance plan.

5 “(B) *PUBLIC PARTICIPATION.*—In carrying
6 out subparagraph (A), the Governor shall solicit
7 local input and provide for public participation
8 in the development of the plan.

9 “(2) *APPROVAL.*—

10 “(A) *IN GENERAL.*—The Secretary shall ap-
11 prove a plan of a producing State submitted
12 under paragraph (1) before disbursing any
13 amount to the producing State, or to a coastal
14 political subdivision located in the producing
15 State, under this section.

16 “(B) *COMPONENTS.*—The Secretary shall
17 approve a plan submitted under paragraph (1)
18 if—

19 “(i) the Secretary determines that the
20 plan is consistent with the uses described in
21 subsection (d); and

22 “(ii) the plan contains—

23 “(I) the name of the State agency
24 that will have the authority to rep-
25 resent and act on behalf of the pro-

1 *ducing State in dealing with the Sec-*
2 *retary for purposes of this section;*

3 *“(II) a program for the imple-*
4 *mentation of the plan that describes*
5 *how the amounts provided under this*
6 *section to the producing State will be*
7 *used;*

8 *“(III) for each coastal political*
9 *subdivision that receives an amount*
10 *under this section—*

11 *“(aa) the name of a contact*
12 *person; and*

13 *“(bb) a description of how*
14 *the coastal political subdivision*
15 *will use amounts provided under*
16 *this section;*

17 *“(IV) a certification by the Gov-*
18 *ernor that ample opportunity has been*
19 *provided for public participation in*
20 *the development and revision of the*
21 *plan; and*

22 *“(V) a description of measures*
23 *that will be taken to determine the*
24 *availability of assistance from other*

1 *relevant Federal resources and pro-*
2 *grams.*

3 “(3) *AMENDMENT.*—*Any amendment to a plan*
4 *submitted under paragraph (1) shall be—*

5 “*(A) developed in accordance with this sub-*
6 *section; and*

7 “*(B) submitted to the Secretary for ap-*
8 *proval or disapproval under paragraph (4).*

9 “(4) *PROCEDURE.*—*Not later than 90 days after*
10 *the date on which a plan or amendment to a plan is*
11 *submitted under paragraph (1) or (3), the Secretary*
12 *shall approve or disapprove the plan or amendment.*

13 “(d) *AUTHORIZED USES.*—

14 “(1) *IN GENERAL.*—*A producing State or coastal*
15 *political subdivision shall use all amounts received*
16 *under this section, including any amount deposited*
17 *in a trust fund that is administered by the State or*
18 *coastal political subdivision and dedicated to uses*
19 *consistent with this section, in accordance with all*
20 *applicable Federal and State law, only for 1 or more*
21 *of the following purposes:*

22 “*(A) Projects and activities for the con-*
23 *servaion, protection, or restoration of coastal*
24 *areas, including wetland.*

1 “(B) Mitigation of damage to fish, wildlife,
2 or natural resources.

3 “(C) Planning assistance and the adminis-
4 trative costs of complying with this section.

5 “(D) Implementation of a federally-ap-
6 proved marine, coastal, or comprehensive con-
7 servation management plan.

8 “(E) Mitigation of the impact of outer Con-
9 tinental Shelf activities through funding of on-
10 shore infrastructure projects and public service
11 needs.

12 “(2) COMPLIANCE WITH AUTHORIZED USES.—If
13 the Secretary determines that any expenditure made
14 by a producing State or coastal political subdivision
15 is not consistent with this subsection, the Secretary
16 shall not disburse any additional amount under this
17 section to the producing State or the coastal political
18 subdivision until such time as all amounts obligated
19 for unauthorized uses have been repaid or reobligated
20 for authorized uses.

21 “(3) LIMITATION.—Not more than 23 percent of
22 amounts received by a producing State or coastal po-
23 litical subdivision for any 1 fiscal year shall be used
24 for the purposes described subparagraphs (C) and (E)
25 of paragraph (1).”.

Subtitle E—Natural Gas**SEC. 381. EXPORTATION OR IMPORTATION OF NATURAL GAS.**

Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

“(d) Except as specifically provided in this part, nothing in this Act affects the rights of States under—

“(1) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)

“(2) the Clean Air Act (42 U.S.C. 7401 et seq.);

or

“(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

“(e)(1) No facilities located onshore or in State waters for the import of natural gas from a foreign country, or the export of natural gas to a foreign country, shall be sited, constructed, expanded, or operated, unless the Commission has authorized such acts or operations.

“(2) The Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of facilities located onshore or in State waters for the import of natural gas from a foreign county or the export of natural gas to a foreign country.

1 “(3)(A) *Except as provided in subparagraph (B), the*
2 *Commission may approve an application described in*
3 *paragraph (2), in whole or part, with such modifications*
4 *and upon such terms and conditions as the Commission*
5 *finds appropriate.*

6 “(B) *The Commission shall not—*

7 “(i) *deny an application solely on the basis that*
8 *the applicant proposes to use the liquefied natural gas*
9 *import facility exclusively or partially for gas that*
10 *the applicant or an affiliate of the applicant will sup-*
11 *ply to the facility; or*

12 “(ii) *condition an order on—*

13 “(I) *a requirement that the liquefied nat-*
14 *ural gas import facility offer service to customers*
15 *other than the applicant, or any affiliate of the*
16 *applicant, securing the order;*

17 “(II) *any regulation of the rates, charges,*
18 *terms, or conditions of service of the liquefied*
19 *natural gas import facility; or*

20 “(III) *a requirement to file with the Com-*
21 *mission schedules or contracts related to the*
22 *rates, charges, terms, or conditions of service of*
23 *the liquefied natural gas import facility.*

24 “(4) *An order issued for a liquefied natural gas import*
25 *facility that also offers service to customers on an open ac-*

1 *cess basis shall not result in subsidization of expansion ca-*
2 *capacity by existing customers, degradation of service to exist-*
3 *ing customers, or undue discrimination against existing*
4 *customers as to their terms or conditions of service at the*
5 *facility, as all of those terms are defined by the Commis-*
6 *sion.”.*

7 **SEC. 382. NEW NATURAL GAS STORAGE FACILITIES.**

8 *Section 4 of the Natural Gas Act (15 U.S.C. 717c) is*
9 *amended by adding at the end the following:*

10 *“(f)(1) In exercising its authority under this Act or*
11 *the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.),*
12 *the Commission may authorize a natural gas company (or*
13 *any person that will be a natural gas company on comple-*
14 *tion of any proposed construction) to provide storage and*
15 *storage-related services at market-based rates for new stor-*
16 *age capacity placed in service after the date of enactment*
17 *of the Energy Policy Act of 2005, notwithstanding the fact*
18 *that the company is unable to demonstrate that the com-*
19 *pany lacks market power, if the Commission determines*
20 *that—*

21 *“(A) market-based rates are in the public inter-*
22 *est and necessary to encourage the construction of*
23 *storage capacity in areas needing storage services;*
24 *and*

25 *“(B) customers are adequately protected.*

1 “(2) *The Commission shall ensure that reasonable*
2 *terms and conditions are in place to protect consumers.*”

3 “(3) *If the Commission authorizes a natural gas com-*
4 *pany to charge market-based rates under this subsection,*
5 *the Commission shall review periodically (but not more fre-*
6 *quently than triennially) whether the market-based rate is*
7 *just, reasonable, and not unduly discriminatory or pref-*
8 *erential.*”.

9 **SEC. 383. PROCESS COORDINATION; HEARINGS; RULES OF**
10 **PROCEDURES.**

11 *Section 15 of the Natural Gas Act (15 U.S.C. 717n)*
12 *is amended—*

13 (1) *by striking the section heading and inserting*
14 *the following:*

15 “*PROCESS COORDINATION; HEARINGS; RULES OF*
16 *PROCEDURE*”;

17 (2) *by redesignating subsections (a) and (b) as*
18 *subsections (e) and (f), respectively;*

19 (3) *by striking “SEC. 15.” and inserting the fol-*
20 *lowing:*

21 “*SEC. 15. (a) In this section, the term ‘Federal*
22 *authorization’—*

23 “*(1) means any authorization required under*
24 *Federal law with respect to an application for au-*
25 *thorization under section 3 or a certificate of public*
26 *convenience and necessity under section 7; and*

1 “(2) includes any permits, special use authoriza-
2 tions, certifications, opinions, or other approvals as
3 may be required under Federal law with respect to an
4 application for authorization under section 3 or a
5 certificate of public convenience and necessity under
6 section 7.

7 “(b)(1) With respect to an application for Federal au-
8 thorization, the Commission shall, unless the Commission
9 orders otherwise, be the lead agency for purposes of com-
10 plying with the National Environmental Policy Act of 1969
11 (42 U.S.C. 4321 et seq.).

12 “(2) As lead agency, the Commission, in consultation
13 with affected agencies, shall prepare a single environmental
14 review document, which shall be used as a basis for all deci-
15 sions under Federal law on—

16 “(A) an application for authorization under sec-
17 tion 3; or

18 “(B) a certificate of public convenience and ne-
19 cessity under section 7.

20 “(c)(1) The Commission shall, in consultation with
21 agencies responsible for Federal authorizations, and with
22 due consideration of recommendations by the agencies, es-
23 tablish a schedule for all Federal authorizations required
24 to be completed before an application under section 3 or
25 7 may be approved.

1 “(2) *In establishing a schedule, the Commission shall*
2 *comply with applicable schedules established by Federal*
3 *law.*

4 “(3) *All Federal and State agencies with jurisdiction*
5 *over natural gas infrastructure shall seek to coordinate their*
6 *proceedings within the timeframes established by the Com-*
7 *mission with respect to an application for authorization*
8 *under section 3 or a certificate of public convenience and*
9 *necessity under section 7.*

10 “(d)(1) *In a case in which an administrative agency*
11 *or officer has failed to act by the deadline established by*
12 *the Commission under this section for deciding whether to*
13 *issue the authorization, the applicant or any State in which*
14 *the facility would be located may file an appeal with the*
15 *President, who shall, in consultation with the affected agen-*
16 *cy, take action on the pending application.*

17 “(2) *Based on the overall record and in consultation*
18 *with the affected agency, the President may—*

19 “(A) *issue the necessary authorization with any*
20 *appropriate conditions; or*

21 “(B) *deny the application.*

22 “(3) *Not later than 90 days after the filing of an ap-*
23 *peal, the President shall issue a decision as to that appeal.*

1 “(4) *In making a decision under this subsection, the*
2 *President shall comply with applicable requirements of Fed-*
3 *eral law, including—*

4 “(A) *the Endangered Species Act of 1973 (16*
5 *U.S.C. 1531 et seq.)*

6 “(B) *the Federal Water Pollution Control Act*
7 *(33 U.S.C. 1251 et seq.);*

8 “(C) *the National Forest Management Act of*
9 *1976 (16 U.S.C. 472a et seq.);*

10 “(D) *the National Environmental Policy Act of*
11 *1969 (42 U.S.C. 4321 et seq.);*

12 “(E) *the Federal Land Policy and Management*
13 *Act of 1976 (43 U.S.C. 1701 et seq.);*

14 “(F) *the Coastal Zone Management Act of 1972*
15 *(16 U.S.C. 1451 et seq.); and*

16 “(G) *the Clean Air Act (42 U.S.C. 7401 et*
17 *seq.).”*

18 **SEC. 384. PENALTIES.**

19 (a) *CRIMINAL PENALTIES.—*

20 (1) *NATURAL GAS ACT.—Section 21 of the Nat-*
21 *ural Gas Act (15 U.S.C. 717t) is amended—*

22 (A) *in subsection (a)—*

23 (i) *by striking “\$5,000” and inserting*

24 “\$1,000,000”; and—

1 (ii) by striking “two years” and in-
2 serting “5 years”; and

3 (B) in subsection (b), by striking “\$500”
4 and inserting “\$50,000”.

5 (2) *NATURAL GAS POLICY ACT OF 1978*.—Section
6 504(c) of the *Natural Gas Policy Act of 1978* (15
7 U.S.C. 3414(c)) is amended—

8 (A) in paragraph (1)—

9 (i) in subparagraph (A), by striking
10 “\$5,000” and inserting “\$1,000,000”;

11 (ii) in subparagraph (B), by striking
12 “two years” and inserting “5 years”; and

13 (B) in paragraph (2), by striking “\$500 for
14 each violation” and inserting “\$50,000 for each
15 day on which the offense occurs”.

16 (b) *CIVIL PENALTIES*.—

17 (1) *NATURAL GAS ACT*.—The *Natural Gas Act*
18 (15 U.S.C. 717 et seq.) is amended—

19 (A) by redesignating sections 22 through 24
20 as sections 24 through 26, respectively; and

21 (B) by inserting after section 21 (15 U.S.C.
22 717t) the following:

23 “*CIVIL PENALTY AUTHORITY*

24 “*SEC. 22. (a) Any person that violates this Act, or any*
25 *rule, regulation, restriction, condition, or order made or im-*
26 *posed by the Commission under authority of this Act, shall*

1 *be subject to a civil penalty of not more than \$1,000,000*
2 *per day per violation for as long as the violation continues.*

3 *“(b) The penalty shall be assessed by the Commission*
4 *after notice and opportunity for public hearing.*

5 *“(c) In determining the amount of a proposed penalty,*
6 *the Commission shall take into consideration the nature*
7 *and seriousness of the violation and the efforts to remedy*
8 *the violation.”.*

9 (2) *NATURAL GAS POLICY ACT OF 1978.—Section*
10 *504(b)(6)(A) of the Natural Gas Policy Act of 1978*
11 *(15 U.S.C. 3414(b)(6)(A)) is amended—*

12 (A) *in clause (i), by striking “\$5,000” and*
13 *inserting “\$1,000,000”; and*

14 (B) *in clause (ii), by striking “\$25,000”*
15 *and inserting “\$1,000,000”.*

16 **SEC. 385. MARKET MANIPULATION.**

17 *The Natural Gas Act is amended by inserting after*
18 *section 4 (15 U.S.C. 717c) the following:*

19 *“PROHIBITION ON MARKET MANIPULATION*

20 *“SEC. 4A. It shall be unlawful for any entity, directly*
21 *or indirectly, to use or employ, in connection with the pur-*
22 *chase or sale of natural gas or the purchase or sale of trans-*
23 *portation services subject to the jurisdiction of the Commis-*
24 *sion, any manipulative or deceptive device or contrivance*
25 *(as those terms are used in section 10(b) of the Securities*
26 *Exchange Act of 1934 (15 U.S.C. 78j(b)) in contravention*

1 *of such rules and regulations as the Commission may pre-*
2 *scribe as necessary in the public interest or for the protec-*
3 *tion of natural gas ratepayers.”*

4 **SEC. 386. NATURAL GAS MARKET TRANSPARENCY RULES.**

5 *The Natural Gas Act (15 U.S.C. 717 et seq.) (as*
6 *amended by section 385(b)(1)) is amended by inserting*
7 *after section 22 the following:*

8 *“NATURAL GAS MARKET TRANSPARENCY RULES*

9 *“SEC. 23. (a)(1) The Commission may issue such rules*
10 *as the Commission considers to be appropriate to establish*
11 *an electronic information system to provide the Commission*
12 *and the public with access to such information as is nec-*
13 *essary to facilitate price transparency and participation in*
14 *markets for the sale or transportation of natural gas in*
15 *interstate commerce.*

16 *“(2) The system under paragraph (1) shall provide,*
17 *on a timely basis, information about the availability and*
18 *prices of natural gas sold at wholesale and in interstate*
19 *commerce to the Commission, State commissions, buyers*
20 *and sellers of wholesale natural gas, and the public.*

21 *“(3) The Commission may—*

22 *“(A) obtain information described in paragraph*
23 *(2) from any market participant; and*

24 *“(B) rely on an entity other than the Commis-*
25 *sion to receive and make public the information.*

1 “(b)(1) Rules described in subsection (a)(1), if adopted,
2 shall exempt from disclosure information the Commission
3 determines would, if disclosed, be detrimental to the oper-
4 ation of an effective market or jeopardize system security.

5 “(2) In determining the information to be made avail-
6 able under this section and time to make the information
7 available, the Commission shall seek to ensure that con-
8 sumers and competitive markets are protected from the ad-
9 verse effects of potential collusion or other anticompetitive
10 behaviors that can be facilitated by untimely public disclo-
11 sure of transaction-specific information.

12 “(c)(1) This section shall not affect the exclusive juris-
13 diction of the Commodity Futures Trading Commission
14 with respect to accounts, agreements, contracts, or trans-
15 actions in commodities under the Commodity Exchange Act
16 (7 U.S.C. 1 et seq.).

17 “(2) Any request by the Commission for information
18 to a designated contract market, registered derivatives
19 transaction execution facility, board of trade, exchange, or
20 market involving accounts, agreements, contracts, or trans-
21 actions in commodities (including natural gas, electricity
22 and other energy commodities) within the exclusive juris-
23 diction of the Commodity Futures Trading Commission
24 shall be directed to the Commodity Futures Trading Com-

1 mission, which shall cooperate in responding to any infor-
2 mation request by the Commission.

3 “(d) In carrying out this section, the Commission shall
4 not—

5 “(1) compete with, or displace from the market
6 place, any price publisher (including any electronic
7 price publisher);

8 “(2) regulate price publishers (including any
9 electronic price publisher); or

10 “(3) impose any requirements on the publication
11 of information by price publishers (including any
12 electronic price publisher).

13 “(e)(1) The Commission shall not condition access to
14 interstate pipeline transportation on the reporting require-
15 ments of this section.

16 “(2) The Commission shall not require natural gas
17 producers, processors, or users who have a de minimis mar-
18 ket presence to comply with the reporting requirements of
19 this section.

20 “(f)(1) Except as provided in paragraph (2), no person
21 shall be subject to any civil penalty under this section with
22 respect to any violation occurring more than 3 years before
23 the date on which the person is provided notice of the pro-
24 posed penalty under section 22(b).

1 “(2) Paragraph (1) shall not apply in any case in
 2 which the Commission finds that a seller that has entered
 3 into a contract for the transportation or sale of natural gas
 4 subject to the jurisdiction of the Commission has engaged
 5 in fraudulent market manipulation activities materially af-
 6 fecting the contract in violation of section 4A.”.

7 **SEC. 387. DEADLINE FOR DECISION ON APPEALS OF CON-**
 8 **SISTENCY DETERMINATION UNDER THE**
 9 **COASTAL ZONE MANAGEMENT ACT OF 1972.**

10 (a) *IN GENERAL.*—Section 319 of the Coastal Zone
 11 Management Act of 1972 (16 U.S.C. 1465) is amended to
 12 read as follows:

13 “APPEALS TO THE SECRETARY

14 “SEC. 319. (a) *NOTICE.*—Not later than 30 days after
 15 the date of the filing of an appeal to the Secretary of a
 16 consistency determination under section 307, the Secretary
 17 shall publish an initial notice in the Federal Register.

18 “(b) *CLOSURE OF RECORD.*—

19 “(1) *IN GENERAL.*—Not later than the end of the
 20 270-day period beginning on the date of publication
 21 of an initial notice under subsection (a), except as
 22 provided in paragraph (3), the Secretary shall imme-
 23 diately close the decision record and receive no more
 24 filings on the appeal.

25 “(2) *NOTICE.*—After closing the administrative
 26 record, the Secretary shall immediately publish a no-

1 *tice in the Federal Register that the administrative*
2 *record has been closed.*

3 “(3) *EXCEPTION.—*

4 “(A) *IN GENERAL.—Subject to subpara-*
5 *graph (B), during the 270-day period described*
6 *in paragraph (1), the Secretary may stay the*
7 *closing of the decision record—*

8 “(i) *for a specific period mutually*
9 *agreed to in writing by the appellant and*
10 *the State agency; or*

11 “(ii) *as the Secretary determines nec-*
12 *essary to receive, on an expedited basis—*

13 “(I) *any supplemental informa-*
14 *tion specifically requested by the Sec-*
15 *retary to complete a consistency review*
16 *under this Act; or*

17 “(II) *any clarifying information*
18 *submitted by a party to the proceeding*
19 *related to information already existing*
20 *in the sole record.*

21 “(B) *APPLICABILITY.—The Secretary may*
22 *only stay the 270-day period described in para-*
23 *graph (1) for a period not to exceed 60 days.*

24 “(c) *DEADLINE FOR DECISION.—*

1 “(1) *IN GENERAL.*—Not later than 90 days after
2 *the date of publication of a Federal Register notice*
3 *stating when the decision record for an appeal has*
4 *been closed, the Secretary shall issue a decision or*
5 *publish a notice in the Federal Register explaining*
6 *why a decision cannot be issued at that time.*

7 “(2) *SUBSEQUENT DECISION.*—Not later than 45
8 *days after the date of publication of a Federal Reg-*
9 *ister notice explaining why a decision cannot be*
10 *issued within the 90-day period, the Secretary shall*
11 *issue a decision.”.*

12 **SEC. 388. FEDERAL-STATE LIQUEFIED NATURAL GAS FO-**
13 **RUMS.**

14 *(a) IN GENERAL.*—Not later than 1 year after the date
15 *of enactment of this Act, the Secretary, in cooperation and*
16 *consultation with the Secretary of Transportation, the Sec-*
17 *retary of Homeland Security, the Federal Energy Regu-*
18 *latory Commission, and the Governors of the Coastal States,*
19 *shall convene not less than 3 forums on liquefied natural*
20 *gas.*

21 *(b) REQUIREMENTS.*—The forums shall—

22 (1) *be located in areas where liquefied natural*
23 *gas facilities are under consideration;*

24 (2) *be designed to foster dialogue among Federal*
25 *officials, State and local officials, the general public,*

1 *independent experts, and industry representatives;*
2 *and*

3 *(3) at a minimum, provide an opportunity for*
4 *public education and dialogue on—*

5 *(A) the role of liquefied natural gas in*
6 *meeting current and future United States energy*
7 *supply requirements and demand, in the context*
8 *of the full range of energy supply options;*

9 *(B) the Federal and State siting and per-*
10 *mitting processes;*

11 *(C) the potential risks and rewards associ-*
12 *ated with importing liquefied natural gas;*

13 *(D) the Federal safety and environmental*
14 *requirements (including regulations) applicable*
15 *to liquefied natural gas;*

16 *(E) prevention, mitigation, and response*
17 *strategies for liquefied natural gas hazards; and*

18 *(F) additional issues as appropriate.*

19 *(c) PURPOSE.—The purpose of the forums shall be to*
20 *identify and develop best practices for addressing the issues*
21 *and challenges associated with liquefied natural gas im-*
22 *ports, building on existing cooperative efforts.*

23 *(d) AUTHORIZATION OF APPROPRIATIONS.—There are*
24 *authorized to be appropriated such sums as are necessary*
25 *to carry out this section.*

1 **SEC. 389. PROHIBITION OF TRADING AND SERVING BY CER-**
2 **TAIN PERSONS.**

3 *Section 20 of the Natural Gas Act (15 U.S.C. 717s)*
4 *is amended by adding at the end the following:*

5 “(d) *In any proceedings under subsection (a), the court*
6 *may prohibit, conditionally or unconditionally, and per-*
7 *manently or for such period of time as the court determines,*
8 *any person who is engaged or has engaged in practices con-*
9 *stituting a violation of section 4A (including related rules*
10 *and regulations) from—*

11 “(1) *acting as an officer or director of a natural*
12 *gas company; or*

13 “(2) *engaging in the business of—*

14 “(A) *the purchasing or selling of natural*
15 *gas; or*

16 “(B) *the purchasing or selling of trans-*
17 *mission services subject to the jurisdiction of the*
18 *Commission.”.*

19 ***Subtitle F—Federal Coalbed***
20 ***Methane Regulation***

21 **SEC. 391. FEDERAL COALBED METHANE REGULATION.**

22 *Any State that, as of the date of enactment of this Act,*
23 *is included on the list of affected States established under*
24 *section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C.*
25 *13368(b)) shall be removed from the list if, not later than*
26 *3 years after the date of enactment of this Act, the State*

1 *takes, or prior to that date of enactment, has taken, any*
2 *of the actions required for removal from the list under that*
3 *section.*

4 **TITLE IV—COAL**
5 **Subtitle A—Clean Coal Power**
6 **Initiative**

7 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) *CLEAN COAL POWER INITIATIVE.*—*There is au-*
9 *thorized to be appropriated to the Secretary to carry out*
10 *the activities authorized by this subtitle \$200,000,000 for*
11 *each of fiscal years 2006 through 2012, to remain available*
12 *until expended.*

13 (b) *REPORT.*—*Not later than March 31, 2006, the Sec-*
14 *retary shall submit to Congress a report that includes a*
15 *10-year plan containing—*

16 (1) *a detailed assessment of whether the aggre-*
17 *gate assistance levels provided under subsection (a)*
18 *are the appropriate assistance levels for the clean coal*
19 *power initiative;*

20 (2) *a detailed description of how proposals for*
21 *assistance under the clean coal power initiative will*
22 *be solicited and evaluated, including a list of all ac-*
23 *tivities expected to be undertaken;*

1 (3) a detailed list of technical milestones for each
2 coal and related technology that will be pursued
3 under the clean coal power initiative; and

4 (4) a detailed description of how the clean coal
5 power initiative will avoid problems enumerated in
6 Government Accountability Office reports on the
7 Clean Coal Technology Program of the Department,
8 including problems that have resulted in unspent
9 funds and projects that failed either financially or
10 scientifically.

11 **SEC. 402. PROJECT CRITERIA.**

12 (a) *IN GENERAL.*—To be eligible to receive assistance
13 under this subtitle, a project shall advance efficiency, envi-
14 ronmental performance, and cost competitiveness well be-
15 yond the level of technologies that are in commercial service
16 or have been demonstrated on a scale that the Secretary
17 determines is sufficient to demonstrate that commercial
18 service is viable as of the date of enactment of this Act.

19 (b) *TECHNICAL CRITERIA FOR CLEAN COAL POWER*
20 *INITIATIVE.*—

21 (1) *GASIFICATION PROJECTS.*—

22 (A) *IN GENERAL.*—In allocating the funds
23 made available under section 401(a), the Sec-
24 retary shall ensure that at least 80 percent of the

1 *funds are used only to fund projects on coal-*
2 *based gasification technologies, including—*

3 *(i) gasification combined cycle;*

4 *(ii) gasification fuel cells and turbine*
5 *combined cycle;*

6 *(iii) gasification coproduction; and*

7 *(iv) hybrid gasification and combus-*
8 *tion.*

9 *(B) TECHNICAL MILESTONES.—*

10 *(i) PERIODIC DETERMINATION.—*

11 *(I) IN GENERAL.—The Secretary*
12 *shall periodically set technical mile-*
13 *stones specifying the emission and*
14 *thermal efficiency levels that coal gas-*
15 *ification projects under this subtitle*
16 *shall be designed, and reasonably ex-*
17 *pected, to achieve.*

18 *(II) PRESCRIPTIVE MILE-*
19 *STONES.—The technical milestones*
20 *shall become more prescriptive during*
21 *the period of the clean coal power ini-*
22 *tiative.*

23 *(ii) 2020 GOALS.—The Secretary shall*
24 *establish the periodic milestones so as to*

1 *achieve by the year 2020 coal gasification*
2 *projects able—*

3 (I) *to remove at least 99 percent*
4 *of sulfur dioxide;*

5 (II) *to emit not more than .05 lbs*
6 *of NO_x per million Btu;*

7 (III) *to achieve at least 95 percent*
8 *reductions in mercury emissions; and*

9 (IV) *to achieve a thermal effi-*
10 *ciency of at least—*

11 (aa) *50 percent for coal of*
12 *more than 9,000 Btu;*

13 (bb) *48 percent for coal of*
14 *7,000 to 9,000 Btu; and*

15 (cc) *46 percent for coal of less*
16 *than 7,000 Btu.*

17 (2) *OTHER PROJECTS.—*

18 (A) *ALLOCATION OF FUNDS.—The Secretary*
19 *shall ensure that up to 20 percent of the funds*
20 *made available under section 401(a) are used to*
21 *fund projects other than those described in para-*
22 *graph (1).*

23 (B) *TECHNICAL MILESTONES.—*

24 (i) *PERIODIC DETERMINATION.—*

1 (I) *IN GENERAL.*—*The Secretary*
2 *shall periodically establish technical*
3 *milestones specifying the emission and*
4 *thermal efficiency levels that projects*
5 *funded under this paragraph shall be*
6 *designed, and reasonably expected, to*
7 *achieve.*

8 (II) *PRESCRIPTIVE MILE-*
9 *STONES.*—*The technical milestones*
10 *shall become more prescriptive during*
11 *the period of the clean coal power ini-*
12 *tiative.*

13 (ii) *2020 GOALS.*—*The Secretary shall*
14 *set the periodic milestones so as to achieve*
15 *by the year 2020 projects able—*

16 (I) *to remove at least 97 percent*
17 *of sulfur dioxide;*

18 (II) *to emit no more than .08 lbs*
19 *of NO_x per million Btu;*

20 (III) *to achieve at least 90 percent*
21 *reductions in mercury emissions; and*

22 (IV) *to achieve a thermal effi-*
23 *ciency of at least—*

24 (aa) *43 percent for coal of*
25 *more than 9,000 Btu;*

1 (bb) 41 percent for coal of
2 7,000 to 9,000 Btu; and

3 (cc) 39 percent for coal of less
4 than 7,000 Btu.

5 (3) *CONSULTATION.*—Before setting the technical
6 milestones under paragraphs (1)(B) and (2)(B), the
7 Secretary shall consult with—

8 (A) the Administrator of the Environmental
9 Protection Agency; and

10 (B) interested entities, including—

11 (i) coal producers;

12 (ii) industries using coal;

13 (iii) organizations that promote coal or
14 advanced coal technologies;

15 (iv) environmental organizations;

16 (v) organizations representing workers;

17 and

18 (vi) organizations representing con-
19 sumers.

20 (4) *EXISTING UNITS.*—In the case of projects at
21 units in existence on the date of enactment of this
22 Act, in lieu of the thermal efficiency requirements de-
23 scribed in paragraphs (1)(B)(ii)(IV) and
24 (2)(B)(ii)(IV), the milestones shall be designed to
25 achieve an overall thermal design efficiency improve-

1 *ment, compared to the efficiency of the unit as oper-*
2 *ated, of not less than—*

3 *(A) 7 percent for coal of more than 9,000*

4 *Btu;*

5 *(B) 6 percent for coal of 7,000 to 9,000 Btu;*

6 *or*

7 *(C) 4 percent for coal of less than 7,000*

8 *Btu.*

9 *(5) ADMINISTRATION.—*

10 *(A) ELEVATION OF SITE.—In evaluating*
11 *project proposals to achieve thermal efficiency*
12 *levels established under paragraphs (1)(B)(i) and*
13 *(2)(B)(i) and in determining progress towards*
14 *thermal efficiency milestones under paragraphs*
15 *(1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4), the Sec-*
16 *retary shall take into account and make adjust-*
17 *ments for the elevation of the site at which a*
18 *project is proposed to be constructed.*

19 *(B) APPLICABILITY OF MILESTONES.—The*
20 *thermal efficiency milestones under paragraphs*
21 *(1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) shall not*
22 *apply to projects that separate and capture at*
23 *least 50 percent of the potential emissions of car-*
24 *bon dioxide by a facility.*

1 (C) *PERMITTED USES.*—*In carrying out*
2 *this section, the Secretary shall give high pri-*
3 *ority to projects that include, as part of the*
4 *project—*

5 (i) *the separation or capture of carbon*
6 *dioxide; or*

7 (ii) *the reduction of the demand for*
8 *natural gas if deployed.*

9 (c) *FINANCIAL CRITERIA.*—*The Secretary shall not*
10 *provide financial assistance under this subtitle for a project*
11 *unless the recipient documents to the satisfaction of the Sec-*
12 *retary that—*

13 (1) *the recipient is financially responsible;*

14 (2) *the recipient will provide sufficient informa-*
15 *tion to the Secretary to enable the Secretary to ensure*
16 *that the funds are spent efficiently and effectively;*
17 *and*

18 (3) *a market exists for the technology being dem-*
19 *onstrated or applied, as evidenced by statements of*
20 *interest in writing from potential purchasers of the*
21 *technology.*

22 (d) *FINANCIAL ASSISTANCE.*—*The Secretary shall pro-*
23 *vide financial assistance to projects that, as determined by*
24 *the Secretary—*

1 (1) *meet the requirements of subsections (a), (b),*
2 *and (c); and*

3 (2) *are likely—*

4 (A) *to achieve overall cost reductions in the*
5 *use of coal to generate useful forms of energy or*
6 *chemical feedstocks;*

7 (B) *to improve the competitiveness of coal*
8 *among various forms of energy in order to main-*
9 *tain a diversity of fuel choices in the United*
10 *States to meet electricity generation require-*
11 *ments; and*

12 (C) *to demonstrate methods and equipment*
13 *that are applicable to 25 percent of the elec-*
14 *tricity generating facilities, using various types*
15 *of coal, that use coal as the primary feedstock as*
16 *of the date of enactment of this Act.*

17 (e) *COST-SHARING.—In carrying out this subtitle, the*
18 *Secretary shall require cost sharing in accordance with sec-*
19 *tion 1002.*

20 (f) *SCHEDULED COMPLETION OF SELECTED*
21 *PROJECTS.—*

22 (1) *IN GENERAL.—In selecting a project for fi-*
23 *nancial assistance under this section, the Secretary*
24 *shall establish a reasonable period of time during*
25 *which the owner or operator of the project shall com-*

1 *plete the construction or demonstration phase of the*
2 *project, as the Secretary determines to be appropriate.*

3 (2) *CONDITION OF FINANCIAL ASSISTANCE.—The*
4 *Secretary shall require as a condition of receipt of*
5 *any financial assistance under this subtitle that the*
6 *recipient of the assistance enter into an agreement*
7 *with the Secretary not to request an extension of the*
8 *time period established for the project by the Sec-*
9 *retary under paragraph (1).*

10 (3) *EXTENSION OF TIME PERIOD.—*

11 (A) *IN GENERAL.—Subject to subparagraph*
12 *(B), the Secretary may extend the time period*
13 *established under paragraph (1) if the Secretary*
14 *determines, in the sole discretion of the Sec-*
15 *retary, that the owner or operator of the project*
16 *cannot complete the construction or demonstra-*
17 *tion phase of the project within the time period*
18 *due to circumstances beyond the control of the*
19 *owner or operator.*

20 (B) *LIMITATION.—The Secretary shall not*
21 *extend a time period under subparagraph (A) by*
22 *more than 4 years.*

23 (g) *FEE TITLE.—The Secretary may vest fee title or*
24 *other property interests acquired under cost-share clean coal*

1 *power initiative agreements under this subtitle in any enti-*
2 *ty, including the United States.*

3 (h) *DATA PROTECTION.*—*For a period not exceeding*
4 *5 years after completion of the operations phase of a cooper-*
5 *ative agreement, the Secretary may provide appropriate*
6 *protections (including exemptions from subchapter II of*
7 *chapter 5 of title 5, United States Code) against the dis-*
8 *semination of information that—*

9 (1) *results from demonstration activities carried*
10 *out under the clean coal power initiative program;*
11 *and*

12 (2) *would be a trade secret or commercial or fi-*
13 *nancial information that is privileged or confidential*
14 *if the information had been obtained from and first*
15 *produced by a non-Federal party participating in a*
16 *clean coal power initiative project.*

17 (i) *APPLICABILITY.*—*No technology, or level of emis-*
18 *sion reduction, solely by reason of the use of the technology,*
19 *or the achievement of the emission reduction, by 1 or more*
20 *facilities receiving assistance under this Act, shall be con-*
21 *sidered to be—*

22 (1) *adequately demonstrated for purposes of sec-*
23 *tion 111 of the Clean Air Act (42 U.S.C. 7411);*

24 (2) *achievable for purposes of section 169 of that*
25 *Act (42 U.S.C. 7479); or*

1 (3) *achievable in practice for purposes of section*
2 *171 of that Act (42 U.S.C. 7501).*

3 **SEC. 403. REPORT.**

4 *Not later than 1 year after the date of enactment of*
5 *this Act, and once every 2 years thereafter through 2012,*
6 *the Secretary, in consultation with other appropriate Fed-*
7 *eral agencies, shall submit to Congress a report*
8 *describing—*

9 (1)(A) *the technical milestones described in sec-*
10 *tion 402; and*

11 (B) *how those milestones ensure progress toward*
12 *meeting the requirements of subsections (b)(1)(B) and*
13 *(b)(2)(B) of section 402; and*

14 (2) *the status of projects that receive assistance*
15 *under this subtitle.*

16 **SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.**

17 (a) *IN GENERAL.*—*As part of the clean coal power ini-*
18 *tiative, the Secretary shall award competitive, merit-based*
19 *grants to institutions of higher education for the establish-*
20 *ment of centers of excellence for energy systems of the future.*

21 (b) *BASIS FOR GRANTS.*—*The Secretary shall award*
22 *grants under this section to institutions of higher education*
23 *that show the greatest potential for advancing new clean*
24 *coal technologies.*

1 **SEC. 405. INTEGRATED COAL/RENEWABLE ENERGY SYSTEM.**

2 (a) *IN GENERAL.*—Subject to the availability of appro-
3 priations, the Secretary may provide loan guarantees for
4 a project to produce energy from coal of less than 7,000
5 Btu/lb using appropriate advanced integrated gasification
6 combined cycle technology, including repowering of existing
7 facilities, that—

8 (1) *is combined with wind and other renewable*
9 *sources;*

10 (2) *minimizes and offers the potential to seques-*
11 *ter carbon dioxide emissions; and*

12 (3) *provides a ready source of hydrogen for near-*
13 *site fuel cell demonstrations.*

14 (b) *REQUIREMENTS.*—The facility—

15 (1) *may be built in stages;*

16 (2) *shall have a combined output of at least 200*
17 *megawatts at successively more competitive rates; and*

18 (3) *shall be located in the Upper Great Plains.*

19 (c) *TECHNICAL CRITERIA.*—Technical criteria de-
20 scribed in section 402(b) shall apply to the facility.

21 (d) *FEDERAL COST SHARE.*—The Federal cost share
22 for the facility shall not exceed 50 percent.

23 (e) *INVESTMENT TAX CREDITS.*—

24 (1) *IN GENERAL.*—The loan guarantees provided
25 under this section do not preclude the facility from re-

1 *ceiving an allocation for investment tax credits under*
2 *section 48A of the Internal Revenue Code of 1986.*

3 (2) *OTHER FUNDING.—Use of the investment tax*
4 *credit described in paragraph (1) does not prohibit*
5 *the use of other clean coal program funding.*

6 **SEC. 406. LOAN TO PLACE ALASKA CLEAN COAL TECH-**
7 **NOLOGY FACILITY IN SERVICE.**

8 (a) *DEFINITIONS.—In this section:*

9 (1) *BORROWER.—The term “borrower” means*
10 *the owner of the clean coal technology plant.*

11 (2) *CLEAN COAL TECHNOLOGY PLANT.—The term*
12 *“clean coal technology plant” means the plant located*
13 *near Healy, Alaska, constructed under Department*
14 *cooperative agreement number DE-FC-22-*
15 *91PC90544.*

16 (3) *COST OF A DIRECT LOAN.—The term “cost of*
17 *a direct loan” has the meaning given the term in sec-*
18 *tion 502(5)(B) of the Federal Credit Reform Act of*
19 *1990 (2 U.S.C. 661a(5)(B)).*

20 (b) *AUTHORIZATION.—Subject to subsection (c), the*
21 *Secretary shall use amounts made available under sub-*
22 *section (e) to provide the cost of a direct loan to the bor-*
23 *rower for purposes of placing the clean coal technology*
24 *plant into reliable operation for the generation of elec-*
25 *tricity.*

1 (c) *REQUIREMENTS.*—

2 (1) *MAXIMUM LOAN AMOUNT.*—*The amount of*
3 *the direct loan provided under subsection (b) shall not*
4 *exceed \$80,000,000.*

5 (2) *DETERMINATIONS BY SECRETARY.*—*Before*
6 *providing the direct loan to the borrower under sub-*
7 *section (b), the Secretary shall determine that—*

8 (A) *the plan of the borrower for placing the*
9 *clean coal technology plant in reliable operation*
10 *has a reasonable prospect of success;*

11 (B) *the amount of the loan (when combined*
12 *with amounts available to the borrower from*
13 *other sources) will be sufficient to carry out the*
14 *project; and*

15 (C) *there is a reasonable prospect that the*
16 *borrower will repay the principal and interest*
17 *on the loan.*

18 (3) *INTEREST; TERM.*—*The direct loan provided*
19 *under subsection (b) shall bear interest at a rate and*
20 *for a term that the Secretary determines appropriate,*
21 *after consultation with the Secretary of the Treasury,*
22 *taking into account the needs and capacities of the*
23 *borrower and the prevailing rate of interest for simi-*
24 *lar loans made by public and private lenders.*

1 (4) *ADDITIONAL TERMS AND CONDITIONS.*—*The*
2 *Secretary may require any other terms and condi-*
3 *tions that the Secretary determines to be appropriate.*

4 (d) *USE OF PAYMENTS.*—*The Secretary shall retain*
5 *any payments of principal and interest on the direct loan*
6 *provided under subsection (b) to support energy research*
7 *and development activities, to remain available until ex-*
8 *pended, subject to any other conditions in an applicable ap-*
9 *propriations Act.*

10 (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
11 *authorized to be appropriated such sums as are necessary*
12 *to provide the cost of a direct loan under subsection (b).*

13 **SEC. 407. WESTERN INTEGRATED COAL GASIFICATION DEM-**
14 **ONSTRATION PROJECT.**

15 (a) *IN GENERAL.*—*Subject to the availability of appro-*
16 *priations, the Secretary shall carry out a project to dem-*
17 *onstrate production of energy from coal mined in the west-*
18 *ern United States using integrated gasification combined*
19 *cycle technology (referred to in this section as the “dem-*
20 *onstration project”).*

21 (b) *COMPONENTS.*—*The demonstration project—*

22 (i) *may include repowering of existing facilities;*

23 (ii) *shall be designed to demonstrate the ability*
24 *to use coal with an energy content of not more than*
25 *9,000 Btu/lb.; and*

1 (iii) shall be capable of removing and seques-
2 tering carbon dioxide emissions.

3 (c) *ALL TYPES OF WESTERN COALS.*—Notwith-
4 standing the foregoing, and to the extent economically fea-
5 sible, the demonstration project shall also be designed to
6 demonstrate the ability to use a variety of types of coal (in-
7 cluding subbituminous and bituminous coal with an energy
8 content of up to 13,000 Btu/lb.) mined in the western
9 United States.

10 (d) *LOCATION.*—The demonstration project shall be lo-
11 cated in a western State at an altitude of greater than 4,000
12 feet above sea level.

13 (e) *COST SHARING.*—The Federal share of the cost of
14 the demonstration project shall be determined in accordance
15 with section 1002.

16 (f) *LOAN GUARANTEES.*—Notwithstanding title XIV,
17 the demonstration project shall not be eligible for Federal
18 loan guarantees.

19 ***Subtitle B—Federal Coal Leases***

20 ***SEC. 411. REPEAL OF THE 160-ACRE LIMITATION FOR COAL*** 21 ***LEASES.***

22 *Section 3 of the Mineral Leasing Act (30 U.S.C. 203)*
23 *is amended—*

24 (1) *in the first sentence, by striking “Any per-*
25 *son” and inserting the following: “(a)(1) Except as*

1 *provided in paragraph (3), on a finding by the Sec-*
2 *retary under paragraph (2), any person”;*

3 *(2) in the second sentence, by striking “The Sec-*
4 *retary” and inserting the following:*

5 *“(b) The Secretary”;*

6 *(3) in the third sentence, by striking “The min-*
7 *imum” and inserting the following:*

8 *“(c) The minimum”;*

9 *(4) in subsection (a) (as designated by para-*
10 *graph (1))—*

11 *(A) by striking “upon” and all that follows*
12 *and inserting the following: “secure modifica-*
13 *tions of the original coal lease by including addi-*
14 *tional coal lands or coal deposits contiguous or*
15 *cornering to those embraced in the lease.”; and*

16 *(B) by adding at the end the following:*

17 *“(2) A finding referred to in paragraph (1) is a find-*
18 *ing by the Secretary that the modifications—*

19 *“(A) would be in the interest of the United*
20 *States;*

21 *“(B) would not displace a competitive interest in*
22 *the lands; and*

23 *“(C) would not include lands or deposits that*
24 *can be developed as part of another potential or exist-*
25 *ing operation.*

1 “(3) *In no case shall the total area added by modifica-*
2 *tions to an existing coal lease under paragraph (1)—*

3 “(A) *exceed 320 acres; or*

4 “(B) *add acreage larger than that in the original*
5 *lease.*”.

6 **SEC. 412. MINING PLANS.**

7 *Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C.*
8 *202a(2)) is amended—*

9 (1) *by inserting “(A)” after “(2)”;* and

10 (2) *by adding at the end the following:*

11 “(B) *The Secretary may establish a period of*
12 *more than 40 years if the Secretary determines that—*

13 “(i) *the longer period will ensure the max-*
14 *imum economic recovery of a coal deposit; or*

15 “(ii) *the longer period is in the interest of*
16 *the orderly, efficient, or economic development of*
17 *a coal resource.*”.

18 **SEC. 413. PAYMENT OF ADVANCE ROYALTIES UNDER COAL**

19 **LEASES.**

20 *Section 7(b) of the Mineral Leasing Act (30 U.S.C.*
21 *207(b)) is amended—*

22 (1) *in the first sentence, by striking “Each lease”*
23 *and inserting the following: “(1) Each lease”;*

24 (2) *in the second sentence, by striking “The Sec-*
25 *retary” and inserting the following:*

1 “(2) *The Secretary*”;

2 (3) *in the third sentence, by striking “Such ad-*
3 *vance royalties” and inserting the following:*

4 “(3) *Advance royalties described in paragraph (2)*”;

5 (4) *in the seventh sentence, by striking “The Sec-*
6 *retary” and inserting the following:*

7 “(6) *The Secretary*”;

8 (5) *in the last sentence, by striking “Nothing”*
9 *and inserting the following:*

10 “(7) *Nothing*”;

11 (6) *by striking the fourth, fifth, and sixth sen-*
12 *tences; and*

13 (7) *by inserting after paragraph (3) (as des-*
14 *ignated by paragraph (3)) the following:*

15 “(4) *The aggregate number of years during the period*
16 *of any lease for which advance royalties may be accepted*
17 *in lieu of the condition of continued operation shall not ex-*
18 *ceed 20 years.*

19 “(5) *The amount of any production royalty paid for*
20 *any year shall be reduced (but not below 0) by the amount*
21 *of any advance royalties paid under a lease described in*
22 *paragraph (4) to the extent that the advance royalties have*
23 *not been used to reduce production royalties for a prior*
24 *year.*”.

1 **SEC. 414. ELIMINATION OF DEADLINE FOR SUBMISSION OF**
2 **COAL LEASE OPERATION AND RECLAMATION**
3 **PLAN.**

4 *Section 7(c) of the Mineral Leasing Act (30 U.S.C.*
5 *207(c)) is amended by striking “and not later than three*
6 *years after a lease is issued.”.*

7 **SEC. 415. DEPARTMENT OF ENERGY TRANSPORTATION**
8 **FUELS FROM ILLINOIS BASIN COAL.**

9 *(a) IN GENERAL.—The Secretary shall carry out a*
10 *program to evaluate the commercial and technical viability*
11 *of advanced technologies for the production of Fischer-*
12 *Tropsch transportation fuels, and other transportation*
13 *fuels, manufactured from Illinois basin coal, including the*
14 *capital modification of existing facilities and the construc-*
15 *tion of testing facilities under subsection (b).*

16 *(b) FACILITIES.—For the purpose of evaluating the*
17 *commercial and technical viability of different processes for*
18 *producing Fischer-Tropsch transportation fuels, and other*
19 *transportation fuels, from Illinois basin coal, the Secretary*
20 *shall support the use and capital modification of existing*
21 *facilities and the construction of new facilities at—*

22 *(1) Southern Illinois University Coal Research*
23 *Center;*

24 *(2) University of Kentucky Center for Applied*
25 *Energy Research; and*

26 *(3) Energy Center at Purdue University.*

1 (c) *GASIFICATION PRODUCTS TEST CENTER.*—*In con-*
2 *junction with the activities described in subsections (a) and*
3 *(b), the Secretary shall construct a test center to evaluate*
4 *and confirm liquid and gas products from syngas catalysis*
5 *in order that the system has an output of at least 500 gal-*
6 *lons of Fischer-Tropsch transportation fuel per day in a*
7 *24-hour operation.*

8 (d) *MILESTONES.*—

9 (1) *SELECTION OF PROCESSES.*—*Not later than*
10 *180 days after the date of enactment of this Act, the*
11 *Secretary shall select processes for evaluating the com-*
12 *mercial and technical viability of different processes*
13 *of producing Fischer-Tropsch transportation fuels,*
14 *and other transportation fuels, from Illinois basin*
15 *coal.*

16 (2) *AGREEMENTS.*—*Not later than 1 year after*
17 *the date of enactment of this Act, the Secretary shall*
18 *offer to enter into agreements—*

19 (A) *to carry out the activities described in*
20 *this section, at the facilities described in sub-*
21 *section (b); and*

22 (B) *for the capital modifications or con-*
23 *struction of the facilities at the locations de-*
24 *scribed in subsection (b).*

1 (3) *EVALUATIONS.*—Not later than 3 years after
2 the date of enactment of the Act, the Secretary shall
3 begin, at the facilities described in subsection (b),
4 evaluation of the technical and commercial viability
5 of different processes of producing Fischer-Tropsch
6 transportation fuels, and other transportation fuels,
7 from Illinois basin coal.

8 (4) *CONSTRUCTION OF FACILITIES.*—

9 (A) *IN GENERAL.*—The Secretary shall con-
10 struct the facilities described in subsection (b) at
11 the lowest cost practicable.

12 (B) *GRANTS OR AGREEMENTS.*—The Sec-
13 retary may make grants or enter into agreements
14 or contracts with the institutions of higher edu-
15 cation described in subsection (b).

16 (e) *COST SHARING.*—The cost of making grants under
17 this section shall be shared in accordance with section 1002.

18 (f) *AUTHORIZATION OF APPROPRIATIONS.*—There is
19 authorized to be appropriated to carry out this section
20 \$85,000,000 for the period of fiscal years 2006 through
21 2010.

22 **SEC. 416. APPLICATION OF AMENDMENTS.**

23 (a) *IN GENERAL.*—The amendments made by this sub-
24 title apply to any coal lease issued on or after the date of
25 enactment of this Act.

1 (b) *COAL LEASES ISSUED BEFORE DATE OF ENACT-*
 2 *MENT.*—*With respect to any coal lease issued before the date*
 3 *of enactment of this Act, the amendments made by this sub-*
 4 *title apply—*

5 (1) *on the date of readjustment of the lease as*
 6 *provided under section 7(a) of the Mineral Leasing*
 7 *Act (30 U.S.C. 207); or*

8 (2) *on request by the lessee, prior to that date.*

9 **TITLE V—INDIAN ENERGY**

10 **SEC. 501. SHORT TITLE.**

11 *This title may be cited as the “Indian Tribal Energy*
 12 *Development and Self-Determination Act of 2005”.*

13 **SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PRO-** 14 **GRAMS.**

15 (a) *IN GENERAL.*—*Title II of the Department of En-*
 16 *ergy Organization Act (42 U.S.C. 7131 et seq.) is amended*
 17 *by adding at the end the following:*

18 “*OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS*

19 “*SEC. 217. (a) ESTABLISHMENT.*—

20 “(1) *There is established within the Department*
 21 *an Office of Indian Energy Policy and Programs (re-*
 22 *ferred to in this section as the ‘Office’).*

23 “(2) *The Office shall be headed by a Director, to*
 24 *be appointed by the Secretary and compensated at a*
 25 *rate equal to that of level IV of the Executive Schedule*
 26 *under section 5315 of title 5, United States Code.*

1 “(b) *DUTIES OF DIRECTOR.*—*The Director, in accord-*
2 *ance with Federal policies promoting Indian self-deter-*
3 *mination and the purposes of this Act, shall provide, direct,*
4 *foster, coordinate, and implement energy planning, edu-*
5 *cation, management, conservation, and delivery programs*
6 *of the Department that—*

7 “(1) *promote Indian tribal energy development,*
8 *efficiency, and use;*

9 “(2) *reduce or stabilize energy costs;*

10 “(3) *enhance and strengthen Indian tribal en-*
11 *ergy and economic infrastructure relating to natural*
12 *resource development and electrification; and*

13 “(4) *bring electrical power and service to Indian*
14 *land and the homes of tribal members that are—*

15 “(A) *located on Indian land; or*

16 “(B) *acquired, constructed, or improved (in*
17 *whole or in part) with Federal funds.”.*

18 (b) *CONFORMING AMENDMENTS.*—

19 (1) *The table of contents of the Department of*
20 *Energy Organization Act (42 U.S.C. prec. 7101) is*
21 *amended—*

22 (A) *in the item relating to section 209, by*
23 *striking “SECTION” and inserting “SEC.”; and*

24 (B) *by striking the items relating to sections*
25 *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.”.

1 (2) *Section 5315 of title 5, United States Code,*
 2 *is amended by inserting “Director, Office of Indian*
 3 *Energy Policy and Programs, Department of En-*
 4 *ergy.” after “Inspector General, Department of En-*
 5 *ergy.”.*

6 **SEC. 503. INDIAN ENERGY.**

7 (a) *IN GENERAL.—Title XXVI of the Energy Policy*
 8 *Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read*
 9 *as follows:*

10 **“TITLE XXVI—INDIAN ENERGY**

11 **“SEC. 2601. DEFINITIONS.**

12 *“In this title:*

13 *“(1) The term ‘Director’ means the Director of*
 14 *the Office of Indian Energy Policy and Programs,*
 15 *Department of Energy.*

16 *“(2) The term ‘Indian land’ means—*

17 *“(A) any land located within the bound-*
 18 *aries of an Indian reservation, pueblo, or*
 19 *rancheria;*

20 *“(B) any land not located within the*
 21 *boundaries of an Indian reservation, pueblo, or*
 22 *rancheria, the title to which is held—*

1 “(i) in trust by the United States for
2 the benefit of an Indian tribe or an indi-
3 vidual Indian;

4 “(ii) by an Indian tribe or an indi-
5 vidual Indian, subject to restriction against
6 alienation under laws of the United States;
7 or

8 “(iii) by a dependent Indian commu-
9 nity; and

10 “(C) land that is owned by an Indian tribe
11 and was conveyed by the United States to a Na-
12 tive Corporation pursuant to the Alaska Native
13 Claims Settlement Act (43 U.S.C. 1601 et seq.),
14 or that was conveyed by the United States to a
15 Native Corporation in exchange for such land.

16 “(3) The term ‘Indian reservation’ includes—

17 “(A) an Indian reservation in existence in
18 any State as of the date of enactment of this
19 paragraph;

20 “(B) a public domain Indian allotment;
21 and

22 “(C) a dependent Indian community lo-
23 cated within the borders of the United States, re-
24 gardless of whether the community is located—

1 “(i) on original or acquired territory
2 of the community; or

3 “(ii) within or outside the boundaries
4 of any particular State.

5 “(4)(A) The term ‘Indian tribe’ has the meaning
6 given the term in section 4 of the Indian Self-Deter-
7 mination and Education Assistance Act (25 U.S.C.
8 450b).

9 “(B) For the purpose of paragraph (12) and sec-
10 tions 2603(b)(1)(C) and 2604, the term ‘Indian tribe’
11 does not include any Native Corporation.

12 “(5) The term ‘integration of energy resources’
13 means any project or activity that promotes the loca-
14 tion and operation of a facility (including any pipe-
15 line, gathering system, transportation system or facil-
16 ity, or electric transmission or distribution facility)
17 on or near Indian land to process, refine, generate
18 electricity from, or otherwise develop energy resources
19 on, Indian land.

20 “(6) The term ‘Native Corporation’ has the
21 meaning given the term in section 3 of the Alaska Na-
22 tive Claims Settlement Act (43 U.S.C. 1602).

23 “(7) The term ‘organization’ means a partner-
24 ship, joint venture, limited liability company, or

1 *other unincorporated association or entity that is es-*
2 *tablished to develop Indian energy resources.*

3 *“(8) The term ‘Program’ means the Indian en-*
4 *ergy resource development program established under*
5 *section 2602(a).*

6 *“(9) The term ‘Secretary’ means the Secretary of*
7 *the Interior.*

8 *“(10) The term ‘sequestration’ means the long-*
9 *term separation, isolation, or removal of greenhouse*
10 *gases from the atmosphere, including through a bio-*
11 *logical or geologic method such as reforestation or an*
12 *underground reservoir.*

13 *“(11) The term ‘tribal energy resource develop-*
14 *ment organization’ means an organization of 2 or*
15 *more entities, at least 1 of which is an Indian tribe,*
16 *that has the written consent of the governing bodies*
17 *of all Indian tribes participating in the organization*
18 *to apply for a grant, loan, or other assistance under*
19 *section 2602.*

20 *“(12) The term ‘tribal land’ means any land or*
21 *interests in land owned by any Indian tribe, title to*
22 *which is held in trust by the United States, or is sub-*
23 *ject to a restriction against alienation under laws of*
24 *the United States.*

1 **“SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOP-**
2 **MENT.**

3 *“(a) DEPARTMENT OF THE INTERIOR PROGRAM.—*

4 *“(1) To assist Indian tribes in the development*
5 *of energy resources and further the goal of Indian self-*
6 *determination, the Secretary shall establish and im-*
7 *plement an Indian energy resource development pro-*
8 *gram to assist consenting Indian tribes and tribal en-*
9 *ergy resource development organizations in achieving*
10 *the purposes of this title.*

11 *“(2) In carrying out the Program, the Secretary*
12 *shall—*

13 *“(A) provide development grants to Indian*
14 *tribes and tribal energy resource development or-*
15 *ganizations for use in developing or obtaining*
16 *the managerial and technical capacity needed to*
17 *develop energy resources on Indian land, and to*
18 *properly account for resulting energy production*
19 *and revenues;*

20 *“(B) provide grants to Indian tribes and*
21 *tribal energy resource development organizations*
22 *for use in carrying out projects to promote the*
23 *integration of energy resources, and to process,*
24 *use, or develop those energy resources, on Indian*
25 *land;*

1 “(C) provide low-interest loans to Indian
2 tribes and tribal energy resource development or-
3 ganizations for use in the promotion of energy
4 resource development on Indian land and inte-
5 gration of energy resources; and

6 “(D) provide grants and technical assist-
7 ance to an appropriate tribal environmental or-
8 ganization, as determined by the Secretary, that
9 represents multiple Indian tribes to establish a
10 national resource center to develop tribal capac-
11 ity to establish and carry out tribal environ-
12 mental programs in support of energy-related
13 programs and activities under this title,
14 including—

15 “(i) training programs for tribal envi-
16 ronmental officials, program managers, and
17 other governmental representatives;

18 “(ii) the development of model environ-
19 mental policies and tribal laws, including
20 tribal environmental review codes, and the
21 creation and maintenance of a clearing-
22 house of best environmental management
23 practices; and

24 “(iii) recommended standards for re-
25 viewing the implementation of tribal envi-

1 *ronmental laws and policies within tribal*
2 *judicial or other tribal appeals systems.*

3 *“(3) There are authorized to be appropriated to*
4 *carry out this subsection such sums as are necessary*
5 *for each of fiscal years 2006 through 2016.*

6 *“(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDU-*
7 *CATION PLANNING AND MANAGEMENT ASSISTANCE PRO-*
8 *GRAM.—*

9 *“(1) The Director shall establish programs to as-*
10 *assist consenting Indian tribes in meeting energy edu-*
11 *cation, research and development, planning, and*
12 *management needs.*

13 *“(2) In carrying out this subsection, the Director*
14 *may provide grants, on a competitive basis, to an In-*
15 *Indian tribe or tribal energy resource development orga-*
16 *nization for use in carrying out—*

17 *“(A) energy, energy efficiency, and energy*
18 *conservation programs;*

19 *“(B) studies and other activities supporting*
20 *tribal acquisitions of energy supplies, services,*
21 *and facilities, including the creation of tribal*
22 *utilities to assist in securing electricity to pro-*
23 *mote electrification of homes and businesses on*
24 *Indian land;*

1 “(C) *planning, construction, development,*
2 *operation, maintenance, and improvement of*
3 *tribal electrical generation, transmission, and*
4 *distribution facilities located on Indian land;*
5 *and*

6 “(D) *development, construction, and inter-*
7 *connection of electric power transmission facili-*
8 *ties located on Indian land with other electric*
9 *transmission facilities.*

10 “(3)(A) *The Director shall develop a program to*
11 *support and implement research projects that provide*
12 *Indian tribes with opportunities to participate in*
13 *carbon sequestration practices on Indian land,*
14 *including—*

15 “(i) *geologic sequestration;*

16 “(ii) *forest sequestration;*

17 “(iii) *agricultural sequestration; and*

18 “(iv) *any other sequestration opportunities*
19 *the Director considers to be appropriate.*

20 “(B) *The activities carried out under subpara-*
21 *graph (A) shall be—*

22 “(i) *coordinated with other carbon seques-*
23 *tration research and development programs con-*
24 *ducted by the Secretary of Energy;*

1 “(ii) conducted to determine methods con-
2 sistent with existing standardized measurement
3 protocols to account and report the quantity of
4 carbon dioxide or other greenhouse gases seques-
5 tered in projects that may be implemented on
6 tribal land; and

7 “(iii) reviewed periodically to collect and
8 distribute to Indian tribes information on car-
9 bon sequestration practices that will increase the
10 sequestration of carbon without threatening the
11 social and economic well-being of Indian tribes.

12 “(4)(A) The Director, in consultation with In-
13 dian tribes, may develop a formula for providing
14 grants under this subsection.

15 “(B) In providing a grant under this subsection,
16 the Director shall give priority to any application re-
17 ceived from an Indian tribe with inadequate electric
18 service (as determined by the Director).

19 “(C) In providing a grant under this subsection
20 for an activity to provide, or expand the provision of,
21 electricity on Indian land, the Director shall encour-
22 age cooperative arrangements between Indian tribes
23 and utilities that provide service to Indian tribes, as
24 the Director determines to be appropriate.

1 “(5) *The Secretary of Energy may issue such*
2 *regulations as the Secretary determines to be nec-*
3 *essary to carry out this subsection.*

4 “(6) *There is authorized to be appropriated to*
5 *carry out this subsection \$20,000,000 for each of fiscal*
6 *years 2006 through 2016.*

7 “(c) *DEPARTMENT OF ENERGY LOAN GUARANTEE*
8 *PROGRAM.—*

9 “(1) *Subject to paragraphs (2) and (4), the Sec-*
10 *retary of Energy may provide loan guarantees (as de-*
11 *finied in section 502 of the Federal Credit Reform Act*
12 *of 1990 (2 U.S.C. 661a)) for an amount equal to not*
13 *more than 90 percent of the unpaid principal and in-*
14 *terest due on any loan made to an Indian tribe for*
15 *energy development.*

16 “(2)(A) *In evaluating energy development pro-*
17 *posals for which the Secretary of Energy may provide*
18 *a loan guarantee under paragraph (1), the Secretary*
19 *of Energy shall give priority to any project that uses*
20 *a new technology, such as coal gasification, carbon*
21 *capture and sequestration, or renewable energy-based*
22 *electricity generation, if competing proposals are*
23 *similar with respect to the level at which the pro-*
24 *posals meet or exceed the criteria established by the*
25 *Secretary of Energy for the loan guarantee program.*

1 “(B) *In providing a loan guarantee under this*
2 *subsection for an activity to provide, or expand the*
3 *provision of, electricity on Indian land, the Secretary*
4 *of Energy shall encourage cooperative arrangements*
5 *between Indian tribes and utilities that provide serv-*
6 *ice to Indian tribes, as the Secretary determines to be*
7 *appropriate.*

8 “(3) *A loan guarantee under this subsection shall*
9 *be made by—*

10 “(A) *a financial institution subject to ex-*
11 *amination by the Secretary of Energy; or*

12 “(B) *an Indian tribe, from funds of the In-*
13 *Indian tribe.*

14 “(4) *The aggregate outstanding amount guaran-*
15 *teed by the Secretary of Energy at any time under*
16 *this subsection shall not exceed \$2,000,000,000.*

17 “(5) *The Secretary of Energy may issue such*
18 *regulations as the Secretary of Energy determines are*
19 *necessary to carry out this subsection.*

20 “(6) *There are authorized to be appropriated*
21 *such sums as are necessary to carry out this sub-*
22 *section, to remain available until expended.*

23 “(7) *Not later than 1 year after the date of en-*
24 *actment of this section, the Secretary of Energy shall*
25 *submit to Congress a report on the financing require-*

1 *ments of Indian tribes for energy development on In-*
2 *dian land.*

3 “(d) *PREFERENCE.*—

4 “(1) *In purchasing electricity or any other en-*
5 *ergy product or byproduct, a Federal agency or de-*
6 *partment may give preference to an energy and re-*
7 *source production enterprise, partnership, consortium,*
8 *corporation, or other type of business organization the*
9 *majority of the interest in which is owned and con-*
10 *trolled by 1 or more Indian tribes.*

11 “(2) *In carrying out this subsection, a Federal*
12 *agency or department shall not—*

13 “(A) *pay more than the prevailing market*
14 *price for an energy product or byproduct; or*

15 “(B) *obtain less than prevailing market*
16 *terms and conditions.*

17 **“SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULA-**
18 **TION.**

19 “(a) *GRANTS.*—*The Secretary may provide to Indian*
20 *tribes, on an annual basis, grants for use in accordance*
21 *with subsection (b).*

22 “(b) *USE OF FUNDS.*—*Funds from a grant provided*
23 *under this section may be used—*

1 “(1)(A) by an Indian tribe for the development
2 of a tribal energy resource inventory or tribal energy
3 resource on Indian land;

4 “(B) by an Indian tribe for the development of
5 a feasibility study or other report necessary to the de-
6 velopment of energy resources on Indian land;

7 “(C) by an Indian tribe (other than an Indian
8 Tribe in the State of Alaska, except the Metlakatla In-
9 dian Community) for—

10 “(i) the development and enforcement of
11 tribal laws (including regulations) relating to
12 tribal energy resource development; and

13 “(ii) the development of technical infra-
14 structure to protect the environment under appli-
15 cable law; or

16 “(D) by a Native Corporation for the develop-
17 ment and implementation of corporate policies and
18 the development of technical infrastructure to protect
19 the environment under applicable law; and

20 “(2) by an Indian tribe for the training of em-
21 ployees that—

22 “(A) are engaged in the development of en-
23 ergy resources on Indian land; or

24 “(B) are responsible for protecting the envi-
25 ronment.

1 “(c) *OTHER ASSISTANCE.*—

2 “(1) *In carrying out the obligations of the*
3 *United States under this title, the Secretary shall en-*
4 *sure, to the maximum extent practicable and to the*
5 *extent of available resources, that on the request of an*
6 *Indian tribe, the Indian tribe shall have available sci-*
7 *entific and technical information and expertise, for*
8 *use in the regulation, development, and management*
9 *of energy resources of the Indian tribe on Indian*
10 *land.*

11 “(2) *The Secretary may carry out paragraph*
12 *(1)—*

13 “(A) *directly, through the use of Federal of-*
14 *ficials; or*

15 “(B) *indirectly, by providing financial as-*
16 *sistance to an Indian tribe to secure independent*
17 *assistance.*

18 **“SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-**
19 **OF-WAY INVOLVING ENERGY DEVELOPMENT**
20 **OR TRANSMISSION.**

21 “(a) *LEASES AND BUSINESS AGREEMENTS.*—*In ac-*
22 *cordance with this section—*

23 “(1) *an Indian tribe may, at the discretion of*
24 *the Indian tribe, enter into a lease or business agree-*
25 *ment for the purpose of energy resource development*

1 *on tribal land, including a lease or business agree-*
2 *ment for—*

3 “(A) *exploration for, extraction of, proc-*
4 *essing of, or other development of the energy*
5 *mineral resources of the Indian tribe located on*
6 *tribal land; or*

7 “(B) *construction or operation of—*

8 “(i) *an electric generation, trans-*
9 *mission, or distribution facility located on*
10 *tribal land; or*

11 “(ii) *a facility to process or refine en-*
12 *ergy resources developed on tribal land; and*

13 “(2) *a lease or business agreement described in*
14 *paragraph (1) shall not require the approval of the*
15 *Secretary under section 2103 of the Revised Statutes*
16 *(25 U.S.C. 81), or any other provision of law, if—*

17 “(A) *the lease or business agreement is exe-*
18 *cuted pursuant to a tribal energy resource agree-*
19 *ment approved by the Secretary under subsection*
20 *(e);*

21 “(B) *the term of the lease or business agree-*
22 *ment does not exceed—*

23 “(i) *30 years; or*

24 “(ii) *in the case of a lease for the pro-*
25 *duction of oil resources, gas resources, or*

1 *both, 10 years and as long thereafter as oil*
2 *or gas is produced in paying quantities;*
3 *and*

4 “(C) *the Indian tribe has entered into a*
5 *tribal energy resource agreement with the Sec-*
6 *retary, as described in subsection (e), relating to*
7 *the development of energy resources on tribal*
8 *land (including the periodic review and evalua-*
9 *tion of the activities of the Indian tribe under*
10 *the agreement, to be conducted pursuant to sub-*
11 *section (e)(2)(D)(i)).*

12 “(b) *RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC*
13 *TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe*
14 *may grant a right-of-way over tribal land for a pipeline*
15 *or an electric transmission or distribution line without ap-*
16 *proval by the Secretary if—*

17 “(1) *the right-of-way is executed in accordance*
18 *with a tribal energy resource agreement approved by*
19 *the Secretary under subsection (e);*

20 “(2) *the term of the right-of-way does not exceed*
21 *30 years;*

22 “(3) *the pipeline or electric transmission or dis-*
23 *tribution line serves—*

24 “(A) *an electric generation, transmission, or*
25 *distribution facility located on tribal land; or*

1 “(B) a facility located on tribal land that
2 processes or refines energy resources developed on
3 tribal land; and

4 “(4) the Indian tribe has entered into a tribal
5 energy resource agreement with the Secretary, as de-
6 scribed in subsection (e), relating to the development
7 of energy resources on tribal land (including the peri-
8 odic review and evaluation of the activities of the In-
9 dian tribe under an agreement described in subpara-
10 graphs (D) and (E) of subsection (e)(2)).

11 “(c) *RENEWALS*.—A lease or business agreement en-
12 tered into, or a right-of-way granted, by an Indian tribe
13 under this section may be renewed at the discretion of the
14 Indian tribe in accordance with this section.

15 “(d) *VALIDITY*.—No lease, business agreement, or
16 right-of-way relating to the development of tribal energy re-
17 sources under this section shall be valid unless the lease,
18 business agreement, or right-of-way is authorized by a trib-
19 al energy resource agreement approved by the Secretary
20 under subsection (e)(2).

21 “(e) *TRIBAL ENERGY RESOURCE AGREEMENTS*.—

22 “(1) On the date on which regulations are pro-
23 mulgated under paragraph (8), an Indian tribe may
24 submit to the Secretary for approval a tribal energy

1 *resource agreement governing leases, business agree-*
2 *ments, and rights-of-way under this section.*

3 *“(2)(A) Not later than 1 year after the date on*
4 *which the Secretary receives a tribal energy resource*
5 *agreement from an Indian tribe under paragraph (1),*
6 *or not later than 60 days after the Secretary receives*
7 *a revised tribal energy resource agreement from an*
8 *Indian tribe under paragraph (4)(C) (or a later date,*
9 *as agreed to by the Secretary and the Indian tribe),*
10 *the Secretary shall approve or disapprove the tribal*
11 *energy resource agreement.*

12 *“(B) The Secretary shall approve a tribal energy*
13 *resource agreement submitted under paragraph (1)*
14 *if—*

15 *“(i) the Secretary determines that the In-*
16 *dian tribe has demonstrated that the Indian*
17 *tribe has sufficient capacity to regulate the devel-*
18 *opment of energy resources of the Indian tribe;*

19 *“(ii) the tribal energy resource agreement*
20 *includes provisions required under subparagraph*
21 *(D); and*

22 *“(iii) the tribal energy resource agreement*
23 *includes provisions that, with respect to a lease,*
24 *business agreement, or right-of-way under this*
25 *section—*

1 “(I) ensure the acquisition of necessary
2 information from the applicant for the
3 lease, business agreement, or right-of-way;

4 “(II) address the term of the lease or
5 business agreement or the term of convey-
6 ance of the right-of-way;

7 “(III) address amendments and renew-
8 als;

9 “(IV) address the economic return to
10 the Indian tribe under leases, business
11 agreements, and rights-of-way;

12 “(V) address technical or other relevant
13 requirements;

14 “(VI) establish requirements for envi-
15 ronmental review in accordance with sub-
16 paragraph (C);

17 “(VII) ensure compliance with all ap-
18 plicable environmental laws, including a re-
19 quirement that each lease, business agree-
20 ment, and right-of-way state that the lessee,
21 operator, or right-of-way grantee shall com-
22 ply with all such laws;

23 “(VIII) identify final approval author-
24 ity;

1 “(IX) provide for public notification of
2 *final approvals;*

3 “(X) establish a process for consulta-
4 tion with any affected States regarding off-
5 reservation impacts, if any, identified under
6 subparagraph (C)(i);

7 “(XI) describe the remedies for breach
8 of the lease, business agreement, or right-of-
9 way;

10 “(XII) require each lease, business
11 agreement, and right-of-way to include a
12 statement that, if any of its provisions vio-
13 lates an express term or requirement of the
14 tribal energy resource agreement pursuant
15 to which the lease, business agreement, or
16 right-of-way was executed—

17 “(aa) the provision shall be null
18 and void; and

19 “(bb) if the Secretary determines
20 the provision to be material, the Sec-
21 retary may suspend or rescind the
22 lease, business agreement, or right-of-
23 way or take other appropriate action
24 that the Secretary determines to be in
25 the best interest of the Indian tribe;

1 “(XIII) require each lease, business
2 agreement, and right-of-way to provide that
3 it will become effective on the date on which
4 a copy of the executed lease, business agree-
5 ment, or right-of-way is delivered to the
6 Secretary in accordance with regulations
7 promulgated under paragraph (8);

8 “(XIV) include citations to tribal laws,
9 regulations, or procedures, if any, that set
10 out tribal remedies that must be exhausted
11 before a petition may be submitted to the
12 Secretary under paragraph (7)(B);

13 “(XV) specify the financial assistance,
14 if any, to be provided by the Secretary to
15 the Indian tribe to assist in implementation
16 of the tribal energy resource agreement, in-
17 cluding environmental review of individual
18 projects; and

19 “(XVI) in accordance with the regula-
20 tions promulgated by the Secretary under
21 paragraph (8), require that the Indian
22 tribe, as soon as practicable after receipt of
23 a notice by the Indian tribe, give written
24 notice to the Secretary of—

1 “(aa) any breach or other viola-
2 tion by another party of any provision
3 in a lease, business agreement, or
4 right-of-way entered into under the
5 tribal energy resource agreement; and

6 “(bb) any activity or occurrence
7 under a lease, business agreement, or
8 right-of-way that constitutes a viola-
9 tion of Federal or tribal environmental
10 laws.

11 “(C) Tribal energy resource agreements sub-
12 mitted under paragraph (1) shall establish, and
13 include provisions to ensure compliance with, an
14 environmental review process that, with respect
15 to a lease, business agreement, or right-of-way
16 under this section, provides for, at a
17 minimum—

18 “(i) the identification and evaluation
19 of all significant environmental effects (as
20 compared to a no-action alternative), in-
21 cluding effects on cultural resources;

22 “(ii) the identification of proposed
23 mitigation measures, if any, and incorpora-
24 tion of the mitigation measures into the
25 lease, business agreement, or right-of-way;

1 “(iii) a process for ensuring that—

2 “(I) the public is informed of, and
3 has an opportunity to comment on, the
4 environmental impacts of the proposed
5 action; and

6 “(II) responses to relevant and
7 substantive comments are provided, be-
8 fore tribal approval of the lease, busi-
9 ness agreement, or right-of-way;

10 “(iv) sufficient administrative support
11 and technical capability to carry out the
12 environmental review process; and

13 “(v) oversight by the Indian tribe of
14 energy development activities by any other
15 party under any lease, business agreement,
16 or right-of-way entered into pursuant to the
17 tribal energy resource agreement, to deter-
18 mine whether the activities are in compli-
19 ance with the tribal energy resource agree-
20 ment and applicable Federal environmental
21 laws.

22 “(D) A tribal energy resource agreement be-
23 tween the Secretary and an Indian tribe under
24 this subsection shall include—

1 “(i) provisions requiring the Secretary
2 to conduct a periodic review and evaluation
3 to monitor the performance of the activities
4 of the Indian tribe associated with the de-
5 velopment of energy resources under the
6 tribal energy resource agreement; and

7 “(ii) if a periodic review and evalua-
8 tion, or an investigation, by the Secretary
9 of any breach or violation described in a
10 notice provided by the Indian tribe to the
11 Secretary in accordance with subparagraph
12 (B)(iii)(XVI), results in a finding by the
13 Secretary of imminent jeopardy to a phys-
14 ical trust asset arising from a violation of
15 the tribal energy resource agreement or ap-
16 plicable Federal laws, provisions author-
17 izing the Secretary to take actions deter-
18 mined by the Secretary to be necessary to
19 protect the asset, including reassumption of
20 responsibility for activities associated with
21 the development of energy resources on trib-
22 al land until the violation and any condi-
23 tion that caused the jeopardy are corrected.

24 “(E) Periodic review and evaluation under
25 subparagraph (D) shall be conducted on an an-

1 *nual basis, except that, after the third annual re-*
2 *view and evaluation, the Secretary and the In-*
3 *Indian tribe may mutually agree to amend the*
4 *tribal energy resource agreement to authorize the*
5 *review and evaluation under subparagraph (D)*
6 *to be conducted once every 2 years.*

7 “(3) *The Secretary shall provide notice and op-*
8 *portunity for public comment on tribal energy re-*
9 *source agreements submitted for approval under para-*
10 *graph (1).*

11 “(4) *If the Secretary disapproves a tribal energy*
12 *resource agreement submitted by an Indian tribe*
13 *under paragraph (1), the Secretary shall, not later*
14 *than 10 days after the date of disapproval—*

15 “(A) *notify the Indian tribe in writing of*
16 *the basis for the disapproval;*

17 “(B) *identify what changes or other actions*
18 *are required to address the concerns of the Sec-*
19 *retary; and*

20 “(C) *provide the Indian tribe with an op-*
21 *portunity to revise and resubmit the tribal en-*
22 *ergy resource agreement.*

23 “(5) *If an Indian tribe executes a lease or busi-*
24 *ness agreement, or grants a right-of-way, in accord-*
25 *ance with a tribal energy resource agreement ap-*

1 *proved under this subsection, the Indian tribe shall,*
2 *in accordance with the process and requirements*
3 *under regulations promulgated under paragraph (8),*
4 *provide to the Secretary—*

5 *“(A) a copy of the lease, business agreement,*
6 *or right-of-way document (including all amend-*
7 *ments to and renewals of the document); and*

8 *“(B) in the case of a tribal energy resource*
9 *agreement or a lease, business agreement, or*
10 *right-of-way that permits payments to be made*
11 *directly to the Indian tribe, information and*
12 *documentation of those payments sufficient to*
13 *enable the Secretary to discharge the trust re-*
14 *sponsibility of the United States to enforce the*
15 *terms of, and protect the rights of the Indian*
16 *tribe under, the lease, business agreement, or*
17 *right-of-way.*

18 *“(6)(A) In carrying out this section, the Sec-*
19 *retary shall—*

20 *“(i) act in accordance with the trust re-*
21 *sponsibility of the United States relating to min-*
22 *eral and other trust resources; and*

23 *“(ii) act in good faith and in the best inter-*
24 *ests of the Indian tribes.*

1 “(B) Subject to the provisions of subsections
2 (a)(2), (b), and (c) waiving the requirement of Secre-
3 tarial approval of leases, business agreements, and
4 rights-of-way executed pursuant to tribal energy re-
5 source agreements approved under this section, and
6 the provisions of subparagraph (D), nothing in this
7 section shall absolve the United States from any re-
8 sponsibility to Indians or Indian tribes, including,
9 but not limited to, those which derive from the trust
10 relationship or from any treaties, statutes, and other
11 laws of the United States, Executive Orders, or agree-
12 ments between the United States and any Indian
13 tribe.

14 “(C) The Secretary shall continue to fulfill the
15 trust obligation of the United States to ensure that
16 the rights and interests of an Indian tribe are pro-
17 tected if—

18 “(i) any other party to a lease, business
19 agreement, or right-of-way violates any applica-
20 ble Federal law or the terms of any lease, busi-
21 ness agreement, or right-of-way under this sec-
22 tion; or

23 “(ii) any provision in a lease, business
24 agreement, or right-of-way violates the tribal en-
25 ergy resource agreement pursuant to which the

1 *lease, business agreement, or right-of-way was*
2 *executed.*

3 “(D)(i) *In this subparagraph, the term ‘nego-*
4 *tiated term’ means any term or provision that is ne-*
5 *gotiated by an Indian tribe and any other party to*
6 *a lease, business agreement, or right-of-way entered*
7 *into pursuant to an approved tribal energy resource*
8 *agreement.*

9 “(ii) *Notwithstanding subparagraph (B), the*
10 *United States shall not be liable to any party (includ-*
11 *ing any Indian tribe) for any negotiated term of, or*
12 *any loss resulting from the negotiated terms of, a*
13 *lease, business agreement, or right-of-way executed*
14 *pursuant to and in accordance with a tribal energy*
15 *resource agreement approved by the Secretary under*
16 *paragraph (2).*

17 “(7)(A) *In this paragraph, the term ‘interested*
18 *party’ means any person (including an entity) that*
19 *has demonstrated that an interest of the person has*
20 *sustained, or will sustain, an adverse environmental*
21 *impact as a result of the failure of an Indian tribe*
22 *to comply with a tribal energy resource agreement of*
23 *the Indian tribe approved by the Secretary under*
24 *paragraph (2).*

1 “(B) After exhaustion of any tribal remedy, and
2 in accordance with regulations promulgated by the
3 Secretary under paragraph (8), an interested party
4 may submit to the Secretary a petition to review the
5 compliance by an Indian tribe with a tribal energy
6 resource agreement of the Indian tribe approved by
7 the Secretary under paragraph (2).

8 “(C)(i) Not later than 20 days after the date on
9 which the Secretary receives a petition under sub-
10 paragraph (B), the Secretary shall—

11 “(I) provide to the Indian tribe a copy of
12 the petition; and

13 “(II) consult with the Indian tribe regard-
14 ing any noncompliance alleged in the petition.

15 “(ii) Not later than 45 days after the date on
16 which a consultation under clause (i)(II) takes place,
17 the Indian tribe shall respond to any claim made in
18 a petition under subparagraph (B).

19 “(iii) The Secretary shall act in accordance with
20 subparagraphs (D) and (E) only if the Indian tribe—

21 “(I) denies, or fails to respond to, each
22 claim made in the petition within the period de-
23 scribed in clause (ii); or

24 “(II) fails, refuses, or is unable to cure or
25 otherwise resolve each claim made in the petition

1 *within a reasonable period, as determined by the*
2 *Secretary, after the expiration of the period de-*
3 *scribed in clause (ii).*

4 “(D)(i) *Not later than 120 days after the date on*
5 *which the Secretary receives a petition under sub-*
6 *paragraph (B), the Secretary shall determine whether*
7 *the Indian tribe is not in compliance with the tribal*
8 *energy resource agreement.*

9 “(ii) *The Secretary may adopt procedures under*
10 *paragraph (8) authorizing an extension of time, not*
11 *to exceed 120 days, for making the determination*
12 *under clause (i) in any case in which the Secretary*
13 *determines that additional time is necessary to evalu-*
14 *ate the allegations of the petition.*

15 “(iii) *Subject to subparagraph (E), if the Sec-*
16 *retary determines that the Indian tribe is not in com-*
17 *pliance with the tribal energy resource agreement, the*
18 *Secretary shall take such action as the Secretary de-*
19 *termines to be necessary to ensure compliance with*
20 *the tribal energy resource agreement, including—*

21 “(I) *temporarily suspending any activity*
22 *under a lease, business agreement, or right-of-*
23 *way under this section until the Indian tribe is*
24 *in compliance with the approved tribal energy*
25 *resource agreement; or*

1 “(II) rescinding approval of all or part of
2 the tribal energy resource agreement, and if all
3 of the agreement is rescinded, reassuming the re-
4 sponsibility for approval of any future leases,
5 business agreements, or rights-of-way described
6 in subsection (a) or (b).

7 “(E) Before taking an action described in sub-
8 paragraph (D)(iii), the Secretary shall—

9 “(i) make a written determination that de-
10 scribes the manner in which the tribal energy re-
11 source agreement has been violated;

12 “(ii) provide the Indian tribe with a writ-
13 ten notice of the violations together with the
14 written determination; and

15 “(iii) before taking any action described in
16 subparagraph (D)(iii) or seeking any other rem-
17 edy, provide the Indian tribe with a hearing and
18 a reasonable opportunity to attain compliance
19 with the tribal energy resource agreement.

20 “(F) An Indian tribe described in subparagraph
21 (E) shall retain all rights to appeal under any regu-
22 lation promulgated by the Secretary.

23 “(8) Not later than 1 year after the date of en-
24 actment of the Energy Policy Act of 2005, the Sec-

1 *retary shall promulgate regulations that implement*
2 *this subsection, including—*

3 *“(A) criteria to be used in determining the*
4 *capacity of an Indian tribe under paragraph*
5 *(2)(B)(i), including the experience of the Indian*
6 *tribe in managing natural resources and finan-*
7 *cial and administrative resources available for*
8 *use by the Indian tribe in implementing the ap-*
9 *proved tribal energy resource agreement of the*
10 *Indian tribe;*

11 *“(B) a process and requirements in accord-*
12 *ance with which an Indian tribe may—*

13 *“(i) voluntarily rescind a tribal energy*
14 *resource agreement approved by the Sec-*
15 *retary under this subsection; and*

16 *“(ii) return to the Secretary the re-*
17 *sponsibility to approve any future lease,*
18 *business agreement, or right-of-way under*
19 *this subsection;*

20 *“(C) provisions establishing the scope of,*
21 *and procedures for, the periodic review and eval-*
22 *uation described in subparagraphs (D) and (E)*
23 *of paragraph (2), including provisions for review*
24 *of transactions, reports, site inspections, and any*

1 *other review activities the Secretary determines*
2 *to be appropriate; and*

3 “(D) *provisions describing final agency ac-*
4 *tions after exhaustion of administrative appeals*
5 *from determinations of the Secretary under*
6 *paragraph (7).*

7 “(f) *NO EFFECT ON OTHER LAW.—Nothing in this sec-*
8 *tion affects the application of—*

9 “(1) *any Federal environmental law;*

10 “(2) *the Surface Mining Control and Reclama-*
11 *tion Act of 1977 (30 U.S.C. 1201 et seq.); or*

12 “(3) *except as otherwise provided in this title,*
13 *the Indian Mineral Development Act of 1982 (25*
14 *U.S.C. 2101 et seq.).*

15 “(g) *AUTHORIZATION OF APPROPRIATIONS.—There*
16 *are authorized to be appropriated to the Secretary such*
17 *sums as are necessary for each of fiscal years 2006 through*
18 *2016 to carry out this section and to make grants or provide*
19 *other appropriate assistance to Indian tribes to assist the*
20 *Indian tribes in developing and implementing tribal energy*
21 *resource agreements in accordance with this section.*

22 “**SEC. 2605. FEDERAL POWER MARKETING ADMINISTRA-**
23 **TIONS.**

24 “(a) *DEFINITIONS.—In this section:*

1 “(1) *The term “Administrator” means the Ad-*
2 *ministrator of the Bonneville Power Administration*
3 *and the Administrator of the Western Area Power Ad-*
4 *ministration.*

5 “(2) *The term “power marketing administra-*
6 *tion” means—*

7 “(A) *the Bonneville Power Administration;*

8 “(B) *the Western Area Power Administra-*
9 *tion; and*

10 “(C) *any other power administration the*
11 *power allocation of which is used by or for the*
12 *benefit of an Indian tribe located in the service*
13 *area of the administration.*

14 “(b) *ENCOURAGEMENT OF INDIAN TRIBAL ENERGY*
15 *DEVELOPMENT.—Each Administrator shall encourage In-*
16 *dian tribal energy development by taking such actions as*
17 *the Administrators determine to be appropriate, including*
18 *administration of programs of the power marketing admin-*
19 *istration, in accordance with this section.*

20 “(c) *ACTION BY ADMINISTRATORS.—In carrying out*
21 *this section, in accordance with laws in existence on the*
22 *date of enactment of the Energy Policy Act of 2005—*

23 “(1) *each Administrator shall consider the*
24 *unique relationship that exists between the United*
25 *States and Indian tribes;*

1 “(2) power allocations from the Western Area
2 Power Administration to Indian tribes may be used
3 to meet firming and reserve needs of Indian-owned
4 energy projects on Indian land;

5 “(3) the Administrator of the Western Area
6 Power Administration may purchase non-federally
7 generated power from Indian tribes to meet the firm-
8 ing and reserve requirements of the Western Area
9 Power Administration; and

10 “(4) each Administrator shall not—

11 “(A) pay more than the prevailing market
12 price for an energy product; or

13 “(B) obtain less than prevailing market
14 terms and conditions.

15 “(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

16 “(1) An Administrator may provide technical
17 assistance to Indian tribes seeking to use the high-
18 voltage transmission system for delivery of electric
19 power.

20 “(2) The costs of technical assistance provided
21 under paragraph (1) shall be funded—

22 “(A) by the Secretary of Energy using non-
23 reimbursable funds appropriated for that pur-
24 pose; or

25 “(B) by any appropriate Indian tribe.

1 “(e) *POWER ALLOCATION STUDY.*—Not later than 2
2 years after the date of enactment of the Energy Policy Act
3 of 2005, the Secretary of Energy shall submit to Congress
4 a report that—

5 “(1) describes the use by Indian tribes of Federal
6 power allocations of the power marketing administra-
7 tion (or power sold by the Southwestern Power Ad-
8 ministration) to or for the benefit of Indian tribes in
9 a service area of the power marketing administration;
10 and

11 “(2) identifies—

12 “(A) the quantity of power allocated to, or
13 used for the benefit of, Indian tribes by the West-
14 ern Area Power Administration;

15 “(B) the quantity of power sold to Indian
16 tribes by any other power marketing administra-
17 tion; and

18 “(C) barriers that impede tribal access to
19 and use of Federal power, including an assess-
20 ment of opportunities to remove those barriers
21 and improve the ability of power marketing ad-
22 ministrations to deliver Federal power.

23 “(f) *AUTHORIZATION OF APPROPRIATIONS.*—There are
24 authorized to be appropriated to carry out this section

1 \$750,000, non-reimbursable, to remain available until ex-
2 pended.

3 **“SEC. 2606. WIND AND HYDROPOWER FEASIBILITY STUDY.**

4 “(a) *STUDY.*—The Secretary of Energy, in coordina-
5 tion with the Secretary of the Army and the Secretary, shall
6 conduct a study of the cost and feasibility of developing a
7 demonstration project that uses wind energy generated by
8 Indian tribes and hydropower generated by the Army Corps
9 of Engineers on the Missouri River to supply firming power
10 to the Western Area Power Administration.

11 “(b) *SCOPE OF STUDY.*—The study shall—

12 “(1) determine the feasibility of blending wind
13 energy and hydropower generated from the Missouri
14 River dams operated by the Army Corps of Engi-
15 neers;

16 “(2) review historical and projected requirements
17 for, and patterns of availability and use of, firming
18 power;

19 “(3) assess the wind energy resource potential on
20 tribal land and projected cost savings through a blend
21 of wind and hydropower over a 30-year period;

22 “(4) determine seasonal capacity needs and asso-
23 ciated transmission upgrades for integration of tribal
24 wind generation; and

1 “(5) include an independent tribal engineer as a
2 study team member.

3 “(c) *REPORT.*—Not later than 1 year after the date
4 of enactment of the Energy Policy Act of 2005, the Sec-
5 retary and the Secretary of the Army shall submit to Con-
6 gress a report that describes the results of the study,
7 including—

8 “(1) an analysis of the potential energy cost or
9 benefits to the customers of the Western Area Power
10 Administration through the use of combined wind
11 and hydropower;

12 “(2) an evaluation of whether a combined wind
13 and hydropower system can reduce reservoir fluctua-
14 tion, enhance efficient and reliable energy production,
15 and provide Missouri River management flexibility;

16 “(3) recommendations for a demonstration
17 project to be carried out by the Western Area Power
18 Administration, in partnership with an Indian tribal
19 government or tribal energy resource development or-
20 ganization, to demonstrate the feasibility and poten-
21 tial of using wind energy produced on Indian land
22 to supply firming energy to the Western Area Power
23 Administration or any other Federal power mar-
24 keting agency; and

25 “(4) an identification of—

1 “(A) the economic and environmental costs
2 of, or benefits to be realized through, a Federal-
3 tribal partnership; and

4 “(B) the manner in which a Federal-tribal
5 partnership could contribute to the energy secu-
6 rity of the United States.

7 “(d) *FUNDING.*—

8 “(1) *AUTHORIZATION OF APPROPRIATIONS.*—
9 There is authorized to be appropriated to carry out
10 this section \$1,000,000, to remain available until ex-
11 pended.

12 “(2) *NONREIMBURSABILITY.*—Costs incurred by
13 the Secretary in carrying out this section shall be
14 nonreimbursable.”.

15 “(b) *CONFORMING AMENDMENTS.*—The table of contents
16 for the Energy Policy Act of 1992 is amended by striking
17 the items relating to title XXVI 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 involv-
 ing energy development or transmission.

 “Sec. 2605. Federal Power Marketing Administrations.

 “Sec. 2606. Wind and hydropower feasibility study.”.

18 **SEC. 504. FOUR CORNERS TRANSMISSION LINE PROJECT**
19 **AND ELECTRIFICATION.**

20 “(a) *TRANSMISSION LINE PROJECT.*—The Dine Power
21 Authority, an enterprise of the Navajo Nation, shall be eligi-
22 ble to receive grants and other assistance under section 217

1 of the *Department of Energy Organization Act*, as added
2 by section 502, and section 2602 of the *Energy Policy Act*
3 of 1992, as amended by this Act, for activities associated
4 with the development of a transmission line from the Four
5 Corners Area to southern Nevada, including related power
6 generation opportunities.

7 (b) *NAVAJO ELECTRIFICATION*.—Section 602 of Public
8 Law 106–511 (114 Stat. 2376) is amended—

9 (1) in subsection (a)—

10 (A) in the first sentence, by striking “5-
11 year” and inserting “10-year”; and

12 (B) in the third sentence, by striking
13 “2006” and inserting “2011”; and

14 (2) in the first sentence of subsection (e) by strik-
15 ing “2006” and inserting “2011”.

16 **SEC. 505. ENERGY EFFICIENCY IN FEDERALLY ASSISTED**
17 **HOUSING.**

18 (a) *IN GENERAL*.—The Secretary of Housing and
19 Urban Development shall promote energy conservation in
20 housing that is located on Indian land and assisted with
21 Federal resources through—

22 (1) the use of energy-efficient technologies and
23 innovations (including the procurement of energy-effi-
24 cient refrigerators and other appliances);

1 (2) *the promotion of shared savings contracts;*
2 *and*

3 (3) *the use and implementation of such other*
4 *similar technologies and innovations as the Secretary*
5 *of Housing and Urban Development considers to be*
6 *appropriate.*

7 (b) *AMENDMENT.—Section 202(2) of the Native Amer-*
8 *ican Housing and Self-Determination Act of 1996 (25*
9 *U.S.C. 4132(2)) is amended by inserting “improvement to*
10 *achieve greater energy efficiency,” after “planning.”.*

11 **SEC. 506. CONSULTATION WITH INDIAN TRIBES.**

12 *In carrying out this Act and the amendments made*
13 *by this Act, the Secretary of Energy and the Secretary shall,*
14 *as appropriate and to the maximum extent practicable, in-*
15 *volve and consult with Indian tribes in a manner that is*
16 *consistent with the Federal trust and the government-to-gov-*
17 *ernment relationships between Indian tribes and the United*
18 *States.*

19 **TITLE VI—NUCLEAR MATTERS**
20 **Subtitle A—Price-Anderson Act**
21 **Amendments**

22 **SEC. 601. SHORT TITLE.**

23 *This subtitle may be cited as the “Price-Anderson*
24 *Amendments Act of 2005”.*

1 **SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.**

2 (a) *INDEMNIFICATION OF NUCLEAR REGULATORY*
3 *COMMISSION LICENSEES.*—Section 170 c. of the Atomic En-
4 *ergy Act of 1954 (42 U.S.C. 2210(c)) is amended—*

5 (1) *in the subsection heading, by striking “LI-*
6 *CENSES” and inserting “LICENSEES”; and*

7 (2) *by striking “December 31, 2003” each place*
8 *it appears and inserting “December 31, 2025”.*

9 (b) *INDEMNIFICATION OF DEPARTMENT OF ENERGY*
10 *CONTRACTORS.*—Section 170 d.(1)(A) of the Atomic Energy
11 *Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by strik-*
12 *ing “December 31, 2006” and inserting “December 31,*
13 *2025”.*

14 (c) *INDEMNIFICATION OF NONPROFIT EDUCATIONAL*
15 *INSTITUTIONS.*—Section 170 k. of the Atomic Energy Act
16 *of 1954 (42 U.S.C. 2210(k)) is amended by striking “August*
17 *1, 2002” each place it appears and inserting “December*
18 *31, 2025”.*

19 **SEC. 603. MAXIMUM ASSESSMENT.**

20 Section 170 of the Atomic Energy Act of 1954 (42
21 U.S.C. 2210) is amended—

22 (1) *in the second proviso of the third sentence of*
23 *subsection b.(1)—*

24 (A) *by striking “\$63,000,000” and inserting*
25 *“\$95,800,000”; and*

1 (B) by striking “\$10,000,000 in any 1
2 year” and inserting “\$15,000,000 in any 1 year
3 (subject to adjustment for inflation under sub-
4 section t.)”; and
5 (2) in subsection t.(1)—

6 (A) by inserting “total and annual” after
7 “amount of the maximum”;

8 (B) by striking “the date of the enactment
9 of the Price-Anderson Amendments Act of 1988”
10 and inserting “August 20, 2003”; and

11 (C) in subparagraph (A), by striking “such
12 date of enactment” and inserting “August 20,
13 2003”.

14 **SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

15 (a) *INDEMNIFICATION OF DEPARTMENT OF ENERGY*
16 *CONTRACTORS.*—Section 170 d. of the Atomic Energy Act
17 of 1954 (42 U.S.C. 2210(d)) (as amended by section 602(b))
18 is amended by striking paragraph (2) and inserting the fol-
19 lowing:

20 “(2) In an agreement of indemnification entered into
21 under paragraph (1), the Secretary—

22 “(A) may require the contractor to provide and
23 maintain financial protection of such a type and in
24 such amounts as the Secretary determines to be ap-

1 *appropriate to cover public liability arising out of or in*
2 *connection with the contractual activity; and*

3 *“(B) shall indemnify the persons indemnified*
4 *against the liability above the amount of the financial*
5 *protection required, in the amount of \$10,000,000,000*
6 *(subject to adjustment for inflation under subsection*
7 *t.) in the aggregate, for all persons indemnified in*
8 *connection with the contract and for each nuclear in-*
9 *cident, including such legal expenses incurred by the*
10 *contractor as are approved by the Secretary.”.*

11 *(b) CONTRACT AMENDMENTS.—Section 170 d. of the*
12 *Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) (as amend-*
13 *ed by section 602(b)) is amended by striking paragraph (3)*
14 *and inserting the following:*

15 *“(3) All agreements of indemnification under which*
16 *the Department of Energy (or predecessor agencies) may*
17 *be required to indemnify any person under this section shall*
18 *be considered to be amended, on the date of enactment of*
19 *the Price-Anderson Amendments Act of 2005, to reflect the*
20 *amount of indemnity for public liability and any applica-*
21 *ble financial protection required of the contractor under this*
22 *subsection.”.*

23 *(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the*
24 *Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is*
25 *amended—*

1 (1) by striking “the maximum amount of finan-
2 cial protection required under subsection b. or”; and

3 (2) by striking “paragraph (3) of subsection d.,
4 whichever amount is more” and inserting “paragraph
5 (2) of subsection d.”.

6 **SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.**

7 (a) *AMOUNT OF INDEMNIFICATION.*—Section 170 d.(5)
8 of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5))
9 is amended by striking “\$100,000,000” and inserting
10 “\$500,000,000”.

11 (b) *LIABILITY LIMIT.*—Section 170 e.(4) of the Atomic
12 Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by
13 striking “\$100,000,000” and inserting “\$500,000,000”.

14 **SEC. 606. REPORTS.**

15 Section 170 p. of the Atomic Energy Act of 1954 (42
16 U.S.C. 2210(p)) is amended by striking “August 1, 1998”
17 and inserting “December 31, 2021”.

18 **SEC. 607. INFLATION ADJUSTMENT.**

19 Section 170 t. of the Atomic Energy Act of 1954 (42
20 U.S.C. 2210(t)) (as amended by section 603(2)) is
21 amended—

22 (1) by redesignating paragraph (2) as para-
23 graph (3); and

24 (2) by inserting after paragraph (1) the fol-
25 lowing:

1 “(2) *The Secretary shall adjust the amount of indem-*
2 *nification provided under an agreement of indemnification*
3 *under subsection d. not less than once during each 5-year*
4 *period following July 1, 2003, in accordance with the aggre-*
5 *gate percentage change in the Consumer Price Index*
6 *since—*

7 “(A) *that date, in the case of the first adjustment*
8 *under this paragraph; or*

9 “(B) *the previous adjustment under this para-*
10 *graph.*”.

11 **SEC. 608. TREATMENT OF MODULAR REACTORS.**

12 *Section 170 b. of the Atomic Energy Act of 1954 (42*
13 *U.S.C. 2210(b)) (as amended by section 603) is amended*
14 *by adding at the end the following:*

15 “(5)(A) *For purposes of this section only, the Commis-*
16 *sion shall consider a combination of facilities described in*
17 *subparagraph (B) to be a single facility having a rated ca-*
18 *capacity of 100,000 electrical kilowatts or more.*

19 “(B) *A combination of facilities referred to in subpara-*
20 *graph (A) is 2 or more facilities located at a single site,*
21 *each of which has a rated capacity of not less than 100,000*
22 *electrical kilowatts and not more than 300,000 electrical*
23 *kilowatts, with a combined rated capacity of not more than*
24 *1,300,000 electrical kilowatts.*”.

1 **SEC. 609. APPLICABILITY.**

2 *The amendments made by sections 603, 604, and 605*
3 *do not apply to a nuclear incident that occurs before the*
4 *date of enactment of this Act.*

5 **SEC. 610. CIVIL PENALTIES.**

6 (a) *REPEAL OF AUTOMATIC REMISSION.*—Section
7 *234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C.*
8 *2282a(b)(2)) is amended by striking the last sentence.*

9 (b) *LIMITATION FOR NOT-FOR-PROFIT INSTITU-*
10 *TIONS.*—Section 234A of the Atomic Energy Act of 1954
11 *(42 U.S.C. 2282a) is amended by striking subsection d. and*
12 *inserting the following:*

13 *“d.(1) Notwithstanding subsection a., in the case of*
14 *any not-for-profit contractor, subcontractor, or supplier, the*
15 *total amount of civil penalties paid under subsection a.*
16 *may not exceed the total amount of fees paid within any*
17 *1-year period (as determined by the Secretary) under the*
18 *contract under which the violation occurs.*

19 *“(2) In this section, the term ‘not-for-profit’ means*
20 *that no part of the net earnings of the contractor, subcon-*
21 *tractor, or supplier inures to the benefit of any natural per-*
22 *son or for-profit artificial person.”.*

23 (c) *EFFECTIVE DATE.*—The amendments made by this
24 *section shall not apply to any violation of the Atomic En-*
25 *ergy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under*

1 *a contract entered into before the date of enactment of this*
2 *Act.*

3 ***Subtitle B—General Nuclear***
4 ***Matters***

5 ***SEC. 621. MEDICAL ISOTOPE PRODUCTION: NONPROLIFERA-***
6 ***TION, ANTITERRORISM, AND RESOURCE RE-***
7 ***VIEW.***

8 *(a) DEFINITIONS.—In this section:*

9 *(1) HIGHLY ENRICHED URANIUM FOR MEDICAL*
10 *ISOTOPE PRODUCTION.—The term “highly enriched*
11 *uranium for medical isotope production” means high-*
12 *ly enriched uranium contained in, or for use in, tar-*
13 *gets to be irradiated for the sole purpose of producing*
14 *medical isotopes.*

15 *(2) MEDICAL ISOTOPES.—The term “medical iso-*
16 *topes” means radioactive isotopes, including molyb-*
17 *denum-99, that are used to produce radiopharma-*
18 *ceuticals for diagnostic or therapeutic procedures on*
19 *patients.*

20 *(b) STUDY.—*

21 *(1) IN GENERAL.—Not later than 60 days after*
22 *the date of enactment of this Act, the Secretary shall*
23 *enter into an arrangement with the National Acad-*
24 *emy of Sciences for the conduct of a study of issues*
25 *associated with section 134 of the Atomic Energy Act*

1 of 1954 (42 U.S.C. 2160d), including issues associated
2 with the implementation of that section.

3 (2) CONTENTS.—The study shall include an
4 analysis of—

5 (A) the effectiveness to date of section 134 of
6 the Atomic Energy Act of 1954 (42 U.S.C.
7 2160d) in facilitating the conversion of foreign
8 reactor fuel and targets to low-enriched uranium,
9 which reduces the risk that highly enriched ura-
10 nium will be diverted and stolen;

11 (B) the degree to which isotope producers
12 that rely on United States highly enriched ura-
13 nium are complying with the intent of section
14 134 of the Atomic Energy Act of 1954 (42 U.S.C.
15 2160d) to expeditiously convert targets to low-en-
16 riched uranium;

17 (C) the adequacy of physical protection and
18 material control and accounting measures at for-
19 eign facilities that receive United States highly
20 enriched uranium for medical isotope produc-
21 tion, in comparison to Nuclear Regulatory Com-
22 mission regulations and Department administra-
23 tive requirements;

24 (D) the likely consequences of an exemption
25 of highly enriched uranium exports for medical

1 *isotope production from section 134(a) of the*
2 *Atomic Energy Act of 1954 (42 U.S.C. 2160d(a))*
3 *for—*

4 *(i) United States efforts to eliminate*
5 *highly enriched uranium commerce world-*
6 *wide through the support of the Reduced*
7 *Enrichment in Research and Test Reactors*
8 *program; and*

9 *(ii) other United States nonprolifera-*
10 *tion and antiterrorism initiatives;*

11 *(E) incentives that could supplement the in-*
12 *centives of section 134 of the Atomic Energy Act*
13 *of 1954 (42 U.S.C. 2160d) to further encourage*
14 *foreign medical isotope producers to convert from*
15 *highly enriched uranium to low-enriched ura-*
16 *niium;*

17 *(F) whether implementation of section 134*
18 *of the Atomic Energy Act of 1954 (42 U.S.C.*
19 *2160d) has ever caused, or is likely to cause, an*
20 *interruption in the production and supply of*
21 *medical isotopes in needed quantities;*

22 *(G) whether the United States supply of iso-*
23 *topes is sufficiently diversified to withstand an*
24 *interruption of production from any 1 supplier,*

1 *and, if not, what steps should be taken to diver-*
2 *sify United States supply; and*

3 *(H) any other aspects of implementation of*
4 *section 134 of the Atomic Energy Act of 1954*
5 *(42 U.S.C. 2160d) that have a bearing on Fed-*
6 *eral nonproliferation and antiterrorism laws*
7 *(including regulations) and policies.*

8 (3) *TIMING; CONSULTATION.—The National*
9 *Academy of Sciences study shall be—*

10 *(A) conducted in full consultation with the*
11 *Secretary of State, the staff of the Reduced En-*
12 *richment in Research and Test Reactors program*
13 *at Argonne National Laboratory, and other in-*
14 *terested organizations and individuals with ex-*
15 *pertise in nuclear nonproliferation; and*

16 *(B) submitted to Congress not later than 18*
17 *months after the date of enactment of this Act.*

18 **SEC. 622. SAFE DISPOSAL OF GREATER-THAN-CLASS C RA-**

19 **DIOACTIVE WASTE.**

20 *(a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE*
21 *STORAGE FACILITY.—The Secretary shall provide to Con-*
22 *gress official notification of the final designation of an enti-*
23 *ty within the Department to have the responsibility of com-*
24 *pleting activities needed to provide a facility for safely dis-*

1 *posing of all greater-than-Class C low-level radioactive*
2 *waste.*

3 *(b) REPORTS AND PLANS.—*

4 *(1) REPORT ON PERMANENT DISPOSAL FACIL-*
5 *ITY.—*

6 *(A) PLAN REGARDING COST AND SCHEDULE*
7 *FOR COMPLETION OF EIS AND ROD.—Not later*
8 *than 1 year after the date of enactment of this*
9 *Act, the Secretary, in consultation with Con-*
10 *gress, shall submit to Congress a report con-*
11 *taining an estimate of the cost and a proposed*
12 *schedule to complete an environmental impact*
13 *statement and record of decision for a permanent*
14 *disposal facility for greater-than-Class C radio-*
15 *active waste.*

16 *(B) ANALYSIS OF ALTERNATIVES.—Before*
17 *the Secretary makes a final decision on the dis-*
18 *posal alternative or alternatives to be imple-*
19 *mented, the Secretary shall—*

20 *(i) submit to Congress a report that de-*
21 *scribes all alternatives under consideration,*
22 *including all information required in the*
23 *comprehensive report making recommenda-*
24 *tions for ensuring the safe disposal of all*
25 *greater-than-Class C low-level radioactive*

1 *waste that was submitted by the Secretary*
 2 *to Congress in February 1987; and*

3 *(ii) await action by Congress.*

4 (2) *SHORT-TERM PLAN FOR RECOVERY AND*
 5 *STORAGE.—*

6 (A) *IN GENERAL.—Not later than 180 days*
 7 *after the date of enactment of this Act, the Sec-*
 8 *retary shall submit to Congress a plan to ensure*
 9 *the continued recovery and storage of greater-*
 10 *than-Class C low-level radioactive sealed sources*
 11 *that pose a security threat until a permanent*
 12 *disposal facility is available.*

13 (B) *CONTENTS.—The plan shall address es-*
 14 *timated cost, resource, and facility needs.*

15 **SEC. 623. PROHIBITION ON NUCLEAR EXPORTS TO COUN-**
 16 **TRIES THAT SPONSOR TERRORISM.**

17 (a) *IN GENERAL.—Section 129 of the Atomic Energy*
 18 *Act of 1954 (42 U.S.C. 2158) is amended—*

19 (1) *by inserting “a.” before “No nuclear mate-*
 20 *rials and equipment”;* and

21 (2) *by adding at the end the following:*

22 *“b.(1)(A) Notwithstanding any other provision of law,*
 23 *including section 121, and except as provided in para-*
 24 *graphs (2) and (3), no nuclear materials and equipment*
 25 *or sensitive nuclear technology, including items and assist-*

1 *ance authorized by section 57 b. and regulated under part*
2 *810 of title 10, Code of Federal Regulations (or a successor*
3 *regulation), and nuclear-related items on the Commerce*
4 *Control List maintained under part 774 of title 15 of the*
5 *Code of Federal Regulations (or a successor regulation),*
6 *shall be exported or reexported, or transferred or retrans-*
7 *ferred, whether directly or indirectly, and no Federal agen-*
8 *cy shall issue any license, approval, or authorization for*
9 *the export or reexport, or transfer, or retransfer, whether*
10 *directly or indirectly, of the items or assistance described*
11 *in this paragraph to any country the government of which*
12 *has been identified by the Secretary of State as engaged*
13 *in state sponsorship of terrorist activities.*

14 “(B) Countries described in subparagraph (A) specifi-

15 *cally include any country the government of which has been*
16 *determined by the Secretary of State to have repeatedly pro-*
17 *vided support for acts of international terrorism under—*

18 “(i) section 620A(a) of the *Foreign Assistance*
19 *Act of 1961 (22 U.S.C. 2371(a));*

20 “(ii) section 6(j)(1) of the *Export Administra-*
21 *tion Act of 1979 (50 U.S.C. App. 2405(j)(1)); or*

22 “(iii) section 40(d) of the *Arms Export Control*
23 *Act (22 U.S.C. 2780(d)).*

24 “(2) This subsection does not apply to exports, reex-

25 *ports, transfers, or retransfers of radiation monitoring tech-*

1 *nologies, surveillance equipment, seals, cameras, tamper-in-*
2 *dication devices, nuclear detectors, monitoring systems, or*
3 *equipment necessary to safely store, transport, or remove*
4 *hazardous materials, whether such items, services, or infor-*
5 *mation are regulated by the Department of Energy, the De-*
6 *partment of Commerce, or the Commission, except to the*
7 *extent that the technologies, equipment, seals, cameras, de-*
8 *vices, detectors, or systems are available for use in the de-*
9 *sign or construction of nuclear reactors or nuclear weapons.*

10 “(3) *The President may waive the application of para-*
11 *graph (1) to a country if the President determines and cer-*
12 *tifies to Congress that—*

13 “(A) *the waiver will not result in any increased*
14 *risk that the country receiving the waiver will acquire*
15 *nuclear weapons, nuclear reactors, or any materials*
16 *or components of nuclear weapons; and*

17 “(B)(i) *the government of the country has not*
18 *within the preceding 12-month period willfully aided*
19 *or abetted the international proliferation of nuclear*
20 *explosive devices to individuals or groups or willfully*
21 *aided and abetted an individual or groups in acquir-*
22 *ing unsafeguarded nuclear materials;*

23 “(ii) *in the judgment of the President, the gov-*
24 *ernment of the country has provided adequate,*

1 *verifiable assurances that the country will cease its*
2 *support for acts of international terrorism;*

3 *“(iii) the waiver of paragraph (1) is in the vital*
4 *national security interest of the United States; or*

5 *“(iv) the waiver of paragraph (1) is essential to*
6 *prevent or respond to a serious radiological hazard in*
7 *the country receiving the waiver that may or does*
8 *threaten public health and safety.”.*

9 *(b) APPLICABILITY TO EXPORTS APPROVED FOR*
10 *TRANSFER BUT NOT TRANSFERRED.—Subsection b. of sec-*
11 *tion 129 of Atomic Energy Act of 1954 (as added by sub-*
12 *section (a)), shall apply with respect to exports that have*
13 *been approved for transfer as of the date of enactment of*
14 *this Act but have not yet been transferred as of that date.*

15 **SEC. 624. DECOMMISSIONING PILOT PROGRAM.**

16 *(a) PILOT PROGRAM.—The Secretary shall establish a*
17 *decommissioning pilot program under which the Secretary*
18 *shall decommission and decontaminate the sodium-cooled*
19 *fast breeder experimental test-site reactor located in north-*
20 *west Arkansas, in accordance with the decommissioning ac-*
21 *tivities contained in the report of the Department relating*
22 *to the reactor, dated August 31, 1998.*

23 *(b) AUTHORIZATION OF APPROPRIATIONS.—There is*
24 *authorized to be appropriated to the Secretary to carry out*
25 *this section \$16,000,000.*

1 **SEC. 625. WHISTLEBLOWER PROTECTION FOR EMPLOYEES**
2 **OF THE DEPARTMENT OF ENERGY.**

3 (a) *DEFINITION OF EMPLOYER.*—Section 211(a)(2) of
4 the Energy Reorganization Act of 1974 (42 U.S.C.
5 5851(a)(2)) is amended—

6 (1) in subparagraph (C), by striking “and” at
7 the end;

8 (2) in subparagraph (D), by striking “that is in-
9 demnified” and all that follows through “12344.”;
10 and

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

12 “(E) the Department of Energy.”.

13 (b) *DE NOVO JUDICIAL DETERMINATION.*—Section
14 211(b) of the Energy Reorganization Act of 1974 (42 U.S.C.
15 5851(b)) is amended by adding at the end the following:

16 “(4) *DE NOVO JUDICIAL DETERMINATION.*—If the
17 Secretary does not issue a final decision within 180
18 days after the filing of a complaint under paragraph
19 (1) and the Secretary does not show that the delay is
20 caused by the bad faith of the claimant, the claimant
21 may bring a civil action in United States district
22 court for a determination of the claim by the court
23 *de novo.*”.

1 ***Subtitle C—Next Generation***
2 ***Nuclear Plant Project***

3 **SEC. 631. PROJECT ESTABLISHMENT.**

4 (a) *ESTABLISHMENT.*—*The Secretary shall establish a*
5 *project to be known as the “Next Generation Nuclear Plant*
6 *Project” (referred to in this subtitle as the “Project”).*

7 (b) *CONTENT.*—*The Project shall consist of the re-*
8 *search, development, design, construction, and operation of*
9 *a prototype plant, including a nuclear reactor that—*

10 (1) *is based on research and development activi-*
11 *ties supported by the Generation IV Nuclear Energy*
12 *Systems Initiative under section 942(d); and*

13 (2) *shall be used—*

14 (A) *to generate electricity;*

15 (B) *to produce hydrogen; or*

16 (C) *both to generate electricity and to*
17 *produce hydrogen.*

18 **SEC. 632. PROJECT MANAGEMENT.**

19 (a) *DEPARTMENTAL MANAGEMENT.*—

20 (1) *IN GENERAL.*—*The Project shall be managed*
21 *in the Department by the Office of Nuclear Energy,*
22 *Science, and Technology.*

23 (2) *GENERATION IV NUCLEAR ENERGY SYSTEMS*
24 *PROGRAM.*—*The Secretary may combine the Project*

1 *with the Generation IV Nuclear Energy Systems Ini-*
2 *tiative.*

3 (3) *EXISTING DOE PROJECT MANAGEMENT EX-*
4 *PERTISE.—The Secretary may utilize capabilities for*
5 *review of construction projects for advanced scientific*
6 *facilities within the Office of Science to track the*
7 *progress of the Project.*

8 (b) *LABORATORY MANAGEMENT.—*

9 (1) *LEAD LABORATORY.—The Idaho National*
10 *Laboratory shall be the lead National Laboratory for*
11 *the Project and shall collaborate with other National*
12 *Laboratories, institutions of higher education, other*
13 *research institutes, industrial researchers, and inter-*
14 *national researchers to carry out the Project.*

15 (2) *INDUSTRIAL PARTNERSHIPS.—*

16 (A) *IN GENERAL.—The Idaho National*
17 *Laboratory shall organize a consortium of ap-*
18 *propriate industrial partners that will carry out*
19 *cost-shared research, development, design, and*
20 *construction activities, and operate research fa-*
21 *cilities, on behalf of the Project.*

22 (B) *COST-SHARING.—Activities of indus-*
23 *trial partners funded by the Project shall be cost-*
24 *shared in accordance with section 1002.*

1 (C) *PREFERENCE.*—*Preference in deter-*
2 *mining the final structure of the consortium or*
3 *any partnerships under this subtitle shall be*
4 *given to a structure (including designating as a*
5 *lead industrial partner an entity incorporated*
6 *in the United States) that retains United States*
7 *technological leadership in the Project while*
8 *maximizing cost sharing opportunities and*
9 *minimizing Federal funding responsibilities.*

10 (3) *PROTOTYPE PLANT SITING.*—*The prototype*
11 *nuclear reactor and associated plant shall be sited at*
12 *the Idaho National Laboratory in Idaho.*

13 (4) *REACTOR TEST CAPABILITIES.*—*The Project*
14 *shall use, if appropriate, reactor test capabilities at*
15 *the Idaho National Laboratory.*

16 (5) *OTHER LABORATORY CAPABILITIES.*—*The*
17 *Project may use, if appropriate, facilities at other*
18 *National Laboratories.*

19 **SEC. 633. PROJECT ORGANIZATION.**

20 (a) *MAJOR PROJECT ELEMENTS.*—*The Project shall*
21 *consist of the following major program elements:*

22 (1) *High-temperature hydrogen production tech-*
23 *nology development and validation.*

24 (2) *Energy conversion technology development*
25 *and validation.*

1 (3) *Nuclear fuel development, characterization,*
2 *and qualification.*

3 (4) *Materials selection, development, testing, and*
4 *qualification.*

5 (5) *Reactor and balance-of-plant design, engi-*
6 *neering, safety analysis, and qualification.*

7 (b) *PROJECT PHASES.—The Project shall be conducted*
8 *in the following phases:*

9 (1) *FIRST PROJECT PHASE.—A first project*
10 *phase shall be conducted to—*

11 (A) *select and validate the appropriate tech-*
12 *nology under subsection (a)(1);*

13 (B) *carry out enabling research, develop-*
14 *ment, and demonstration activities on tech-*
15 *nologies and components under paragraphs (2)*
16 *through (4) of subsection (a);*

17 (C) *determine whether it is appropriate to*
18 *combine electricity generation and hydrogen pro-*
19 *duction in a single prototype nuclear reactor*
20 *and plant; and*

21 (D) *carry out initial design activities for a*
22 *prototype nuclear reactor and plant, including*
23 *development of design methods and safety ana-*
24 *lytical methods and studies under subsection*
25 *(a)(5).*

1 (2) *SECOND PROJECT PHASE.*—A second project
2 phase shall be conducted to—

3 (A) continue appropriate activities under
4 paragraphs (1) through (5) of subsection (a);

5 (B) develop, through a competitive process,
6 a final design for the prototype nuclear reactor
7 and plant;

8 (C) apply for licenses to construct and oper-
9 ate the prototype nuclear reactor from the Nu-
10 clear Regulatory Commission; and

11 (D) construct and start up operations of the
12 prototype nuclear reactor and its associated hy-
13 drogen or electricity production facilities.

14 (c) *PROJECT REQUIREMENTS.*—

15 (1) *IN GENERAL.*—The Secretary shall ensure
16 that the Project is structured so as to maximize the
17 technical interchange and transfer of technologies and
18 ideas into the Project from other sources of relevant
19 expertise, including—

20 (A) the nuclear power industry, including
21 nuclear powerplant construction firms, particu-
22 larly with respect to issues associated with plant
23 design, construction, and operational and safety
24 issues;

1 (B) *the chemical processing industry, par-*
2 *ticularly with respect to issues relating to—*

3 (i) *the use of process energy for produc-*
4 *tion of hydrogen; and*

5 (ii) *the integration of technologies de-*
6 *veloped by the Project into chemical proc-*
7 *essing environments; and*

8 (C) *international efforts in areas related to*
9 *the Project, particularly with respect to hydrogen*
10 *production technologies.*

11 (2) *INTERNATIONAL COLLABORATION.—*

12 (A) *IN GENERAL.—The Secretary shall seek*
13 *international cooperation, participation, and fi-*
14 *nancial contributions for the Project.*

15 (B) *ASSISTANCE FROM INTERNATIONAL*
16 *PARTNERS.—The Secretary, through the Idaho*
17 *National Laboratory, may contract for assist-*
18 *ance from specialists or facilities from member*
19 *countries of the Generation IV International*
20 *Forum, the Russian Federation, or other inter-*
21 *national partners if the specialists or facilities*
22 *provide access to cost-effective and relevant skills*
23 *or test capabilities.*

1 (C) *PARTNER NATIONS.*—*The Project may*
2 *involve demonstration of selected project objec-*
3 *tives in a partner country.*

4 (D) *GENERATION IV INTERNATIONAL*
5 *FORUM.*—*The Secretary shall ensure that inter-*
6 *national activities of the Project are coordinated*
7 *with the Generation IV International Forum.*

8 (3) *REVIEW BY NUCLEAR ENERGY RESEARCH AD-*
9 *VISORY COMMITTEE.*—

10 (A) *IN GENERAL.*—*The Nuclear Energy Re-*
11 *search Advisory Committee of the Department*
12 *(referred to in this paragraph as the “NERAC”)*
13 *shall—*

14 (i) *review all program plans for the*
15 *Project and all progress under the Project*
16 *on an ongoing basis; and*

17 (ii) *ensure that important scientific,*
18 *technical, safety, and program management*
19 *issues receive attention in the Project and*
20 *by the Secretary.*

21 (B) *ADDITIONAL EXPERTISE.*—*The NERAC*
22 *shall supplement the expertise of NERAC or ap-*
23 *point subpanels to incorporate into the review by*
24 *NERAC the relevant sources of expertise de-*
25 *scribed under paragraph (1).*

1 (C) *INITIAL REVIEW.*—Not later than 180
2 days after the date of enactment of this Act, the
3 NERAC shall—

4 (i) review existing program plans for
5 the Project in light of the recommendations
6 of the document entitled “Design Features
7 and Technology Uncertainties for the Next
8 Generation Nuclear Plant,” dated June 30,
9 2004; and

10 (ii) address any recommendations of
11 the document not incorporated in program
12 plans for the Project.

13 (D) *FIRST PROJECT PHASE REVIEW.*—On a
14 determination by the Secretary that the appro-
15 priate activities under the first project phase
16 under subsection (b)(1) are nearly complete, the
17 Secretary shall request the NERAC to conduct a
18 comprehensive review of the Project and to report
19 to the Secretary the recommendation of NERAC
20 concerning whether the Project is ready to pro-
21 ceed to the second project phase under subsection
22 (b)(2).

23 (E) *TRANSMITTAL OF REPORTS TO CON-*
24 *GRESS.*—Not later than 60 days after receiving
25 any report from the NERAC related to the

1 *Project, the Secretary shall submit to the appro-*
2 *priate committees of the Senate and the House of*
3 *Representatives a copy of the report, along with*
4 *any additional views of the Secretary that the*
5 *Secretary may consider appropriate.*

6 **SEC. 634. NUCLEAR REGULATORY COMMISSION.**

7 *(a) IN GENERAL.—In accordance with section 202 of*
8 *the Energy Reorganization Act of 1974 (42 U.S.C. 5842),*
9 *the Nuclear Regulatory Commission shall have licensing*
10 *and regulatory authority for any reactor authorized under*
11 *this subtitle.*

12 *(b) LICENSING STRATEGY.—Not later than 3 years*
13 *after the date of enactment of this Act, the Secretary and*
14 *the Chairman of the Nuclear Regulatory Commission shall*
15 *jointly submit to the appropriate committees of the Senate*
16 *and the House of Representatives a licensing strategy for*
17 *the prototype nuclear reactor, including—*

18 *(1) a description of ways in which current li-*
19 *censing requirements relating to light-water reactors*
20 *need to be adapted for the types of prototype nuclear*
21 *reactor being considered by the Project;*

22 *(2) a description of analytical tools that the Nu-*
23 *clear Regulatory Commission will have to develop to*
24 *independently verify designs and performance charac-*

1 *teristics of components, equipment, systems, or struc-*
2 *tures associated with the prototype nuclear reactor;*

3 *(3) other research or development activities that*
4 *may be required on the part of the Nuclear Regu-*
5 *latory Commission in order to review a license appli-*
6 *cation for the prototype nuclear reactor; and*

7 *(4) an estimate of the budgetary requirements as-*
8 *sociated with the licensing strategy.*

9 *(c) ONGOING INTERACTION.—The Secretary shall seek*
10 *the active participation of the Nuclear Regulatory Commis-*
11 *sion throughout the duration of the Project to—*

12 *(1) avoid design decisions that will compromise*
13 *adequate safety margins in the design of the reactor*
14 *or impair the accessibility of nuclear safety-related*
15 *components of the prototype reactor for inspection*
16 *and maintenance;*

17 *(2) develop tools to facilitate inspection and*
18 *maintenance needed for safety purposes; and*

19 *(3) develop risk-based criteria for any future*
20 *commercial development of a similar reactor architec-*
21 *tures.*

22 **SEC. 635. PROJECT TIMELINES AND AUTHORIZATION OF**
23 **APPROPRIATIONS.**

24 *(a) TARGET DATE TO COMPLETE THE FIRST PROJECT*
25 *PHASE.—Not later than September 30, 2011—*

1 (1) *the Secretary shall select the technology to be*
2 *used by the Project for high-temperature hydrogen*
3 *production and the initial design parameters for the*
4 *prototype nuclear plant; or*

5 (2) *submit to Congress a report establishing an*
6 *alternative date for making the selection.*

7 (b) *DESIGN COMPETITION FOR SECOND PROJECT*
8 *PHASE.—*

9 (1) *IN GENERAL.—The Secretary, acting through*
10 *the Idaho National Laboratory, shall fund not more*
11 *than 4 teams for not more than 2 years to develop de-*
12 *tailed proposals for competitive evaluation and selec-*
13 *tion of a single proposal for a final design of the pro-*
14 *TOTYPE nuclear reactor.*

15 (2) *SYSTEMS INTEGRATION.—The Secretary may*
16 *structure Project activities in the second project phase*
17 *to use the lead industrial partner of the competitively*
18 *selected design under paragraph (1) in a systems in-*
19 *tegration role for final design and construction of the*
20 *Project.*

21 (c) *TARGET DATE TO COMPLETE PROJECT CONSTRUC-*
22 *TION.—Not later than September 30, 2021—*

23 (1) *the Secretary shall complete construction and*
24 *begin operations of the prototype nuclear reactor and*
25 *associated energy or hydrogen facilities; or*

1 (2) *submit to Congress a report establishing an*
 2 *alternative date for completion.*

3 (d) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 4 *authorized to be appropriated to the Secretary for research*
 5 *and construction activities under this subtitle (including for*
 6 *transfer to the Nuclear Regulatory Commission for activi-*
 7 *ties under section 634 as appropriate)—*

8 (1) *\$1,250,000,000 for the period of fiscal years*
 9 *2006 through 2015; and*

10 (2) *such sums as are necessary for each of fiscal*
 11 *years 2016 through 2021.*

12 **TITLE VII—VEHICLES AND**
 13 **FUELS**

14 **Subtitle A—Existing Programs**

15 **SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED**
 16 **VEHICLES.**

17 *Section 400AA(a)(3) of the Energy Policy and Con-*
 18 *servation Act (42 U.S.C. 6374(a)(3)) is amended by strik-*
 19 *ing subparagraph (E) and inserting the following:*

20 “(E)(i) *Dual fueled vehicles acquired pursuant to this*
 21 *section shall be operated on alternative fuels unless the Sec-*
 22 *retary determines that an agency qualifies for a waiver of*
 23 *the requirements of this section for vehicles operated by the*
 24 *agency in a particular geographic area in which—*

1 “(I) the alternative fuel otherwise required to be
2 used in the vehicle is not reasonably available to re-
3 tail purchasers of the fuel, as certified to the Sec-
4 retary by the head of the agency; or

5 “(II) the cost of the alternative fuel otherwise re-
6 quired to be used in the vehicle is unreasonably more
7 expensive compared to gasoline, as certified to the
8 Secretary by the head of the agency.

9 “(ii) The Secretary shall monitor compliance with this
10 subparagraph by all fleets receiving a waiver.

11 “(iii) The Secretary shall report annually to Congress
12 on the extent to which the requirements of this subpara-
13 graph are being achieved, including information on annual
14 reductions achieved from the use of petroleum-based fuels
15 and the problems, if any, encountered in acquiring alter-
16 native fuels.”.

17 **SEC. 702. FUEL USE CREDITS.**

18 (a) *IN GENERAL.*—Section 312 of the Energy Policy
19 Act of 1992 (42 U.S.C. 13220) is amended to read as fol-
20 lows:

21 **“SEC. 312. FUEL USE CREDITS.**

22 “(a) *DEFINITIONS.*—In this section:

23 “(1) *BIODIESEL.*—The term ‘biodiesel’ means a
24 diesel fuel substitute produced from nonpetroleum re-
25 newable resources that meets the registration require-

1 *ments for fuels and fuel additives established by the*
2 *Environmental Protection Agency under section 211*
3 *of the Clean Air Act (42 U.S.C. 7545).*

4 “(2) *QUALIFYING VOLUME.*—*The term ‘quali-*
5 *fying volume’ means—*

6 “(A) *in the case of biodiesel, when used as*
7 *a component of fuel containing at least 20 per-*
8 *cent biodiesel by volume—*

9 “(i) *450 gallons; or*

10 “(ii) *if the Secretary determines by*
11 *rule that the average annual alternative fuel*
12 *use in light duty vehicles by fleets and cov-*
13 *ered persons exceeds 450 gallons or gallon*
14 *equivalents, the amount of the average an-*
15 *ual alternative fuel use; and*

16 “(B) *in the case of an alternative fuel, the*
17 *amount of the fuel determined by the Secretary*
18 *to have an equivalent energy content to the*
19 *amount of biodiesel defined as a qualifying vol-*
20 *ume under subparagraph (A).*

21 “(b) *ALLOCATION.*—

22 “(1) *IN GENERAL.*—*The Secretary shall allocate*
23 *1 credit under this section to a fleet or covered person*
24 *for each qualifying volume of alternative fuel or bio-*

1 *diesel purchased for use in a vehicle operated by the*
2 *fleet.*

3 “(2) *LIMITATION.*—*The Secretary may not allo-*
4 *cate a credit under this section for the purchase of an*
5 *alternative fuel or biodiesel that is required by Fed-*
6 *eral or State law.*

7 “(3) *DOCUMENTATION.*—*A fleet or covered person*
8 *seeking a credit under paragraph (1) shall provide*
9 *written documentation to the Secretary supporting*
10 *the allocation of the credit to the fleet or covered per-*
11 *son.*

12 “(c) *USE.*—*At the request of a fleet or covered person*
13 *allocated a credit under subsection (b), the Secretary shall,*
14 *for the year in which the purchase of a qualifying volume*
15 *is made, consider the purchase to be the acquisition of 1*
16 *alternative fueled vehicle that the fleet or covered person is*
17 *required to acquire under this title, title IV, or title V.*

18 “(d) *TREATMENT.*—*A credit provided to a fleet or cov-*
19 *ered person under this section shall be considered to be a*
20 *credit under section 508.*

21 “(e) *ISSUANCE OF RULE.*—*Not later than 180 days*
22 *after the date of enactment of the Energy Policy Act of*
23 *2005, the Secretary shall issue a rule establishing proce-*
24 *dures for the implementation of this section.”.*

1 (b) *TABLE OF CONTENTS AMENDMENT.*—*The table of*
2 *contents of the Energy Policy Act of 1992 is amended by*
3 *striking the item relating to section 312 and inserting the*
4 *following:*

 “*Sec. 312. Fuel use credits.*”.

5 **SEC. 703. INCREMENTAL COST ALLOCATION.**

6 Section 303(c) of the Energy Policy Act of 1992 (42
7 U.S.C. 13212(c)) is amended by striking “may” and insert-
8 ing “shall”.

9 **SEC. 704. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.**

10 (a) *ALTERNATIVE COMPLIANCE.*—*Title V of the En-*
11 *ergy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is*
12 *amended—*

13 (1) *by redesignating section 514 (42 U.S.C.*
14 *13264) as section 515; and*

15 (2) *by inserting after section 513 (42 U.S.C.*
16 *13263) the following:*

17 **“SEC. 514. ALTERNATIVE COMPLIANCE.**

18 “(a) *APPLICATION FOR WAIVER.*—*Any covered person*
19 *subject to section 501 and any State subject to section*
20 *507(o) may petition the Secretary for a waiver of the appli-*
21 *cable requirements of section 501 or 507(o).*

22 “(b) *GRANT OF WAIVER.*—*The Secretary shall grant*
23 *a waiver of the requirements of section 501 or 507(o) on*
24 *a showing that the fleet owned, operated, leased, or other-*
25 *wise controlled by the State or covered person—*

1 “(1) will achieve a reduction in the annual con-
2 sumption of petroleum fuels by the fleet equal to—

3 “(A) the reduction in consumption of petro-
4 leum that would result from 100 percent cumu-
5 lative compliance with the fuel use requirements
6 of section 501; or

7 “(B) in the case of an entity covered under
8 section 507(o), a reduction equal to the annual
9 consumption by the State entity of alternative
10 fuels if all of the cumulative alternative fuel ve-
11 hicles of the State entity given credit under sec-
12 tion 508 were to use alternative fuel 100 percent
13 of the time; and

14 “(2) is in compliance with all applicable vehicle
15 emission standards established by the Administrator
16 of the Environmental Protection Agency under the
17 Clean Air Act (42 U.S.C. 7401 et seq.).

18 “(c) *REVOCAION OF WAIVER.*—The Secretary shall
19 revoke any waiver granted under this section if the State
20 or covered person fails to comply with subsection (b).”.

21 (b) *CREDITS.*—Section 508(a) of the Energy Policy
22 Act of 1992 (42 U.S.C. 13258(a)) is amended—

23 (1) by striking “The Secretary” and inserting
24 the following:

25 “(1) The Secretary”; and

1 (2) *by adding at the end the following:*

2 “(2) *Not later than January 31, 2007, the Sec-*
3 *retary shall—*

4 “(A) *allocate credit in an amount to be de-*
5 *termined by the Secretary for—*

6 “(i) *acquisition of—*

7 “(I) *a light-duty hybrid electric*
8 *vehicle;*

9 “(II) *a plug-in hybrid electric ve-*
10 *hicle;*

11 “(III) *a fuel cell electric vehicle;*

12 “(IV) *a medium- or heavy-duty*
13 *hybrid electric vehicle;*

14 “(V) *a neighborhood electric vehi-*
15 *cle; or*

16 “(VI) *a medium- or heavy-duty*
17 *dedicated vehicle; and*

18 “(ii) *investment in qualified alter-*
19 *native fuel infrastructure or nonroad equip-*
20 *ment, as determined by the Secretary; and*

21 “(B) *allocate more than 1, but not to exceed*
22 *5, credits for investment in an emerging tech-*
23 *nology relating to any vehicle described in sub-*
24 *paragraph (A) to encourage—*

25 “(i) *a reduction in petroleum demand;*

1 “(ii) technological advancement; and
2 “(iii) environmental safety.”.

3 (c) *TABLE OF CONTENTS AMENDMENT.*—*The table of*
4 *contents of the Energy Policy Act of 1992 (42 U.S.C. prec.*
5 *13201) is amended by striking the item relating to section*
6 *514 and inserting the following:*

 “Sec. 514. *Alternative compliance.*

 “Sec. 515. *Authorization of appropriations.*

 “Sec. 516. *Termination of authority.*”.

7 **SEC. 705. REPORT CONCERNING COMPLIANCE WITH ALTER-**
8 **NATIVE FUELED VEHICLE PURCHASING RE-**
9 **QUIREMENTS.**

10 Section 310(b)(1) of the Energy Policy Act of 1992 (42
11 U.S.C. 13218(b)(1)) is amended by striking “1 year after
12 the date of enactment of this subsection” and inserting
13 “February 15, 2006”.

14 **SEC. 706. JOINT FLEXIBLE FUEL/HYBRID VEHICLE COMMER-**
15 **CIALIZATION INITIATIVE.**

16 (a) *DEFINITIONS.*—*In this section:*

17 (1) *ELIGIBLE ENTITY.*—*The term eligible entity*
18 *means—*

19 (A) *a for-profit corporation;*

20 (B) *a nonprofit corporation; or*

21 (C) *an institution of higher education.*

22 (2) *PROGRAM.*—*The term “program” means the*
23 *applied research program established under subsection*
24 *(b).*

1 (b) *ESTABLISHMENT.*—*The Secretary shall establish*
2 *an applied research program to improve technologies for the*
3 *commercialization of—*

- 4 (1) *a combination hybrid/flexible fuel vehicle; or*
5 (2) *a plug-in hybrid/flexible fuel vehicle.*

6 (c) *GRANTS.*—*In carrying out the program, the Sec-*
7 *retary shall provide grants that give preference to proposals*
8 *that—*

9 (1) *achieve the greatest reduction in miles per*
10 *gallon of petroleum fuel consumption;*

11 (2) *achieve not less than 250 miles per gallon of*
12 *petroleum fuel consumption; and*

13 (3) *have the greatest potential of commercializa-*
14 *tion to the general public within 5 years.*

15 (d) *VERIFICATION.*—*Not later than 90 days after the*
16 *date of enactment of this Act, the Secretary shall publish*
17 *in the Federal Register procedures to verify—*

18 (1) *the hybrid/flexible fuel vehicle technologies to*
19 *be demonstrated; and*

20 (2) *that grants are administered in accordance*
21 *with this section.*

22 (e) *REPORT.*—*Not later than 260 days after the date*
23 *of enactment of this Act, and annually thereafter, the Sec-*
24 *retary shall submit to Congress a report that—*

25 (1) *identifies the grant recipients;*

1 (2) describes the technologies to be funded under
2 the program;

3 (3) assesses the feasibility of the technologies de-
4 scribed in paragraph (2) in meeting the goals de-
5 scribed in subsection (c);

6 (4) identifies applications submitted for the pro-
7 gram that were not funded; and

8 (5) makes recommendations for Federal legisla-
9 tion to achieve commercialization of the technology
10 demonstrated.

11 (f) *AUTHORIZATION OF APPROPRIATIONS.*—There are
12 authorized to be appropriated to carry out this section, to
13 remain available until expended—

14 (1) \$3,000,000 for fiscal year 2005;

15 (2) \$7,000,000 for fiscal year 2006;

16 (3) \$10,000,000 for fiscal year 2007; and

17 (4) \$20,000,000 for fiscal year 2008.

18 ***Subtitle B—Automobile Efficiency***

19 ***CHAPTER 1—MAXIMUM AVERAGE FUEL***

20 ***ECONOMY***

21 ***SEC. 711. REVISED CONSIDERATIONS FOR DECISIONS ON***

22 ***MAXIMUM FEASIBLE AVERAGE FUEL ECON-*** 23 ***OMY.***

24 Section 32902(f) of title 49, United States Code, is
25 amended to read as follows:

1 “(f) *CONSIDERATIONS FOR DECISIONS ON MAXIMUM*
2 *FEASIBLE AVERAGE FUEL ECONOMY.*—When deciding
3 *maximum feasible average fuel economy under this section,*
4 *the Secretary of Transportation shall consider the following*
5 *matters:*

6 “(1) *Technological feasibility.*

7 “(2) *Economic practicability.*

8 “(3) *The effect of other motor vehicle standards*
9 *of the Government on fuel economy.*

10 “(4) *The need of the United States to conserve*
11 *energy.*

12 “(5) *The desirability of reducing United States*
13 *dependence on imported oil.*

14 “(6) *The effects of the average fuel economy*
15 *standards on motor vehicle and passenger safety.*

16 “(7) *The effects of increased fuel economy on air*
17 *quality.*

18 “(8) *The adverse effects of average fuel economy*
19 *standards on the relative competitiveness of manufac-*
20 *turers.*

21 “(9) *The effects of compliance with average fuel*
22 *economy standards on levels of employment in the*
23 *United States.*

24 “(10) *The cost and lead time necessary for the*
25 *introduction of the necessary new technologies.*

1 “(11) *The potential for advanced technology ve-*
2 *hicles, such as hybrid and fuel cell vehicles, to con-*
3 *tribute to the achievement of significant reductions in*
4 *fuel consumption.*”

5 “(12) *The extent to which the necessity for vehi-*
6 *cle manufacturers to incur near-term costs to comply*
7 *with the average fuel economy standards adversely af-*
8 *fects the availability of resources for the development*
9 *of advanced technology for the propulsion of motor ve-*
10 *hicles.*”

11 “(13) *The report of the National Research Coun-*
12 *cil that is entitled ‘Effectiveness and Impact of Cor-*
13 *porate Average Fuel Economy Standards’, issued in*
14 *January 2002.’”.*

15 **SEC. 712. INCREASED FUEL ECONOMY STANDARDS.**

16 (a) *NEW REGULATIONS REQUIRED.*—

17 (1) *NON-PASSENGER AUTOMOBILES.*—

18 (A) *REQUIREMENT FOR NEW REGULA-*
19 *TIONS.*—*The Secretary of Transportation shall*
20 *issue, under section 32902 of title 49, United*
21 *States Code, new regulations setting forth in-*
22 *creased average fuel economy standards for non-*
23 *passenger automobiles. The regulations shall be*
24 *determined on the basis of the maximum feasible*
25 *average fuel economy levels for the non-passenger*

1 *automobiles, taking into consideration the mat-*
2 *ters set forth in subsection (f) of such section.*
3 *The new regulations under this paragraph shall*
4 *apply for model years after the 2007 model year,*
5 *subject to subsection (b).*

6 *(B) TIME FOR ISSUING REGULATIONS.—The*
7 *Secretary of Transportation shall issue the final*
8 *regulations under subparagraph (A) not later*
9 *than April 1, 2006.*

10 *(2) PASSENGER AUTOMOBILES.—*

11 *(A) REQUIREMENT FOR NEW REGULA-*
12 *TIONS.—The Secretary of Transportation shall*
13 *issue, under section 32902 of title 49, United*
14 *States Code, new regulations setting forth in-*
15 *creased average fuel economy standards for pas-*
16 *senger automobiles. The regulations shall be de-*
17 *termined on the basis of the maximum feasible*
18 *average fuel economy levels for the passenger*
19 *automobiles, taking into consideration the mat-*
20 *ters set forth in subsection (f) of such section.*

21 *(B) TIME FOR ISSUING REGULATIONS.—The*
22 *Secretary of Transportation shall issue the final*
23 *regulations under subparagraph (A) not later*
24 *than 2½ years after the date of the enactment of*
25 *this Act.*

1 (b) *PHASED INCREASES.*—*The regulations issued pur-*
2 *suant to subsection (a) shall specify standards that take ef-*
3 *fect successively over several vehicle model years not exceed-*
4 *ing 15 vehicle model years.*

5 (c) *CLARIFICATION OF AUTHORITY TO AMEND PAS-*
6 *SENGER AUTOMOBILE STANDARD.*—*Section 32902(b) of*
7 *title 49, United States Code, is amended by inserting before*
8 *the period at the end the following: “or such other number*
9 *as the Secretary prescribes under subsection (c)”.*

10 (d) *ENVIRONMENTAL ASSESSMENT.*—*When issuing*
11 *final regulations setting forth increased average fuel econ-*
12 *omy standards under section 32902(a) or section 32902(c)*
13 *of title 49, United States Code, the Secretary of Transpor-*
14 *tation shall also issue an environmental assessment of the*
15 *effects of the increased standards on the environment under*
16 *the National Environmental Policy Act of 1969 (42 U.S.C.*
17 *4321 et seq.).*

18 (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
19 *authorized to be appropriated to the Secretary of Transpor-*
20 *tation \$5,000,000 for each of fiscal years 2006 through 2010*
21 *for carrying out this section and for administering the regu-*
22 *lations issued pursuant to this section.*

1 **SEC. 713. EXPEDITED PROCEDURES FOR CONGRESSIONAL**
2 **INCREASE IN FUEL ECONOMY STANDARDS.**

3 (a) *CONDITION FOR APPLICABILITY.*—If the Secretary
4 of Transportation fails to issue final regulations with re-
5 spect to non-passenger automobiles under section 712, or
6 fails to issue final regulations with respect to passenger
7 automobiles under such section, on or before the date by
8 which such final regulations are required by such section
9 to be issued, respectively, then this section shall apply with
10 respect to a bill described in subsection (b).

11 (b) *BILL.*—A bill referred to in this subsection is a
12 bill that satisfies the following requirements:

13 (1) *INTRODUCTION.*—The bill is introduced by
14 one or more Members of Congress not later than 60
15 days after the date referred to in subsection (a).

16 (2) *TITLE.*—The title of the bill is as follows: “A
17 bill to establish new average fuel economy standards
18 for certain motor vehicles.”.

19 (3) *TEXT.*—The bill provides after the enacting
20 clause only the text specified in subparagraph (A) or
21 (B) or any provision described in subparagraph (C),
22 as follows:

23 (A) *NON-PASSENGER AUTOMOBILES.*—In the
24 case of a bill relating to a failure timely to issue
25 final regulations relating to non-passenger auto-
26 mobiles, the following text:

1 *“That, section 32902 of title 49, United States Code, is*
2 *amended by adding at the end the following new subsection:*

3 *“() NON-PASSENGER AUTOMOBILES.—The average*
4 *fuel economy standard for non-passenger automobiles man-*
5 *ufactured by a manufacturer in a model year after model*
6 *year ____ shall be ____ miles per gallon.’”, the first blank*
7 *space being filled in with a subsection designation, the sec-*
8 *ond blank space being filled in with the number of a year,*
9 *and the third blank space being filled in with a number.*

10 *(B) PASSENGER AUTOMOBILES.—In the*
11 *case of a bill relating to a failure timely to issue*
12 *final regulations relating to passenger auto-*
13 *mobiles, the following text:*

14 *“That, section 32902(b) of title 49, United States Code, is*
15 *amended to read as follows:*

16 *“(b) PASSENGER AUTOMOBILES.—Except as provided*
17 *in this section, the average fuel economy standard for pas-*
18 *senger automobiles manufactured by a manufacturer in a*
19 *model year after model year ____ shall be ____ miles per*
20 *gallon.’”, the first blank space being filled in with the num-*
21 *ber of a year and the second blank space being filled in*
22 *with a number.*

23 *(C) SUBSTITUTE TEXT.—Any text sub-*
24 *stituted by an amendment that is in order under*
25 *subsection (c)(3).*

1 (c) *EXPEDITED PROCEDURES*.—A bill described in
2 subsection (b) shall be considered in a House of Congress
3 in accordance with the procedures provided for the consider-
4 ation of joint resolutions in paragraphs (3) through (8) of
5 section 8066(c) of the Department of Defense Appropria-
6 tions Act, 1985 (as contained in section 101(h) of Public
7 Law 98–473; 98 Stat. 1936), with the following exceptions:

8 (1) *REFERENCES TO RESOLUTION*.—The ref-
9 erences in such paragraphs to a resolution shall be
10 deemed to refer to the bill described in subsection (b).

11 (2) *COMMITTEES OF JURISDICTION*.—The com-
12 mittees to which the bill is referred under this sub-
13 section shall—

14 (A) in the Senate, be the Committee on
15 Commerce, Science, and Transportation; and

16 (B) in the House of Representatives, be the
17 Committee on Energy and Commerce.

18 (3) *AMENDMENTS*.—

19 (A) *AMENDMENTS IN ORDER*.—Only four
20 amendments to the bill are in order in each
21 House, as follows:

22 (i) Two amendments proposed by the
23 majority leader of that House.

24 (ii) Two amendments proposed by the
25 minority leader of that House.

1 (B) *FORM AND CONTENT.*—*To be in order*
2 *under subparagraph (A), an amendment shall*
3 *propose to strike all after the enacting clause and*
4 *substitute text that only includes the same text as*
5 *is proposed to be stricken except for one or more*
6 *different numbers in the text.*

7 (C) *DEBATE, ET CETERA.*—*Subparagraph*
8 *(B) of section 8066(c)(5) of the Department of*
9 *Defense Appropriations Act, 1985 (98 Stat.*
10 *1936) shall apply to the consideration of each*
11 *amendment proposed under this paragraph in*
12 *the same manner as such subparagraph (B) ap-*
13 *plies to debatable motions.*

14 **SEC. 714. EXTENSION OF MAXIMUM FUEL ECONOMY IN-**
15 **CREASE FOR ALTERNATIVE FUELED VEHI-**
16 **CLES.**

17 (a) *MANUFACTURING INCENTIVES.*—*Section 32905 of*
18 *title 49, United States Code, is amended—*

19 (1) *in subsections (b) and (d), by striking*
20 *“1993–2004” and inserting “1993–2008”;*

21 (2) *in subsection (f), by striking “2001” and in-*
22 *serting “2007”; and*

23 (3) *in subsection (f)(1), by striking “2004” and*
24 *inserting “2008”.*

1 (b) *EXTENSION OF MAXIMUM FUEL ECONOMY IN-*
2 *CREASE.*—Section 32906(a)(1) of title 49, United States
3 *Code, is amended—*

4 (1) *in subparagraph (A), by striking “1993–*
5 *2004” and inserting “1993 through 2008”; and*

6 (2) *in subparagraph (B), by striking “2005–*
7 *2008” and inserting “2009 through 2012”.*

8 **CHAPTER 2—ADVANCED CLEAN VEHICLES**

9 **SEC. 721. HYBRID VEHICLES RESEARCH AND DEVELOP-**
10 **MENT.**

11 (a) *RECHARGEABLE ENERGY STORAGE SYSTEMS AND*
12 *OTHER TECHNOLOGIES.*—*The Secretary of Energy shall ac-*
13 *celerate research and development directed toward the im-*
14 *provement of batteries and other rechargeable energy storage*
15 *systems, power electronics, hybrid systems integration, and*
16 *other technologies for use in hybrid vehicles.*

17 (b) *AUTHORIZATION OF APPROPRIATIONS.*—*Funds are*
18 *hereby authorized to be appropriated for each of fiscal years*
19 *2006, 2007, and 2008 in the amount \$50,000,000 for re-*
20 *search and development activities under this section.*

21 **SEC. 722. DIESEL FUELED VEHICLES RESEARCH AND DE-**
22 **VELOPMENT.**

23 (a) *DIESEL COMBUSTION AND AFTER TREATMENT*
24 *TECHNOLOGIES.*—*The Secretary of Energy shall accelerate*
25 *research and development directed toward the improvement*

1 *of diesel combustion and after treatment technologies for use*
2 *in diesel fueled motor vehicles.*

3 (b) *GOALS.—The Secretary shall carry out subsection*
4 *(a) with a view to achieving the following goals:*

5 (1) *COMPLIANCE WITH CERTAIN EMISSION*
6 *STANDARDS BY 2010.—Developing and demonstrating*
7 *diesel technologies that, not later than 2010, meet the*
8 *following standards:*

9 (A) *TIER-2 EMISSION STANDARDS.—The tier*
10 *2 emission standards.*

11 (B) *HEAVY-DUTY EMISSION STANDARDS OF*
12 *2007.—The heavy-duty emission standards of*
13 *2007.*

14 (2) *POST-2010 HIGHLY EFFICIENT TECH-*
15 *NOLOGIES.—Developing the next generation of low*
16 *emissions, high efficiency diesel engine technologies,*
17 *including homogeneous charge compression ignition*
18 *technology.*

19 (c) *AUTHORIZATION OF APPROPRIATIONS.—Funds are*
20 *hereby authorized to be appropriated for each of fiscal years*
21 *2006, 2007, and 2008 in the amount of \$75,000,000 for re-*
22 *search and development of advanced combustion engines*
23 *and advanced fuels.*

1 **SEC. 723. PROCUREMENT OF ALTERNATIVE FUELED PAS-**
2 **SENGER AUTOMOBILES.**

3 (a) *VEHICLE FLEETS NOT COVERED BY REQUIRE-*
4 *MENT IN ENERGY POLICY ACT OF 1992.*—*The head of each*
5 *agency of the executive branch shall coordinate with the Ad-*
6 *ministrator of General Services to ensure that only alter-*
7 *native fueled vehicles are procured by or for each agency*
8 *fleet of passenger automobiles that is not in a fleet of vehi-*
9 *cles to which section 303 of the Energy Policy Act of 1992*
10 *(42 U.S.C. 13212) applies.*

11 (b) *WAIVER AUTHORITY.*—*The head of an agency, in*
12 *consultation with the Administrator, may waive the appli-*
13 *cability of the policy regarding the procurement of alter-*
14 *native fueled vehicles in subsection (a) to—*

15 (1) *the procurement for such agency of any vehi-*
16 *cles described in subparagraphs (A) through (F) of*
17 *section 303(b)(3) of the Energy Policy Act of 1992 (42*
18 *U.S.C. 13212(b)(3)); or*

19 (2) *a procurement of vehicles for such agency if*
20 *the procurement of alternative fueled vehicles cannot*
21 *meet the requirements of the agency for vehicles due*
22 *to insufficient availability of the alternative fuel used*
23 *to power such vehicles.*

24 (c) *APPLICABILITY TO PROCUREMENTS AFTER FISCAL*
25 *YEAR 2005.*—*This subsection applies with respect to pro-*

1 *quirements of alternative fueled vehicles in fiscal year 2006*
2 *and subsequent fiscal years.*

3 **SEC. 724. PROCUREMENT OF HYBRID LIGHT DUTY TRUCKS.**

4 *(a) VEHICLE FLEETS NOT COVERED BY REQUIRE-*
5 *MENT IN ENERGY POLICY ACT OF 1992.—*

6 *(1) HYBRID VEHICLES.—The head of each agen-*
7 *cy of the executive branch shall coordinate with the*
8 *Administrator of General Services to ensure that only*
9 *hybrid vehicles are procured by or for each agency*
10 *fleet of light duty trucks that is not in a fleet of vehi-*
11 *cles to which section 303 of the Energy Policy Act of*
12 *1992 (42 U.S.C. 13212) applies.*

13 *(2) WAIVER AUTHORITY.—The head of an agen-*
14 *cy, in consultation with the Administrator, may*
15 *wave the applicability of the policy regarding the*
16 *procurement of hybrid vehicles in paragraph (1) to*
17 *that agency to the extent that the head of that agency*
18 *determines necessary—*

19 *(A) to meet specific requirements of the*
20 *agency for capabilities of light duty trucks;*

21 *(B) to procure vehicles consistent with the*
22 *standards applicable to the procurement of fleet*
23 *vehicles for the Federal Government;*

1 (C) to adjust to limitations on the commer-
2 cial availability of light duty trucks that are hy-
3 brid vehicles; or

4 (D) to avoid the necessity of procuring a
5 hybrid vehicle for the agency when each of the
6 hybrid vehicles available for meeting the require-
7 ments of the agency has a cost to the United
8 States that exceeds the costs of comparable non-
9 hybrid vehicles by a factor that is significantly
10 higher than the difference between—

11 (i) the real cost of the hybrid vehicle to
12 retail purchasers, taking into account the
13 benefit of any tax incentives available to re-
14 tail purchasers for the purchase of the hy-
15 brid vehicle; and

16 (ii) the costs of the comparable non-
17 hybrid vehicles to retail purchasers.

18 (3) *APPLICABILITY TO PROCUREMENTS AFTER*
19 *FISCAL YEAR 2005.*—This subsection applies with re-
20 spect to procurements of light duty trucks in fiscal
21 year 2006 and subsequent fiscal years.

22 (b) *INAPPLICABILITY TO DEPARTMENT OF DE-*
23 *FENSE.*—This section does not apply to the Department of
24 Defense, which is subject to comparable requirements under
25 section 318 of the National Defense Authorization Act for

1 *Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055;*
2 *10 U.S.C. 2302 note).*

3 **SEC. 725. DEFINITIONS.**

4 *In this chapter:*

5 (1) *ALTERNATIVE FUELED VEHICLE.*—*The term*
6 *“alternative fueled vehicle” means—*

7 (A) *an alternative fueled vehicle, as defined*
8 *in section 301(3) of the Energy Policy Act of*
9 *1992 (42 U.S.C. 13211(3));*

10 (B) *a motor vehicle that operates on a blend*
11 *of fuel that is at least 20 percent (by volume)*
12 *biodiesel, as defined in section 312(f) of the En-*
13 *ergy Policy Act of 1992 (42 U.S.C. 13220(f));*
14 *and*

15 (C) *a motor vehicle that operates on a blend*
16 *of fuel that is at least 20 percent (by volume)*
17 *bioderived hydrocarbons (including aliphatic*
18 *compounds) produced from agricultural and ani-*
19 *mal waste.*

20 (2) *HEAVY-DUTY EMISSION STANDARDS OF*
21 *2007.*—*The term “heavy-duty emission standards of*
22 *2007” means the motor vehicle emission standards*
23 *promulgated by the Administrator of the Environ-*
24 *mental Protection Agency on January 18, 2001,*
25 *under section 202 of the Clean Air Act to apply to*

1 *heavy-duty vehicles of model years beginning with the*
2 *2007 vehicle model year.*

3 (3) *HYBRID VEHICLE.*—*The term “hybrid vehi-*
4 *cle” means—*

5 (A) *a motor vehicle that draws propulsion*
6 *energy from on board sources of stored energy*
7 *that are both—*

8 (i) *an internal combustion or heat en-*
9 *gine using combustible fuel; and*

10 (ii) *a rechargeable energy storage sys-*
11 *tem; and*

12 (B) *any other vehicle that is defined as a*
13 *hybrid vehicle in regulations prescribed by the*
14 *Secretary of Energy for the administration of*
15 *title III of the Energy Policy Act of 1992.*

16 (4) *MOTOR VEHICLE.*—*The term “motor vehicle”*
17 *means any vehicle that is manufactured primarily for*
18 *use on public streets, roads, and highways (not in-*
19 *cluding a vehicle operated exclusively on a rail or*
20 *rails) and that has at least four wheels.*

21 (5) *TIER 2 EMISSION STANDARDS DEFINED.*—*The*
22 *term “tier 2 emission standards” means the motor ve-*
23 *hicle emission standards promulgated by the Admin-*
24 *istrator of the Environmental Protection Agency on*
25 *February 10, 2000, under section 202 of the Clean*

1 *Air Act (42 U.S.C. 7521) to apply to passenger auto-*
2 *mobiles, light trucks, and larger passenger vehicles of*
3 *model years after the 2003 vehicle model year.*

4 (6) *TERMS DEFINED IN EPA REGULATIONS.—The*
5 *terms “passenger automobile” and “light truck” have*
6 *the meanings given such terms in regulations pre-*
7 *scribed by the Administrator of the Environmental*
8 *Protection Agency for purposes of the administration*
9 *of title II of the Clean Air Act (42 U.S.C. 7521 et*
10 *seq.).*

11 ***Subtitle C—Miscellaneous***

12 **SEC. 731. RAILROAD EFFICIENCY.**

13 (a) *ESTABLISHMENT.—The Secretary shall (in co-*
14 *operation with the Secretary of Transportation and the Ad-*
15 *ministrator of the Environmental Protection Agency) estab-*
16 *lish a cost-shared, public-private research partnership in-*
17 *volving the Federal Government, railroad carriers, loco-*
18 *motive manufacturers and equipment suppliers, and the As-*
19 *sociation of American Railroads, to develop and dem-*
20 *onstrate railroad locomotive technologies that increase fuel*
21 *economy, reduce emissions, and lower costs of operation.*

22 (b) *AUTHORIZATION OF APPROPRIATIONS.—There are*
23 *authorized to be appropriated to the Secretary to carry out*
24 *this section—*

25 (1) *\$25,000,000 for fiscal year 2006;*

1 (2) \$35,000,000 for fiscal year 2007; and

2 (3) \$50,000,000 for fiscal year 2008.

3 **SEC. 732. CONSERVE BY BICYCLING PROGRAM.**

4 (a) *DEFINITIONS.*—*In this section:*

5 (1) *PROGRAM.*—*The term “program” means the*
6 *Conserve by Bicycling Program established by sub-*
7 *section (b).*

8 (2) *SECRETARY.*—*The term “Secretary” means*
9 *the Secretary of Transportation.*

10 (b) *ESTABLISHMENT.*—*There is established within the*
11 *Department of Transportation a program to be known as*
12 *the “Conserve by Bicycling Program”.*

13 (c) *PROJECTS.*—

14 (1) *IN GENERAL.*—*In carrying out the program,*
15 *the Secretary shall establish not more than 10 pilot*
16 *projects that are—*

17 (A) *dispersed geographically throughout the*
18 *United States; and*

19 (B) *designed to conserve energy resources by*
20 *encouraging the use of bicycles in place of motor*
21 *vehicles.*

22 (2) *REQUIREMENTS.*—*A pilot project described*
23 *in paragraph (1) shall—*

24 (A) *use education and marketing to convert*
25 *motor vehicle trips to bicycle trips;*

1 (B) document project results and energy
2 savings (in estimated units of energy conserved);

3 (C) facilitate partnerships among interested
4 parties in at least 2 of the fields of—

5 (i) transportation;

6 (ii) law enforcement;

7 (iii) education;

8 (iv) public health;

9 (v) environment; and

10 (vi) energy;

11 (D) maximize bicycle facility investments;

12 (E) demonstrate methods that may be used
13 in other regions of the United States; and

14 (F) facilitate the continuation of ongoing
15 programs that are sustained by local resources.

16 (3) *COST SHARING*.—At least 20 percent of the
17 cost of each pilot project described in paragraph (1)
18 shall be provided from non-Federal sources.

19 (d) *ENERGY AND BICYCLING RESEARCH STUDY*.—

20 (1) *IN GENERAL*.—Not later than 2 years after
21 the date of enactment of this Act, the Secretary shall
22 enter into a contract with the National Academy of
23 Sciences for, and the National Academy of Sciences
24 shall conduct and submit to Congress a report on, a

1 *study on the feasibility of converting motor vehicle*
2 *trips to bicycle trips.*

3 (2) *COMPONENTS.—The study shall—*

4 (A) *document the results or progress of the*
5 *pilot projects under subsection (c);*

6 (B) *determine the type and duration of*
7 *motor vehicle trips that people in the United*
8 *States may feasibly make by bicycle, taking into*
9 *consideration factors such as—*

10 (i) *weather;*

11 (ii) *land use and traffic patterns;*

12 (iii) *the carrying capacity of bicycles;*

13 *and*

14 (iv) *bicycle infrastructure;*

15 (C) *determine any energy savings that*
16 *would result from the conversion of motor vehicle*
17 *trips to bicycle trips;*

18 (D) *include a cost-benefit analysis of bicycle*
19 *infrastructure investments; and*

20 (E) *include a description of any factors*
21 *that would encourage more motor vehicle trips to*
22 *be replaced with bicycle trips.*

23 (e) *AUTHORIZATION OF APPROPRIATIONS.—There is*
24 *authorized to be appropriated to the Secretary to carry out*

1 *this section \$6,200,000, to remain available until expended,*
2 *of which—*

3 *(1) \$5,150,000 shall be used to carry out pilot*
4 *projects described in subsection (c);*

5 *(2) \$300,000 shall be used by the Secretary to co-*
6 *ordinate, publicize, and disseminate the results of the*
7 *program; and*

8 *(3) \$750,000 shall be used to carry out sub-*
9 *section (d).*

10 **SEC. 733. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY**
11 **VEHICLES.**

12 *(a) DEFINITIONS.—In this section:*

13 *(1) ADMINISTRATOR.—The term “Adminis-*
14 *trator” means the Administrator of the Environ-*
15 *mental Protection Agency.*

16 *(2) ADVANCED TRUCK STOP ELECTRIFICATION*
17 *SYSTEM.—The term “advanced truck stop electrifica-*
18 *tion system” means a stationary system that delivers*
19 *heat, air conditioning, electricity, and communica-*
20 *tions, and is capable of providing verifiable and*
21 *auditable evidence of use of those services, to a heavy-*
22 *duty vehicle and any occupants of the heavy-duty ve-*
23 *hicle without relying on components mounted onboard*
24 *the heavy-duty vehicle for delivery of those services.*

1 (3) *AUXILIARY POWER UNIT.*—The term “auxil-
2 *ary power unit*” means an integrated system that—

3 (A) provides heat, air conditioning, engine
4 warming, and electricity to the factory-installed
5 components on a heavy-duty vehicle as if the
6 main drive engine of the heavy-duty vehicle were
7 running; and

8 (B) is certified by the Administrator under
9 part 89 of title 40, Code of Federal Regulations
10 (or any successor regulation), as meeting appli-
11 cable emission standards.

12 (4) *HEAVY-DUTY VEHICLE.*—The term “heavy-
13 *duty vehicle*” means a vehicle that—

14 (A) has a gross vehicle weight rating greater
15 than 12,500 pounds; and

16 (B) is powered by a diesel engine.

17 (5) *IDLE REDUCTION TECHNOLOGY.*—The term
18 “idle reduction technology” means an advanced truck
19 stop electrification system, auxiliary power unit, or
20 other device or system of devices that—

21 (A) is used to reduce long-duration idling of
22 a heavy-duty vehicle; and

23 (B) allows for the main drive engine or
24 auxiliary refrigeration engine of a heavy-duty
25 vehicle to be shut down.

1 (6) *LONG-DURATION IDLING.*—

2 (A) *IN GENERAL.*—*The term “long-duration*
3 *idling” means the operation of a main drive en-*
4 *gine or auxiliary refrigeration engine of a*
5 *heavy-duty vehicle, for a period greater than 15*
6 *consecutive minutes, at a time at which the*
7 *main drive engine is not engaged in gear.*

8 (B) *EXCLUSIONS.*—*The term “long-duration*
9 *idling” does not include the operation of a main*
10 *drive engine or auxiliary refrigeration engine of*
11 *a heavy-duty vehicle during a routine stoppage*
12 *associated with traffic movement or congestion.*

13 (b) *IDLE REDUCTION TECHNOLOGY BENEFITS, PRO-*
14 *GRAMS, AND STUDIES.*—

15 (1) *IN GENERAL.*—*Not later than 90 days after*
16 *the date of enactment of this Act, the Administrator*
17 *shall—*

18 (A)(i) *commence a review of the mobile*
19 *source air emission models of the Environmental*
20 *Protection Agency used under the Clean Air Act*
21 *(42 U.S.C. 7401 et seq.) to determine whether the*
22 *models accurately reflect the emissions resulting*
23 *from long-duration idling of heavy-duty vehicles*
24 *and other vehicles and engines; and*

1 (ii) update those models as the Adminis-
2 trator determines to be appropriate; and

3 (B)(i) commence a review of the emission
4 reductions achieved by the use of idle reduction
5 technology; and

6 (ii) complete such revisions of the regula-
7 tions and guidance of the Environmental Protec-
8 tion Agency as the Administrator determines to
9 be appropriate.

10 (2) *DEADLINE FOR COMPLETION.*—Not later
11 than 180 days after the date of enactment of this Act,
12 the Administrator shall—

13 (A) complete the reviews under subpara-
14 graphs (A)(i) and (B)(i) of paragraph (1); and

15 (B) prepare and make publicly available 1
16 or more reports on the results of the reviews.

17 (3) *DISCRETIONARY INCLUSIONS.*—The reviews
18 under subparagraphs (A)(i) and (B)(i) of paragraph
19 (1) and the reports under paragraph (2)(B) may ad-
20 dress the potential fuel savings resulting from use of
21 idle reduction technology.

22 (4) *IDLE REDUCTION DEPLOYMENT PROGRAM.*—

23 (A) *ESTABLISHMENT.*—

24 (i) *IN GENERAL.*—Not later than 90
25 days after the date of enactment of this Act,

1 *the Administrator, in consultation with the*
2 *Secretary of Transportation, shall establish*
3 *a program to support deployment of idle re-*
4 *duction technology.*

5 *(ii) PRIORITY.—The Administrator*
6 *shall give priority to the deployment of idle*
7 *reduction technology based on beneficial ef-*
8 *fects on air quality and ability to lessen the*
9 *emission of criteria air pollutants.*

10 *(B) FUNDING.—*

11 *(i) AUTHORIZATION OF APPROPRIA-*
12 *TIONS.—There are authorized to be appro-*
13 *priated to the Administrator to carry out*
14 *subparagraph (A)—*

15 *(I) \$19,500,000 for fiscal year*
16 *2006;*

17 *(II) \$30,000,000 for fiscal year*
18 *2007; and*

19 *(III) \$45,000,000 for fiscal year*
20 *2008.*

21 *(ii) COST SHARING.—Subject to clause*
22 *(iii), the Administrator shall require at*
23 *least 50 percent of the costs directly and*
24 *specifically related to any project under this*

1 *section to be provided from non-Federal*
2 *sources.*

3 *(iii) NECESSARY AND APPROPRIATE*
4 *REDUCTIONS.—The Administrator may re-*
5 *duce the non-Federal requirement under*
6 *clause (ii) if the Administrator determines*
7 *that the reduction is necessary and appro-*
8 *priate to meet the objectives of this section.*

9 *(5) IDLING LOCATION STUDY.—*

10 *(A) IN GENERAL.—Not later than 90 days*
11 *after the date of enactment of this Act, the Ad-*
12 *ministrator, in consultation with the Secretary*
13 *of Transportation, shall commence a study to*
14 *analyze all locations at which heavy-duty vehi-*
15 *cles stop for long-duration idling, including—*

16 *(i) truck stops;*

17 *(ii) rest areas;*

18 *(iii) border crossings;*

19 *(iv) ports;*

20 *(v) transfer facilities; and*

21 *(vi) private terminals.*

22 *(B) DEADLINE FOR COMPLETION.—Not*
23 *later than 180 days after the date of enactment*
24 *of this Act, the Administrator shall—*

1 (i) complete the study under subpara-
2 graph (A); and

3 (ii) prepare and make publicly avail-
4 able 1 or more reports of the results of the
5 study.

6 (c) *VEHICLE WEIGHT EXEMPTION.*—Section 127(a) of
7 *title 23, United States Code, is amended—*

8 (1) by designating the first through eleventh sen-
9 tences as paragraphs (1) through (11), respectively;
10 and

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

12 “(12) *HEAVY DUTY VEHICLES.*—

13 “(A) *IN GENERAL.*—Subject to subpara-
14 graphs (B) and (C), in order to promote reduc-
15 tion of fuel use and emissions because of engine
16 idling, the maximum gross vehicle weight limit
17 and the axle weight limit for any heavy-duty ve-
18 hicle equipped with an idle reduction technology
19 shall be increased by a quantity necessary to
20 compensate for the additional weight of the idle
21 reduction system.

22 “(B) *MAXIMUM WEIGHT INCREASE.*—The
23 weight increase under subparagraph (A) shall be
24 not greater than 250 pounds.

1 “(C) *PROOF*.—On request by a regulatory
2 agency or law enforcement agency, the vehicle
3 operator shall provide proof (through demonstra-
4 tion or certification) that—

5 “(i) the idle reduction technology is
6 fully functional at all times; and

7 “(ii) the 250-pound gross weight in-
8 crease is not used for any purpose other
9 than the use of idle reduction technology de-
10 scribed in subparagraph (A).”.

11 **SEC. 734. BIODIESEL ENGINE TESTING PROJECT.**

12 (a) *DEFINITION OF BIODIESEL*.—In this section, the
13 term “biodiesel” means a diesel fuel substitute produced
14 from nonpetroleum renewable resources that meets—

15 (1) the registration requirements for fuels and
16 fuel additives established under section 211 of the
17 Clean Air Act (42 U.S.C. 7545); and

18 (2) the American Society for Testing and Mate-
19 rials Standard D6751–02a “Standard Specification
20 for Biodiesel Fuel (B100) Blend Stock for Distillate
21 Fuels”.

22 (b) *PROGRAM*.—Not later than 180 days after the date
23 of enactment of this Act, the Secretary shall initiate a
24 project, in partnership with diesel engine, diesel fuel injec-
25 tion system, and diesel vehicle manufacturers and diesel

1 *and biodiesel fuel providers, to provide biodiesel testing in*
2 *advanced diesel engine and fuel system technology.*

3 (c) *SCOPE.*—*The project shall provide for testing to de-*
4 *termine the impact of biodiesel on current and future emis-*
5 *sion control technologies, with emphasis on—*

6 (1) *the impact of biodiesel on emissions war-*
7 *ranty, in-use liability, and anti-tampering provi-*
8 *sions;*

9 (2) *the impact of long-term use of biodiesel on*
10 *engine operations;*

11 (3) *the options for optimizing those technologies*
12 *for both emissions and performance when switching*
13 *between biodiesel and diesel fuel; and*

14 (4) *the impact of using biodiesel in those fueling*
15 *systems and engines when used as a blend with diesel*
16 *fuel containing a maximum of 15-parts-per-million*
17 *sulfur content, as mandated by the Administrator of*
18 *the Environmental Protection Agency during 2006.*

19 (d) *REPORT.*—*Not later than 2 years after the date*
20 *of enactment of this Act, the Secretary shall submit to Con-*
21 *gress a report on the results of the project, including—*

22 (1) *a comprehensive analysis of impacts from*
23 *biodiesel on engine operation for both existing and ex-*
24 *pected future diesel technologies; and*

1 (2) *recommendations for ensuring optimal emis-*
2 *sions reductions and engine performance with bio-*
3 *diesel.*

4 (e) *AUTHORIZATION OF APPROPRIATIONS.—There is*
5 *authorized to be appropriated to carry out this section*
6 *\$5,000,000 for each of fiscal years 2006 through 2008.*

7 **SEC. 735. INVESTIGATION OF GASOLINE PRICES.**

8 (a) *INVESTIGATION.—Not later than 90 days after the*
9 *date of enactment of this Act, the Federal Trade Commis-*
10 *sion shall conduct an investigation to determine if the price*
11 *of gasoline is being artificially manipulated by reducing*
12 *refinery capacity or by any other form of market manipula-*
13 *tion or price gouging practices.*

14 (b) *EVALUATION AND ANALYSIS.—The Secretary shall*
15 *direct the National Petroleum Council to conduct an eval-*
16 *uation and analysis to determine whether, and to what ex-*
17 *tent, environmental and other regulations affect new domes-*
18 *tic refinery construction and significant expansion of exist-*
19 *ing refinery capacity.*

20 (c) *REPORTS TO CONGRESS.—*

21 (1) *INVESTIGATION.—On completion of the inves-*
22 *tigation under subsection (a), the Federal Trade Com-*
23 *mission shall submit to Congress a report that*
24 *describes—*

25 (A) *the results of the investigation; and*

1 (B) any recommendations of the Federal
2 Trade Commission.

3 (2) *EVALUATION AND ANALYSIS.*—On completion
4 of the evaluation and analysis under subsection (b),
5 the Secretary shall submit to Congress a report that
6 describes—

7 (A) the results of the evaluation and anal-
8 ysis; and

9 (B) any recommendations of the National
10 Petroleum Council.

11 ***Subtitle D—Federal and State***
12 ***Procurement***

13 ***SEC. 741. DEFINITIONS.***

14 *In this subtitle:*

15 (1) *DEPARTMENT.*—The term “Department”
16 means the Department of Energy.

17 (2) *FUEL CELL.*—The term “fuel cell” means a
18 device that directly converts the chemical energy of a
19 fuel and an oxidant into electricity by electrochemical
20 processes occurring at separate electrodes in the de-
21 vice.

22 (3) *SECRETARY.*—The term “Secretary” means
23 the Secretary of Energy.

1 (4) *STATIONARY; PORTABLE.*—*The terms “sta-*
2 *tionary” and “portable”, when used in reference to a*
3 *fuel cell, include—*

4 (A) *continuous electric power; and*

5 (B) *backup electric power.*

6 (5) *TASK FORCE.*—*The term “Task Force”*
7 *means the Hydrogen and Fuel Cell Technical Task*
8 *Force established under section 102(a) of the Spark*
9 *M. Matsunaga Hydrogen Research, Development, and*
10 *Demonstration Act of 1990 (as amended by section*
11 *801).*

12 (6) *TECHNICAL ADVISORY COMMITTEE.*—*The*
13 *term “Technical Advisory Committee” means the*
14 *independent Technical Advisory Committee selected*
15 *under section 102(d) of the Spark M. Matsunaga Hy-*
16 *drogen Research, Development, and Demonstration*
17 *Act of 1990 (as added by section 801).*

18 **SEC. 742. FEDERAL AND STATE PROCUREMENT OF FUEL**
19 **CELL VEHICLES AND HYDROGEN ENERGY**
20 **SYSTEMS.**

21 (a) *PURPOSES.*—*The purposes of this section are—*

22 (1) *to stimulate acceptance by the market of fuel*
23 *cell vehicles and hydrogen energy systems;*

1 (2) *to support development of technologies relat-*
2 *ing to fuel cell vehicles, public refueling stations, and*
3 *hydrogen energy systems; and*

4 (3) *to require the Federal government, which is*
5 *the largest single user of energy in the United States,*
6 *to adopt those technologies as soon as practicable after*
7 *the technologies are developed, in conjunction with*
8 *private industry partners.*

9 **(b) FEDERAL LEASES AND PURCHASES.—**

10 **(1) REQUIREMENT.—**

11 **(A) IN GENERAL.—***Not later than January*
12 *1, 2010, the head of any Federal agency that*
13 *uses a light-duty or heavy-duty vehicle fleet shall*
14 *lease or purchase fuel cell vehicles and hydrogen*
15 *energy systems to meet any applicable energy*
16 *savings goal described in subsection (c).*

17 **(B) LEARNING DEMONSTRATION VEHI-**
18 **CLES.—***The Secretary may lease or purchase ap-*
19 *propriate vehicles developed under section 201 of*
20 *the Spark M. Matsunaga Hydrogen Research,*
21 *Development, and Demonstration Act of 1990 (as*
22 *added by section 801) to meet the requirement in*
23 *subparagraph (A).*

24 **(2) COSTS OF LEASES AND PURCHASES.—**

1 (A) *IN GENERAL.*—*The Secretary, in co-*
2 *operation with the Task Force and the Technical*
3 *Advisory Committee, shall pay to Federal agen-*
4 *cies (or share the cost under interagency agree-*
5 *ments) the difference in cost between—*

6 *(i) the cost to the agencies of leasing or*
7 *purchasing fuel cell vehicles and hydrogen*
8 *energy systems under paragraph (1); and*

9 *(ii) the cost to the agencies of a feasible*
10 *alternative to leasing or purchasing fuel cell*
11 *vehicles and hydrogen energy systems, as*
12 *determined by the Secretary.*

13 (B) *COMPETITIVE COSTS AND MANAGEMENT*
14 *STRUCTURES.*—*In carrying out subparagraph*
15 *(A), the Secretary, in consultation with the agen-*
16 *cy, may use the General Services Administration*
17 *or any commercial vendor to ensure—*

18 *(i) a cost-effective purchase of a fuel*
19 *cell vehicle or hydrogen energy system; or*

20 *(ii) a cost-effective management struc-*
21 *ture of the lease of a fuel cell vehicle or hy-*
22 *drogen energy system.*

23 (3) *EXCEPTION.*—

24 (A) *IN GENERAL.*—*If the Secretary deter-*
25 *mines that the head of an agency described in*

1 *paragraph (1) cannot find an appropriately effi-*
2 *cient and reliable fuel cell vehicle or hydrogen*
3 *energy system in accordance with paragraph (1),*
4 *that agency shall be excepted from compliance*
5 *with paragraph (1).*

6 *(B) CONSIDERATION.—In making a deter-*
7 *mination under subparagraph (A), the Secretary*
8 *shall consider—*

9 *(i) the needs of the agency; and*

10 *(ii) an evaluation performed by—*

11 *(I) the Task Force; or*

12 *(II) the Technical Advisory Com-*
13 *mittee.*

14 *(c) ENERGY SAVINGS GOALS.—*

15 *(1) IN GENERAL.—*

16 *(A) REGULATIONS.—Not later than Decem-*
17 *ber 31, 2006, the Secretary shall—*

18 *(i) in cooperation with the Task Force,*
19 *promulgate regulations for the period of*
20 *2008 through 2010 that extend and aug-*
21 *ment energy savings goals for each Federal*
22 *agency, in accordance with any Executive*
23 *order issued after March 2000; and*

24 *(ii) promulgate regulations to expand*
25 *the minimum Federal fleet requirement and*

1 *credit allowances for fuel cell vehicle systems*
2 *under section 303 of the Energy Policy Act*
3 *of 1992 (42 U.S.C. 13212).*

4 *(B) REVIEW, EVALUATION, AND NEW REGU-*
5 *LATIONS.—Not later than December 31, 2010, the*
6 *Secretary shall—*

7 *(i) review the regulations promulgated*
8 *under subparagraph (A);*

9 *(ii) evaluate any progress made toward*
10 *achieving energy savings by Federal agen-*
11 *cies; and*

12 *(iii) promulgate new regulations for*
13 *the period of 2011 through 2015 to achieve*
14 *additional energy savings by Federal agen-*
15 *cies relating to technical and cost-perform-*
16 *ance standards.*

17 *(2) OFFSETTING ENERGY SAVINGS GOALS.—An*
18 *agency that leases or purchases a fuel cell vehicle or*
19 *hydrogen energy system in accordance with subsection*
20 *(b)(1) may use that lease or purchase to count toward*
21 *an energy savings goal of the agency.*

22 *(d) COOPERATIVE PROGRAM WITH STATE AGEN-*
23 *CIES.—*

24 *(1) IN GENERAL.—The Secretary may establish a*
25 *cooperative program with State agencies managing*

1 *motor vehicle fleets to encourage purchase of fuel cell*
2 *vehicles by the agencies.*

3 (2) *INCENTIVES.*—*In carrying out the coopera-*
4 *tive program, the Secretary may offer incentive pay-*
5 *ments to a State agency to assist with the cost of*
6 *planning, differential purchases, and administration.*

7 (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
8 *authorized to be appropriated to carry out this section—*

9 (1) *\$15,000,000 for fiscal year 2008;*

10 (2) *\$25,000,000 for fiscal year 2009;*

11 (3) *\$65,000,000 for fiscal year 2010; and*

12 (4) *such sums as are necessary for each of fiscal*
13 *years 2011 through 2015.*

14 **SEC. 743. FEDERAL PROCUREMENT OF STATIONARY, PORT-**
15 **ABLE, AND MICRO FUEL CELLS.**

16 (a) *PURPOSES.*—*The purposes of this section are—*

17 (1) *to stimulate acceptance by the market of sta-*
18 *tionary, portable, and micro fuel cells; and*

19 (2) *to support development of technologies relat-*
20 *ing to stationary, portable, and micro fuel cells.*

21 (b) *FEDERAL LEASES AND PURCHASES.*—

22 (1) *IN GENERAL.*—*Not later than January 1,*
23 *2006, the head of any Federal agency that uses elec-*
24 *trical power from stationary, portable, or microport-*
25 *able devices shall lease or purchase a stationary, port-*

1 *able, or micro fuel cell to meet any applicable energy*
2 *savings goal described in subsection (c).*

3 (2) *COSTS OF LEASES AND PURCHASES.—*

4 (A) *IN GENERAL.—The Secretary, in co-*
5 *operation with the Task Force and the Technical*
6 *Advisory Committee, shall pay the cost to Fed-*
7 *eral agencies (or share the cost under interagency*
8 *agreements) of leasing or purchasing stationary,*
9 *portable, and micro fuel cells under paragraph*
10 *(1).*

11 (B) *COMPETITIVE COSTS AND MANAGEMENT*
12 *STRUCTURES.—In carrying out subparagraph*
13 *(A), the Secretary, in consultation with the agen-*
14 *cy, may use the General Services Administration*
15 *or any commercial vendor to ensure—*

16 (i) *a cost-effective purchase of a sta-*
17 *tionary, portable, or micro fuel cell; or*

18 (ii) *a cost-effective management struc-*
19 *ture of the lease of a stationary, portable, or*
20 *micro fuel cell.*

21 (3) *EXCEPTION.—*

22 (A) *IN GENERAL.—If the Secretary deter-*
23 *mines that the head of an agency described in*
24 *paragraph (1) cannot find an appropriately effi-*
25 *cient and reliable stationary, portable, or micro*

1 *fuel cell in accordance with paragraph (1), that*
2 *agency shall be excepted from compliance with*
3 *paragraph (1).*

4 *(B) CONSIDERATION.—In making a deter-*
5 *mination under subparagraph (A), the Secretary*
6 *shall consider—*

7 *(i) the needs of the agency; and*

8 *(ii) an evaluation performed by—*

9 *(I) the Task Force; or*

10 *(II) the Technical Advisory Com-*
11 *mittee of the Task Force.*

12 *(c) ENERGY SAVINGS GOALS.—An agency that leases*
13 *or purchases a stationary, portable, or micro fuel cell in*
14 *accordance with subsection (b)(1) may use that lease or pur-*
15 *chase to count toward an energy savings goal described in*
16 *section 732(c)(1) that is applicable to the agency.*

17 *(d) AUTHORIZATION OF APPROPRIATIONS.—There is*
18 *authorized to be appropriated to carry out this section—*

19 *(1) \$20,000,000 for fiscal year 2006;*

20 *(2) \$50,000,000 for fiscal year 2007;*

21 *(3) \$75,000,000 for fiscal year 2008;*

22 *(4) \$100,000,000 for fiscal year 2009;*

23 *(5) \$100,000,000 for fiscal year 2010; and*

24 *(6) such sums as are necessary for each of fiscal*
25 *years 2011 through 2015.*

1 **Subtitle E—Diesel Emissions**
2 **Reduction**

3 **SEC. 751. DEFINITIONS.**

4 *In this subtitle:*

5 (1) *ADMINISTRATOR.*—*The term “Adminis-*
6 *trator” means the Administrator of the Environ-*
7 *mental Protection Agency.*

8 (2) *CERTIFIED ENGINE CONFIGURATION.*—*The*
9 *term “certified engine configuration” means a new,*
10 *rebuilt, or remanufactured engine configuration—*

11 (A) *that has been certified or verified by—*

12 (i) *the Administrator; or*

13 (ii) *the California Air Resources*
14 *Board;*

15 (B) *that meets or is rebuilt or remanufac-*
16 *tured to a more stringent set of engine emission*
17 *standards, as determined by the Administrator;*
18 *and*

19 (C) *in the case of a certified engine configu-*
20 *ration involving the replacement of an existing*
21 *engine or vehicle, an engine configuration that*
22 *replaced an engine that was—*

23 (i) *removed from the vehicle; and*

24 (ii) *returned to the supplier for re-*
25 *manufacturing to a more stringent set of*

1 *engine emissions standards or for*
2 *scrappage.*

3 (3) *ELIGIBLE ENTITY.*—*The term “eligible enti-*
4 *ty” means—*

5 (A) *a regional, State, local, or tribal agency*
6 *with jurisdiction over transportation or air*
7 *quality; and*

8 (B) *a nonprofit organization or institution*
9 *that—*

10 (i) *represents organizations that own*
11 *or operate diesel fleets; or*

12 (ii) *has, as its principal purpose, the*
13 *promotion of transportation or air quality.*

14 (4) *EMERGING TECHNOLOGY.*—*The term “emerg-*
15 *ing technology” means a technology that is not cer-*
16 *tified or verified by the Administrator or the Cali-*
17 *formia Air Resources Board but for which an approv-*
18 *able application and test plan has been submitted for*
19 *verification to the Administrator or the California*
20 *Air Resources Board.*

21 (5) *HEAVY-DUTY TRUCK.*—*The term “heavy-duty*
22 *truck” has the meaning given the term “heavy duty*
23 *vehicle” in section 202 of the Clean Air Act (42*
24 *U.S.C. 7521).*

1 (6) *MEDIUM-DUTY TRUCK*.—The term “medium-
2 duty truck” has such meaning as shall be determined
3 by the Administrator, by regulation.

4 (7) *VERIFIED TECHNOLOGY*.—The term “verified
5 technology” means a pollution control technology, in-
6 cluding a retrofit technology, that has been verified
7 by—

8 (A) the Administrator; or

9 (B) the California Air Resources Board.

10 **SEC. 752. NATIONAL GRANT AND LOAN PROGRAMS.**

11 (a) *IN GENERAL*.—The Administrator shall use 70
12 percent of the funds made available to carry out this subtitle
13 for each fiscal year to provide grants and low-cost revolving
14 loans, as determined by the Administrator, on a competitive
15 basis, to eligible entities to achieve significant reductions
16 in diesel emissions in terms of—

17 (1) tons of pollution produced; and

18 (2) diesel emissions exposure, particularly from
19 fleets operating in areas designated by the Adminis-
20 trator as poor air quality areas.

21 (b) *DISTRIBUTION*.—

22 (1) *IN GENERAL*.—The Administrator shall dis-
23 tribute funds made available for a fiscal year under
24 this subtitle in accordance with this section.

1 (2) *FLEETS.*—*The Administrator shall provide*
2 *not less than 50 percent of funds available for a fiscal*
3 *year under this section to eligible entities for the ben-*
4 *efit of public fleets.*

5 (3) *ENGINE CONFIGURATIONS AND TECH-*
6 *NOLOGIES.*—

7 (A) *CERTIFIED ENGINE CONFIGURATIONS*
8 *AND VERIFIED TECHNOLOGIES.*—*The Adminis-*
9 *trator shall provide not less than 90 percent of*
10 *funds available for a fiscal year under this sec-*
11 *tion to eligible entities for projects using—*

12 (i) *a certified engine configuration; or*

13 (ii) *a verified technology.*

14 (B) *EMERGING TECHNOLOGIES.*—

15 (i) *IN GENERAL.*—*The Administrator*
16 *shall provide not more than 10 percent of*
17 *funds available for a fiscal year under this*
18 *section to eligible entities for the develop-*
19 *ment and commercialization of emerging*
20 *technologies.*

21 (ii) *APPLICATION AND TEST PLAN.*—*To*
22 *receive funds under clause (i), a manufac-*
23 *turer, in consultation with an eligible enti-*
24 *ty, shall submit for verification to the Ad-*
25 *ministrator or the California Air Resources*

1 *Board a test plan for the emerging tech-*
2 *nology, together with the application under*
3 *subsection (c).*

4 *(c) APPLICATIONS.—*

5 *(1) IN GENERAL.—To receive a grant or loan*
6 *under this section, an eligible entity shall submit to*
7 *the Administrator an application at a time, in a*
8 *manner, and including such information as the Ad-*
9 *ministrator may require.*

10 *(2) INCLUSIONS.—An application under this*
11 *subsection shall include—*

12 *(A) a description of the air quality of the*
13 *area served by the eligible entity;*

14 *(B) the quantity of air pollution produced*
15 *by the diesel fleet in the area served by the eligi-*
16 *ble entity;*

17 *(C) a description of the project proposed by*
18 *the eligible entity, including—*

19 *(i) any certified engine configuration,*
20 *verified technology, or emerging technology*
21 *to be used by the eligible entity; and*

22 *(ii) the means by which the project will*
23 *achieve a significant reduction in diesel*
24 *emissions;*

1 (D) an evaluation (using methodology ap-
2 proved by the Administrator or the National
3 Academy of Sciences) of the quantifiable and
4 unquantifiable benefits of the emissions reduc-
5 tions of the proposed project;

6 (E) an estimate of the cost of the proposed
7 project;

8 (F) a description of the age and expected
9 lifetime control of the equipment used by the eli-
10 gible entity;

11 (G) a description of the diesel fuel available
12 to the eligible entity, including the sulfur content
13 of the fuel; and

14 (H) provisions for the monitoring and
15 verification of the project.

16 (3) *PRIORITY.*—In providing a grant or loan
17 under this section, the Administrator shall give pri-
18 ority to proposed projects that, as determined by the
19 Administrator—

20 (A) maximize public health benefits;

21 (B) are the most cost-effective;

22 (C) serve areas—

23 (i) with the highest population density;

1 (ii) that are poor air quality areas, in-
2 cluding areas identified by the Adminis-
3 trator as—

4 (I) in nonattainment or mainte-
5 nance of national ambient air quality
6 standards for a criteria pollutant;

7 (II) Federal Class I areas; or

8 (III) areas with toxic air pollut-
9 ant concerns;

10 (iii) that receive a disproportionate
11 quantity of air pollution from a diesel fleet,
12 including ports, rail yards, and distribu-
13 tion centers; or

14 (iv) that use a community-based multi-
15 stakeholder collaborative process to reduce
16 toxic emissions;

17 (D) include a certified engine configuration,
18 verified technology, or emerging technology that
19 has a long expected useful life;

20 (E) will maximize the useful life of any ret-
21 rofit technology used by the eligible entity; and

22 (F) use diesel fuel with a sulfur content of
23 less than or equal to 15 parts per million, as the
24 Administrator determines to be appropriate.

25 (d) USE OF FUNDS.—

1 (1) *IN GENERAL.*—*An eligible entity may use a*
2 *grant or loan provided under this section to fund the*
3 *costs of—*

4 (A) *a retrofit technology (including any in-*
5 *cremental costs of a repowered or new diesel en-*
6 *gine) that significantly reduces emissions*
7 *through development and implementation of a*
8 *certified engine configuration, verified tech-*
9 *nology, or emerging technology for—*

10 (i) *a bus;*

11 (ii) *a medium-duty truck or a heavy-*
12 *duty truck;*

13 (iii) *a marine engine;*

14 (iv) *a locomotive; or*

15 (v) *a nonroad engine or vehicle used*
16 *in—*

17 (I) *construction;*

18 (II) *handling of cargo (including*
19 *at a port or airport);*

20 (III) *agriculture;*

21 (IV) *mining; or*

22 (V) *energy production; or*

23 (B) *an idle-reduction program involving a*
24 *vehicle or equipment described in subparagraph*
25 *(A).*

1 (2) *REGULATORY PROGRAMS.*—

2 (A) *IN GENERAL.*—Notwithstanding para-
3 graph (1), no grant or loan provided under this
4 section shall be used to fund the costs of emis-
5 sions reductions that are mandated under Fed-
6 eral, State or local law.

7 (B) *MANDATED.*—For purposes of subpara-
8 graph (A), voluntary or elective emission reduc-
9 tion measures shall not be considered “man-
10 dated”, regardless of whether the reductions are
11 included in the State implementation plan of a
12 State.

13 **SEC. 753. STATE GRANT AND LOAN PROGRAMS.**

14 (a) *IN GENERAL.*—Subject to the availability of ade-
15 quate appropriations, the Administrator shall use 30 per-
16 cent of the funds made available for a fiscal year under
17 this subtitle to support grant and loan programs adminis-
18 tered by States that are designed to achieve significant re-
19 ductions in diesel emissions.

20 (b) *APPLICATIONS.*—The Administrator shall—

21 (1) provide to States guidance for use in apply-
22 ing for grant or loan funds under this section, includ-
23 ing information regarding—

24 (A) the process and forms for applications;

25 (B) permissible uses of funds received; and

1 (C) the cost-effectiveness of various emission
2 reduction technologies eligible to be carried out
3 using funds provided under this section; and

4 (2) establish, for applications described in para-
5 graph (1)—

6 (A) an annual deadline for submission of
7 the applications;

8 (B) a process by which the Administrator
9 shall approve or disapprove each application;
10 and

11 (C) a streamlined process by which a State
12 may renew an application described in para-
13 graph (1) for subsequent fiscal years.

14 (c) ALLOCATION OF FUNDS.—

15 (1) IN GENERAL.—For each fiscal year, the Ad-
16 ministrator shall allocate among States for which ap-
17 plications are approved by the Administrator under
18 subsection (b)(2)(B) funds made available to carry
19 out this section for the fiscal year.

20 (2) ALLOCATION.—Using not more than 20 per-
21 cent of the funds made available to carry out this sub-
22 title for a fiscal year, the Administrator shall provide
23 to each State described in paragraph (1) for the fiscal
24 year an allocation of funds that is equal to—

1 (A) if each of the 50 States qualifies for an
2 allocation, an amount equal to 2 percent of the
3 funds made available to carry out this section; or

4 (B) if fewer than 50 States qualifies for an
5 allocation, an amount equal to the amount de-
6 scribed in subparagraph (A), plus an additional
7 amount equal to the product obtained by
8 multiplying—

9 (i) the proportion that—

10 (I) the population of the State;

11 bears to

12 (II) the population of all States

13 described in paragraph (1); by

14 (ii) the amount of funds remaining

15 after each State described in paragraph (1)

16 receives the 2-percent allocation under this

17 paragraph.

18 (3) STATE MATCHING INCENTIVE.—

19 (A) IN GENERAL.—If a State agrees to
20 match the allocation provided to the State under
21 paragraph (2) for a fiscal year, the Adminis-
22 trator shall provide to the State for the fiscal
23 year an additional amount equal to 50 percent
24 of the allocation of the State under paragraph
25 (2).

1 (B) *REQUIREMENTS.—A State—*

2 (i) *may not use funds received under*
3 *this subtitle to pay a matching share re-*
4 *quired under this subsection; and*

5 (ii) *shall not be required to provide a*
6 *matching share for any additional amount*
7 *received under subparagraph (A).*

8 (4) *UNCLAIMED FUNDS.—Any funds that are not*
9 *claimed by a State for a fiscal year under this sub-*
10 *section shall be used to carry out section 742.*

11 (d) *ADMINISTRATION.—*

12 (1) *IN GENERAL.—Subject to paragraphs (2) and*
13 *(3) and, to the extent practicable, the priority areas*
14 *listed in section 742(c)(3), a State shall use any funds*
15 *provided under this section to develop and implement*
16 *such grant and low-cost revolving loan programs in*
17 *the State as are appropriate to meet State needs and*
18 *goals relating to the reduction of diesel emissions.*

19 (2) *APPORTIONMENT OF FUNDS.—The Governor*
20 *of a State that receives funding under this section*
21 *may determine the portion of funds to be provided as*
22 *grants or loans.*

23 (3) *USE OF FUNDS.—A grant or loan provided*
24 *under this section may be used for a project relating*
25 *to—*

1 (A) a certified engine configuration; or

2 (B) a verified technology.

3 **SEC. 754. EVALUATION AND REPORT.**

4 (a) *IN GENERAL.*—Not later than 2 years after the
5 date of enactment of this Act, and biennially thereafter, the
6 Administrator shall submit to Congress a report evaluating
7 the implementation of the programs under this subtitle.

8 (b) *INCLUSIONS.*—The report shall include a descrip-
9 tion of—

10 (1) the total number of grant applications re-
11 ceived;

12 (2) each grant or loan made under this subtitle,
13 including the amount of the grant or loan;

14 (3) each project for which a grant or loan is pro-
15 vided under this subtitle, including the criteria used
16 to select the grant or loan recipients;

17 (4) the estimated air quality benefits, cost-effec-
18 tiveness, and cost-benefits of the grant and loan pro-
19 grams under this subtitle;

20 (5) the problems encountered by projects for
21 which a grant or loan is provided under this subtitle;
22 and

23 (6) any other information the Administrator
24 considers to be appropriate.

1 **SEC. 755. OUTREACH AND INCENTIVES.**

2 (a) *DEFINITION OF ELIGIBLE TECHNOLOGY.*—*In this*
3 *section, the term “eligible technology” means—*

4 (1) *a verified technology; or*

5 (2) *an emerging technology.*

6 (b) *TECHNOLOGY TRANSFER PROGRAM.*—

7 (1) *IN GENERAL.*—*The Administrator shall es-*
8 *tablish a program under which the Administrator—*

9 (A) *informs stakeholders of the benefits of el-*
10 *igible technologies; and*

11 (B) *develops nonfinancial incentives to pro-*
12 *mote the use of eligible technologies.*

13 (2) *ELIGIBLE STAKEHOLDERS.*—*Eligible stake-*
14 *holders under this section include—*

15 (A) *equipment owners and operators;*

16 (B) *emission control technology manufac-*
17 *turers;*

18 (C) *engine and equipment manufacturers;*

19 (D) *State and local officials responsible for*
20 *air quality management;*

21 (E) *community organizations; and*

22 (F) *public health and environmental orga-*
23 *nizations.*

24 (c) *STATE IMPLEMENTATION PLANS.*—*The Adminis-*
25 *trator shall develop appropriate guidance to provide credit*
26 *to a State for emission reductions in the State created by*

1 *the use of eligible technologies through a State implementa-*
2 *tion plan under section 110 of the Clean Air Act (42 U.S.C.*
3 *7410).*

4 (d) *INTERNATIONAL MARKETS.—The Administrator,*
5 *in coordination with the Department of Commerce and in-*
6 *dustry stakeholders, shall inform foreign countries with air*
7 *quality problems of the potential of technology developed or*
8 *used in the United States to provide emission reductions*
9 *in those countries.*

10 **SEC. 756. EFFECT OF SUBTITLE.**

11 *Nothing in this subtitle affects any authority under the*
12 *Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the*
13 *day before the date of enactment of this Act.*

14 **SEC. 757. AUTHORIZATION OF APPROPRIATIONS.**

15 *There is authorized to be appropriated to carry out*
16 *this subtitle \$200,000,000 for each of fiscal years 2006*
17 *through 2010, to remain available until expended.*

18 **TITLE VIII—HYDROGEN**

19 **SEC. 801. HYDROGEN RESEARCH, DEVELOPMENT, AND DEM-**
20 **ONSTRATION.**

21 *The Spark M. Matsunaga Hydrogen Research, Devel-*
22 *opment, and Demonstration Act of 1990 (42 U.S.C. 12401*
23 *et seq.) is amended to read as follows:*

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

2 “(a) *SHORT TITLE.*—*This Act may be cited as the*
 3 *‘Spark M. Matsunaga Hydrogen Research, Development,*
 4 *and Demonstration Act of 1990’.*

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

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

“Sec. 2. Purposes.

“Sec. 3. Definitions.

“TITLE I—HYDROGEN AND FUEL CELLS

“Sec. 101. Hydrogen and fuel cell technology research and development.

“Sec. 102. Task Force.

“Sec. 103. Technology transfer.

“Sec. 104. Authorization of appropriations.

“TITLE II—HYDROGEN AND FUEL CELL DEMONSTRATION

“Sec. 201. Hydrogen Supply and Fuel Cell Demonstration Program.

“Sec. 202. Authorization of appropriations.

“TITLE III—REGULATORY MANAGEMENT

“Sec. 301. Codes and standards.

“Sec. 302. Disclosure.

“Sec. 303. Authorization of appropriations.

“TITLE IV—REPORTS

“Sec. 401. Deployment of hydrogen technology.

“Sec. 402. Authorization of appropriations.

“TITLE V—TERMINATION OF AUTHORITY

“Sec. 501. Termination of authority.

7 **“SEC. 2. PURPOSES.**

8 *“The purposes of this Act are—*

9 *“(1) to enable and promote comprehensive devel-*
 10 *opment, demonstration, and commercialization of hy-*
 11 *drogen and fuel cell technology in partnership with*
 12 *industry;*

1 “(2) to make critical public investments in
2 building strong links to private industry, institutions
3 of higher education, National Laboratories, and re-
4 search institutions to expand innovation and indus-
5 trial growth;

6 “(3) to build a mature hydrogen economy that
7 creates fuel diversity in the massive transportation
8 sector of the United States;

9 “(4) to sharply decrease the dependency of the
10 United States on imported oil, eliminate most emis-
11 sions from the transportation sector, and greatly en-
12 hance our energy security; and

13 “(5) to create, strengthen, and protect a sustain-
14 able national energy economy.

15 **“SEC. 3. DEFINITIONS.**

16 *“In this Act:*

17 “(1) *DEPARTMENT.*—The term ‘Department’
18 means the Department of Energy.

19 “(2) *FUEL CELL.*—The term ‘fuel cell’ means a
20 device that directly converts the chemical energy of a
21 fuel, which is supplied from an external source, and
22 an oxidant into electricity by electrochemical proc-
23 esses occurring at separate electrodes in the device.

24 “(3) *HEAVY-DUTY VEHICLE.*—The term ‘heavy-
25 duty vehicle’ means a motor vehicle that—

1 “(A) is rated at more than 8,500 pounds
2 gross vehicle weight;

3 “(B) has a curb weight of more than 6,000
4 pounds; or

5 “(C) has a basic vehicle frontal area in ex-
6 cess of 45 square feet.

7 “(4) *INFRASTRUCTURE*.—The term ‘infrastruc-
8 ture’ means the equipment, systems, or facilities used
9 to produce, distribute, deliver, or store hydrogen (ex-
10 cept for onboard storage).

11 “(5) *LIGHT-DUTY VEHICLE*.—The term ‘light-
12 duty vehicle’ means a motor vehicle that is rated at
13 8,500 or less pounds gross vehicle weight.

14 “(6) *SECRETARY*.—The term ‘Secretary’ means
15 the Secretary of Energy.

16 “(7) *STATIONARY; PORTABLE*.—The terms ‘sta-
17 tionary’ and ‘portable’, when used in reference to a
18 fuel cell, include—

19 “(A) continuous electric power; and

20 “(B) backup electric power.

21 “(8) *TASK FORCE*.—The term ‘Task Force’
22 means the Hydrogen and Fuel Cell Technical Task
23 Force established under section 102(a).

24 “(9) *TECHNICAL ADVISORY COMMITTEE*.—The
25 term ‘Technical Advisory Committee’ means the inde-

1 *pendent Technical Advisory Committee of the Task*
2 *Force selected under section 102(d).*

3 **“TITLE I—HYDROGEN AND FUEL**
4 **CELLS**

5 **“SEC. 101. HYDROGEN AND FUEL CELL TECHNOLOGY RE-**
6 **SEARCH AND DEVELOPMENT.**

7 *“(a) IN GENERAL.—The Secretary, in consultation*
8 *with other Federal agencies and the private sector, shall*
9 *conduct a research and development program on tech-*
10 *nologies relating to the production, purification, distribu-*
11 *tion, storage, and use of hydrogen energy, fuel cells, and*
12 *related infrastructure.*

13 *“(b) GOAL.—The goal of the program shall be to dem-*
14 *onstrate and commercialize the use of hydrogen for trans-*
15 *portation (in light-duty vehicles and heavy-duty vehicles),*
16 *utility, industrial, commercial and residential applica-*
17 *tions.*

18 *“(c) FOCUS.—In carrying out activities under this sec-*
19 *tion, the Secretary shall focus on factors that are common*
20 *to the development of hydrogen infrastructure and the sup-*
21 *ply of vehicle and electric power for critical consumer and*
22 *commercial applications, and that achieve continuous tech-*
23 *nical evolution and cost reduction, particularly for hydro-*
24 *gen production, the supply of hydrogen, storage of hydrogen,*
25 *and end uses of hydrogen that—*

1 “(1) steadily increase production, distribution,
2 and end use efficiency and reduce life-cycle emissions;

3 “(2) resolve critical problems relating to cata-
4 lysts, membranes, storage, lightweight materials, elec-
5 tronic controls, manufacturability, and other prob-
6 lems that emerge from research and development;

7 “(3) enhance sources of renewable fuels and
8 biofuels for hydrogen production; and

9 “(4) enable widespread use of distributed elec-
10 tricity generation and storage.

11 “(d) *PUBLIC EDUCATION AND RESEARCH.*—In car-
12 rying out this section, the Secretary shall support enhanced
13 public education and research conducted at institutions of
14 higher education in fundamental sciences, application de-
15 sign, and systems concepts (including education and re-
16 search relating to materials, subsystems, manufacturability,
17 maintenance, and safety) relating to hydrogen and fuel
18 cells.

19 “(e) *COST SHARING.*—The costs of carrying out
20 projects and activities under this section shall be shared in
21 accordance with section 1002 of the Energy Policy Act of
22 2005.

23 **“SEC. 102. TASK FORCE.**

24 “(a) *ESTABLISHMENT.*—The Secretary, in consulta-
25 tion with the Director of the Office of Science and Tech-

1 *nology Policy, shall establish an interagency Task Force,*
2 *to be known as the ‘Hydrogen and Fuel Cell Technical Task*
3 *Force’ to advise the Secretary in carrying out programs*
4 *under this Act.*

5 “(b) *MEMBERSHIP.—The Task Force shall be com-*
6 *prised of such representatives of the Office of Science and*
7 *Technology Policy, the Environmental Protection Agency,*
8 *the Department of Transportation, the Department of De-*
9 *fense, the National Aeronautics and Space Administration,*
10 *and such other Federal employees, as the Secretary, in con-*
11 *sultation with the Director of the Office of Science and*
12 *Technology Policy, determines to be appropriate.*

13 “(c) *DUTIES.—The Task Force shall review and make*
14 *any necessary recommendations to the Secretary on imple-*
15 *mentation and conduct of programs under this Act.*

16 “(d) *TECHNICAL ADVISORY COMMITTEE.—*

17 “(1) *IN GENERAL.—The Secretary shall select*
18 *such number of members as the Secretary considers to*
19 *be appropriate to form an independent, nonpolitical*
20 *Technical Advisory Committee.*

21 “(2) *MEMBERSHIP.—Each member of the Tech-*
22 *nical Advisory Committee shall have scientific, tech-*
23 *nical, or industrial expertise, as determined by the*
24 *Secretary.*

1 “(3) *DUTIES.*—*The Technical Advisory Com-*
2 *mittee shall provide technical advice and assistance to*
3 *the Task Force and the Secretary.*

4 **“SEC. 103. TECHNOLOGY TRANSFER.**

5 *“In carrying out this Act, the Secretary shall carry*
6 *out programs that—*

7 “(1) *provide for the transfer of critical hydrogen*
8 *and fuel cell technologies to the private sector;*

9 “(2) *accelerate wider application of those tech-*
10 *nologies in the global market;*

11 “(3) *foster the exchange of generic, nonpropri-*
12 *etary information; and*

13 “(4) *assess technical and commercial viability of*
14 *technologies relating to the production, distribution,*
15 *storage, and use of hydrogen energy and fuel cells.*

16 **“SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

17 “(a) *HYDROGEN SUPPLY.*—*There are authorized to be*
18 *appropriated to carry out projects and activities relating*
19 *to hydrogen production, storage, distribution and dis-*
20 *persing, transport, education and coordination, and tech-*
21 *nology transfer under this title—*

22 “(1) *\$160,000,000 for fiscal year 2006;*

23 “(2) *\$200,000,000 for fiscal year 2007;*

24 “(3) *\$220,000,000 for fiscal year 2008;*

25 “(4) *\$230,000,000 for fiscal year 2009;*

1 “(5) \$250,000,000 for fiscal year 2010; and

2 “(6) such sums as are necessary for each of fiscal
3 years 2011 through 2015.

4 “(b) *FUEL CELL TECHNOLOGIES*.—There are author-
5 ized to be appropriated to carry out projects and activities
6 relating to fuel cell technologies under this title—

7 “(1) \$150,000,000 for fiscal year 2006;

8 “(2) \$160,000,000 for fiscal year 2007;

9 “(3) \$170,000,000 for fiscal year 2008;

10 “(4) \$180,000,000 for fiscal year 2009;

11 “(5) \$200,000,000 for fiscal year 2010; and

12 “(6) such sums as are necessary for each of fiscal
13 years 2011 through 2015.

14 **“TITLE II—HYDROGEN AND FUEL**
15 **CELL DEMONSTRATION**

16 **“SEC. 201. HYDROGEN SUPPLY AND FUEL CELL DEM-**
17 **ONSTRATION PROGRAM.**

18 “(a) *IN GENERAL*.—The Secretary, in consultation
19 with the Task Force and the Technical Advisory Committee,
20 shall carry out a program to demonstrate developmental hy-
21 drogen and fuel cell systems for mobile, portable, and sta-
22 tionary uses, using improved versions of the learning dem-
23 onstrations program concept of the Department including
24 demonstrations involving—

25 “(1) light-duty vehicles;

1 “(2) *heavy-duty vehicles;*

2 “(3) *fleet vehicles;*

3 “(4) *specialty industrial and farm vehicles; and*

4 “(5) *commercial and residential portable, contin-*
5 *uous, and backup electric power generation.*

6 “(b) *OTHER DEMONSTRATION PROGRAMS.—To de-*
7 *velop widespread hydrogen supply and use options, and as-*
8 *sist evolution of technology, the Secretary shall—*

9 “(1) *carry out demonstrations of evolving hydro-*
10 *gen and fuel cell technologies in national parks, re-*
11 *mote island areas, and on Indian tribal land, as se-*
12 *lected by the Secretary;*

13 “(2) *in accordance with any code or standards*
14 *developed in a region, fund prototype, pilot fleet, and*
15 *infrastructure regional hydrogen supply corridors*
16 *along the interstate highway system in varied cli-*
17 *mates across the United States; and*

18 “(3) *fund demonstration programs that explore*
19 *the use of hydrogen blends, hybrid hydrogen, and hy-*
20 *drogen reformed from renewable agricultural fuels, in-*
21 *cluding the use of hydrogen in hybrid electric, heavier*
22 *duty, and advanced internal combustion-powered ve-*
23 *hicles.*

24 “(c) *SYSTEM DEMONSTRATIONS.—*

1 “(1) *IN GENERAL.*—As a component of the dem-
2 onstration program under this section, the Secretary
3 shall provide grants, on a cost share basis as appro-
4 priate, to eligible entities (as determined by the Sec-
5 retary) for use in—

6 “(A) *devising system design concepts that*
7 *provide for the use of advanced composite vehi-*
8 *cles in programs under section 732 of the Energy*
9 *Policy Act of 2005 that—*

10 “(i) *have as a primary goal the reduc-*
11 *tion of drive energy requirements;*

12 “(ii) *after 2010, add another research*
13 *and development phase to the vehicle and*
14 *infrastructure partnerships developed under*
15 *the learning demonstrations program con-*
16 *cept of the Department; and*

17 “(iii) *are managed through an en-*
18 *hanced FreedomCAR program within the*
19 *Department that encourages involvement in*
20 *cost-shared projects by manufacturers and*
21 *governments; and*

22 “(B) *designing a local distributed energy*
23 *system that—*

24 “(i) *incorporates renewable hydrogen*
25 *production, off-grid electricity production,*

1 *and fleet applications in industrial or com-*
2 *mercial service;*

3 “(ii) *integrates energy or applications*
4 *described in clause (i), such as stationary,*
5 *portable, micro, and mobile fuel cells, into*
6 *a high-density commercial or residential*
7 *building complex or agricultural commu-*
8 *nity; and*

9 “(iii) *is managed in cooperation with*
10 *industry, State, tribal, and local govern-*
11 *ments, agricultural organizations, and non-*
12 *profit generators and distributors of elec-*
13 *tricity.*

14 “(2) *COST SHARING.—The costs of carrying out*
15 *a project or activity under this subsection shall be*
16 *shared in accordance with section 1002 of the Energy*
17 *Policy Act of 2005.*

18 “(d) *IDENTIFICATION OF NEW RESEARCH AND DEVEL-*
19 *OPMENT REQUIREMENTS.—In carrying out the demonstra-*
20 *tions under subsection (a), the Secretary, in consultation*
21 *with the Task Force and the Technical Advisory Committee,*
22 *shall—*

23 “(1) *after 2008 for stationary and portable ap-*
24 *plications, and after 2010 for vehicles, identify new*
25 *research and development requirements that refine*

1 *technological concepts, planning, and applications;*
2 *and*

3 *“(2) during the second phase of the learning*
4 *demonstrations under subsection (c)(1)(A)(ii) redesign*
5 *subsequent research and development to incorporate*
6 *those requirements.*

7 **“SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

8 *“There are authorized to be appropriated to carry out*
9 *this title—*

10 *“(1) \$185,000,000 for fiscal year 2006;*

11 *“(2) \$200,000,000 for fiscal year 2007;*

12 *“(3) \$250,000,000 for fiscal year 2008;*

13 *“(4) \$300,000,000 for fiscal year 2009;*

14 *“(5) \$375,000,000 for fiscal year 2010; and*

15 *“(6) such sums as are necessary for each of fiscal*
16 *years 2011 through 2015.*

17 **“TITLE III—REGULATORY**
18 **MANAGEMENT**

19 **“SEC. 301. CODES AND STANDARDS.**

20 *“(a) IN GENERAL.—The Secretary, in cooperation*
21 *with the Task Force, shall provide grants to, or offer to enter*
22 *into contracts with such professional organizations, public*
23 *service organizations, and government agencies as the Sec-*
24 *retary determines appropriate to support timely and exten-*
25 *sive development of safety codes and standards relating to*

1 *fuel cell vehicles, hydrogen energy systems, and stationary,*
2 *portable, and micro fuel cells.*

3 “(b) *EDUCATIONAL EFFORTS.*—*The Secretary shall*
4 *support educational efforts by organizations and agencies*
5 *described in subsection (a) to share information, including*
6 *information relating to best practices, among those organi-*
7 *zations and agencies.*

8 **“SEC. 302. DISCLOSURE.**

9 “*Section 623 of the Energy Policy Act of 1992 (42*
10 *U.S.C. 13293) shall apply to any project carried out*
11 *through a grant, cooperative agreement, or contract under*
12 *this Act.*

13 **“SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

14 “*There are authorized to be appropriated to carry out*
15 *this title—*

16 “(1) *\$4,000,000 for fiscal year 2006;*

17 “(2) *\$7,000,000 for fiscal year 2007;*

18 “(3) *\$8,000,000 for fiscal year 2008;*

19 “(4) *\$10,000,000 for fiscal year 2009;*

20 “(5) *\$9,000,000 for fiscal year 2010; and*

21 “(6) *such sums as are necessary for each of fiscal*
22 *years 2011 and 2012.*

“TITLE IV—REPORTS**“SEC. 401. DEPLOYMENT OF HYDROGEN TECHNOLOGY.**

“(a) SECRETARY.—Subject to subsection (c), not later than 2 years after the date of enactment of the Hydrogen and Fuel Cell Technology Act of 2005, and triennially thereafter, the Secretary shall submit to Congress a report describing—

“(1) any activity carried out by the Department of Energy under this Act, including a research, development, demonstration, and commercial application program for hydrogen and fuel cell technology;

“(2) measures the Secretary has taken during the preceding 3 years to support the transition of primary industry (or a related industry) to a fully commercialized hydrogen economy;

“(3) any change made to a research, development, or deployment strategy of the Secretary relating to hydrogen and fuel cell technology to reflect the results of a learning demonstration under title II;

“(4) progress, including progress in infrastructure, made toward achieving the goal of producing and deploying not less than—

“(A) 100,000 hydrogen-fueled vehicles in the United States by 2010; and

1 “(B) 2,500,000 hydrogen-fueled vehicles by
2 2020;

3 “(5) progress made toward achieving the goal of
4 supplying hydrogen at a sufficient number of fueling
5 stations in the United States by 2010 can be achieved
6 by integrating—

7 “(A) hydrogen activities; and

8 “(B) associated targets and timetables for
9 the development of hydrogen technologies;

10 “(6) any problem relating to the design, execu-
11 tion, or funding of a program under this Act;

12 “(7) progress made toward and goals achieved in
13 carrying out this Act and updates to the develop-
14 mental roadmap, including the results of the reviews
15 conducted by the National Academy of Sciences under
16 subsection (b) for the fiscal years covered by the re-
17 port; and

18 “(8) any updates to strategic plans that are nec-
19 essary to meet the goals described in paragraph (4).

20 “(b) NATIONAL ACADEMY OF SCIENCES.—

21 “(1) IN GENERAL.—The Secretary shall enter
22 into an arrangement with the National Academy of
23 Sciences to conduct and submit to the Secretary, not
24 later than September 30, 2007, and triennially
25 thereafter—

1 “(A) the results of a review of the projects
2 and activities carried out under this Act;

3 “(B) recommendations for any new authori-
4 ties or resources needed to achieve strategic goals;
5 and

6 “(C) recommendations for approaches by
7 which the Secretary could achieve a substantial
8 decrease in the dependence on and consumption
9 of natural gas and imported oil by the Federal
10 Government, including by increasing the use of
11 fuel cell vehicles, stationary and portable fuel
12 cells, and hydrogen energy systems.

13 “(2) *REAUTHORIZATION.*—The Secretary shall
14 use the results of reviews conducted under paragraph
15 (1) in proposing to Congress any legislative changes
16 relating to reauthorization of this Act.

17 **“SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

18 “*There is authorized to be appropriated to carry out*
19 *this title \$1,500,000 for each of fiscal years 2006 through*
20 *2010.*

21 **“TITLE V—TERMINATION OF**
22 **AUTHORITY**

23 **“SEC. 501. TERMINATION OF AUTHORITY.**

24 “*This Act and the authority provided by this Act ter-*
25 *minate on September 30, 2015.*”.

1 **TITLE IX—RESEARCH AND**
2 **DEVELOPMENT**

3 **SEC. 901. SHORT TITLE.**

4 *This title may be cited as the “Energy Research, Devel-*
5 *opment, Demonstration, and Commercial Application Act*
6 *of 2005”.*

7 **SEC. 902. GOALS.**

8 *(a) IN GENERAL.—In order to achieve the purposes of*
9 *this title, the Secretary shall conduct a balanced set of pro-*
10 *grams of energy research, development, demonstration, and*
11 *commercial application focused on—*

12 *(1) increasing the efficiency of all energy inten-*
13 *sive sectors through conservation and improved tech-*
14 *nologies;*

15 *(2) promoting diversity of energy supply;*

16 *(3) decreasing the dependence of the United*
17 *States on foreign energy supplies;*

18 *(4) improving the energy security of the United*
19 *States; and*

20 *(5) decreasing the environmental impact of en-*
21 *ergy-related activities.*

22 *(b) GOALS.—The Secretary shall publish measurable*
23 *cost and performance-based goals with each annual budget*
24 *submission in at least the following areas:*

1 (1) *Energy efficiency for buildings, energy-con-*
2 *suming industries, and vehicles.*

3 (2) *Electric energy generation (including distrib-*
4 *uted generation), transmission, and storage.*

5 (3) *Renewable energy technologies, including*
6 *wind power, photovoltaics, solar thermal systems, geo-*
7 *thermal energy, hydrogen-fueled systems, biomass-*
8 *based systems, biofuels, and hydropower.*

9 (4) *Fossil energy, including power generation,*
10 *onshore and offshore oil and gas resource recovery,*
11 *and transportation.*

12 (5) *Nuclear energy, including programs for exist-*
13 *ing and advanced reactors, and education of future*
14 *specialists.*

15 (c) *PUBLIC COMMENT.*—*The Secretary shall provide*
16 *mechanisms for input on the annually published goals from*
17 *industry, institutions of higher education, and other public*
18 *sources.*

19 (d) *EFFECT OF GOALS.*—*Nothing in subsection (a) or*
20 *the annually published goals creates any new authority for*
21 *any Federal agency, or may be used by any Federal agency,*
22 *to support the establishment of regulatory standards or reg-*
23 *ulatory requirements.*

24 **SEC. 903. DEFINITIONS.**

25 *In this title:*

1 (1) *DEPARTMENTAL MISSION.*—The term “de-
2 partmental mission” means any of the functions vest-
3 ed in the Secretary by the Department of Energy Or-
4 ganization Act (42 U.S.C. 7101 et seq.) or other law.

5 (2) *HISPANIC-SERVING INSTITUTION.*—The term
6 “Hispanic-serving institution” has the meaning given
7 the term in section 502(a) of the Higher Education
8 Act of 1965 (20 U.S.C. 1101a(a)).

9 (3) *NONMILITARY ENERGY LABORATORY.*—The
10 term “nonmilitary energy laboratory” means a Na-
11 tional Laboratory other than a National Laboratory
12 listed in subparagraph (G), (H), or (N) of section
13 2(3).

14 (4) *PART B INSTITUTION.*—The term “part B in-
15 stitution” has the meaning given the term in section
16 322 of the Higher Education Act of 1965 (20 U.S.C.
17 1061).

18 (5) *SINGLE-PURPOSE RESEARCH FACILITY.*—The
19 term “single-purpose research facility” means—

20 (A) any of the primarily single-purpose en-
21 tities owned by the Department; or

22 (B) any other organization of the Depart-
23 ment designated by the Secretary.

1 **Subtitle A—Energy Efficiency**

2 **SEC. 911. ENERGY EFFICIENCY.**

3 (a) *IN GENERAL.*—*There are authorized to be appro-*
4 *riated to the Secretary to carry out energy efficiency and*
5 *conservation research, development, demonstration, and*
6 *commercial application activities, including activities au-*
7 *thorized under this subtitle—*

8 (1) *\$772,000,000 for fiscal year 2006;*

9 (2) *\$865,000,000 for fiscal year 2007; and*

10 (3) *\$920,000,000 for fiscal year 2008.*

11 (b) *ALLOCATIONS.*—*From amounts authorized under*
12 *subsection (a), the following sums are authorized:*

13 (1) *For activities under section 912, \$50,000,000*
14 *for each of fiscal years 2006 through 2008.*

15 (2) *For activities under section 914, \$7,000,000*
16 *for each of fiscal years 2006 through 2008.*

17 (3) *For activities under section 915—*

18 (A) *\$30,000,000 for fiscal year 2006;*

19 (B) *\$35,000,000 for fiscal year 2007; and*

20 (C) *\$40,000,000 for fiscal year 2008.*

21 (c) *EXTENDED AUTHORIZATION.*—*There are author-*
22 *ized to be appropriated to the Secretary to carry out section*
23 *912 \$50,000,000 for each of fiscal years 2009 through 2013.*

24 (d) *LIMITATIONS.*—*None of the funds authorized to be*
25 *appropriated under this section may be used for—*

1 (1) *the issuance or implementation of energy ef-*
2 *iciency regulations;*

3 (2) *the weatherization program established under*
4 *part A of title IV of the Energy Conservation and*
5 *Production Act (42 U.S.C. 6861 et seq.);*

6 (3) *a State energy conservation plan established*
7 *under part D of title III of the Energy Policy and*
8 *Conservation Act (42 U.S.C. 6321 et seq.); or*

9 (4) *a Federal energy management measure car-*
10 *ried out under part 3 of title V of the National En-*
11 *ergy Conservation Policy Act (42 U.S.C. 8251 et seq.).*

12 **SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.**

13 (a) *DEFINITIONS.—In this section:*

14 (1) *ADVANCED SOLID-STATE LIGHTING.—The*
15 *term “advanced solid-state lighting” means a*
16 *semiconducting device package and delivery system*
17 *that produces white light using externally applied*
18 *voltage.*

19 (2) *INDUSTRY ALLIANCE.—The term “Industry*
20 *Alliance” means an entity selected by the Secretary*
21 *under subsection (d).*

22 (3) *INITIATIVE.—The term “Initiative” means*
23 *the Next Generation Lighting Initiative carried out*
24 *under this section.*

1 (4) *RESEARCH.*—*The term “research” includes*
2 *research on the technologies, materials, and manufac-*
3 *turing processes required for white light emitting di-*
4 *odes.*

5 (5) *WHITE LIGHT EMITTING DIODE.*—*The term*
6 *“white light emitting diode” means a semiconducting*
7 *package, using either organic or inorganic materials,*
8 *that produces white light using externally applied*
9 *voltage.*

10 (b) *INITIATIVE.*—*The Secretary shall carry out a Next*
11 *Generation Lighting Initiative in accordance with this sec-*
12 *tion to support research, development, demonstration, and*
13 *commercial application activities related to advanced solid-*
14 *state lighting technologies based on white light emitting di-*
15 *odes.*

16 (c) *OBJECTIVES.*—*The objectives of the Initiative shall*
17 *be to develop advanced solid-state organic and inorganic*
18 *lighting technologies based on white light emitting diodes*
19 *that, compared to incandescent and fluorescent lighting*
20 *technologies, are longer lasting, are more energy-efficient*
21 *and cost-competitive, and have less environmental impact.*

22 (d) *INDUSTRY ALLIANCE.*—*Not later than 90 days*
23 *after the date of enactment of this Act, the Secretary shall*
24 *competitively select an Industry Alliance to represent par-*
25 *ticipants who are private, for-profit firms, including large*

1 *and small businesses, that, as a group, are broadly rep-*
2 *resentative of United States solid state lighting research, de-*
3 *velopment, infrastructure, and manufacturing expertise as*
4 *a whole.*

5 *(e) RESEARCH.—*

6 *(1) GRANTS.—The Secretary shall carry out the*
7 *research activities of the Initiative through competi-*
8 *tively awarded grants to—*

9 *(A) researchers, including Industry Alliance*
10 *participants;*

11 *(B) small businesses;*

12 *(C) National Laboratories; and*

13 *(D) institutions of higher education.*

14 *(2) INDUSTRY ALLIANCE.—The Secretary shall*
15 *annually solicit from the Industry Alliance—*

16 *(A) comments to identify solid-state lighting*
17 *technology needs;*

18 *(B) an assessment of the progress of the re-*
19 *search activities of the Initiative; and*

20 *(C) assistance in annually updating solid-*
21 *state lighting technology roadmaps.*

22 *(3) AVAILABILITY TO PUBLIC.—The information*
23 *and roadmaps under paragraph (2) shall be available*
24 *to the public.*

1 (f) *DEVELOPMENT, DEMONSTRATION, AND COMMER-*
2 *CIAL APPLICATION.*—

3 (1) *IN GENERAL.*—*The Secretary shall carry out*
4 *a development, demonstration, and commercial appli-*
5 *cation program for the Initiative through competi-*
6 *tively selected awards.*

7 (2) *PREFERENCE.*—*In making the awards, the*
8 *Secretary may give preference to participants in the*
9 *Industry Alliance.*

10 (g) *COST SHARING.*—*In carrying out this section, the*
11 *Secretary shall require cost sharing in accordance with sec-*
12 *tion 1002.*

13 (h) *INTELLECTUAL PROPERTY.*—*The Secretary may*
14 *require (in accordance with section 202(a)(ii) of title 35,*
15 *United States Code, section 152 of the Atomic Energy Act*
16 *of 1954 (42 U.S.C. 2182), and section 9 of the Federal Non-*
17 *nuclear Energy Research and Development Act of 1974 (42*
18 *U.S.C. 5908)) that for any new invention developed under*
19 *subsection (e)—*

20 (1) *that the Industry Alliance participants who*
21 *are active participants in research, development, and*
22 *demonstration activities related to the advanced solid-*
23 *state lighting technologies that are covered by this sec-*
24 *tion shall be granted the first option to negotiate with*
25 *the invention owner, at least in the field of solid-state*

1 *lighting, nonexclusive licenses and royalties on terms*
2 *that are reasonable under the circumstances;*

3 *(2)(i) that, for 1 year after a United States pat-*
4 *ent is issued for the invention, the patent holder shall*
5 *not negotiate any license or royalty with any entity*
6 *that is not a participant in the Industry Alliance de-*
7 *scribed in paragraph (1); and*

8 *(ii) that, during the year described in clause (i),*
9 *the patent holder shall negotiate nonexclusive licenses*
10 *and royalties in good faith with any interested par-*
11 *ticipant in the Industry Alliance described in para-*
12 *graph (1); and*

13 *(3) such other terms as the Secretary determines*
14 *are required to promote accelerated commercialization*
15 *of inventions made under the Initiative.*

16 *(i) NATIONAL ACADEMY REVIEW.—The Secretary shall*
17 *enter into an arrangement with the National Academy of*
18 *Sciences to conduct periodic reviews of the Initiative.*

19 **SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.**

20 *(a) INTERAGENCY GROUP.—*

21 *(1) IN GENERAL.—Not later than 90 days after*
22 *the date of enactment of this Act, the Director of the*
23 *Office of Science and Technology Policy shall estab-*
24 *lish an interagency group to develop, in coordination*
25 *with the advisory committee established under sub-*

1 *section (e), a National Building Performance Initia-*
2 *tive (referred to in this section as the “Initiative”).*

3 (2) *COCHAIRS.—The interagency group shall be*
4 *co-chaired by appropriate officials of the Department*
5 *and the Department of Commerce, who shall jointly*
6 *arrange for the provision of necessary administrative*
7 *support to the group.*

8 (b) *INTEGRATION OF EFFORTS.—The Initiative shall*
9 *integrate Federal, State, and voluntary private sector ef-*
10 *forts to reduce the costs of construction, operation, mainte-*
11 *nance, and renovation of commercial, industrial, institu-*
12 *tional, and residential buildings.*

13 (c) *PLAN.—*

14 (1) *IN GENERAL.—Not later than 1 year after*
15 *the date of enactment of this Act, the interagency*
16 *group shall submit to Congress a plan for carrying*
17 *out the appropriate Federal role in the Initiative.*

18 (2) *INCLUSIONS.—The plan shall include—*

19 (A) *research, development, demonstration,*
20 *and commercial application of systems and ma-*
21 *terials for new construction and retrofit relating*
22 *to the building envelope and building system*
23 *components;*

24 (B) *research, development, demonstration,*
25 *and commercial application to develop tech-*

1 *nology and infrastructure enabling the energy ef-*
2 *ficient, automated operation of buildings and*
3 *building equipment; and*

4 *(C) the collection, analysis, and dissemina-*
5 *tion of research results and other pertinent infor-*
6 *mation on enhancing building performance to*
7 *industry, government entities, and the public.*

8 *(d) DEPARTMENT OF ENERGY ROLE.—Within the Fed-*
9 *eral portion of the Initiative, the Department shall be the*
10 *lead agency for all aspects of building performance related*
11 *to use and conservation of energy.*

12 *(e) ADVISORY COMMITTEE.—The Director of the Office*
13 *of Science and Technology Policy shall establish an advi-*
14 *sory committee to—*

15 *(1) analyze and provide recommendations on po-*
16 *tential private sector roles and participation in the*
17 *Initiative; and*

18 *(2) review and provide recommendations on the*
19 *plan described in subsection (c).*

20 *(f) ADMINISTRATION.—Nothing in this section pro-*
21 *vides any Federal agency with new authority to regulate*
22 *building performance.*

23 **SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE**
24 **PROGRAM.**

25 *(a) DEFINITIONS.—In this section:*

1 (1) *BATTERY.*—*The term “battery” means an en-*
2 *ergy storage device that previously has been used to*
3 *provide motive power in a vehicle powered in whole*
4 *or in part by electricity.*

5 (2) *ASSOCIATED EQUIPMENT.*—*The term “associ-*
6 *ated equipment” means equipment located where the*
7 *batteries will be used that is necessary to enable the*
8 *use of the energy stored in the batteries.*

9 (b) *PROGRAM.*—

10 (1) *IN GENERAL.*—*The Secretary shall establish*
11 *and conduct a research, development, demonstration,*
12 *and commercial application program for the sec-*
13 *ondary use of batteries.*

14 (2) *ADMINISTRATION.*—*The program shall be—*

15 (A) *designed to demonstrate the use of bat-*
16 *teries in secondary applications, including util-*
17 *ity and commercial power storage and power*
18 *quality;*

19 (B) *structured to evaluate the performance,*
20 *including useful service life and costs, of such*
21 *batteries in field operations, and the necessary*
22 *supporting infrastructure, including reuse and*
23 *disposal of batteries; and*

1 (C) *coordinated with ongoing secondary*
2 *battery use programs at the National Labora-*
3 *tories and in industry.*

4 (c) *SOLICITATION.*—

5 (1) *IN GENERAL.*—*Not later than 180 days after*
6 *the date of enactment of this Act, the Secretary shall*
7 *solicit proposals to demonstrate the secondary use of*
8 *batteries and associated equipment and supporting*
9 *infrastructure in geographic locations throughout the*
10 *United States.*

11 (2) *ADDITIONAL SOLICITATIONS.*—*The Secretary*
12 *may make additional solicitations for proposals if the*
13 *Secretary determines that the solicitations are nec-*
14 *essary to carry out this section.*

15 (d) *SELECTION OF PROPOSALS.*—

16 (1) *IN GENERAL.*—*Not later than 90 days after*
17 *the closing date established by the Secretary for re-*
18 *ceipt of proposals under subsection (c), the Secretary*
19 *shall select up to 5 proposals that may receive finan-*
20 *cial assistance under this section once the Department*
21 *receives appropriated funds to carry out this section.*

22 (2) *FACTORS.*—*In selecting proposals, the Sec-*
23 *retary shall consider—*

24 (A) *the diversity of battery type;*

25 (B) *geographic and climatic diversity; and*

1 (C) *life-cycle environmental effects of the*
2 *approaches.*

3 (3) *LIMITATION.—No 1 project selected under*
4 *this section shall receive more than 25 percent of the*
5 *funds made available to carry out the program under*
6 *this section.*

7 (4) *NONFEDERAL INVOLVEMENT.—In selecting*
8 *proposals, the Secretary shall consider the extent of*
9 *involvement of State or local government and other*
10 *persons in each demonstration project to optimize use*
11 *of Federal resources.*

12 (5) *OTHER CRITERIA.—In selecting proposals,*
13 *the Secretary may consider such other criteria as the*
14 *Secretary considers appropriate.*

15 (e) *CONDITIONS.—In carrying out this section, the*
16 *Secretary shall require that—*

17 (1) *relevant information be provided to—*

18 (A) *the Department;*

19 (B) *the users of the batteries;*

20 (C) *the proposers of a project under this sec-*
21 *tion; and*

22 (D) *the battery manufacturers; and*

23 (2) *the costs of carrying out projects and activi-*
24 *ties under this section are shared in accordance with*
25 *section 1002.*

1 **SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.**

2 (a) *ESTABLISHMENT.*—*The Secretary shall establish*
3 *an Energy Efficiency Science Initiative to be managed by*
4 *the Assistant Secretary in the Department with responsi-*
5 *bility for energy conservation under section 203(a)(9) of the*
6 *Department of Energy Organization Act (42 U.S.C.*
7 *7133(a)(9)), in consultation with the Director of the Office*
8 *of Science, for grants to be competitively awarded and sub-*
9 *ject to peer review for research relating to energy efficiency.*

10 (b) *REPORT.*—*The Secretary shall submit to Congress,*
11 *along with the annual budget request of the President sub-*
12 *mitted to Congress, a report on the activities of the Energy*
13 *Efficiency Science Initiative, including a description of the*
14 *process used to award the funds and an explanation of how*
15 *the research relates to energy efficiency.*

16 **SEC. 916. BUILDING STANDARDS.**

17 (a) *DEFINITION OF HIGH PERFORMANCE BUILDING.*—
18 *In this section, the term “high performance building”*
19 *means a building that integrates and optimizes energy effi-*
20 *ciency, durability, life-cycle performance, and occupant*
21 *productivity.*

22 (b) *ASSESSMENT.*—*Not later than 120 days after the*
23 *date of enactment of this Act, the Secretary shall enter into*
24 *an agreement with the National Institute of Building*
25 *Sciences to—*

1 (1) *conduct an assessment (in cooperation with*
2 *industry, standards development organizations, and*
3 *other entities, as appropriate) of whether the current*
4 *voluntary consensus standards and rating systems for*
5 *high performance buildings are consistent with the re-*
6 *search, development and demonstration activities of*
7 *the Department;*

8 (2) *determine if additional research is required,*
9 *based on the findings of the assessment; and,*

10 (3) *recommend steps for the Secretary to accel-*
11 *erate the development of voluntary consensus-based*
12 *standards for high performance buildings that are*
13 *based on the findings of the assessment.*

14 (c) *GRANT AND TECHNICAL ASSISTANCE PROGRAM.—*

15 *Consistent with subsection (b), the National Technology*
16 *Transfer and Advancement Act of 1995 (15 U.S.C. 3701*
17 *et seq.), and the amendments made by that Act, the Sec-*
18 *retary shall establish a grant and technical assistance pro-*
19 *gram to support the development of voluntary consensus-*
20 *based standards for high performance buildings.*

21 ***Subtitle B—Distributed Energy and***
22 ***Electric Energy Systems***

23 ***SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY***
24 ***SYSTEMS.***

25 (a) *IN GENERAL.—*

1 (1) *DISTRIBUTED ENERGY AND ELECTRIC EN-*
2 *ERGY SYSTEMS ACTIVITIES.*—*There are authorized to*
3 *be appropriated to the Secretary to carry out distrib-*
4 *uted energy and electric energy systems activities, in-*
5 *cluding activities authorized under this subtitle—*

6 (A) \$220,000,000 for fiscal year 2006;

7 (B) \$240,000,000 for fiscal year 2007; and

8 (C) \$260,000,000 for fiscal year 2008.

9 (2) *POWER DELIVERY RESEARCH INITIATIVE.*—
10 *There are authorized to be appropriated to the Sec-*
11 *retary to carry out the Policy Delivery Research Ini-*
12 *tiative under subsection 925(e)—*

13 (A) \$30,000,000 for fiscal year 2006;

14 (B) \$35,000,000 for fiscal year 2007; and

15 (C) \$40,000,000 for fiscal year 2008.

16 (b) *MICRO-COGENERATION ENERGY TECHNOLOGY.*—
17 *From amounts authorized under subsection (a),*
18 *\$20,000,000 for each of fiscal years 2006 and 2007 shall*
19 *be available to carry out activities under section 924.*

20 **SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.**

21 (a) *IN GENERAL.*—*The Secretary shall establish a*
22 *comprehensive research, development, demonstration, and*
23 *commercial application program to improve the energy effi-*
24 *ciency of high power density facilities, including data cen-*
25 *ters, server farms, and telecommunications facilities.*

1 (b) *TECHNOLOGIES.*—*The program shall consider tech-*
2 *nologies that provide significant improvement in thermal*
3 *controls, metering, load management, peak load reduction,*
4 *or the efficient cooling of electronics.*

5 **SEC. 923. MICRO-COGENERATION ENERGY TECHNOLOGY.**

6 (a) *IN GENERAL.*—*The Secretary shall make competi-*
7 *tive, merit-based grants to consortia for the development of*
8 *micro-cogeneration energy technology.*

9 (b) *USES.*—*The consortia shall explore—*

10 (1) *the use of small-scale combined heat and*
11 *power in residential heating appliances;*

12 (2) *the use of excess power to operate other appli-*
13 *ances within the residence; and*

14 (3) *the supply of excess generated power to the*
15 *power grid.*

16 **SEC. 924. DISTRIBUTED ENERGY TECHNOLOGY DEM-**
17 **ONSTRATION PROGRAM.**

18 *The Secretary may provide financial assistance to co-*
19 *ordinating consortia of interdisciplinary participants for*
20 *demonstrations designed to accelerate the use of distributed*
21 *energy technologies (such as fuel cells, microturbines, recip-*
22 *rocating engines, thermally activated technologies, and com-*
23 *bined heat and power systems) in highly energy intensive*
24 *commercial applications.*

1 **SEC. 925. ELECTRIC TRANSMISSION AND DISTRIBUTION**
2 **PROGRAMS.**

3 (a) *DEMONSTRATION PROGRAM.*—*The Secretary shall*
4 *establish a comprehensive research, development, and dem-*
5 *onstration program to ensure the reliability, efficiency, and*
6 *environmental integrity of electrical transmission and dis-*
7 *tribution systems, which shall include—*

8 (1) *advanced energy and energy storage tech-*
9 *nologies, materials, and systems, giving priority to*
10 *new transmission technologies, including composite*
11 *conductor materials and other technologies that en-*
12 *hance reliability, operational flexibility, or power-car-*
13 *rying capability;*

14 (2) *advanced grid reliability and efficiency tech-*
15 *nology development;*

16 (3) *technologies contributing to significant load*
17 *reductions;*

18 (4) *advanced metering, load management, and*
19 *control technologies;*

20 (5) *technologies to enhance existing grid compo-*
21 *nents;*

22 (6) *the development and use of high-temperature*
23 *superconductors to—*

24 (A) *enhance the reliability, operational*
25 *flexibility, or power-carrying capability of elec-*
26 *tric transmission or distribution systems; or*

1 (B) increase the efficiency of electric energy
2 generation, transmission, distribution, or storage
3 systems;

4 (7) integration of power systems, including sys-
5 tems to deliver high-quality electric power, electric
6 power reliability, and combined heat and power;

7 (8) supply of electricity to the power grid by
8 small scale, distributed and residential-based power
9 generators;

10 (9) the development and use of advanced grid de-
11 sign, operation, and planning tools;

12 (10) any other infrastructure technologies, as ap-
13 propriate; and

14 (11) technology transfer and education.

15 (b) PROGRAM PLAN.—

16 (1) IN GENERAL.—Not later than 1 year after
17 the date of enactment of this Act, the Secretary, in
18 consultation with other appropriate Federal agencies,
19 shall prepare and submit to Congress a 5-year pro-
20 gram plan to guide activities under this section.

21 (2) CONSULTATION.—In preparing the program
22 plan, the Secretary shall consult with—

23 (A) utilities;

24 (B) energy service providers;

25 (C) manufacturers;

- 1 (D) institutions of higher education;
2 (E) other appropriate State and local agen-
3 cies;
4 (F) environmental organizations;
5 (G) professional and technical societies; and
6 (H) any other persons the Secretary con-
7 siders appropriate.

8 (c) *IMPLEMENTATION.*—The Secretary shall consider
9 implementing the program under this section using a con-
10 sortium of participants from industry, institutions of high-
11 er education, and National Laboratories.

12 (d) *REPORT.*—Not later than 2 years after the submis-
13 sion of the plan under subsection (b), the Secretary shall
14 submit to Congress a report—

15 (1) describing the progress made under this sec-
16 tion; and

17 (2) identifying any additional resources needed
18 to continue the development and commercial applica-
19 tion of transmission and distribution of infrastruc-
20 ture technologies.

21 (e) *POWER DELIVERY RESEARCH INITIATIVE.*—

22 (1) *IN GENERAL.*—The Secretary shall establish
23 a research, development, and demonstration initiative
24 specifically focused on power delivery using compo-

1 *nents incorporating high temperature superconduc-*
2 *tivity.*

3 (2) *GOALS.—The goals of the Initiative shall*
4 *be—*

5 (A) *to establish world-class facilities to de-*
6 *velop high temperature superconductivity power*
7 *applications in partnership with manufacturers*
8 *and utilities;*

9 (B) *to provide technical leadership for es-*
10 *tablishing reliability for high temperature super-*
11 *conductivity power applications, including suit-*
12 *able modeling and analysis;*

13 (C) *to facilitate the commercial transition*
14 *toward direct current power transmission, stor-*
15 *age, and use for high power systems using high*
16 *temperature superconductivity; and*

17 (D) *to facilitate the integration of very low*
18 *impedance high temperature superconducting*
19 *wires and cables in existing electric networks to*
20 *improve system performance, power flow control,*
21 *and reliability.*

22 (3) *INCLUSIONS.—The Initiative shall include—*

23 (A) *feasibility analysis, planning, research,*
24 *and design to construct demonstrations of super-*
25 *conducting links in high power, direct current,*

1 *and controllable alternating current trans-*
2 *mission systems;*

3 *(B) public-private partnerships to dem-*
4 *onstrate deployment of high temperature super-*
5 *conducting cable into testbeds simulating a real-*
6 *istic transmission grid and under varying trans-*
7 *mission conditions, including actual grid inser-*
8 *tions; and*

9 *(C) testbeds developed in cooperation with*
10 *National Laboratories, industries, and institu-*
11 *tions of higher education to—*

12 *(i) demonstrate those technologies;*

13 *(ii) prepare the technologies for com-*
14 *mmercial introduction; and*

15 *(iii) address cost or performance road-*
16 *blocks to successful commercial use.*

17 *(f) TRANSMISSION AND DISTRIBUTION GRID PLANNING*
18 *AND OPERATIONS INITIATIVE.—*

19 *(1) IN GENERAL.—The Secretary shall establish*
20 *a research, development, and demonstration initiative*
21 *specifically focused on tools needed to plan, operate,*
22 *and expand the transmission and distribution grids*
23 *in the presence of competitive market mechanisms for*
24 *energy, load demand, customer response, and ancil-*
25 *lary services.*

1 (2) *GOALS.—The goals of the Initiative shall*
2 *be—*

3 *(A)(i) to develop and use a geographically*
4 *distributed center, consisting of institutions of*
5 *higher education, and National Laboratories,*
6 *with expertise and facilities to develop the under-*
7 *lying theory and software for power system ap-*
8 *plication; and*

9 *(ii) to ensure commercial development in*
10 *partnership with software vendors and utilities;*

11 *(B) to provide technical leadership in engi-*
12 *neering and economic analysis for the reliability*
13 *and efficiency of power systems planning and*
14 *operations in the presence of competitive markets*
15 *for electricity;*

16 *(C) to model, simulate, and experiment with*
17 *new market mechanisms and operating practices*
18 *to understand and optimize those new methods*
19 *before actual use; and*

20 *(D) to provide technical support and tech-*
21 *nology transfer to electric utilities and other par-*
22 *ticipants in the domestic electric industry and*
23 *marketplace.*

1 **Subtitle C—Renewable Energy**

2 **SEC. 931. RENEWABLE ENERGY.**

3 (a) *IN GENERAL.*—*There are authorized to be appro-*
4 *priated to the Secretary to carry out renewable energy re-*
5 *search, development, demonstration, and commercial appli-*
6 *cation activities, including activities authorized under this*
7 *subtitle—*

8 (1) *\$610,000,000 for fiscal year 2006;*

9 (2) *\$659,000,000 for fiscal year 2007; and*

10 (3) *\$710,000,000 for fiscal year 2008.*

11 (b) *BIOENERGY.*—*From the amounts authorized under*
12 *subsection (a), there are authorized to be appropriated to*
13 *carry out section 932—*

14 (1) *\$167,650,000 for fiscal year 2006;*

15 (2) *\$180,000,000 for fiscal year 2007; and*

16 (3) *\$192,000,000 for fiscal year 2008.*

17 (c) *CONCENTRATING SOLAR POWER.*—*From amounts*
18 *authorized under subsection (a), there is authorized to be*
19 *appropriated to carry out section 933 \$50,000,000 for each*
20 *of fiscal years 2006 through 2008.*

21 (d) *ADMINISTRATION.*—*Of the funds authorized under*
22 *subsection (b), not less than \$5,000,000 for each fiscal year*
23 *shall be made available for grants to—*

24 (1) *part B institutions;*

1 (2) *Tribal Colleges or Universities (as defined in*
2 *section 316(b) of the Higher Education Act of 1965*
3 *(20 U.S.C. 1059c(b))*); and

4 (3) *Hispanic-serving institutions.*

5 (e) *CONSULTATION.*—*In carrying out this section, the*
6 *Secretary, in consultation with the Secretary of Agri-*
7 *culture, shall demonstrate the use of—*

8 (1) *advanced wind power technology, including*
9 *combined use with coal gasification;*

10 (2) *biomass;*

11 (3) *geothermal energy systems; and*

12 (4) *other renewable energy technologies to assist*
13 *in delivering electricity to rural and remote locations.*

14 **SEC. 932. BIOENERGY PROGRAM.**

15 (a) *DEFINITION OF LIGNOCELLULOSIC FEEDSTOCK.*—
16 *In this section, the term “lignocellulosic feedstock” means*
17 *any portion of a plant or coproduct from conversion, in-*
18 *cluding crops, trees, and agricultural and forest residues*
19 *not specifically grown for food.*

20 (b) *PROGRAM.*—*The Secretary shall conduct a pro-*
21 *gram of research, development, demonstration, and commer-*
22 *cial application for bioenergy, including—*

23 (1) *biopower energy systems;*

24 (2) *biofuels;*

25 (3) *bioproducts;*

1 (4) *integrated biorefineries that may produce*
2 *biopower, biofuels, and bioproducts;*

3 (5) *cross-cutting research and development in*
4 *feedstocks; and*

5 (6) *economic analysis.*

6 (c) *BIOFUELS AND BIOPRODUCTS.—The goals of the*
7 *biofuels and bioproducts programs shall be to develop, in*
8 *partnership with industry and institutions of higher*
9 *education—*

10 (1) *advanced biochemical and thermochemical*
11 *conversion technologies capable of making fuels from*
12 *lignocellulosic feedstocks that are price-competitive*
13 *with gasoline or diesel in either internal combustion*
14 *engines or fuel cell-powered vehicles;*

15 (2) *advanced biotechnology processes capable of*
16 *making biofuels and bioproducts with emphasis on*
17 *development of biorefinery technologies using enzyme-*
18 *based processing systems;*

19 (3) *advanced biotechnology processes capable of*
20 *increasing energy production from lignocellulosic*
21 *feedstocks, with emphasis on reducing the dependence*
22 *of industry on fossil fuels in manufacturing facilities;*
23 *and*

1 (4) *other advanced processes that will enable the*
2 *development of cost-effective bioproducts, including*
3 *biofuels.*

4 (d) *REPEAL OF SUNSET PROVISION.*—Section 311 of
5 *the Biomass Research and Development Act of 2000 (7*
6 *U.S.C. 8101 note) is repealed.*

7 **SEC. 933. HYDROGEN INTERMEDIATE FUELS RESEARCH**
8 **PROGRAM.**

9 (a) *IN GENERAL.*—The Secretary, in coordination
10 *with the Secretary of Agriculture, shall carry out a 3-year*
11 *program of research, development, and demonstration on*
12 *the use of ethanol and other low-cost transportable renew-*
13 *able feedstocks as intermediate fuels for the safe, energy effi-*
14 *cient, and cost-effective transportation of hydrogen.*

15 (b) *GOALS.*—The goals of the program shall include—

16 (1) *demonstrating the cost-effective conversion of*
17 *ethanol or other low-cost transportable renewable feed-*
18 *stocks to pure hydrogen suitable for eventual use in*
19 *fuel cells;*

20 (2) *using existing commercial reforming tech-*
21 *nology or modest modifications of existing technology*
22 *to reform ethanol or other low-cost transportable re-*
23 *newable feedstocks into hydrogen;*

1 (3) *converting at least 1 commercially available*
 2 *internal combustion engine hybrid electric passenger*
 3 *vehicle to operate on hydrogen;*

4 (4) *not later than 1 year after the date on which*
 5 *the program begins, installing and operating an eth-*
 6 *anol reformer, or reformer for another low-cost trans-*
 7 *portable renewable feedstock (including onsite hydro-*
 8 *gen compression, storage, and dispensing), at the fa-*
 9 *cilities of a fleet operator;*

10 (5) *operating the 1 or more vehicles described in*
 11 *paragraph (3) for a period of at least 2 years; and*

12 (6) *collecting emissions and fuel economy data*
 13 *on the 1 or more vehicles described in paragraph (3)*
 14 *in various operating and environmental conditions.*

15 (c) *AUTHORIZATION OF APPROPRIATIONS.—There is*
 16 *authorized to be appropriated to carry out this section*
 17 *\$5,000,000.*

18 **SEC. 934. CONCENTRATING SOLAR POWER RESEARCH PRO-**
 19 **GRAM.**

20 (a) *IN GENERAL.—The Secretary shall conduct a pro-*
 21 *gram of research and development to evaluate the potential*
 22 *for concentrating solar power for hydrogen production, in-*
 23 *cluding cogeneration approaches for both hydrogen and elec-*
 24 *tricity.*

1 (b) *ADMINISTRATION.*—*The program shall take advan-*
2 *tage of existing facilities to the extent practicable and shall*
3 *include—*

4 (1) *development of optimized technologies that*
5 *are common to both electricity and hydrogen produc-*
6 *tion;*

7 (2) *evaluation of thermochemical cycles for hy-*
8 *drogen production at the temperatures attainable*
9 *with concentrating solar power;*

10 (3) *evaluation of materials issues for the*
11 *thermochemical cycles described in paragraph (2);*

12 (4) *cogeneration of solar thermal electric power*
13 *and photo-synthetic-based hydrogen production;*

14 (5) *system architectures and economics studies;*
15 *and*

16 (6) *coordination with activities under the Ad-*
17 *vanced Reactor Hydrogen Co-generation Project es-*
18 *tablished under subtitle C of title VI on high tempera-*
19 *ture materials, thermochemical cycles, and economic*
20 *issues.*

21 (c) *ASSESSMENT.*—*In carrying out the program under*
22 *this section, the Secretary shall—*

23 (1) *assess conflicting guidance on the economic*
24 *potential of concentrating solar power for electricity*
25 *production received from the National Research Coun-*

1 *cil in the report entitled “Renewable Power Path-*
2 *ways: A Review of the U.S. Department of Energy’s*
3 *Renewable Energy Programs” and dated 2000 and*
4 *subsequent reviews of that report funded by the De-*
5 *partment; and*

6 *(2) provide an assessment of the potential im-*
7 *port of technology used to concentrate solar power for*
8 *electricity before, or concurrent with, submission of*
9 *the budget for fiscal year 2007.*

10 *(d) REPORT.—Not later than 5 years after the date*
11 *of enactment of this Act, the Secretary shall provide to Con-*
12 *gress a report on the economic and technical potential for*
13 *electricity or hydrogen production, with or without cogen-*
14 *eration, with concentrating solar power, including the eco-*
15 *nomics and technical feasibility of potential construction of*
16 *a pilot demonstration facility suitable for commercial pro-*
17 *duction of electricity or hydrogen from concentrating solar*
18 *power.*

19 **SEC. 935. HYBRID SOLAR LIGHTING RESEARCH AND DEVEL-**
20 **OPMENT PROGRAM.**

21 *(a) DEFINITION OF HYBRID SOLAR LIGHTING.—In*
22 *this section, the term “hybrid solar lighting” means a novel*
23 *lighting system that integrates sunlight and electrical light-*
24 *ing in complement to each other in common lighting fix-*
25 *tures for the purpose of improving energy efficiency.*

1 (b) *PROGRAM.*—*The Secretary shall conduct a pro-*
2 *gram of research, development, demonstration, and commer-*
3 *cial application for hybrid solar lighting aimed at devel-*
4 *oping hybrid solar lighting systems that are—*

5 (1) *designed to eliminate large roof penetrations*
6 *and associated architectural design and maintenance*
7 *problems that limit the conventional use of daylight*
8 *in most buildings;*

9 (2) *easily integrated with electric lights; and*

10 (3) *compatible with a majority of electric lamps*
11 *and light fixtures.*

12 (c) *LIMITATIONS.*—*Funding authorized under this sec-*
13 *tion shall not be used for lighting systems based on conven-*
14 *tional daylighting installations such as skylights, light*
15 *wells, light shelves, or roof monitors.*

16 (d) *NATIONAL ACADEMY OF SCIENCES.*—*Not later*
17 *than 2 years after the date of enactment of this Act, the*
18 *Secretary shall enter into an arrangement with the Na-*
19 *tional Academy of Sciences to conduct a biannual review*
20 *of the activities under this section including program prior-*
21 *ities, technical milestones, and opportunities for technology*
22 *transfer and commercialization.*

23 (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
24 *authorized to be appropriated to carry out this section—*

25 (1) *\$4,000,000 for fiscal year 2006;*

1 (2) \$6,000,000 for fiscal year 2007; and

2 (3) \$6,000,000 for fiscal year 2008.

3 **SEC. 936. MISCELLANEOUS PROJECTS.**

4 *The Secretary shall conduct research, development,*
5 *demonstration, and commercial application programs for—*

6 (1) *ocean energy, including wave energy;*

7 (2) *the combined use of renewable energy tech-*
8 *nologies with 1 another and with other energy tech-*
9 *nologies, including the combined use of wind power*
10 *and coal gasification technologies; and*

11 (3) *renewable energy technologies for cogenera-*
12 *tion of hydrogen and electricity.*

13 **SEC. 937. BIOMASS RESEARCH AND DEVELOPMENT.**

14 (a) *DEFINITIONS.—Section 303 of the Biomass Re-*
15 *search and Development Act of 2000 (Public Law 106–224;*
16 *7 U.S.C. 8101 note) is amended—*

17 (1) *by striking paragraphs (2), (9), and (10);*

18 (2) *by redesignating paragraphs (3), (4), (5),*
19 *(6), (7), and (8) as paragraphs (4), (5), (7), (8), (9),*
20 *and (10), respectively;*

21 (3) *by inserting after paragraph (1) the fol-*
22 *lowing:*

23 “(2) *BIOBASED FUEL.—The term ‘biobased fuel’*
24 *means any transportation fuel produced from bio-*
25 *mass.*”

1 “(3) *BIOBASED PRODUCT*.—The term ‘biobased
2 product’ means an industrial product (including
3 chemicals, materials, and polymers) produced from
4 biomass, or a commercial or industrial product (in-
5 cluding animal feed and electric power) derived in
6 connection with the conversion of biomass to fuel.”;

7 (4) by inserting after paragraph (5) (as redesign-
8 ated by paragraph (2)) the following:

9 “(6) *DEMONSTRATION*.—The term ‘demonstra-
10 tion’ means demonstration of technology in a pilot
11 plant or semi-works scale facility.”; and

12 (5) by striking paragraph (9) (as redesignated
13 by paragraph (2)) and inserting the following:

14 “(9) *NATIONAL LABORATORY*.—The term ‘Na-
15 tional Laboratory’ means any of the following labora-
16 tories owned by the Department:

17 “(A) Ames Laboratory.

18 “(B) Argonne National Laboratory.

19 “(C) Brookhaven National Laboratory.

20 “(D) Fermi National Accelerator Labora-
21 tory.

22 “(E) Idaho National Laboratory.

23 “(F) Lawrence Berkeley National Labora-
24 tory.

1 “(G) *Lawrence Livermore National Labora-*
2 *tory.*

3 “(H) *Los Alamos National Laboratory.*

4 “(I) *National Energy Technology Labora-*
5 *tory.*

6 “(J) *National Renewable Energy Labora-*
7 *tory.*

8 “(K) *Oak Ridge National Laboratory.*

9 “(L) *Pacific Northwest National Labora-*
10 *tory.*

11 “(M) *Princeton Plasma Physics Laboratory.*

12 “(N) *Sandia National Laboratories.*

13 “(O) *Stanford Linear Accelerator Center.*

14 “(P) *Thomas Jefferson National Accelerator*
15 *Facility.”.*

16 (b) *COOPERATION AND COORDINATION IN BIOMASS*
17 *RESEARCH AND DEVELOPMENT.—Section 304 of the Bio-*
18 *mass Research and Development Act of 2000 (Public Law*
19 *106–224; 7 U.S.C. 8101 note) is amended—*

20 (1) *in subsections (a) and (d), by striking “in-*
21 *dustrial products” each place it appears and insert-*
22 *ing “fuels and biobased products”;*

23 (2) *by striking subsections (b) and (c); and*

24 (3) *by redesignating subsection (d) as subsection*

25 (b).

1 (c) *BIOMASS RESEARCH AND DEVELOPMENT*
2 *BOARD.*—*Section 305 of the Biomass Research and Devel-*
3 *opment Act of 2000 (Public Law 106–224; 7 U.S.C. 8101*
4 *note) is amended—*

5 (1) *in subsections (a) and (c), by striking “in-*
6 *dustrial products” each place it appears and insert-*
7 *ing “fuels and biobased products”;*

8 (2) *in subsection (b)—*

9 (A) *in paragraph (1), by striking*
10 *“304(d)(1)(B)” and inserting “304(b)(1)(B)”;*
11 *and*

12 (B) *in paragraph (2), by striking*
13 *“304(d)(1)(A)” and inserting “304(b)(1)(A)”;*
14 *and*

15 (3) *in subsection (c)—*

16 (A) *in paragraph (1)(B), by striking “and”*
17 *at the end;*

18 (B) *in paragraph (2), by striking the period*
19 *at the end and inserting a semicolon; and*

20 (C) *by adding at the end the following:*

21 “(3) *ensure that—*

22 “(A) *solicitations are open and competitive*
23 *with awards made annually; and*

24 “(B) *objectives and evaluation criteria of*
25 *the solicitations are clearly stated and mini-*

1 mally prescriptive, with no areas of special in-
2 terest; and

3 “(4) ensure that the panel of scientific and tech-
4 nical peers assembled under section 307(g)(1)(C) to
5 review proposals is composed predominantly of inde-
6 pendent experts selected from outside the Departments
7 of Agriculture and Energy.”.

8 (d) *BIOMASS RESEARCH AND DEVELOPMENT TECH-*
9 *NICAL ADVISORY COMMITTEE.*—Section 306 of the Biomass
10 *Research and Development Act of 2000 (Public Law 106-*
11 *224; 7 U.S.C. 8101 note) is amended—*

12 (1) *in subsection (b)(1)—*

13 (A) *in subparagraph (A), by striking*
14 *“biobased industrial products” and inserting*
15 *“biofuels”;*

16 (B) *by redesignating subparagraphs (B)*
17 *through (J) as subparagraphs (C) through (K),*
18 *respectively;*

19 (C) *by inserting after subparagraph (A) the*
20 *following:*

21 “(B) *an individual affiliated with the*
22 *biobased industrial and commercial products in-*
23 *dustry;”;*

1 (D) in subparagraph (F) (as redesignated
2 by subparagraph (B)) by striking “an indi-
3 vidual has” and inserting “2 individuals have”;

4 (E) in subparagraphs (C), (D), (G), and (I)
5 (as redesignated by subparagraph (B)) by strik-
6 ing “industrial products” each place it appears
7 and inserting “fuels and biobased products”; and

8 (F) in subparagraph (H) (as redesignated
9 by subparagraph (B)), by inserting “and envi-
10 ronmental” before “analysis”;

11 (2) in subsection (c)(2)—

12 (A) in subparagraph (A), by striking
13 “goals” and inserting “objectives, purposes, and
14 considerations”;

15 (B) by redesignating subparagraphs (B)
16 and (C) as subparagraphs (C) and (D), respec-
17 tively;

18 (C) by inserting after subparagraph (A) the
19 following:

20 “(B) solicitations are open and competitive
21 with awards made annually and that objectives
22 and evaluation criteria of the solicitations are
23 clearly stated and minimally prescriptive, with
24 no areas of special interest;” and

1 (D) in subparagraph (C) (as redesignated
2 by subparagraph (B)) by inserting “predomi-
3 nantly from outside the Departments of Agri-
4 culture and Energy” after “technical peers”.

5 (e) *BIOMASS RESEARCH AND DEVELOPMENT INITIA-*
6 *TIVE.*—Section 307 of the Biomass Research and Develop-
7 *ment Act of 2000 (Public Law 106–224; 7 U.S.C. 8101*
8 *note) is amended—*

9 (1) in subsection (a), by striking “research on
10 biobased industrial products” and inserting “research
11 on, and development and demonstration of, biobased
12 fuels and biobased products, and the methods, prac-
13 tices and technologies, biotechnology, for their produc-
14 tion”; and

15 (2) by striking subsections (b) through (e) and
16 inserting the following:

17 “(b) *OBJECTIVES.*—The objectives of the Initiative are
18 to develop—

19 “(1) technologies and processes necessary for
20 abundant commercial production of biobased fuels at
21 prices competitive with fossil fuels;

22 “(2) high-value biobased products—

23 “(A) to enhance the economic viability of
24 biobased fuels and power; and

1 “(B) as substitutes for petroleum-based feed-
2 stocks and products; and

3 “(3) a diversity of sustainable domestic sources
4 of biomass for conversion to biobased fuels and
5 biobased products.

6 “(c) *PURPOSES.*—*The purposes of the Initiative are—*

7 “(1) to increase the energy security of the United
8 States;

9 “(2) to create jobs and enhance the economic de-
10 velopment of the rural economy;

11 “(3) to enhance the environment and public
12 health; and

13 “(4) to diversify markets for raw agricultural
14 and forestry products.

15 “(d) *TECHNICAL AREAS.*—*To advance the objectives*
16 *and purposes of the Initiative, the Secretary of Agriculture*
17 *and the Secretary of Energy, in consultation with the Ad-*
18 *ministrator of the Environmental Protection Agency and*
19 *heads of other appropriate departments and agencies (re-*
20 *ferred to in this section as the ‘Secretaries’), shall direct*
21 *research and development toward—*

22 “(1) feedstock production through the develop-
23 ment of crops and cropping systems relevant to pro-
24 duction of raw materials for conversion to biobased
25 fuels and biobased products, including—

1 “(A) development of advanced and dedi-
2 cated crops with desired features, including en-
3 hanced productivity, broader site range, low re-
4 quirements for chemical inputs, and enhanced
5 processing;

6 “(B) advanced crop production methods to
7 achieve the features described in subparagraph
8 (A);

9 “(C) feedstock harvest, handling, transport,
10 and storage; and

11 “(D) strategies for integrating feedstock pro-
12 duction into existing managed land;

13 “(2) overcoming recalcitrance of cellulosic bio-
14 mass through developing technologies for converting
15 cellulosic biomass into intermediates that can subse-
16 quently be converted into biobased fuels and biobased
17 products, including—

18 “(A) pretreatment in combination with en-
19 zymatic or microbial hydrolysis; and

20 “(B) thermochemical approaches, including
21 gasification and pyrolysis;

22 “(3) product diversification through technologies
23 relevant to production of a range of biobased products
24 (including chemicals, animal feeds, and cogenerated

1 power) that eventually can increase the feasibility of
2 fuel production in a biorefinery, including—

3 “(A) catalytic processing, including
4 thermochemical fuel production;

5 “(B) metabolic engineering, enzyme engi-
6 neering, and fermentation systems for biological
7 production of desired products or cogeneration of
8 power;

9 “(C) product recovery;

10 “(D) power production technologies; and

11 “(E) integration into existing biomass proc-
12 essing facilities, including starch ethanol plants,
13 paper mills, and power plants; and

14 “(4) analysis that provides strategic guidance for
15 the application of biomass technologies in accordance
16 with realization of improved sustainability and envi-
17 ronmental quality, cost effectiveness, security, and
18 rural economic development, usually featuring sys-
19 tem-wide approaches.

20 “(e) *ADDITIONAL CONSIDERATIONS.*—Within the tech-
21 nical areas described in subsection (d), and in addition to
22 advancing the purposes described in subsection (c) and the
23 objectives described in subsection (b), the Secretaries shall
24 support research and development—

1 “(1) to create continuously expanding opportuni-
2 ties for participants in existing biofuels production by
3 seeking synergies and continuity with current tech-
4 nologies and practices, such as the use of dried dis-
5 tillers grains as a bridge feedstock;

6 “(2) to maximize the environmental, economic,
7 and social benefits of production of biobased fuels and
8 biobased products on a large scale through life-cycle
9 economic and environmental analysis and other
10 means; and

11 “(3) to assess the potential of Federal land and
12 land management programs as feedstock resources for
13 biobased fuels and biobased products, consistent with
14 the integrity of soil and water resources and with
15 other environmental considerations.

16 “(f) *ELIGIBLE ENTITIES*.—To be eligible for a grant,
17 contract, or assistance under this section, an applicant shall
18 be—

19 “(1) an institution of higher education;

20 “(2) a national laboratory;

21 “(3) a Federal research agency;

22 “(4) a State research agency;

23 “(5) a private sector entity;

24 “(6) a nonprofit organization; or

1 “(7) a consortium of 2 of more entities described
2 in paragraphs (1) through (6).

3 “(g) ADMINISTRATION.—

4 “(1) IN GENERAL.—After consultation with the
5 Board, the points of contact shall—

6 “(A) publish annually 1 or more joint re-
7 quests for proposals for grants, contracts, and as-
8 sistance under this section;

9 “(B) require that grants, contracts, and as-
10 sistance under this section be awarded competi-
11 tively, on the basis of merit, after the establish-
12 ment of procedures that provide for scientific
13 peer review by an independent panel of scientific
14 and technical peers; and

15 “(C) give some preference to applications
16 that—

17 “(i) involve a consortia of experts from
18 multiple institutions;

19 “(ii) encourage the integration of dis-
20 ciplines and application of the best tech-
21 nical resources; and

22 “(iii) increase the geographic diversity
23 of demonstration projects.

24 “(2) DISTRIBUTION OF FUNDING BY TECHNICAL
25 AREA.—Of the funds authorized to be appropriated

1 *for activities described in this section, funds shall be*
2 *distributed for each of fiscal years 2006 through 2010*
3 *so as to achieve an approximate distribution of—*

4 “(A) 20 percent of the funds to carry out
5 *activities for feedstock production under sub-*
6 *section (d)(1);*

7 “(B) 45 percent of the funds to carry out
8 *activities for overcoming recalcitrance of cel-*
9 *lulosic biomass under subsection (d)(2);*

10 “(C) 30 percent of the funds to carry out
11 *activities for product diversification under sub-*
12 *section (d)(3); and*

13 “(D) 5 percent of the funds to carry out ac-
14 *tivities for strategic guidance under subsection*
15 *(d)(4).*

16 “(3) *DISTRIBUTION OF FUNDING WITHIN EACH*
17 *TECHNICAL AREA.—Within each technical area de-*
18 *scribed in paragraphs (1) through (3) of subsection*
19 *(d), funds shall be distributed for each of fiscal years*
20 *2006 through 2010 so as to achieve an approximate*
21 *distribution of—*

22 “(A) 15 percent of the funds for applied
23 *fundamentals;*

24 “(B) 35 percent of the funds for innovation;
25 *and*

1 “(C) 50 percent of the funds for demonstra-
2 tion.

3 “(4) *MATCHING FUNDS.*—

4 “(A) *IN GENERAL.*—A minimum 20 percent
5 funding match shall be required for demonstra-
6 tion projects under this title.

7 “(B) *COMMERCIAL APPLICATIONS.*—A min-
8 imum of 50 percent funding match shall be re-
9 quired for commercial application projects under
10 this title.

11 “(5) *TECHNOLOGY AND INFORMATION TRANSFER*
12 *TO AGRICULTURAL USERS.*—The Administrator of the
13 Cooperative State Research, Education, and Exten-
14 sion Service and the Chief of the Natural Resources
15 Conservation Service shall ensure that applicable re-
16 search results and technologies from the Initiative are
17 adapted, made available, and disseminated through
18 those services, as appropriate.”.

19 “(f) *ANNUAL REPORTS.*—Section 309 of the Biomass
20 Research and Development Act of 2000 (Public Law 106-
21 224; 7 U.S.C. 8101 note) is amended—

22 (1) in subsection (b)—

23 (A) in paragraph (1)—

24 (i) in subparagraph (A), by striking
25 “purposes described in section 307(b)” and

1 *inserting “objectives, purposes, and addi-*
2 *tional considerations described in sub-*
3 *sections (b) through (e) of section 307”;*

4 *(ii) in subparagraph (B), by striking*
5 *“and” at the end;*

6 *(iii) by redesignating subparagraph*
7 *(C) as subparagraph (D); and*

8 *(iv) by inserting after subparagraph*
9 *(B) the following:*

10 *“(C) achieves the distribution of funds de-*
11 *scribed in paragraphs (2) and (3) of section*
12 *307(g); and”;* and

13 *(B) in paragraph (2), by striking “indus-*
14 *trial products” and inserting “fuels and biobased*
15 *products”;* and

16 *(2) by adding at the end the following:*

17 *“(c) UPDATES.—The Secretary and the Secretary of*
18 *Energy shall update the Vision and Roadmap documents*
19 *prepared for Federal biomass research and development ac-*
20 *tivities.”.*

21 *(g) AUTHORIZATION OF APPROPRIATIONS.—Section*
22 *310(b) of the Biomass Research and Development Act of*
23 *2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended*
24 *by striking “title \$54,000,000 for each of fiscal years 2002*

1 *through 2007” and inserting “title \$200,000,000 for fiscal*
2 *year 2006 and each fiscal year thereafter”.*

3 *(h) HYDROGEN INTERMEDIATE FUELS RESEARCH*
4 *PROGRAM.—*

5 *(1) IN GENERAL.—The Secretary shall conduct a*
6 *research, development, and demonstration program fo-*
7 *cused on the economic production and use of hydrogen*
8 *from biofuels, with emphasis on the rural electrical*
9 *generation sectors.*

10 *(2) ELECTRICAL GENERATION SECTOR OBJEC-*
11 *TIVES.—The objectives of the program conducted*
12 *under paragraph (1) in the rural electrical generation*
13 *sector shall be to—*

14 *(A) design, develop, and test low-cost gasifi-*
15 *cation equipment to convert biomass to hydrogen*
16 *at regional rural cooperatives, or at businesses*
17 *owned by farmers, close to agricultural oper-*
18 *ations to minimize the cost of biomass transpor-*
19 *tation to large central gasification plants;*

20 *(B) demonstrate low-cost electrical genera-*
21 *tion at such rural cooperatives or farmer-owned*
22 *businesses, using renewable hydrogen derived*
23 *from biomass in either fuel cell generators, or, as*
24 *an interim cost reduction option, in conven-*
25 *tional internal combustion engine gensets;*

1 (C) determine the economic return to co-
2 operatives or other businesses owned by farmers
3 of producing hydrogen from biomass and selling
4 electricity compared to agricultural economic re-
5 turns from producing and selling conventional
6 crops alone;

7 (D) evaluate the crop yield and long-term
8 soil sustainability of growing and harvesting of
9 feedstocks for biomass gasification, and

10 (E) demonstrate the use of a portion of the
11 biomass-derived hydrogen in various agricultural
12 vehicles to reduce—

13 (i) dependence on imported fossil fuel;

14 and

15 (ii) environmental impacts.

16 (3) *AUTHORIZATION OF APPROPRIATIONS.*—

17 *There is authorized to be appropriated to carry out*
18 *this subsection \$5,000,000.*

19 **SEC. 938. PRODUCTION INCENTIVES FOR CELLULOSIC**
20 **BIOFUELS.**

21 (a) *PURPOSE.*—*The purpose of this section is to—*

22 (1) *accelerate deployment and commercialization*
23 *of biofuels;*

24 (2) *deliver the first 1,000,000,000 gallons in an-*
25 *annual cellulosic biofuels production by 2015;*

1 (3) *ensure biofuels produced after 2015 are cost*
2 *competitive with gasoline and diesel; and*

3 (4) *ensure that small feedstock producers and*
4 *rural small businesses are full participants in the de-*
5 *velopment of the cellulosic biofuels industry.*

6 (b) *DEFINITIONS.—In this section:*

7 (1) *CELLULOSIC BIOFUELS.—The term “cel-*
8 *lulosic biofuels” means any fuel that is produced from*
9 *cellulosic feedstocks.*

10 (2) *ELIGIBLE ENTITY.—The term “eligible enti-*
11 *ty” means a producer of fuel from cellulosic biofuels*
12 *the production facility of which—*

13 (A) *is located in the United States;*

14 (B) *meets all applicable Federal and State*
15 *permitting requirements; and*

16 (C) *meets any financial criteria established*
17 *by the Secretary.*

18 (c) *PROGRAM.—*

19 (1) *ESTABLISHMENT.—The Secretary, in con-*
20 *sultation with the Secretary of Agriculture, the Sec-*
21 *retary of Defense, and the Administrator of the Envi-*
22 *ronmental Protection Agency, shall establish an in-*
23 *centive program for the production of cellulosic*
24 *biofuels.*

1 (2) *BASIS OF INCENTIVES.*—Under the program,
2 the Secretary shall award production incentives on a
3 per gallon basis of cellulosic biofuels from eligible en-
4 tities, through—

5 (A) set payments per gallon of cellulosic
6 biofuels produced in an amount determined by
7 the Secretary, until initiation of the first reverse
8 auction; and

9 (B) reverse auction thereafter.

10 (3) *FIRST REVERSE AUCTION.*—The first reverse
11 auction shall be held on the earlier of—

12 (A) not later than 1 year after the first year
13 of annual production in the United States of
14 100,000,000 gallons of cellulosic biofuels, as de-
15 termined by the Secretary; or

16 (B) not later than 3 years after the date of
17 enactment of this Act.

18 (4) *REVERSE AUCTION PROCEDURE.*—

19 (A) *IN GENERAL.*—On initiation of the first
20 reverse auction, and each year thereafter until
21 the earlier of the first year of annual production
22 in the United States of 1,000,000,000 gallons of
23 cellulosic biofuels, as determined by the Sec-
24 retary, or 10 years after the date of enactment

1 *of this Act, the Secretary shall conduct a reverse*
2 *auction at which—*

3 *(i) the Secretary shall solicit bids from*
4 *eligible entities;*

5 *(ii) eligible entities shall submit—*

6 *(I) a desired level of production*
7 *incentive on a per gallon basis; and*

8 *(II) an estimated annual produc-*
9 *tion amount in gallons; and*

10 *(iii) the Secretary shall issue awards*
11 *for the production amount submitted, begin-*
12 *ning with the eligible entity submitting the*
13 *bid for the lowest level of production incen-*
14 *tive on a per gallon basis and meeting such*
15 *other criteria as are established by the Sec-*
16 *retary, until the amount of funds available*
17 *for the reverse auction is committed.*

18 *(B) AMOUNT OF INCENTIVE RECEIVED.—An*
19 *eligible entity selected by the Secretary through*
20 *a reverse auction shall receive the amount of per-*
21 *formance incentive requested in the auction for*
22 *each gallon produced and sold by the entity dur-*
23 *ing the first 6 years of operation.*

24 *(C) COMMENCEMENT OF PRODUCTION OF*
25 *CELLULOSIC BIOFUELS.—As a condition of the*

1 *receipt of an award under this section, an eligi-*
2 *ble entity shall enter into an agreement with the*
3 *Secretary under which the eligible entity agrees*
4 *to begin production of cellulosic biofuels not later*
5 *than 3 years after the date of the reverse auction*
6 *in which the eligible entity participates.*

7 *(d) LIMITATIONS.—Awards under this section shall be*
8 *limited to—*

9 *(1) a per gallon amount determined by the Sec-*
10 *retary during the first 4 years of the program;*

11 *(2) a declining per gallon cap over the remain-*
12 *ing lifetime of the program, to be established by the*
13 *Secretary so that cellulosic biofuels produced after the*
14 *first year of annual cellulosic biofuels production in*
15 *the United States in excess of 1,000,000,000 gallons*
16 *are cost competitive with gasoline and diesel;*

17 *(3) not more than 25 percent of the funds com-*
18 *mitted within each reverse auction to any 1 project;*

19 *(4) not more than \$100,000,000 in any 1 year;*
20 *and*

21 *(5) not more than \$1,000,000,000 over the life-*
22 *time of the program.*

23 *(e) PRIORITY.—In selecting a project under the pro-*
24 *gram, the Secretary shall give priority to projects that—*

1 (1) *demonstrate outstanding potential for local*
2 *and regional economic development;*

3 (2) *include agricultural producers or coopera-*
4 *tives of agricultural producers as equity partners in*
5 *the ventures; and*

6 (3) *have a strategic agreement in place to fairly*
7 *reward feedstock suppliers.*

8 (f) *AUTHORIZATIONS OF APPROPRIATIONS.—There is*
9 *authorized to be appropriated to carry out this section*
10 *\$250,000,000.*

11 **SEC. 939. PROCUREMENT OF BIOBASED PRODUCTS.**

12 (a) *FEDERAL PROCUREMENT.—*

13 (1) *DEFINITION OF PROCURING AGENCY.—Sec-*
14 *tion 9001 of the Farm Security and Rural Invest-*
15 *ment Act of 2002 (7 U.S.C. 8101) is amended—*

16 (A) *by redesignating paragraphs (4), (5),*
17 *and (6) as paragraphs (5), (6), and (7), respec-*
18 *tively; and*

19 (B) *by inserting after paragraph (3) the fol-*
20 *lowing:*

21 “(4) *PROCURING AGENCY.—The term ‘procuring*
22 *agency’ means—*

23 “(A) *any Federal agency that is using Fed-*
24 *eral funds for procurement; or*

1 “(B) any person contracting with any Fed-
2 eral agency with respect to work performed
3 under the contract.”.

4 (2) *PROCUREMENT*.—Section 9002 of the Farm
5 Security and Rural Investment Act of 2002 (7 U.S.C.
6 8102) is amended—

7 (A) by striking “Federal agency” each place
8 it appears (other than in subsections (f) and (g))
9 and inserting “procuring agency”;

10 (B) in subsection (c)(2)—

11 (i) by striking “(2)” and all that fol-
12 lows through “Notwithstanding” and insert-
13 ing the following:

14 “(2) *FLEXIBILITY*.—Notwithstanding”;

15 (ii) by striking “an agency” and in-
16 serting “a procuring agency”; and

17 (iii) by striking “the agency” and in-
18 serting “the procuring agency”;

19 (C) in subsection (d), by striking “procured
20 by Federal agencies” and inserting “procured by
21 procuring agencies”; and

22 (D) in subsection (f), by striking “Federal
23 agencies” and inserting “procuring agencies” .

24 (b) *CAPITOL COMPLEX PROCUREMENT*.—Section 9002
25 of the Farm Security and Rural Investment Act of 2002

1 (7 U.S.C. 8102) (as amended by subsection (a)(2)) is
2 amended—

3 (1) by redesignating subsection (j) as subsection
4 (k); and

5 (2) by inserting after subsection (i) the following:

6 “(j) *INCLUSION.*—Not later than 90 days after the date
7 of enactment of the Energy Policy Act of 2005, the Architect
8 of the Capitol, the Sergeant at Arms of the Senate, and the
9 Chief Administrative Officer of the House of Representa-
10 tives shall establish procedures that apply the requirements
11 of this section to procurement for the Capitol Complex.”.

12 (c) *EDUCATION.*—

13 (1) *IN GENERAL.*—The Architect of the Capitol
14 shall establish in the Capitol Complex a program of
15 public education regarding use by the Architect of the
16 Capitol of biobased products.

17 (2) *PURPOSES.*—The purposes of the program
18 shall be—

19 (A) to establish the Capitol Complex as a
20 showcase for the existence and benefits of
21 biobased products; and

22 (B) to provide access to further information
23 on biobased products to occupants and visitors.

24 (d) *PROCEDURE.*—Requirements issued under the
25 amendments made by subsection (b) shall be made in ac-

1 *cordance with directives issued by the Committee on Rules*
2 *and Administration of the Senate and the Committee on*
3 *House Administration of the House of Representatives.*

4 **SEC. 940. SMALL BUSINESS BIOPRODUCT MARKETING AND**
5 **CERTIFICATION GRANTS.**

6 (a) *IN GENERAL.*—*Using amounts made available*
7 *under subsection (g), the Secretary of Agriculture (referred*
8 *to in this section as the “Secretary”) shall make available*
9 *on a competitive basis grants to eligible entities described*
10 *in subsection (b) for the biobased product marketing and*
11 *certification purposes described in subsection (c).*

12 (b) *ELIGIBLE ENTITIES.*—

13 (1) *IN GENERAL.*—*An entity eligible for a grant*
14 *under this section is any manufacturer of biobased*
15 *products that—*

16 (A) *proposes to use the grant for the*
17 *biobased product marketing and certification*
18 *purposes described in subsection (c); and*

19 (B) *has not previously received a grant*
20 *under this section.*

21 (2) *PREFERENCE.*—*In making grants under this*
22 *section, the Secretary provide a preference to an eligi-*
23 *ble entity that has fewer than 50 employees.*

1 (c) *BIOBASED PRODUCT MARKETING AND CERTIFI-*
2 *CATION GRANT PURPOSES.*—*A grant made under this sec-*
3 *tion shall be used—*

4 (1) *to provide working capital for marketing of*
5 *biobased products; and*

6 (2) *to provide for the certification of biobased*
7 *products to—*

8 (A) *qualify for the label described in section*
9 *9002(h)(1) of the Farm Security and Rural In-*
10 *vestment Act of 2002 (7 U.S.C. 8102(h)(1)); or*

11 (B) *meet other biobased standards deter-*
12 *mined appropriate by the Secretary.*

13 (d) *MATCHING FUNDS.*—

14 (1) *IN GENERAL.*—*Grant recipients shall provide*
15 *matching non-Federal funds equal to the amount of*
16 *the grant received.*

17 (2) *EXPENDITURE.*—*Matching funds shall be ex-*
18 *pended in advance of grant funding, so that for every*
19 *dollar of grant that is advanced, an equal amount of*
20 *matching funds shall have been funded prior to sub-*
21 *mitting the request for reimbursement.*

22 (e) *AMOUNT.*—*A grant made under this section shall*
23 *not exceed \$100,000.*

24 (f) *ADMINISTRATION.*—*The Secretary shall establish*
25 *such administrative requirements for grants under this sec-*

1 *tion, including requirements for applications for the grants,*
2 *as the Secretary considers appropriate.*

3 *(g) AUTHORIZATIONS OF APPROPRIATIONS.—There*
4 *are authorized to be appropriated to make grants under this*
5 *section—*

6 *(1) \$1,000,000 for fiscal year 2006; and*

7 *(2) such sums as are necessary for fiscal year*
8 *2007 and each subsequent fiscal year.*

9 **SEC. 941. REGIONAL BIOECONOMY DEVELOPMENT GRANTS.**

10 *(a) IN GENERAL.—Using amounts made available*
11 *under subsection (g), the Secretary of Agriculture (referred*
12 *to in this section as the “Secretary”) shall make available*
13 *on a competitive basis grants to eligible entities described*
14 *in subsection (b) for the purposes described in subsection*
15 *(c).*

16 *(b) ELIGIBLE ENTITIES.—An entity eligible for a*
17 *grant under this section is any regional bioeconomy devel-*
18 *opment association, agricultural or energy trade associa-*
19 *tion, or Land Grant institution that—*

20 *(1) proposes to use the grant for the purposes de-*
21 *scribed in subsection (c); and*

22 *(2) has not previously received a grant under*
23 *this section.*

24 *(c) REGIONAL BIOECONOMY DEVELOPMENT ASSOCIA-*
25 *TION GRANT PURPOSES.—A grant made under this section*

1 *shall be used to support and promote the growth and devel-*
2 *opment of the bioeconomy within the region served by the*
3 *eligible entity, through coordination, education, outreach,*
4 *and other endeavors by the eligible entity.*

5 (d) *MATCHING FUNDS.—*

6 (1) *IN GENERAL.—Grant recipients shall provide*
7 *matching non-Federal funds equal to the amount of*
8 *the grant received.*

9 (2) *EXPENDITURE.—Matching funds shall be ex-*
10 *pended in advance of grant funding, so that for every*
11 *dollar of grant that is advanced, an equal amount of*
12 *matching funds shall have been funded prior to sub-*
13 *mitting the request for reimbursement.*

14 (e) *ADMINISTRATION.—The Secretary shall establish*
15 *such administrative requirements for grants under this sec-*
16 *tion, including requirements for applications for the grants,*
17 *as the Secretary considers appropriate.*

18 (f) *AMOUNT.—A grant made under this section shall*
19 *not exceed \$500,000.*

20 (g) *AUTHORIZATIONS OF APPROPRIATIONS.—There*
21 *are authorized to be appropriated to make grants under this*
22 *section—*

23 (1) *\$1,000,000 for fiscal year 2006; and*

24 (2) *such sums as are necessary for fiscal year*
25 *2007 and each subsequent fiscal year.*

1 **SEC. 942. PREPROCESSING AND HARVESTING DEMONSTRATION GRANTS.**
2

3 (a) *IN GENERAL.*—*The Secretary of Agriculture (re-*
4 *ferred to in this section as the “Secretary”) shall make*
5 *grants available on a competitive basis to enterprises owned*
6 *by agricultural producers, for the purposes of demonstrating*
7 *cost-effective, cellulosic biomass innovations in—*

8 (1) *preprocessing of feedstocks, including clean-*
9 *ing, separating and sorting, mixing or blending, and*
10 *chemical or biochemical treatments, to add value and*
11 *lower the cost of feedstock processing at a biorefinery;*
12 *or*

13 (2) *1-pass or other efficient, multiple crop har-*
14 *vesting techniques.*

15 (b) *LIMITATIONS ON GRANTS.*—

16 (1) *NUMBER OF GRANTS.*—*Not more than 5 dem-*
17 *onstration projects per fiscal year shall be funded*
18 *under this section.*

19 (2) *NON-FEDERAL COST SHARE.*—*The non-Fed-*
20 *eral cost share of a project under this section shall be*
21 *not less than 20 percent, as determined by the Sec-*
22 *retary.*

23 (c) *CONDITION OF GRANT.*—*To be eligible for a grant*
24 *for a project under this section, a recipient of a grant or*
25 *a participating entity shall agree to use the material har-*
26 *vested under the project—*

1 (1) to produce ethanol; or

2 (2) for another energy purpose, such as the gen-
3 eration of heat or electricity.

4 (d) *AUTHORIZATION FOR APPROPRIATIONS.*—There is
5 authorized to be appropriated to carry out this section
6 \$5,000,000 for each of fiscal years 2006 through 2010.

7 **SEC. 943. EDUCATION AND OUTREACH.**

8 (a) *IN GENERAL.*—The Secretary of Agriculture shall
9 establish, within the Department of Agriculture or through
10 an independent contracting entity, a program of education
11 and outreach on biobased fuels and biobased products con-
12 sisting of—

13 (1) training and technical assistance programs
14 for feedstock producers to promote producer owner-
15 ship, investment, and participation in the operation
16 of processing facilities; and

17 (2) public education and outreach to familiarize
18 consumers with the biobased fuels and biobased prod-
19 ucts.

20 (b) *AUTHORIZATION OF APPROPRIATIONS.*—There is
21 authorized to be appropriated to carry out this title
22 \$1,000,000 for each of fiscal years 2006 through 2010.

23 **SEC. 944. REPORTS.**

24 (a) *BIOBASED PRODUCT POTENTIAL.*—Not later than
25 1 year after the date of enactment of this Act, the Secretary

1 of Agriculture (referred to in this section as the “Sec-
2 retary”) shall submit to the Committee on Agriculture of
3 the House of Representatives and the Committee on Agri-
4 culture, Nutrition, and Forestry of the Senate a report
5 that—

6 (1) describes the economic potential for the
7 United States of the widespread production and use
8 of commercial and industrial biobased products
9 through calendar year 2025; and

10 (2) as the maximum extent practicable, identifies
11 the economic potential by product area.

12 (b) ANALYSIS OF ECONOMIC INDICATORS.—Not later
13 than 2 years after the date of enactment of this Act, the
14 Secretary shall submit to Congress an analysis of economic
15 indicators of the biobased economy.

16 **Subtitle D—Nuclear Energy**

17 **SEC. 945. NUCLEAR ENERGY.**

18 (a) CORE PROGRAMS.—There are authorized to be ap-
19 propriated to the Secretary to carry out nuclear energy re-
20 search, development, demonstration, and commercial appli-
21 cation activities, including activities authorized under this
22 subtitle, other than those described in subsection (b)—

23 (1) \$330,000,000 for fiscal year 2006;

24 (2) \$355,000,000 for fiscal year 2007; and

25 (3) \$495,000,000 for fiscal year 2008.

1 (b) *NUCLEAR INFRASTRUCTURE SUPPORT.*—*There are*
2 *authorized to be appropriated to the Secretary to carry out*
3 *activities under section 942(f):*

4 (1) *\$135,000,000 for fiscal year 2006;*

5 (2) *\$140,000,000 for fiscal year 2007; and*

6 (3) *\$145,000,000 for fiscal year 2008.*

7 (c) *ALLOCATIONS.*—*From amounts authorized under*
8 *subsection (a), the following sums are authorized:*

9 (1) *For activities under section 943—*

10 (A) *\$150,000,000 for fiscal year 2006;*

11 (B) *\$155,000,000 for fiscal year 2007; and*

12 (C) *\$275,000,000 for fiscal year 2008.*

13 (2) *For activities under section 944—*

14 (A) *\$43,600,000 for fiscal year 2006;*

15 (B) *\$50,100,000 for fiscal year 2007; and*

16 (C) *\$56,000,000 for fiscal year 2008.*

17 (3) *For activities under section 946, \$6,000,000*
18 *for each of fiscal years 2006 through 2008.*

19 (d) *LIMITATION.*—*None of the funds authorized under*
20 *this section may be used to decommission the Fast Flux*
21 *Test Facility.*

22 **SEC. 946. NUCLEAR ENERGY RESEARCH PROGRAMS.**

23 (a) *NUCLEAR ENERGY RESEARCH INITIATIVE.*—*The*
24 *Secretary shall carry out a Nuclear Energy Research Ini-*

1 *tiative for research and development related to nuclear en-*
2 *ergy.*

3 (b) *NUCLEAR ENERGY PLANT OPTIMIZATION PRO-*
4 *GRAM.—The Secretary shall carry out a Nuclear Energy*
5 *Plant Optimization Program to support research and devel-*
6 *opment activities addressing reliability, availability, pro-*
7 *ductivity, component aging, safety, and security of existing*
8 *nuclear power plants.*

9 (c) *NUCLEAR POWER 2010 PROGRAM.—*

10 (1) *IN GENERAL.—The Secretary shall carry out*
11 *a Nuclear Power 2010 Program, consistent with rec-*
12 *ommendations of the Nuclear Energy Research Advi-*
13 *sory Committee of the Department in the report enti-*
14 *tled “A Roadmap to Deploy New Nuclear Power*
15 *Plants in the United States by 2010” and dated Octo-*
16 *ber 2001.*

17 (2) *ADMINISTRATION.—The Program shall*
18 *include—*

19 (A) *use of the expertise and capabilities of*
20 *industry, institutions of higher education, and*
21 *National Laboratories in evaluation of advanced*
22 *nuclear fuel cycles and fuels testing;*

23 (B) *consideration of a variety of reactor de-*
24 *signs suitable for both developed and developing*
25 *nations;*

1 (C) participation of international collabo-
2 rators in research, development, and design ef-
3 forts, as appropriate; and

4 (D) encouragement for participation by in-
5 stitutions of higher education and industry.

6 (d) *GENERATION IV NUCLEAR ENERGY SYSTEMS INI-*
7 *TIATIVE.—*

8 (1) *IN GENERAL.—The Secretary shall carry out*
9 *a Generation IV Nuclear Energy Systems Initiative*
10 *to develop an overall technology plan for and to sup-*
11 *port research and development necessary to make an*
12 *informed technical decision about the most promising*
13 *candidates for eventual commercial application.*

14 (2) *ADMINISTRATION.—In conducting the Initia-*
15 *tive, the Secretary shall examine advanced prolifera-*
16 *tion-resistant and passively safe reactor designs, in-*
17 *cluding designs that—*

18 (A) *are economically competitive with other*
19 *electric power generation plants;*

20 (B) *have higher efficiency, lower cost, and*
21 *improved safety compared to reactors in oper-*
22 *ation on the date of enactment of this Act;*

23 (C) *use fuels that are proliferation resistant*
24 *and have substantially reduced production of*
25 *high-level waste per unit of output; and*

1 (D) use improved instrumentation.

2 (e) *REACTOR PRODUCTION OF HYDROGEN.*—The Sec-
3 retary shall carry out research to examine designs for high-
4 temperature reactors capable of producing large-scale quan-
5 tities of hydrogen.

6 (f) *NUCLEAR INFRASTRUCTURE SUPPORT.*—

7 (1) *IN GENERAL.*—The Secretary shall—

8 (A) develop and implement a strategy for
9 the facilities of the Office of Nuclear Energy,
10 Science, and Technology; and

11 (B) submit to Congress a report describing
12 the strategy, along with the budget request of the
13 President submitted to Congress for fiscal year
14 2006.

15 (2) *ADMINISTRATION.*—The strategy shall pro-
16 vide a cost-effective means for—

17 (A) maintaining existing facilities and in-
18 frastructure;

19 (B) closing unneeded facilities;

20 (C) making facility upgrades and modifica-
21 tions; and

22 (D) building new facilities.

23 **SEC. 947. ADVANCED FUEL CYCLE INITIATIVE.**

24 (a) *IN GENERAL.*—The Secretary, acting through the
25 Director of the Office of Nuclear Energy, Science and Tech-

1 *nology, shall conduct an advanced fuel recycling technology*
2 *research and development program (referred to in this sec-*
3 *tion as the “program”) to evaluate proliferation-resistant*
4 *fuel recycling and transmutation technologies that mini-*
5 *mize environmental or public health and safety impacts as*
6 *an alternative to aqueous reprocessing technologies deployed*
7 *as of the date of enactment of this Act in support of evalua-*
8 *tion of alternative national strategies for spent nuclear fuel*
9 *and the Generation IV advanced reactor concepts.*

10 *(b) ANNUAL REVIEW.—The program shall be subject*
11 *to annual review by the Nuclear Energy Research Advisory*
12 *Committee of the Department or other independent entity,*
13 *as appropriate.*

14 *(c) INTERNATIONAL COOPERATION.—In carrying out*
15 *the program, the Secretary is encouraged to seek opportuni-*
16 *ties to enhance the progress of the program through inter-*
17 *national cooperation.*

18 *(d) REPORTS.—The Secretary shall submit, as part of*
19 *the annual budget submission of the Department, a report*
20 *on the activities of the program.*

21 **SEC. 948. NUCLEAR SCIENCE AND ENGINEERING SUPPORT**
22 **FOR INSTITUTIONS OF HIGHER EDUCATION.**

23 *(a) ESTABLISHMENT.—The Secretary shall support a*
24 *program to invest in human resources and infrastructure*
25 *in the nuclear sciences and engineering and related fields*

1 *(including health physics and nuclear and radiochemistry),*
2 *consistent with departmental missions related to civilian*
3 *nuclear research and development.*

4 *(b) DUTIES.—*

5 *(1) IN GENERAL.—In carrying out the program*
6 *under this section, the Secretary shall—*

7 *(A) establish fellowship and faculty assist-*
8 *ance programs; and*

9 *(B) provide support for fundamental re-*
10 *search and encourage collaborative research*
11 *among industry, National Laboratories, and in-*
12 *stitutions of higher education through the Nu-*
13 *clear Energy Research Initiative established*
14 *under section 942(a).*

15 *(2) ENTIRE FUEL CYCLE.—The Secretary is en-*
16 *couraged to support activities addressing the entire*
17 *fuel cycle through involvement of the Office of Nuclear*
18 *Energy, Science and Technology and the Office of Ci-*
19 *vilian Radioactive Waste Management.*

20 *(3) OUTREACH.—The Secretary shall support*
21 *communication and outreach related to nuclear*
22 *science, engineering, and nuclear waste management.*

23 *(c) MAINTAINING RESEARCH AND TRAINING REAC-*
24 *TORS AND ASSOCIATED INFRASTRUCTURE IN INSTITUTIONS*

1 *OF HIGHER EDUCATION.—Activities under this section*
2 *may include—*

3 (1) *converting research reactors currently using*
4 *high-enrichment fuels to low-enrichment fuels;*

5 (2) *upgrading operational instrumentation;*

6 (3) *sharing of reactors among institutions of*
7 *higher education;*

8 (4) *providing technical assistance, in collabora-*
9 *tion with the United States nuclear industry, in reli-*
10 *censing and upgrading training reactors as part of a*
11 *student training program; and*

12 (5) *providing funding for reactor improvements*
13 *as part of a focused effort that emphasizes research,*
14 *training, and education.*

15 (d) *INTERACTIONS BETWEEN NATIONAL LABORA-*
16 *TORIES AND INSTITUTIONS OF HIGHER EDUCATION.—The*
17 *Secretary shall develop sabbatical fellowship and visiting*
18 *scientist programs to encourage sharing of personnel be-*
19 *tween National Laboratories and institutions of higher edu-*
20 *cation.*

21 (e) *OPERATING AND MAINTENANCE COSTS.—Funding*
22 *for a research project provided under this section may be*
23 *used to offset a portion of the operating and maintenance*
24 *costs of a research reactor at an institution of higher edu-*
25 *cation used in the research project.*

1 **SEC. 949. SECURITY OF NUCLEAR FACILITIES.**

2 *The Secretary, acting through the Director of the Office*
3 *of Nuclear Energy, Science and Technology, shall conduct*
4 *a research and development program on cost-effective tech-*
5 *nologies for increasing—*

6 *(1) the safety of nuclear facilities from natural*
7 *phenomena; and*

8 *(2) the security of nuclear facilities from delib-*
9 *erate attacks.*

10 **SEC. 950. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE**
11 **SOURCES.**

12 *(a) SURVEY.—*

13 *(1) IN GENERAL.—Not later than August 1,*
14 *2006, the Secretary shall submit to Congress the re-*
15 *sults of a survey of industrial applications of large*
16 *radioactive sources.*

17 *(2) ADMINISTRATION.—The survey shall—*

18 *(A) consider well-logging sources as 1 class*
19 *of industrial sources;*

20 *(B) include information on current domes-*
21 *tic and international Department, Department*
22 *of Defense, State Department, and commercial*
23 *programs to manage and dispose of radioactive*
24 *sources; and*

25 *(C) analyze available disposal options for*
26 *currently deployed or future sources and, if defi-*

1 *ciencies are noted for either deployed or future*
2 *sources, recommend legislative options that Con-*
3 *gress may consider to remedy identified defi-*
4 *ciencies.*

5 *(b) PLAN.—*

6 *(1) IN GENERAL.—In conjunction with the sur-*
7 *vey conducted under subsection (a), the Secretary*
8 *shall establish a research and development program to*
9 *develop alternatives to sources described in subsection*
10 *(a) that reduce safety, environmental, or proliferation*
11 *risks to either workers using the sources or the public.*

12 *(2) ACCELERATORS.—Miniaturized particle ac-*
13 *celerators for well-logging or other industrial applica-*
14 *tions and portable accelerators for production of*
15 *short-lived radioactive materials at an industrial site*
16 *shall be considered as part of the research and devel-*
17 *opment efforts.*

18 *(3) REPORT.—Not later than August 1, 2006, the*
19 *Secretary shall submit to Congress a report describing*
20 *the details of the program plan.*

21 ***Subtitle E—Fossil Energy***

22 ***SEC. 951. FOSSIL ENERGY.***

23 *(a) IN GENERAL.—There are authorized to be appro-*
24 *priated to the Secretary to carry out fossil energy research,*
25 *development, demonstration, and commercial application*

1 *activities, including activities authorized under this*
2 *subtitle—*

3 *(1) \$583,000,000 for fiscal year 2006;*

4 *(2) \$611,000,000 for fiscal year 2007; and*

5 *(3) \$626,000,000 for fiscal year 2008.*

6 *(b) ALLOCATIONS.—From amounts authorized under*
7 *subsection (a), the following sums are authorized:*

8 *(1) For activities under section 954, \$20,000,000*
9 *for each of fiscal years 2006 through 2008.*

10 *(2) For activities under section 955—*

11 *(A) \$337,000,000 for fiscal year 2006;*

12 *(B) \$364,000,000 for fiscal year 2007; and*

13 *(C) \$394,000,000 for fiscal year 2008.*

14 *(3) For activities under section 956—*

15 *(A) \$20,000,000 for fiscal year 2006;*

16 *(B) \$25,000,000 for fiscal year 2007; and*

17 *(C) \$30,000,000 for fiscal year 2008.*

18 *(4) For the Office of Arctic Energy under section*
19 *3197 of the Floyd D. Spence National Defense Au-*
20 *thorization Act for Fiscal Year 2001 (42 U.S.C.*
21 *7144d) \$25,000,000 for each of fiscal years 2006*
22 *through 2008.*

23 *(c) EXTENDED AUTHORIZATION.—There are author-*
24 *ized to be appropriated to the Secretary for the Office of*
25 *Arctic Energy established under section 3197 of the Floyd*

1 *D. Spence National Defense Authorization Act for Fiscal*
2 *Year 2001 (42 U.S.C. 7144d) \$25,000,000 for each of fiscal*
3 *years 2009 through 2012.*

4 *(d) LIMITATIONS.—*

5 *(1) USES.—None of the funds authorized under*
6 *this section may be used for Fossil Energy Environ-*
7 *mental Restoration or Import/Export Authorization.*

8 *(2) INSTITUTIONS OF HIGHER EDUCATION.—Of*
9 *the funds authorized under subsection (b)(1), not less*
10 *than 20 percent of the funds appropriated for each*
11 *fiscal year shall be dedicated to research and develop-*
12 *ment carried out at institutions of higher education.*

13 **SEC. 952. OIL AND GAS RESEARCH PROGRAMS.**

14 *(a) OIL AND GAS RESEARCH.—The Secretary shall*
15 *conduct a program of research, development, demonstration,*
16 *and commercial application of oil and gas, including—*

17 *(1) exploration and production;*

18 *(2) gas hydrates;*

19 *(3) reservoir life and extension;*

20 *(4) transportation and distribution infrastruc-*
21 *ture;*

22 *(5) ultraclean fuels;*

23 *(6) heavy oil and shale; and*

24 *(7) related environmental research.*

1 **(b) NATURAL GAS AND OIL DEPOSITS REPORT.**—Not
2 later than 2 years after the date of enactment of this Act
3 and every 2 years thereafter, the Secretary of the Interior,
4 in consultation with other appropriate Federal agencies,
5 shall submit to Congress a report on the latest estimates
6 of natural gas and oil reserves, reserves growth, and undis-
7 covered resources in Federal and State waters off the coast
8 of Louisiana, Texas, Alabama, and Mississippi.

9 **(c) INTEGRATED CLEAN POWER AND ENERGY RE-**
10 **SEARCH.**—

11 **(1) ESTABLISHMENT OF CENTER.**—The Sec-
12 retary shall establish a national center or consortium
13 of excellence in clean energy and power generation,
14 using the resources of the Clean Power and Energy
15 Research Consortium in existence on the date of en-
16 actment of this Act, to address the critical dependence
17 of the United States on energy and the need to reduce
18 emissions.

19 **(2) FOCUS AREAS.**—The center or consortium
20 shall conduct a program of research, development,
21 demonstration, and commercial application on inte-
22 grating the following 6 focus areas:

23 **(A) Efficiency and reliability of gas tur-**
24 **bines for power generation.**

1 (B) *Reduction in emissions from power gen-*
2 *eration.*

3 (C) *Promotion of energy conservation*
4 *issues.*

5 (D) *Effectively using alternative fuels and*
6 *renewable energy.*

7 (E) *Development of advanced materials*
8 *technology for oil and gas exploration and use in*
9 *harsh environments.*

10 (F) *Education on energy and power genera-*
11 *tion issues.*

12 **SEC. 953. METHANE HYDRATE RESEARCH.**

13 (a) *IN GENERAL.—The Methane Hydrate Research*
14 *and Development Act of 2000 (30 U.S.C. 1902 note; Public*
15 *Law 106–193) is amended to read as follows:*

16 **“SECTION 1. SHORT TITLE.**

17 *“This Act may be cited as the ‘Methane Hydrate Re-*
18 *search and Development Act of 2000’.*

19 **“SEC. 2. FINDINGS.**

20 *“Congress finds that—*

21 *“(1) in order to promote energy independence*
22 *and meet the increasing demand for energy, the*
23 *United States will require a diversified portfolio of*
24 *substantially increased quantities of electricity, nat-*
25 *ural gas, and transportation fuels;*

1 “(2) according to the report submitted to Con-
2 gress by the National Research Council entitled
3 ‘Charting the Future of Methane Hydrate Research in
4 the United States’, the total United States resources
5 of gas hydrates have been estimated to be on the order
6 of 200,000 trillion cubic feet;

7 “(3) according to the report of the National
8 Commission on Energy Policy entitled ‘Ending the
9 Energy Stalemate—A Bipartisan Strategy to Meet
10 America’s Energy Challenge’, and dated December
11 2004, the United States may be endowed with over 1/
12 4 of the methane hydrate deposits in the world;

13 “(4) according to the Energy Information Ad-
14 ministration, a shortfall in natural gas supply from
15 conventional and unconventional sources is expected
16 to occur in or about 2020; and

17 “(5) the National Academy of Science states that
18 methane hydrate may have the potential to alleviate
19 the projected shortfall in the natural gas supply.

20 **“SEC. 3. DEFINITIONS.**

21 *“In this Act:*

22 “(1) **CONTRACT.**—The term ‘contract’ means a
23 procurement contract within the meaning of section
24 6303 of title 31, United States Code.

1 “(2) *COOPERATIVE AGREEMENT.*—The term ‘co-
2 *operative agreement*’ means a cooperative agreement
3 *within the meaning of section 6305 of title 31, United*
4 *States Code.*

5 “(3) *DIRECTOR.*—The term ‘Director’ means the
6 *Director of the National Science Foundation.*

7 “(4) *GRANT.*—The term ‘grant’ means a grant
8 *awarded under a grant agreement (within the mean-*
9 *ing of section 6304 of title 31, United States Code).*

10 “(5) *INDUSTRIAL ENTERPRISE.*—The term ‘in-
11 *dustrial enterprise*’ means a private, nongovern-
12 *mental enterprise that has an expertise or capability*
13 *that relates to methane hydrate research and develop-*
14 *ment.*

15 “(6) *INSTITUTION OF HIGHER EDUCATION.*—The
16 *term ‘institution of higher education’ means an insti-*
17 *tution of higher education (as defined in section 102*
18 *of the Higher Education Act of 1965 (20 U.S.C.*
19 *1002)).*

20 “(7) *SECRETARY.*—The term ‘Secretary’ means
21 *the Secretary of Energy, acting through the Assistant*
22 *Secretary for Fossil Energy.*

23 “(8) *SECRETARY OF COMMERCE.*—The term ‘Sec-
24 *retary of Commerce*’ means the Secretary of Com-

1 *merce, acting through the Administrator of the Na-*
2 *tional Oceanic and Atmospheric Administration.*

3 “(9) *SECRETARY OF DEFENSE.*—*The term ‘Sec-*
4 *retary of Defense’ means the Secretary of Defense, act-*
5 *ing through the Secretary of the Navy.*

6 “(10) *SECRETARY OF THE INTERIOR.*—*The term*
7 *‘Secretary of the Interior’ means the Secretary of the*
8 *Interior, acting through the Director of the United*
9 *States Geological Survey, the Director of the Bureau*
10 *of Land Management, and the Director of the Min-*
11 *erals Management Service.*

12 **“SEC. 4. METHANE HYDRATE RESEARCH AND DEVELOP-**
13 **MENT PROGRAM.**

14 “(a) *IN GENERAL.*—

15 “(1) *COMMENCEMENT OF PROGRAM.*—*Not later*
16 *than 90 days after the date of enactment of the En-*
17 *ergy Research, Development, Demonstration, and*
18 *Commercial Application Act of 2005, the Secretary,*
19 *in consultation with the Secretary of Commerce, the*
20 *Secretary of Defense, the Secretary of the Interior,*
21 *and the Director, shall commence a program of meth-*
22 *ane hydrate research and development in accordance*
23 *with this section.*

24 “(2) *DESIGNATIONS.*—*The Secretary, the Sec-*
25 *retary of Commerce, the Secretary of Defense, the Sec-*

1 *retary of the Interior, and the Director shall designate*
2 *individuals to carry out this section.*

3 *“(3) COORDINATION.—The individual designated*
4 *by the Secretary shall coordinate all activities within*
5 *the Department of Energy relating to methane hy-*
6 *drate research and development.*

7 *“(4) MEETINGS.—The individuals designated*
8 *under paragraph (2) shall meet not later than 180*
9 *days after the date of enactment of the Energy Re-*
10 *search, Development, Demonstration, and Commercial*
11 *Application Act of 2005 and not less frequently than*
12 *every 180 days thereafter to—*

13 *“(A) review the progress of the program*
14 *under paragraph (1); and*

15 *“(B) coordinate interagency research and*
16 *partnership efforts in carrying out the program.*

17 *“(b) GRANTS, CONTRACTS, COOPERATIVE AGREE-*
18 *MENTS, INTERAGENCY FUNDS TRANSFER AGREEMENTS,*
19 *AND FIELD WORK PROPOSALS.—*

20 *“(1) ASSISTANCE AND COORDINATION.—In car-*
21 *rying out the program of methane hydrate research*
22 *and development authorized by this section, the Sec-*
23 *retary may award grants to, or enter into contracts*
24 *or cooperative agreements with, institutions of higher*

1 *education, oceanographic institutions, and industrial*
2 *enterprises to—*

3 “(A) *conduct basic and applied research to*
4 *identify, explore, assess, and develop methane hy-*
5 *drate as a commercially viable source of energy;*

6 “(B) *identify methane hydrate resources*
7 *through remote sensing;*

8 “(C) *acquire and reprocess seismic data*
9 *suitable for characterizing methane hydrate ac-*
10 *cumulations;*

11 “(D) *assist in developing technologies re-*
12 *quired for efficient and environmentally sound*
13 *development of methane hydrate resources;*

14 “(E) *promote education and training in*
15 *methane hydrate resource research and resource*
16 *development through fellowships or other means*
17 *for graduate education and training;*

18 “(F) *conduct basic and applied research to*
19 *assess and mitigate the environmental impact of*
20 *hydrate degassing (including both natural*
21 *degassing and degassing associated with commer-*
22 *cial development);*

23 “(G) *develop technologies to reduce the risks*
24 *of drilling through methane hydrates; and*

1 “(H) conduct exploratory drilling, well test-
2 ing, and production testing operations on per-
3 mafrost and non-permafrost gas hydrates in sup-
4 port of the activities authorized by this para-
5 graph, including drilling of 1 or more full-scale
6 production test wells.

7 “(2) COMPETITIVE PEER REVIEW.—Funds made
8 available under paragraph (1) shall be made avail-
9 able based on a competitive process using external sci-
10 entific peer review of proposed research.

11 “(c) METHANE HYDRATES ADVISORY PANEL.—

12 “(1) IN GENERAL.—The Secretary shall establish
13 an advisory panel (including the hiring of appro-
14 priate staff) consisting of representatives of industrial
15 enterprises, institutions of higher education, oceano-
16 graphic institutions, State agencies, and environ-
17 mental organizations with knowledge and expertise in
18 the natural gas hydrates field, to—

19 “(A) assist in developing recommendations
20 and broad programmatic priorities for the meth-
21 ane hydrate research and development program
22 carried out under subsection (a)(1);

23 “(B) provide scientific oversight for the
24 methane hydrates program, including assessing
25 progress toward program goals, evaluating pro-

1 *gram balance, and providing recommendations*
2 *to enhance the quality of the program over time;*
3 *and*

4 “(C) *not later than 2 years after the date of*
5 *enactment of the Energy Research, Development,*
6 *Demonstration, and Commercial Application Act*
7 *of 2005, and at such later dates as the panel con-*
8 *siders advisable, submit to Congress—*

9 “(i) *an assessment of the methane hy-*
10 *drate research program; and*

11 “(ii) *an assessment of the 5-year re-*
12 *search plan of the Department of Energy.*

13 “(2) *CONFLICTS OF INTEREST.—In appointing*
14 *each member of the advisory panel established under*
15 *paragraph (1), the Secretary shall ensure, to the max-*
16 *imum extent practicable, that the appointment of the*
17 *member does not pose a conflict of interest with re-*
18 *spect to the duties of the member under this Act.*

19 “(3) *MEETINGS.—The advisory panel shall—*

20 “(A) *hold the initial meeting of the advisory*
21 *panel not later than 180 days after the date of*
22 *establishment of the advisory panel; and*

23 “(B) *meet biennially thereafter.*

24 “(4) *COORDINATION.—The advisory panel shall*
25 *coordinate activities of the advisory panel with pro-*

1 *gram managers of the Department of Energy at ap-*
2 *propriate national laboratories*

3 “(d) *CONSTRUCTION COSTS.*—None of the funds made
4 *available to carry out this section may be used for the con-*
5 *struction of a new building or the acquisition, expansion,*
6 *remodeling, or alteration of an existing building (including*
7 *site grading and improvement and architect fees).*

8 “(e) *RESPONSIBILITIES OF THE SECRETARY.*—In car-
9 *rying out subsection (b)(1), the Secretary shall—*

10 “(1) *facilitate and develop partnerships among*
11 *government, industrial enterprises, and institutions of*
12 *higher education to research, identify, assess, and ex-*
13 *plore methane hydrate resources;*

14 “(2) *undertake programs to develop basic infor-*
15 *mation necessary for promoting long-term interest in*
16 *methane hydrate resources as an energy source;*

17 “(3) *ensure that the data and information devel-*
18 *oped through the program are accessible and widely*
19 *disseminated as needed and appropriate;*

20 “(4) *promote cooperation among agencies that*
21 *are developing technologies that may hold promise for*
22 *methane hydrate resource development;*

23 “(5) *report annually to Congress on the results*
24 *of actions taken to carry out this Act; and*

1 “(6) ensure, to the maximum extent practicable,
2 greater participation by the Department of Energy in
3 international cooperative efforts.

4 **“SEC. 5. NATIONAL RESEARCH COUNCIL STUDY.**

5 “(a) *AGREEMENT FOR STUDY.*—The Secretary shall
6 offer to enter into an agreement with the National Research
7 Council under which the National Research Council shall—

8 “(1) conduct a study of the progress made under
9 the methane hydrate research and development pro-
10 gram implemented under this Act; and

11 “(2) make recommendations for future methane
12 hydrate research and development needs.

13 “(b) *REPORT.*—Not later than September 30, 2009, the
14 Secretary shall submit to Congress a report containing the
15 findings and recommendations of the National Research
16 Council under this section.

17 **“SEC. 6. REPORTS AND STUDIES FOR CONGRESS.**

18 “The Secretary shall provide to the Committee on
19 Science of the House of Representatives and the Committee
20 on Energy and Natural Resources of the Senate copies of
21 any report or study that the Department of Energy pre-
22 pares at the direction of any committee of Congress relating
23 to the methane hydrate research and development program
24 implemented under this Act.

1 **“SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

2 *“There are authorized to be appropriated to the Sec-*
3 *retary to carry out this Act, to remain available until*
4 *expended—*

5 *“(1) \$15,000,000 for fiscal year 2006;*

6 *“(2) \$20,000,000 for fiscal year 2007;*

7 *“(3) \$30,000,000 for fiscal year 2008;*

8 *“(4) \$50,000,000 for fiscal year 2009; and*

9 *“(5) \$50,000,000 for fiscal year 2010.”.*

10 *(b) RECLASSIFICATION.—The Law Revision Counsel*
11 *shall reclassify the Methane Hydrate Research and Develop-*
12 *ment Act of 2000 (30 U.S.C. 1902 note; Public Law 106-*
13 *193) to a new chapter at the end of title 30, United States*
14 *Code.*

15 **SEC. 954. LOW-VOLUME GAS RESERVOIR RESEARCH PRO-**
16 **GRAM.**

17 *(a) DEFINITIONS OF GIS.—In this section, the term*
18 *“GIS” means geographic information systems technology*
19 *that facilitates the organization and management of data*
20 *with a geographic component.*

21 *(b) PROGRAM.—The Secretary shall establish a pro-*
22 *gram of research, development, demonstration, and commer-*
23 *cial application to maximize the productive capacity of*
24 *marginal wells and reservoirs.*

25 *(c) DATA COLLECTION.—Under the program, the Sec-*
26 *retary shall collect data on—*

1 (1) *the status and location of marginal wells and*
2 *gas reservoirs;*

3 (2) *the production capacity of marginal wells*
4 *and gas reservoirs;*

5 (3) *the location of low-pressure gathering facili-*
6 *ties and pipelines; and*

7 (4) *the quantity of natural gas vented or flared*
8 *in association with crude oil production.*

9 (d) *ANALYSIS.*—*Under the program, the Secretary*
10 *shall—*

11 (1) *estimate the remaining producible reserves*
12 *based on variable pipeline pressures; and*

13 (2) *recommend measures that will enable the*
14 *continued production of those resources.*

15 (e) *STUDY.*—

16 (1) *IN GENERAL.*—*The Secretary may award a*
17 *grant to an organization of States that contain sig-*
18 *nificant numbers of marginal oil and natural gas*
19 *wells to conduct an annual study of low-volume nat-*
20 *ural gas reservoirs.*

21 (2) *ORGANIZATION WITH NO GIS CAPABILI-*
22 *TIES.*—*If an organization receiving a grant under*
23 *paragraph (1) does not have GIS capabilities, the or-*
24 *ganization shall contract with an institution of high-*
25 *er education with GIS capabilities.*

1 (3) *STATE GEOLOGISTS.*—*The organization re-*
 2 *ceiving a grant under paragraph (1) shall collaborate*
 3 *with the State geologist of each State being studied.*

4 (f) *PUBLIC INFORMATION.*—*The Secretary may use the*
 5 *data collected and analyzed under this section to produce*
 6 *maps and literature to disseminate to States to promote*
 7 *conservation of natural gas reserves.*

8 (g) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 9 *authorized to be appropriated to the Secretary to carry out*
 10 *this section—*

11 (1) *\$1,500,000 for fiscal year 2006; and*

12 (2) *\$450,000 for each of fiscal years 2007 and*
 13 *2008.*

14 **SEC. 955. RESEARCH AND DEVELOPMENT FOR COAL MIN-**
 15 **ING TECHNOLOGIES.**

16 (a) *ESTABLISHMENT.*—*The Secretary shall carry out*
 17 *a program for research and development on coal mining*
 18 *technologies.*

19 (b) *COOPERATION.*—*In carrying out the program, the*
 20 *Secretary shall cooperate with appropriate Federal agen-*
 21 *cies, coal producers, trade associations, equipment manu-*
 22 *facturers, institutions of higher education with mining en-*
 23 *gineering departments, and other relevant entities.*

24 (c) *PROGRAM.*—*The research and development activi-*
 25 *ties carried out under this section shall—*

1 (1) *be guided by the mining research and devel-*
2 *opment priorities identified by the Mining Industry*
3 *of the Future Program and in the recommendations*
4 *from relevant reports of the National Academy of*
5 *Sciences on mining technologies;*

6 (2) *include activities exploring minimization of*
7 *contaminants in mined coal that contribute to envi-*
8 *ronmental concerns including development and dem-*
9 *onstration of electromagnetic wave imaging ahead of*
10 *mining operations;*

11 (3) *develop and demonstrate coal bed electro-*
12 *magnetic wave imaging, spectroscopic reservoir anal-*
13 *ysis technology, and techniques for horizontal drilling*
14 *in order to—*

15 (A) *identify areas of high coal gas content;*

16 (B) *increase methane recovery efficiency;*

17 (C) *prevent spoilage of domestic coal re-*
18 *serves; and*

19 (D) *minimize water disposal associated*
20 *with methane extraction; and*

21 (4) *expand mining research capabilities at insti-*
22 *tutions of higher education.*

23 **SEC. 956. COAL AND RELATED TECHNOLOGIES PROGRAM.**

24 (a) *IN GENERAL.—In addition to the programs au-*
25 *thorized under title IV, the Secretary shall conduct a pro-*

1 *gram of technology research, development, and demonstra-*
2 *tion and commercial application for coal and power sys-*
3 *tems, including programs to facilitate production and gen-*
4 *eration of coal-based power through—*

5 *(1) innovations for existing plants (including*
6 *mercury removal);*

7 *(2) gasification systems;*

8 *(3) advanced combustion systems;*

9 *(4) turbines for synthesis gas derived from coal;*

10 *(5) carbon capture and sequestration research*
11 *and development;*

12 *(6) coal-derived chemicals and transportation*
13 *fuels;*

14 *(7) liquid fuels derived from low rank coal*
15 *water;*

16 *(8) solid fuels and feedstocks;*

17 *(9) advanced coal-related research;*

18 *(10) advanced separation technologies; and*

19 *(11) fuel cells for the operation of synthesis gas*
20 *derived from coal.*

21 *(b) COST AND PERFORMANCE GOALS.—*

22 *(1) IN GENERAL.—In carrying out programs au-*
23 *thorized by this section, the Secretary shall identify*
24 *cost and performance goals for coal-based technologies*
25 *that would permit the continued cost-competitive use*

1 of coal for the production of electricity, chemical feed-
2 stocks, and transportation fuels in 2008, 2010, 2012,
3 and 2016, and each calendar year beginning after
4 September 30, 2021.

5 (2) *ADMINISTRATION.*—*In establishing the cost*
6 *and performance goals, the Secretary shall—*

7 (A) *consider activities and studies under-*
8 *taken as of the date of enactment of this Act by*
9 *industry in cooperation with the Department in*
10 *support of the identification of the goals;*

11 (B) *consult with interested entities,*
12 *including—*

13 (i) *coal producers;*

14 (ii) *industries using coal;*

15 (iii) *organizations that promote coal*
16 *and advanced coal technologies;*

17 (iv) *environmental organizations;*

18 (v) *organizations representing workers;*

19 *and*

20 (vi) *organizations representing con-*
21 *sumers;*

22 (C) *not later than 120 days after the date*
23 *of enactment of this Act, publish in the Federal*
24 *Register proposed draft cost and performance*
25 *goals for public comments; and*

1 (D) not later than 180 days after the date
2 of enactment of this Act and every 4 years there-
3 after, submit to Congress a report describing the
4 final cost and performance goals for the tech-
5 nologies that includes—

6 (i) a list of technical milestones; and

7 (ii) an explanation of how programs
8 authorized in this section will not duplicate
9 the activities authorized under the Clean
10 Coal Power Initiative authorized under title
11 IV.

12 (c) *POWDER RIVER BASIN AND FORT UNION LIGNITE*
13 *COAL MERCURY REMOVAL.*—

14 (1) *IN GENERAL.*—In addition to the programs
15 authorized by subsection (a), the Secretary may estab-
16 lish a program to test and develop technologies to con-
17 trol and remove mercury emissions from subbitu-
18 minous coal mined in the Powder River Basin, and
19 Fort Union lignite coals, that are used for the genera-
20 tion of electricity.

21 (2) *EFFICACY OF MERCURY REMOVAL TECH-*
22 *NOLOGY.*—In carrying out the program under para-
23 graph (1), the Secretary shall examine the efficacy of
24 mercury removal technologies on coals described in

1 *that paragraph that are blended with other types of*
2 *coal.*

3 *(d) FUEL CELLS.—*

4 *(1) IN GENERAL.—The Secretary shall conduct a*
5 *program of research, development, demonstration, and*
6 *commercial application on fuel cells for low-cost,*
7 *high-efficiency, fuel-flexible, modular power systems.*

8 *(2) DEMONSTRATIONS.—The demonstrations re-*
9 *ferred to in paragraph (1) shall include solid oxide*
10 *fuel cell technology for commercial, residential, and*
11 *transportation applications, and distributed genera-*
12 *tion systems, using improved manufacturing produc-*
13 *tion and processes.*

14 **SEC. 957. CARBON CAPTURE RESEARCH AND DEVELOP-**
15 **MENT PROGRAM.**

16 *(a) IN GENERAL.—The Secretary shall carry out a 10-*
17 *year carbon capture research and development program to*
18 *develop carbon dioxide capture technologies on combustion-*
19 *based systems for use—*

20 *(1) in new coal utilization facilities; and*

21 *(2) on the fleet of coal-based units in existence on*
22 *the date of enactment of this Act.*

23 *(b) OBJECTIVES.—The objectives of the program under*
24 *subsection (a) shall be—*

1 (1) to develop carbon dioxide capture tech-
2 nologies, including adsorption and absorption tech-
3 niques and chemical processes, to remove the carbon
4 dioxide from gas streams containing carbon dioxide
5 potentially amenable to sequestration;

6 (2) to develop technologies that would directly
7 produce concentrated streams of carbon dioxide poten-
8 tially amenable to sequestration;

9 (3) to increase the efficiency of the overall system
10 to reduce the quantity of carbon dioxide emissions re-
11 leased from the system per megawatt generated; and

12 (4) in accordance with the carbon dioxide cap-
13 ture program, to promote a robust carbon sequestra-
14 tion program and continue the work of the Depart-
15 ment, in conjunction with the private sector, through
16 regional carbon sequestration partnerships.

17 **SEC. 958. COMPLEX WELL TECHNOLOGY TESTING FACILITY.**

18 The Secretary, in coordination with industry leaders
19 in extended research drilling technology, shall establish a
20 Complex Well Technology Testing Facility at the Rocky
21 Mountain Oilfield Testing Center to increase the range of
22 extended drilling technologies.

Subtitle F—Science**SEC. 961. SCIENCE.**

(a) *IN GENERAL.*—There are authorized to be appropriated to the Secretary to carry out research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle (including the amounts authorized under the amendment made by section 967(b) and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, research analysis, and infrastructure support)—

(1) \$4,153,000,000 for fiscal year 2006;

(2) \$4,586,000,000 for fiscal year 2007; and

(3) \$5,000,000,000 for fiscal year 2008.

(b) *ALLOCATIONS.*—From amounts authorized under subsection (a), the following sums are authorized:

(1) *For activities under the Fusion Energy Sciences program (including activities under section 962)—*

(A) \$349,000,000 for fiscal year 2006;

(B) \$362,000,000 for fiscal year 2007; and

(C) \$377,000,000 for fiscal year 2008.

(2) *For activities under the catalysis research program established under section 964—*

1 (A) \$35,000,000 for fiscal year 2006;

2 (B) \$36,500,000 for fiscal year 2007; and

3 (C) \$38,200,000 for fiscal year 2008.

4 (3) For activities under the Genomes to Life Pro-
5 gram established under section 968—

6 (A) \$170,000,000 for fiscal year 2006;

7 (B) \$325,000,000 for fiscal year 2007; and

8 (C) \$415,000,000 for fiscal year 2008.

9 (4) For construction and ancillary equipment for
10 user facilities under section 968(d) for the Genomes to
11 Life Program, of the amounts authorized under para-
12 graph (3)—

13 (A) \$70,000,000 for fiscal year 2006;

14 (B) \$175,000,000 for fiscal year 2007; and

15 (C) \$215,000,000 for fiscal year 2008.

16 (5) For activities under the Energy-Water Sup-
17 ply Technologies Program established under section
18 970, \$30,000,000 for each of fiscal years 2006 through
19 2008.

20 (c) FUSION ENERGY SCIENCES PROGRAM.—In addi-
21 tion to the funds authorized under subsection (b)(1), there
22 are authorized to be appropriated for construction costs as-
23 sociated with the Fusion Energy Sciences Program under
24 section 962—

25 (1) \$55,000,000 for fiscal year 2006;

1 (2) \$95,000,000 for fiscal year 2007; and

2 (3) \$115,000,000 for fiscal year 2008.

3 **SEC. 962. FUSION ENERGY SCIENCES PROGRAM.**

4 (a) *DECLARATION OF POLICY.*—It shall be the policy
5 of the United States to conduct research, development, dem-
6 onstration, and commercial applications to provide for the
7 scientific, engineering, and commercial infrastructure nec-
8 essary to ensure that the United States is competitive with
9 other countries in providing fusion energy for its own needs
10 and the needs of other countries, including by dem-
11 onstrating electric power or hydrogen production for the
12 United States energy grid using fusion energy at the ear-
13 liest date.

14 (b) *PLANNING.*—

15 (1) *IN GENERAL.*—Not later than 180 days after
16 the date of enactment of this Act, the Secretary shall
17 submit to Congress a plan (with proposed cost esti-
18 mates, budgets, and lists of potential international
19 partners) for the implementation of the policy de-
20 scribed in subsection (a) in a manner that ensures
21 that—

22 (A) existing fusion research facilities are
23 more fully used;

1 (B) fusion science, technology, theory, ad-
2 vanced computation, modeling, and simulation
3 are strengthened;

4 (C) new magnetic and inertial fusion re-
5 search and development facilities are selected
6 based on scientific innovation and cost effective-
7 ness, and the potential of the facilities to ad-
8 vance the goal of practical fusion energy at the
9 earliest date practicable;

10 (D) facilities that are selected are funded at
11 a cost-effective rate;

12 (E) communication of scientific results and
13 methods between the fusion energy science com-
14 munity and the broader scientific and technology
15 communities is improved;

16 (F) inertial confinement fusion facilities are
17 used to the extent practicable for the purpose of
18 inertial fusion energy research and development;

19 (G) attractive alternative inertial and mag-
20 netic fusion energy approaches are more fully ex-
21 plored; and

22 (H) to the extent practicable, the rec-
23 ommendations of the Fusion Energy Sciences
24 Advisory Committee in the report on workforce

1 *planning, dated March 2004, are carried out, in-*
2 *cluding periodic reassessment of program needs.*

3 (2) *COSTS AND SCHEDULES.*—*The plan shall*
4 *also address the status of and, to the extent prac-*
5 *ticable, costs and schedules for—*

6 (A) *the design and implementation of inter-*
7 *national or national facilities for the testing of*
8 *fusion materials; and*

9 (B) *the design and implementation of inter-*
10 *national or national facilities for the testing and*
11 *development of key fusion technologies.*

12 (c) *UNITED STATES PARTICIPATION IN ITER.*—

13 (1) *DEFINITIONS.*—*In this subsection:*

14 (A) *CONSTRUCTION.*—

15 (i) *IN GENERAL.*—*The term “construc-*
16 *tion” means—*

17 (I) *the physical construction of*
18 *the ITER facility; and*

19 (II) *the physical construction,*
20 *purchase, or manufacture of equipment*
21 *or components that are specifically de-*
22 *signed for the ITER facility.*

23 (ii) *EXCLUSIONS.*—*The term “con-*
24 *struction” does not include the design of the*
25 *facility, equipment, or components.*

1 (B) *ITER*.—The term “*ITER*” means the
2 international burning plasma fusion research
3 project in which the President announced United
4 States participation on January 30, 2003, or
5 any similar international project.

6 (2) *PARTICIPATION*.—The United States may
7 participate in the *ITER* only in accordance with this
8 subsection.

9 (3) *AGREEMENT*.—

10 (A) *IN GENERAL*.—The Secretary may nego-
11 tiate an agreement for United States participa-
12 tion in the *ITER*.

13 (B) *CONTENTS*.—Any agreement for United
14 States participation in the *ITER* shall, at a
15 minimum—

16 (i) clearly define the United States fi-
17 nancial contribution to construction and
18 operating costs, as well as any other costs
19 associated with a project;

20 (ii) ensure that the share of high-tech-
21 nology components of the *ITER* manufac-
22 tured in the United States is at least pro-
23 portionate to the United States financial
24 contribution to the *ITER*;

1 (iii) ensure that the United States will
2 not be financially responsible for cost over-
3 runs in components manufactured in other
4 ITER participating countries;

5 (iv) guarantee the United States full
6 access to all data generated by the ITER;

7 (v) enable United States researchers to
8 propose and carry out an equitable share of
9 the experiments at the ITER;

10 (vi) provide the United States with a
11 role in all collective decisionmaking related
12 to the ITER; and

13 (vii) describe the process for dis-
14 continuing or decommissioning the ITER
15 and any United States role in that process.

16 (4) *PLAN.*—

17 (A) *DEVELOPMENT.*—The Secretary, in con-
18 sultation with the Fusion Energy Sciences Advi-
19 sory Committee, shall develop a plan for the par-
20 ticipation of United States scientists in the
21 ITER that shall include—

22 (i) the United States research agenda
23 for the ITER;

24 (ii) methods to evaluate whether the
25 ITER is promoting progress toward making

1 *fusion a reliable and affordable source of*
2 *power; and*

3 *(iii) a description of how work at the*
4 *ITER will relate to other elements of the*
5 *United States fusion program.*

6 *(B) REVIEW.—The Secretary shall request a*
7 *review of the plan by the National Academy of*
8 *Sciences.*

9 *(5) LIMITATION.—No Federal funds shall be ex-*
10 *pended for the construction of the ITER until the Sec-*
11 *retary has submitted to Congress—*

12 *(A) the agreement negotiated in accordance*
13 *with paragraph (3) and 120 days have elapsed*
14 *since that submission;*

15 *(B) a report describing the management*
16 *structure of the ITER and providing a fixed dol-*
17 *lar estimate of the cost of United States partici-*
18 *ipation in the construction of the ITER, and 120*
19 *days have elapsed since that submission;*

20 *(C) a report describing how United States*
21 *participation in the ITER will be funded with-*
22 *out reducing funding for other programs in the*
23 *Office of Science (including other fusion pro-*
24 *grams), and 60 days have elapsed since that sub-*
25 *mission; and*

1 (D) the plan required by paragraph (4)
2 (but not the National Academy of Sciences re-
3 view of that plan), and 60 days have elapsed
4 since that submission.

5 (6) *ALTERNATIVE TO ITER.*—

6 (A) *IN GENERAL.*—If at any time during
7 the negotiations on the ITER, the Secretary de-
8 termines that construction and operation of the
9 ITER is unlikely or infeasible, the Secretary
10 shall submit to Congress, along with the budget
11 request of the President submitted to Congress for
12 the following fiscal year, a plan for imple-
13 menting a domestic burning plasma experiment
14 such as the Fusion Ignition Research Experi-
15 ment, including costs and schedules for the plan.

16 (B) *ADMINISTRATION.*—The Secretary
17 shall—

18 (i) refine the plan in full consultation
19 with the Fusion Energy Sciences Advisory
20 Committee; and

21 (ii) transmit the plan to the National
22 Academy of Sciences for review.

23 **SEC. 963. SUPPORT FOR SCIENCE AND ENERGY FACILITIES**
24 **AND INFRASTRUCTURE.**

25 (a) *FACILITY AND INFRASTRUCTURE POLICY.*—

1 (1) *IN GENERAL.*—*The Secretary shall develop*
2 *and implement a strategy for facilities and infra-*
3 *structure supported primarily from the Office of*
4 *Science, the Office of Energy Efficiency and Renew-*
5 *able Energy, the Office of Fossil Energy, or the Office*
6 *of Nuclear Energy, Science and Technology Programs*
7 *at all National Laboratories and single-purpose re-*
8 *search facilities.*

9 (2) *STRATEGY.*—*The strategy shall provide cost-*
10 *effective means for—*

11 (A) *maintaining existing facilities and in-*
12 *frastructure;*

13 (B) *closing unneeded facilities;*

14 (C) *making facility modifications; and*

15 (D) *building new facilities.*

16 (b) *REPORT.*—

17 (1) *IN GENERAL.*—*The Secretary shall prepare*
18 *and submit, along with the budget request of the*
19 *President submitted to Congress for fiscal year 2007,*
20 *a report describing the strategy developed under sub-*
21 *section (a).*

22 (2) *CONTENTS.*—*For each National Laboratory*
23 *and single-purpose research facility that is primarily*
24 *used for science and energy research, the report shall*
25 *contain—*

1 (A) the current priority list of proposed fa-
2 cilities and infrastructure projects, including
3 cost and schedule requirements;

4 (B) a current 10-year plan that dem-
5 onstrates the reconfiguration of its facilities and
6 infrastructure to meet its missions and to ad-
7 dress its long-term operational costs and return
8 on investment;

9 (C) the total current budget for all facilities
10 and infrastructure funding; and

11 (D) the current status of each facility and
12 infrastructure project compared to the original
13 baseline cost, schedule, and scope.

14 **SEC. 964. CATALYSIS RESEARCH PROGRAM.**

15 (a) *ESTABLISHMENT.*—The Secretary, acting through
16 the Office of Science, shall support a program of research
17 and development in catalysis science consistent with the
18 statutory authorities of the Department related to research
19 and development.

20 (b) *COMPONENTS.*—The program shall include efforts
21 to—

22 (1) enable catalyst design using combinations of
23 experimental and mechanistic methodologies coupled
24 with computational modeling of catalytic reactions at
25 the molecular level;

1 (2) *develop techniques for high throughput syn-*
2 *thesis, assay, and characterization at nanometer and*
3 *subnanometer scales in situ under actual operating*
4 *conditions;*

5 (3) *synthesize catalysts with specific site archi-*
6 *tectures;*

7 (4) *conduct research on the use of precious met-*
8 *als for catalysis; and*

9 (5) *translate molecular understanding to the de-*
10 *sign of catalytic compounds.*

11 (c) *DUTIES OF THE OFFICE OF SCIENCE.*—*In car-*
12 *rying out the program, the Director of the Office of Science*
13 *shall—*

14 (1) *support both individual investigators and*
15 *multidisciplinary teams of investigators to pioneer*
16 *new approaches in catalytic design;*

17 (2) *develop, plan, construct, acquire, share, or*
18 *operate special equipment or facilities for the use of*
19 *investigators in collaboration with national user fa-*
20 *cilities, such as nanoscience and engineering centers;*

21 (3) *support technology transfer activities to ben-*
22 *efit industry and other users of catalysis science and*
23 *engineering; and*

24 (4) *coordinate research and development activi-*
25 *ties with industry and other Federal agencies.*

1 (d) *TRIENNIAL ASSESSMENT.*—Not later than 3 years
2 after the date of enactment of this Act and every 3 years
3 thereafter, the National Academy of Sciences shall—

4 (1) review the catalysis program to measure—

5 (A) gains made in the fundamental science
6 of catalysis; and

7 (B) progress towards developing new fuels
8 for energy production and material fabrication
9 processes; and

10 (2) submit to Congress a report describing the re-
11 sults of the review.

12 **SEC. 965. HYDROGEN.**

13 (a) *IN GENERAL.*—The Secretary shall conduct a pro-
14 gram of fundamental research and development in support
15 of programs authorized under title VIII.

16 (b) *METHODS.*—The program shall include support for
17 methods of generating hydrogen without the use of natural
18 gas.

19 **SEC. 966. SOLID STATE LIGHTING.**

20 The Secretary shall conduct a program of fundamental
21 research on advance solid state lighting in support of the
22 Next Generation Lighting Initiative carried out under sec-
23 tion 912.

1 **SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY**

2 **MISSIONS.**

3 (a) *PROGRAM.—*

4 (1) *IN GENERAL.—The Secretary shall conduct*
5 *an advanced scientific computing research and devel-*
6 *opment program that includes activities related to ap-*
7 *plied mathematics and activities authorized by the*
8 *Department of Energy High-End Computing Revital-*
9 *ization Act of 2004 (15 U.S.C. 5541 et seq.).*

10 (2) *GOAL.—The Secretary shall carry out the*
11 *program with the goal of supporting departmental*
12 *missions, and providing the high-performance com-*
13 *putational, networking, advanced visualization tech-*
14 *nologies, and workforce resources, that are required*
15 *for world leadership in science.*

16 (b) *HIGH-PERFORMANCE COMPUTING.—Section 203 of*
17 *the High-Performance Computing Act of 1991 (15 U.S.C.*
18 *5523) is amended to read as follows:*

19 **“SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.**

20 *“(a) GENERAL RESPONSIBILITIES.—As part of the*
21 *Program described in title I, the Secretary of Energy*
22 *shall—*

23 *“(1) conduct and support basic and applied re-*
24 *search in high-performance computing and net-*
25 *working to support fundamental research in science*

1 *and engineering disciplines related to energy applica-*
2 *tions; and*

3 “(2) *provide computing and networking infra-*
4 *structure support, including—*

5 “(A) *the provision of high-performance com-*
6 *puting systems that are among the most ad-*
7 *vanced in the world in terms of performance in*
8 *solving scientific and engineering problems; and*

9 “(B) *support for advanced software and ap-*
10 *plications development for science and engineer-*
11 *ing disciplines related to energy applications.*

12 “(b) *AUTHORIZATION OF APPROPRIATIONS.—There*
13 *are authorized to be appropriated to the Secretary of En-*
14 *ergy such sums as are necessary to carry out this section.”.*

15 **SEC. 968. GENOMES TO LIFE PROGRAM.**

16 (a) *ESTABLISHMENT.—The Secretary shall carry out*
17 *a program of research, development, demonstration, and*
18 *commercial application, to be known as the “Genomes to*
19 *Life Program”, in microbial and plant systems biology,*
20 *protein science, and computational biology consistent with*
21 *the statutory authorities of the Department.*

22 (b) *PLANNING.—*

23 (1) *IN GENERAL.—The Secretary shall prepare a*
24 *program plan that describes how knowledge and capa-*
25 *bilities would be developed by the program and ap-*

1 *plied to missions of the Department relating to energy*
2 *security, environmental cleanup, and national secu-*
3 *rity.*

4 (2) *CONSULTATION.*—*The Secretary shall pre-*
5 *pare the program plan in consultation with the heads*
6 *of other Federal agencies that carry out relevant tech-*
7 *nology programs.*

8 (3) *LONG-TERM GOALS.*—*In preparing the pro-*
9 *gram plan, the Secretary shall focus on applying*
10 *science and technology to achieve the long-term goals*
11 *of the program, including—*

12 (A) *contributing to the independence of the*
13 *United States from foreign energy sources, in-*
14 *cluding production of hydrogen;*

15 (B) *converting carbon dioxide to organic*
16 *carbon;*

17 (C) *advancing environmental cleanup;*

18 (D) *providing the science and technology for*
19 *new biotechnology industries; and*

20 (E) *improving national security and com-*
21 *bating bioterrorism.*

22 (4) *SHORT-TERM GOALS.*—*In preparing the pro-*
23 *gram plan, the Secretary shall—*

24 (A) *establish specific short-term goals; and*

1 (B) update the goals with the annual budget
2 submission of the Secretary.

3 (c) *ADMINISTRATION.*—In carrying out the program,
4 the Secretary shall—

5 (1) support individual investigators and multi-
6 disciplinary teams of investigators;

7 (2) subject to subsection (d), develop, plan, con-
8 struct, acquire, or operate special equipment or facili-
9 ties for the use of investigators conducting research,
10 development, demonstration, or commercial applica-
11 tion in systems biology and proteomics;

12 (3) support technology transfer activities to ben-
13 efit industry and other users of systems biology and
14 proteomics; and

15 (4) coordinate activities by the Department with
16 industry and other Federal agencies.

17 (d) *GENOMES TO LIFE USER FACILITIES AND ANCIL-*
18 *LARY EQUIPMENT.*—

19 (1) *IN GENERAL.*—Subject to the availability of
20 funds to carry out this subsection, the amounts made
21 available under section 961(b)(4) shall be available
22 for—

23 (A) projects to develop, plan, construct, ac-
24 quire, or operate special equipment, or instru-
25 mentation; or

1 *(B) facilities at National Laboratories for*
2 *investigators conducting research, development,*
3 *demonstration, and commercial application in*
4 *systems biology and proteomics and associated*
5 *biological disciplines.*

6 (2) *PROJECTS.—Projects under paragraph*
7 *(1)(A) may include—*

8 *(A) the identification and characterization*
9 *of multiprotein complexes;*

10 *(B) characterization of gene regulatory net-*
11 *works;*

12 *(C) characterization of the functional rep-*
13 *ertoire of complex microbial communities in*
14 *their natural environments at the molecular*
15 *level; and*

16 *(D) development of computational methods*
17 *and capabilities to advance understanding of*
18 *complex biological systems and predict their be-*
19 *havior.*

20 (3) *FACILITIES.—Facilities under paragraph*
21 *(1)(B) may include facilities, equipment, or instru-*
22 *mentation for—*

23 *(A) the production and characterization of*
24 *proteins;*

25 *(B) whole proteome analysis;*

1 (C) characterization and imaging of molec-
2 ular machines; and

3 (D) analysis and modeling of cellular sys-
4 tems.

5 (4) *FACILITIES LOCATION AND MISSION.*—The
6 number, location, and mission of facilities under
7 paragraph (1)(B) shall be determined in a plan pro-
8 vided by the Secretary to Congress before the construc-
9 tion of any such facility.

10 (5) *COLLABORATION.*—

11 (A) *IN GENERAL.*—In carrying out this sub-
12 section, the Secretary shall encourage collabora-
13 tions among institutions of higher education,
14 National Laboratories, and industry at facilities.

15 (B) *TECHNOLOGY TRANSFER.*—All facilities
16 under this subsection shall promote technology
17 transfer to other institutions.

18 **SEC. 969. FISSION AND FUSION ENERGY MATERIALS RE-**
19 **SEARCH PROGRAM.**

20 (a) *IN GENERAL.*—Along with the budget request of the
21 President submitted to Congress for fiscal year 2007, the
22 Secretary shall establish a research and development pro-
23 gram on material science issues presented by advanced fis-
24 sion reactors and the fusion energy program of the Depart-
25 ment.

1 (b) *ADMINISTRATION.*—*In carrying out the program,*
2 *the Secretary shall develop—*

3 (1) *a catalog of material properties required for*
4 *applications described in subsection (a);*

5 (2) *theoretical models for materials possessing*
6 *the required properties;*

7 (3) *benchmark models against existing data; and*

8 (4) *a roadmap to guide further research and de-*
9 *velopment in the area covered by the program.*

10 **SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PRO-**
11 **GRAM.**

12 (a) *DEFINITIONS.*—*In this section:*

13 (1) *FOUNDATION.*—*The term “Foundation”*
14 *means the American Water Works Association Re-*
15 *search Foundation.*

16 (2) *INDIAN TRIBE.*—*The term “Indian tribe” has*
17 *the meaning given the term in section 4 of the Indian*
18 *Self-Determination and Education Assistance Act (25*
19 *U.S.C. 450b).*

20 (3) *PROGRAM.*—*The term “Program” means the*
21 *Energy-Water Supply Technologies Program estab-*
22 *lished by subsection (b).*

23 (b) *ESTABLISHMENT.*—*There is established, within the*
24 *Office of Biological and Environmental Research of the Of-*

1 *ficie of Science, a program, to be known as the “Energy-*
2 *Water Supply Technologies Program”, to study—*

3 *(1) energy-related issues associated with water*
4 *resources and municipal waterworks; and*

5 *(2) supply issues related to energy production.*

6 *(c) PROGRAM AREAS.—In carrying out the Program,*
7 *the Secretary shall conduct research and development, in-*
8 *cluding research and development relating to—*

9 *(1) the arsenic removal program under sub-*
10 *section (d);*

11 *(2) the desalination research program under sub-*
12 *section (e);*

13 *(3) the water and energy sustainability program*
14 *under subsection (f); and*

15 *(4) other energy-intensive water supply and*
16 *treatment technologies and other technologies selected*
17 *by the Secretary.*

18 *(d) ARSENIC REMOVAL PROGRAM.—*

19 *(1) IN GENERAL.—As soon as practicable after*
20 *the date of enactment of this Act, the Secretary shall*
21 *enter into a contract with the Foundation to use the*
22 *facilities, institutions, and relationships described in*
23 *the matter under the heading “BIOLOGICAL AND ENVI-*
24 *RONMENTAL RESEARCH” of title III of Senate Report*
25 *107–220 to accompany the Consolidated Appropria-*

1 *tions Resolution, 2003 (Public Law 108–7) to carry*
2 *out a research program to develop and demonstrate*
3 *innovative arsenic removal technologies.*

4 (2) *RESEARCH.—In carrying out the arsenic re-*
5 *moval program, the Foundation shall, to the max-*
6 *imum extent practicable, conduct research on means*
7 *of—*

8 (A) *reducing energy costs incurred in using*
9 *arsenic removal technologies;*

10 (B) *minimizing materials, operating, and*
11 *maintenance costs incurred in using arsenic re-*
12 *moval technologies; and*

13 (C) *minimizing any quantities of waste (es-*
14 *pecially hazardous waste) that result from use of*
15 *arsenic removal technologies.*

16 (3) *DEMONSTRATION PROJECTS.—The Founda-*
17 *tion shall carry out peer-reviewed research and dem-*
18 *onstration projects to develop and demonstrate water*
19 *purification technologies.*

20 (4) *ADMINISTRATION.—Under the arsenic re-*
21 *moval program—*

22 (A) *demonstration projects shall be imple-*
23 *mented with municipal water system partners to*
24 *demonstrate the applicability of innovative ar-*
25 *senic removal technologies in areas with different*

1 *water chemistries representative of areas across*
2 *the United States with arsenic levels near or ex-*
3 *ceeding the guidelines of the Environmental Pro-*
4 *tection Agency; and*

5 *(B) not less than 40 percent of the funds of*
6 *the Department used for demonstration projects*
7 *under the arsenic removal program shall be ex-*
8 *pended on projects focused on the needs of and*
9 *in partnership with rural communities or In-*
10 *Indian tribes.*

11 (5) *EVALUATIONS; TECHNOLOGY TRANSFER.—*
12 *The Foundation shall develop evaluations of cost effec-*
13 *tiveness of arsenic removal technologies used in the*
14 *program and an education, training, and technology*
15 *transfer component for the program.*

16 (6) *COORDINATION.—The Secretary shall consult*
17 *with the Administrator of the Environmental Protec-*
18 *tion Agency to ensure that activities under the arsenic*
19 *removal program are coordinated with appropriate*
20 *programs of the Environmental Protection Agency*
21 *and other Federal agencies, State programs, and aca-*
22 *demia.*

23 (7) *REPORTS.—Not later than 1 year after the*
24 *date of commencement of the arsenic removal pro-*
25 *gram and annually thereafter, the Secretary shall*

1 *submit to Congress a report on the results of the ar-*
2 *senic removal program.*

3 *(e) DESALINATION PROGRAM.—*

4 *(1) IN GENERAL.—The Secretary, in cooperation*
5 *with the Commissioner of Reclamation, shall carry*
6 *out a desalination research program in accordance*
7 *with the desalination technology progress plan devel-*
8 *oped under the matter under the heading “WATER*
9 *AND RELATED RESOURCES” under the heading “BU-*
10 *REAU OF RECLAMATION” of title II of the Energy and*
11 *Water Development Appropriations Act, 2002 (115*
12 *Stat. 498) and described in Senate Report 107–39 to*
13 *accompany S. 1171 (107th Congress).*

14 *(2) ADMINISTRATION.—The desalination pro-*
15 *gram shall—*

16 *(A) draw on the national laboratory part-*
17 *nership established with the Bureau of Reclama-*
18 *tion to develop the national Desalination and*
19 *Water Purification Technology Roadmap for*
20 *next-generation desalination technology released*
21 *in January 2003;*

22 *(B) focus on research relating to, and devel-*
23 *opment and demonstration of, technologies that*
24 *are appropriate for use in desalinating brackish*
25 *groundwater, wastewater, and other saline water*

1 *supplies and disposal of residual brine or salt;*
2 *and*

3 *(C) consider the use of renewable energy*
4 *sources.*

5 *(3) CONSTRUCTION PROJECTS.—Under the de-*
6 *salination program, funds made available for the pro-*
7 *gram may be used for construction projects, including*
8 *completion of the National Desalination Research*
9 *Center for brackish groundwater and ongoing facility*
10 *operational costs.*

11 *(4) STEERING COMMITTEE.—*

12 *(A) ESTABLISHMENT.—The Secretary and*
13 *the Commissioner of Reclamation shall jointly*
14 *establish a steering committee for the desalina-*
15 *tion program.*

16 *(B) CHAIR.—The steering committee shall*
17 *be jointly chaired by—*

18 *(i) 1 representative from the Program;*

19 *and*

20 *(ii) 1 representative from the Bureau*
21 *of Reclamation.*

22 *(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—*

23 *(1) IN GENERAL.—The Secretary shall carry out*
24 *a research program to develop technologies to assist in*

1 *ensuring that sufficient quantities of water are avail-*
2 *able to meet present and future requirements.*

3 (2) *ASSESSMENTS.*—*Under the program and in*
4 *collaboration with other programs within the Depart-*
5 *ment (including programs within the Offices of Fossil*
6 *Energy and Energy Efficiency and Renewable En-*
7 *ergy), the Secretary of the Interior, the Corps of Engi-*
8 *neers, the Environmental Protection Agency, the De-*
9 *partment of Commerce, the Department of Defense,*
10 *State agencies, nongovernmental agencies, and aca-*
11 *demia, the Secretary shall assess the current state of*
12 *knowledge and program activities concerning—*

13 (A) *future water resources needed to support*
14 *energy production within the United States, in-*
15 *cluding the water needs for hydropower and ther-*
16 *mo-electric power generation;*

17 (B) *future energy resources needed to sup-*
18 *port development of water purification and*
19 *treatment, including desalination and long-dis-*
20 *tance water conveyance;*

21 (C) *reuse and treatment of water produced*
22 *as a byproduct of oil and gas extraction;*

23 (D) *use of impaired and nontraditional*
24 *water supplies for energy production and other*
25 *uses; and*

1 (E) technologies to reduce water use in en-
2 ergy production.

3 (3) *TOOLS*.—In addition to the assessments con-
4 ducted under paragraph (2), the Secretary shall—

5 (A) develop a research plan that defines the
6 scientific and technology development needs and
7 activities required to support—

8 (i) long-term water needs and plan-
9 ning for energy sustainability;

10 (ii) use of impaired water for energy
11 production and other uses; and

12 (iii) reduction of water use in energy
13 production;

14 (B) carry out the research plan required
15 under subparagraph (A), including development
16 of numerical models, decision analysis tools, eco-
17 nomic analysis tools, databases, planning meth-
18 odologies, and strategies;

19 (C) implement at least 3 planning dem-
20 onstration projects using the models, tools, and
21 planning approaches developed under subpara-
22 graph (B) and assess the viability of those tools
23 on the scale of river basins with at least 1 dem-
24 onstration involving an international border;
25 and

1 (D) transfer those tools to other Federal
2 agencies, State agencies, nonprofit organizations,
3 industry, and academia for use in their energy
4 and water sustainability efforts.

5 (4) *REPORT.*—Not later than 1 year after the
6 date of enactment of this Act, the Secretary shall sub-
7 mit to Congress a report on the water and energy sus-
8 tainability program that—

9 (A) describes the research elements described
10 under paragraph (2); and

11 (B) makes recommendations for a manage-
12 ment structure that optimizes use of Federal re-
13 sources and programs.

14 (g) *COST SHARING.*—

15 (1) *RESEARCH PROJECTS.*—A research project
16 under this section shall not require cost-sharing.

17 (2) *DEMONSTRATION PROJECTS.*—Each dem-
18 onstration project carried out under the Program
19 shall be carried out in accordance with the cost-shar-
20 ing requirements of section 1002.

21 **SEC. 971. SPALLATION NEUTRON SOURCE.**

22 (a) *DEFINITIONS.*—In this section:

23 (1) *SING.*—The term “SING” means the Spall-
24 ation Neutron Source Instruments Next Generation
25 major item of equipment.

1 (2) *SNS POWER UPGRADE.*—*The term “SNS*
2 *power upgrade” means the Spallation Neutron Source*
3 *power upgrade described in the 20-year facilities plan*
4 *of the Office of Science of the Department.*

5 (3) *SNS SECOND TARGET STATION.*—*The term*
6 *“SNS second target station” the Spallation Neutron*
7 *Source second target station described in the 20-year*
8 *facilities plan of the Office of Science of the Depart-*
9 *ment.*

10 (4) *SPALLATION NEUTRON SOURCE FACILITY.*—
11 *The terms “Spallation Neutron Source Facility” and*
12 *“Facility” mean the completed Spallation Neutron*
13 *Source scientific user facility located at Oak Ridge*
14 *National Laboratory, Oak Ridge, Tennessee.*

15 (5) *SPALLATION NEUTRON SOURCE PROJECT.*—
16 *The terms “Spallation Neutron Source Project” and*
17 *“Project” means Department Project 99–E–334, Oak*
18 *Ridge National Laboratory, Oak Ridge, Tennessee.*

19 (b) *SPALLATION NEUTRON SOURCE PROJECT.*—

20 (1) *IN GENERAL.*—*The Secretary shall submit to*
21 *Congress, as part of the annual budget request of the*
22 *President submitted to Congress, a report on progress*
23 *on the Spallation Neutron Source Project.*

24 (2) *CONTENTS.*—*The report shall include for the*
25 *Project—*

1 (A) a description of the achievement of
2 milestones;

3 (B) a comparison of actual costs to esti-
4 mated costs; and

5 (C) any changes in estimated Project costs
6 or schedule.

7 (c) *SPALLATION NEUTRON SOURCE FACILITY PLAN.*—

8 (1) *IN GENERAL.*—*The Secretary shall develop*
9 *an operational plan for the Spallation Neutron*
10 *Source Facility that ensures that the Facility is em-*
11 *ployed to the full capability of the Facility in support*
12 *of the study of advanced materials, nanoscience, and*
13 *other missions of the Office of Science of the Depart-*
14 *ment.*

15 (2) *PLAN.*—*The operational plan shall—*

16 (A) *include a plan for the operation of an*
17 *effective scientific user program that—*

18 (i) *is based on peer review of proposals*
19 *submitted for use of the Facility;*

20 (ii) *includes scientific and technical*
21 *support to ensure that external users, in-*
22 *cluding researchers based at institutions of*
23 *higher education, are able to make full use*
24 *of a variety of high quality scientific in-*
25 *struments; and*

1 (iii) phases in systems upgrades to en-
2 sure that the Facility remains at the fore-
3 front of international scientific endeavors in
4 the field of the Facility throughout the oper-
5 ating life of the Facility;

6 (B) include an ongoing program to develop
7 new instruments that builds on the high per-
8 formance neutron source and that allows neutron
9 scattering techniques to be applied to a growing
10 range of scientific problems and disciplines; and

11 (C) address the status of and, to the max-
12 imum extent practicable, costs and schedules
13 for—

14 (i) full user mode operations of the Fa-
15 cility;

16 (ii) instrumentation built at the Facil-
17 ity during the operating phase through full
18 use of the experimental hall, including the
19 SING;

20 (iii) the SNS power upgrade; and

21 (iv) the SNS second target station.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) SPALLATION NEUTRON SOURCE PROJECT.—

24 There is authorized to be appropriated to carry out
25 the Spallation Neutron Source Project for the lifetime

1 of the Project \$1,411,700,000 for total project costs, of
2 which—

3 (A) \$1,192,700,000 shall be used for the
4 costs of construction; and

5 (B) \$219,000,000 shall be used for other
6 Project costs.

7 (2) SPALLATION NEUTRON SOURCE FACILITY.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (B), there is authorized to be ap-
10 propriated for the Spallation Neutron Source
11 Facility for—

12 (i) the SING, \$75,000,000 for fiscal
13 year 2006; and

14 (ii) the SNS power upgrade,
15 \$160,000,000 for each of fiscal years 2007
16 and 2008.

17 (B) INSUFFICIENT STOCKPILES OF HEAVY
18 WATER.—If stockpiles of heavy water of the De-
19 partment are insufficient to meet the needs of the
20 Facility, there is authorized to be appropriated
21 for the Facility \$172,000,000 for fiscal year
22 2007.

1 **Subtitle G—International**
2 **Cooperation**

3 **SEC. 981. WESTERN HEMISPHERE ENERGY COOPERATION.**

4 (a) *PROGRAM.*—*The Secretary shall carry out a pro-*
5 *gram to promote cooperation on energy issues with coun-*
6 *tries of the Western Hemisphere.*

7 (b) *ACTIVITIES.*—*Under the program, the Secretary*
8 *shall fund activities to work with countries of the Western*
9 *Hemisphere to—*

10 (1) *increase the production of energy supplies;*

11 (2) *improve energy efficiency; and*

12 (3) *assist in the development and transfer of en-*
13 *ergy supply and efficiency technologies that would*
14 *have a beneficial impact on world energy markets.*

15 (c) *PARTICIPATION BY INSTITUTIONS OF HIGHER*
16 *EDUCATION.*—*To the extent practicable, the Secretary shall*
17 *carry out the program under this section with the partici-*
18 *pation of institutions of higher education so as to take ad-*
19 *vantage of the acceptance of institutions of higher education*
20 *by countries of the Western Hemisphere as sources of unbi-*
21 *ased technical and policy expertise when assisting the Sec-*
22 *retary in—*

23 (1) *evaluating new technologies;*

24 (2) *resolving technical issues;*

1 (3) *working with those countries in the develop-*
2 *ment of new policies; and*

3 (4) *training policymakers, particularly in the*
4 *case of institutions of higher education that involve*
5 *the participation of minority students, such as—*

6 (A) *Hispanic-serving institutions; and*

7 (B) *part B institutions.*

8 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
9 *authorized to be appropriated to carry out this section—*

10 (1) *\$10,000,000 for fiscal year 2006;*

11 (2) *\$13,000,000 for fiscal year 2007; and*

12 (3) *\$16,000,000 for fiscal year 2008.*

13 **SEC. 982. COOPERATION BETWEEN UNITED STATES AND**
14 **ISRAEL.**

15 (a) *FINDINGS.—Congress finds that—*

16 (1) *on February 1, 1996, the United States and*
17 *Israel signed the agreement entitled “Agreement be-*
18 *tween the Department of Energy of the United States*
19 *of America and the Ministry of Energy and Infra-*
20 *structure of Israel Concerning Energy Cooperation”,*
21 *(referred to in this section as the “Agreement”) to es-*
22 *tablish a framework for collaboration between the*
23 *United States and Israel in energy research and de-*
24 *velopment activities;*

1 (2) *the Agreement entered into force in February*
2 *2000;*

3 (3) *in February 2005, the Agreement was auto-*
4 *matically renewed for 1 additional 5-year period pur-*
5 *suant to Article X of the Agreement; and*

6 (4) *under the Agreement, the United States and*
7 *Israel may cooperate in energy research and develop-*
8 *ment in a variety of alternative and advanced energy*
9 *sectors.*

10 (b) *REPORT TO CONGRESS.—Not later than 90 days*
11 *after the date of enactment of this Act, the Secretary shall*
12 *submit to the Committee on Energy and Natural Resources*
13 *and the Committee on Foreign Relations of the Senate and*
14 *the Committee on Energy and Commerce and the Com-*
15 *mittee on International Relations of the House of Rep-*
16 *resentatives a report that describes—*

17 (1) *the ways in which the United States and*
18 *Israel have cooperated on energy research and devel-*
19 *opment activities under the Agreement;*

20 (2) *projects initiated pursuant to the Agreement;*
21 *and*

22 (3) *plans for future cooperation and joint*
23 *projects under the Agreement.*

24 (c) *SENSE OF CONGRESS.—It is the sense of Congress*
25 *that energy cooperation between the Governments of the*

1 *United States and Israel is mutually beneficial in the devel-*
2 *opment of energy technology.*

3 **TITLE X—DEPARTMENT OF**
4 **ENERGY MANAGEMENT**

5 **SEC. 1001. AVAILABILITY OF FUNDS.**

6 *Funds authorized to be appropriated to the Depart-*
7 *ment under this Act or an amendment made by this Act*
8 *shall remain available until expended.*

9 **SEC. 1002. COST SHARING.**

10 *(a) APPLICABILITY.—Notwithstanding any other pro-*
11 *vision of law, in carrying out a research, development, dem-*
12 *onstration, or commercial application activity that is initi-*
13 *ated after the date of enactment of this section, the Sec-*
14 *retary shall require cost-sharing in accordance with this*
15 *section.*

16 *(b) RESEARCH AND DEVELOPMENT.—*

17 *(1) IN GENERAL.—Except as provided in para-*
18 *graphs (2) and (3) and subsection (f), the Secretary*
19 *shall require not less than 20 percent of the cost of a*
20 *research or development activity described in sub-*
21 *section (a) to be provided by a non-Federal source.*

22 *(2) EXCLUSION.—Paragraph (1) shall not apply*
23 *to a research or development activity described in*
24 *subsection (a) that is of a basic or fundamental na-*

1 *ture, as determined by the appropriate officer of the*
2 *Department.*

3 (3) *REDUCTION.*—*The Secretary may reduce or*
4 *eliminate the requirement of paragraph (1) for a re-*
5 *search and development activity of an applied nature*
6 *if the Secretary determines that the reduction is nec-*
7 *essary and appropriate.*

8 (c) *DEMONSTRATION AND COMMERCIAL APPLICA-*
9 *TION.*—

10 (1) *IN GENERAL.*—*Except as provided in para-*
11 *graph (2) and subsection (f), the Secretary shall re-*
12 *quire that not less than 50 percent of the cost of a*
13 *demonstration or commercial application activity de-*
14 *scribed in subsection (a) to be provided by a non-Fed-*
15 *eral source.*

16 (2) *REDUCTION OF NON-FEDERAL SHARE.*—*The*
17 *Secretary may reduce the non-Federal share required*
18 *under paragraph (1) if the Secretary determines the*
19 *reduction to be necessary and appropriate, taking*
20 *into consideration any technological risk relating to*
21 *the activity.*

22 (d) *CALCULATION OF AMOUNT.*—*In calculating the*
23 *amount of a non-Federal contribution under this section,*
24 *the Secretary—*

1 (1) *may include allowable costs in accordance*
2 *with the applicable cost principles, including—*

3 (A) *cash;*

4 (B) *personnel costs;*

5 (C) *the value of a service, other resource, or*
6 *third party in-kind contribution determined in*
7 *accordance with the applicable circular of the*
8 *Office of Management and Budget;*

9 (D) *indirect costs or facilities and adminis-*
10 *trative costs; or*

11 (E) *any funds received under the power*
12 *program of the Tennessee Valley Authority (ex-*
13 *cept to the extent that such funds are made*
14 *available under an annual appropriation Acts);*
15 *and*

16 (2) *shall not include—*

17 (A) *revenues or royalties from the prospec-*
18 *tive operation of an activity beyond the time*
19 *considered in the award;*

20 (B) *proceeds from the prospective sale of an*
21 *asset of an activity; or*

22 (C) *other appropriated Federal funds.*

23 (e) *REPAYMENT OF FEDERAL SHARE.—The Secretary*
24 *shall not require repayment of the Federal share of a cost-*

1 *shared activity under this section as a condition of making*
2 *an award.*

3 (f) *EXCLUSIONS.—This section shall not apply to—*

4 (1) *a cooperative research and development*
5 *agreement under the Stevenson-Wydler Technology In-*
6 *novation Act of 1990 (15 U.S.C. 3701 et seq.);*

7 (2) *a fee charged for the use of a Department fa-*
8 *cility; or*

9 (3) *an award under—*

10 (A) *the small business innovation research*
11 *program under section 9 of the Small Business*
12 *Act (15 U.S.C. 638); or*

13 (B) *the small business technology transfer*
14 *program under that section.*

15 **SEC. 1003. MERIT REVIEW OF PROPOSALS.**

16 *Awards of funds authorized under this Act or an*
17 *amendment made by this Act shall be made only after an*
18 *impartial review of the scientific and technical merit of the*
19 *proposals for the awards has been carried out by or for the*
20 *Department.*

21 **SEC. 1004. EXTERNAL TECHNICAL REVIEW OF DEPART-**
22 **MENTAL PROGRAMS.**

23 (a) *NATIONAL ENERGY RESEARCH AND DEVELOPMENT*
24 *ADVISORY BOARDS.—*

1 (1) *ESTABLISHMENT.*—*The Secretary shall estab-*
2 *lish 1 or more advisory boards to review research, de-*
3 *velopment, demonstration, and commercial applica-*
4 *tion programs of the Department in energy efficiency,*
5 *renewable energy, nuclear energy, and fossil energy.*

6 (2) *ALTERNATIVES.*—*The Secretary may—*

7 (A) *designate an existing advisory board*
8 *within the Department to fulfill the responsibil-*
9 *ities of an advisory board under this section; and*

10 (B) *enter into appropriate arrangements*
11 *with the National Academy of Sciences to estab-*
12 *lish such an advisory board.*

13 (b) *USE OF EXISTING COMMITTEES.*—*The Secretary*
14 *shall continue to use the scientific program advisory com-*
15 *mittees chartered under the Federal Advisory Committee*
16 *Act (5 U.S.C. App.) by the Office of Science to oversee re-*
17 *search and development programs under that Office.*

18 (c) *MEMBERSHIP.*—*Each advisory board under this*
19 *section shall consist of persons with appropriate expertise*
20 *representing a diverse range of interests.*

21 (d) *MEETINGS AND GOALS.*—

22 (1) *MEETINGS.*—*Each advisory board under this*
23 *section shall meet at least semiannually to review and*
24 *advise on the progress made by the respective 1 or*

1 *more research, development, demonstration, and com-*
2 *mercial application programs.*

3 (2) *GOALS.—The advisory board shall review the*
4 *measurable cost and performance-based goals for the*
5 *programs as established under section 902, and the*
6 *progress on meeting the goals.*

7 (e) *PERIODIC REVIEWS AND ASSESSMENTS.—*

8 (1) *IN GENERAL.—The Secretary shall enter into*
9 *appropriate arrangements with the National Acad-*
10 *emy of Sciences to conduct periodic reviews and as-*
11 *sessments of—*

12 (A) *the programs authorized by this Act*
13 *and amendments made by this Act;*

14 (B) *the measurable cost and performance-*
15 *based goals for the programs as established under*
16 *section 902, if any; and*

17 (C) *the progress on meeting the goals.*

18 (2) *TIMING.—The reviews and assessments shall*
19 *be conducted every 5 years or more often as the Sec-*
20 *retary considers necessary.*

21 (3) *REPORTS.—The Secretary shall submit to*
22 *Congress reports describing the results of all the re-*
23 *views and assessments.*

1 **SEC. 1005. IMPROVED TECHNOLOGY TRANSFER OF ENERGY**
2 **TECHNOLOGIES.**

3 (a) *TECHNOLOGY TRANSFER COORDINATOR.*—The
4 Secretary shall appoint a Technology Transfer Coordinator
5 to be the principal advisor to the Secretary on all matters
6 relating to technology transfer and commercialization.

7 (b) *QUALIFICATIONS.*—The Coordinator shall be an in-
8 dividual who, by reason of professional background and ex-
9 perience, is specially qualified to advise the Secretary on
10 matters pertaining to technology transfer at the Depart-
11 ment.

12 (c) *DUTIES OF THE COORDINATOR.*—The Coordinator
13 shall oversee—

14 (1) the activities of the Technology Transfer
15 Working Group established under subsection (d);

16 (2) the expenditure of funds allocated for tech-
17 nology transfer within the Department;

18 (3) the activities of each technology partnership
19 ombudsman appointed under section 11 of the Tech-
20 nology Transfer Commercialization Act of 2000 (42
21 U.S.C. 7261c); and

22 (4) efforts to engage private sector entities, in-
23 cluding venture capital companies.

24 (d) *TECHNOLOGY TRANSFER WORKING GROUP.*—The
25 Secretary shall establish a Technology Transfer Working

1 *Group, which shall consist of representatives of the National*
2 *Laboratories and single-purpose research facilities, to—*

3 *(1) coordinate technology transfer activities oc-*
4 *curring at National Laboratories and single-purpose*
5 *research facilities;*

6 *(2) exchange information about technology trans-*
7 *fer practices, including alternative approaches to res-*
8 *olution of disputes involving intellectual property*
9 *rights and other technology transfer matters; and*

10 *(3) develop and disseminate to the public and*
11 *prospective technology partners information about op-*
12 *portunities and procedures for technology transfer*
13 *with the Department, including opportunities and*
14 *procedures related to alternative approaches to resolu-*
15 *tion of disputes involving intellectual property rights*
16 *and other technology transfer matters.*

17 *(e) TECHNOLOGY COMMERCIALIZATION FUND.—The*
18 *Secretary shall establish an Energy Technology Commer-*
19 *cialization Fund, using 0.5 percent of the amount made*
20 *available to the Department for each fiscal year, to be used*
21 *to provide matching funds with private partners to promote*
22 *promising technologies for commercial purposes.*

23 *(f) TECHNOLOGY TRANSFER RESPONSIBILITY.—Noth-*
24 *ing in this section affects the technology transfer respon-*

1 *sibilities of Federal employees under the Stevenson-Wydler*
2 *Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).*

3 *(g) PLANNING AND REPORTING.—*

4 *(1) IN GENERAL.—Not later than 180 days after*
5 *the date of enactment of this Act, the Secretary shall*
6 *submit to Congress a technology transfer execution*
7 *plan.*

8 *(2) UPDATES.—Each year after the submission*
9 *of the plan under paragraph (1), the Secretary shall*
10 *submit to Congress an updated execution plan and re-*
11 *ports that describe progress toward meeting goals set*
12 *forth in the execution plan and the funds expended*
13 *under subsection (e).*

14 **SEC. 1006. TECHNOLOGY INFRASTRUCTURE PROGRAM.**

15 *(a) DEFINITIONS.—In this section:*

16 *(1) PROGRAM.—The term “Program” means the*
17 *Technology Infrastructure Program established under*
18 *subsection (b).*

19 *(2) TECHNOLOGY CLUSTER.—The term “tech-*
20 *nology cluster” means a concentration of technology-*
21 *related business concerns, institutions of higher edu-*
22 *cation, or nonprofit institutions, that reinforce each*
23 *other’s performance in the areas of technology devel-*
24 *opment through formal or informal relationships.*

1 (3) *TECHNOLOGY-RELATED BUSINESS CON-*
2 *CERN.—The term “technology-related business con-*
3 *cern” means a for-profit corporation, company, asso-*
4 *ciation, firm, partnership, or small business concern*
5 *that—*

6 (A) *conducts scientific or engineering re-*
7 *search;*

8 (B) *develops new technologies;*

9 (C) *manufactures products based on new*
10 *technologies; or*

11 (D) *performs technological services.*

12 (b) *ESTABLISHMENT.—The Secretary shall establish a*
13 *Technology Infrastructure Program in accordance with this*
14 *section.*

15 (c) *PURPOSE.—The purpose of the Program shall be*
16 *to improve the ability of National Laboratories and single-*
17 *purpose research facilities to support departmental mis-*
18 *sions by—*

19 (1) *stimulating the development of technology*
20 *clusters that can support departmental missions at*
21 *the National Laboratories or single-purpose research*
22 *facilities;*

23 (2) *improving the ability of National Labora-*
24 *tories and single-purpose research facilities to leverage*

1 *and benefit from commercial research, technology,*
2 *products, processes, and services; and*

3 *(3) encouraging the exchange of scientific and*
4 *technological expertise between—*

5 *(A) National Laboratories or single-purpose*
6 *research facilities; and*

7 *(B) entities that can support departmental*
8 *missions at the National Laboratories or single-*
9 *purpose research facilities, such as—*

10 *(i) institutions of higher education;*

11 *(ii) technology-related business con-*
12 *cerns;*

13 *(iii) nonprofit institutions; and*

14 *(iv) agencies of State, tribal, or local*
15 *governments.*

16 *(d) PROJECTS.—The Secretary shall authorize the di-*
17 *rector of each National Laboratory or single-purpose re-*
18 *search facility to implement the Program at the National*
19 *Laboratory or facility through 1 or more projects that meet*
20 *the requirements of subsections (e) and (f).*

21 *(e) PROGRAM REQUIREMENTS.—*

22 *(1) IN GENERAL.—Each project funded under*
23 *this section shall meet the requirements of this sub-*
24 *section.*

1 (2) *ENTITIES.*—*Each project shall include at*
2 *least 1 of each of the following entities:*

3 (A) *A business.*

4 (B) *An institution of higher education.*

5 (C) *A nonprofit institution.*

6 (D) *An agency of a State, local, or tribal*
7 *government.*

8 (3) *COST-SHARING.*—

9 (A) *IN GENERAL.*—*The costs of carrying out*
10 *projects under this section shall be shared in ac-*
11 *cordance with section 1002.*

12 (B) *SOURCES.*—*The calculation of costs*
13 *paid by the non-Federal sources for a project*
14 *shall include cash, personnel, services, equip-*
15 *ment, and other resources expended on the*
16 *project after the commencement of the project.*

17 (C) *RESEARCH AND DEVELOPMENT EX-*
18 *PENSES.*—*Independent research and development*
19 *expenses of Government contractors that qualify*
20 *for reimbursement under section 31.205–18(e) of*
21 *title 48, Code of Federal Regulations, issued pur-*
22 *suant to section 25(c)(1) of the Office of Federal*
23 *Procurement Policy Act (41 U.S.C. 421(c)(1)),*
24 *may be credited towards costs paid by non-Fed-*

1 *eral sources to a project, if the expenses meet the*
2 *other requirements of this section.*

3 (4) *COMPETITIVE SELECTION.*—*A project under*
4 *this section shall be competitively selected using proce-*
5 *dures determined by the Secretary.*

6 (5) *ACCOUNTING.*—*Any participant that receives*
7 *funds under this section may use generally accepted*
8 *accounting principles for maintaining accounts,*
9 *books, and records relating to the project.*

10 (6) *DURATION.*—*No Federal funds shall be made*
11 *available under this section for a construction project*
12 *or for any project with a duration of more than 5*
13 *years.*

14 (f) *SELECTION CRITERIA.*—

15 (1) *DEPARTMENTAL MISSIONS.*—*The Secretary*
16 *shall allocate funds under this section only if the Di-*
17 *rector of the National Laboratory or single-purpose*
18 *research facility managing the project determines that*
19 *the project is likely to improve the ability of the Na-*
20 *tional Laboratory or single-purpose research facility*
21 *to achieve technical success in meeting departmental*
22 *missions.*

23 (2) *OTHER CRITERIA.*—*In selecting a project to*
24 *receive Federal funds, the Secretary shall consider—*

1 (A) the potential of the project to promote
2 the development of a commercially sustainable
3 technology cluster following the period of invest-
4 ment by the Department, which will derive most
5 of the demand for its products or services from
6 the private sector, and which will support de-
7 partmental missions at the participating Na-
8 tional Laboratory or single-purpose research fa-
9 cility;

10 (B) the potential of the project to promote
11 the use of commercial research, technology, prod-
12 ucts, processes, and services by the participating
13 National Laboratory or single-purpose research
14 facility to achieve its mission or the commercial
15 development of technological innovations made
16 at the participating National Laboratory or sin-
17 gle-purpose research facility;

18 (C) the extent to which the project involves
19 a wide variety and number of institutions of
20 higher education, nonprofit institutions, and
21 technology-related business concerns that can
22 support the missions of the participating Na-
23 tional Laboratory or single-purpose research fa-
24 cility and that will make substantive contribu-
25 tions to achieving the goals of the project;

1 (D) *the extent to which the project focuses*
2 *on promoting the development of technology-re-*
3 *lated business concerns that are small businesses*
4 *or involves such small businesses substantively in*
5 *the project; and*

6 (E) *such other criteria as the Secretary de-*
7 *termines to be appropriate.*

8 (g) *ALLOCATION.—In allocating funds for projects ap-*
9 *proved under this section, the Secretary shall provide—*

10 (1) *the Federal share of the project costs; and*

11 (2) *additional funds to the National Laboratory*
12 *or single-purpose research facility managing the*
13 *project to permit the National Laboratory or single-*
14 *purpose research facility to carry out activities relat-*
15 *ing to the project, and to coordinate the activities*
16 *with the project.*

17 (h) *REPORT TO CONGRESS.—Not later than July 1,*
18 *2008, the Secretary shall submit to Congress a report on*
19 *whether the Program should be continued and, if so, how*
20 *the program should be managed.*

21 (i) *AUTHORIZATION OF APPROPRIATIONS.—There are*
22 *authorized to be appropriated to the Secretary for activities*
23 *under this section \$10,000,000 for each of fiscal years 2006*
24 *through 2008.*

1 **SEC. 1007. SMALL BUSINESS ADVOCACY AND ASSISTANCE.**

2 (a) *SMALL BUSINESS ADVOCATE.*—*The Secretary shall*
3 *require the Director of each National Laboratory, and may*
4 *require the Director of a single-purpose research facility,*
5 *to designate a small business advocate to—*

6 (1) *increase the participation of small business*
7 *concerns, including socially and economically dis-*
8 *advantaged small business concerns (as defined in sec-*
9 *tion 8(a)(4) of the Small Business Act (15 U.S.C.*
10 *637(a)(4))), in procurement, collaborative research,*
11 *technology licensing, and technology transfer activi-*
12 *ties conducted by the National Laboratory or single-*
13 *purpose research facility;*

14 (2) *report to the Director of the National Lab-*
15 *oratory or single-purpose research facility on the ac-*
16 *tual participation of small business concerns in pro-*
17 *curement and collaborative research along with rec-*
18 *ommendations, if appropriate, on how to improve*
19 *participation;*

20 (3) *make available to small business concerns*
21 *training, mentoring, and information on how to par-*
22 *ticipate in procurement and collaborative research ac-*
23 *tivities;*

24 (4) *increase the awareness inside the National*
25 *Laboratory or single-purpose research facility of the*

1 *capabilities and opportunities presented by small*
2 *business concerns; and*

3 (5) *establish guidelines for the program under*
4 *subsection (b) and report on the effectiveness of the*
5 *program to the Director of the National Laboratory*
6 *or single-purpose research facility.*

7 (b) *ESTABLISHMENT OF SMALL BUSINESS ASSIST-*
8 *ANCE PROGRAM.*—*The Secretary shall require the Director*
9 *of each National Laboratory, and may require the Director*
10 *of a single-purpose research facility, to establish a program*
11 *to provide small business concerns with—*

12 (1) *assistance directed at making the small busi-*
13 *ness concerns more effective and efficient subcontractors*
14 *or suppliers to the National Laboratory or single-*
15 *purpose research facilities; or*

16 (2) *general technical assistance, the cost of which*
17 *shall not exceed \$10,000 per instance of assistance, to*
18 *improve the products or services of the small business*
19 *concern.*

20 (c) *USE OF FUNDS.*—*None of the funds expended*
21 *under subsection (b) may be used for direct grants to small*
22 *business concerns.*

23 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
24 *authorized to be appropriated to the Secretary for activities*

1 *under this section \$5,000,000 for each of fiscal years 2006*
2 *through 2008.*

3 **SEC. 1008. OUTREACH.**

4 *The Secretary shall ensure that each program author-*
5 *ized by this Act or an amendment made by this Act includes*
6 *an outreach component to provide information, as appro-*
7 *priate, to manufacturers, consumers, engineers, architects,*
8 *builders, energy service companies, institutions of higher*
9 *education, facility planners and managers, State and local*
10 *governments, and other entities.*

11 **SEC. 1009. RELATIONSHIP TO OTHER LAWS.**

12 *Except as otherwise provided in this Act or an amend-*
13 *ment made by this Act, the Secretary shall carry out the*
14 *research, development, demonstration, and commercial ap-*
15 *plication programs, projects, and activities authorized by*
16 *this Act or an amendment made by this Act in accordance*
17 *with the applicable provisions of—*

18 *(1) the Atomic Energy Act of 1954 (42 U.S.C.*
19 *2011 et seq.);*

20 *(2) the Federal Nonnuclear Energy Research and*
21 *Development Act of 1974 (42 U.S.C. 5901 et seq.);*

22 *(3) the Energy Policy Act of 1992 (42 U.S.C.*
23 *13201 et seq.);*

24 *(4) the Stevenson-Wydler Technology Innovation*
25 *Act of 1980 (15 U.S.C. 3701 et seq.);*

1 (5) chapter 18 of title 35, United States Code
2 (commonly known as the “Bayh-Dole Act”); and

3 (6) any other Act under which the Secretary is
4 authorized to carry out the programs, projects, and
5 activities.

6 **SEC. 1010. IMPROVED COORDINATION AND MANAGEMENT**
7 **OF CIVILIAN SCIENCE AND TECHNOLOGY**
8 **PROGRAMS.**

9 (a) *EFFECTIVE TOP-LEVEL COORDINATION OF RE-*
10 *SEARCH AND DEVELOPMENT PROGRAMS.*—Section 202 of
11 *the Department of Energy Organization Act (42 U.S.C.*
12 *7132) is amended by striking subsection (b) and inserting*
13 *the following:*

14 “(b)(1) *There shall be in the Department an Under*
15 *Secretary for Energy and Science, who shall be appointed*
16 *by the President, by and with the advice and consent of*
17 *the Senate.*

18 “(2) *The Under Secretary shall be compensated at the*
19 *rate provided for level III of the Executive Schedule under*
20 *section 5314 of title 5, United States Code.*

21 “(3) *The Under Secretary for Energy and Science*
22 *shall be appointed from among persons who—*

23 “(A) *have extensive background in scientific or*
24 *engineering fields; and*

1 “(B) are well qualified to manage the civilian
2 research and development programs of the Depart-
3 ment.

4 “(4) The Under Secretary for Energy and Science
5 shall—

6 “(A) serve as the Science and Technology Advi-
7 sor to the Secretary;

8 “(B) monitor the research and development pro-
9 grams of the Department in order to advise the Sec-
10 retary with respect to any undesirable duplication or
11 gaps in the programs;

12 “(C) advise the Secretary with respect to the
13 well-being and management of the multipurpose lab-
14 oratories under the jurisdiction of the Department;

15 “(D) advise the Secretary with respect to edu-
16 cation and training activities required for effective
17 short- and long-term basic and applied research ac-
18 tivities of the Department;

19 “(E) advise the Secretary with respect to grants
20 and other forms of financial assistance required for
21 effective short- and long-term basic and applied re-
22 search activities of the Department;

23 “(F) bear primary responsibility for energy con-
24 servation; and

1 “(G) exercise authority and responsibility over
2 Assistant Secretaries carrying out energy research
3 and development and energy technology functions
4 under sections 203 and 209, as well as other elements
5 of the Department assigned by the Secretary.”.

6 (b) RECONFIGURATION OF POSITION OF DIRECTOR OF
7 THE OFFICE OF SCIENCE.—

8 (1) IN GENERAL.—Section 209 of the Depart-
9 ment of Energy Organization Act (41 U.S.C. 7139) is
10 amended to read as follows:

11 “OFFICE OF SCIENCE

12 “SEC. 209. (a) There shall be within the Department
13 an Office of Science, to be headed by an Assistant Secretary
14 for Science, who shall be appointed by the President, by
15 and with the advice and consent of the Senate, and who
16 shall be compensated at the rate provided for level IV of
17 the Executive Schedule under section 5315 of title 5, United
18 States Code.

19 “(b) The Assistant Secretary for Science shall be in
20 addition to the Assistant Secretaries provided for under sec-
21 tion 203.

22 “(c) It shall be the duty and responsibility of the As-
23 sistant Secretary for Science to carry out the fundamental
24 science and engineering research functions of the Depart-
25 ment, including the responsibility for policy and manage-
26 ment of the research, as well as other functions vested in

1 *the Secretary that the Secretary may assign to the Assistant*
2 *Secretary.”*

3 (2) *DIRECTOR OF THE OFFICE OF SCIENCE.—*

4 (A) *IN GENERAL.—Notwithstanding section*
5 *3345(b)(1) of title 5, United States Code, the*
6 *President may designate the Director of the Of-*
7 *fice of Science who served immediately before the*
8 *date of enactment of this Act to act in the office*
9 *of the Assistant Secretary of Energy for Science*
10 *until the office is filled as provided in section*
11 *209 of the Department of Energy Organization*
12 *Act (as amended by paragraph (1)).*

13 (B) *COMPENSATION.—While so acting, the*
14 *person shall receive compensation at the rate*
15 *provided by section 209(a) of that Act (as*
16 *amended by paragraph (1)) for the office of As-*
17 *stant Secretary for Science.*

18 (c) *ADDITIONAL ASSISTANT SECRETARY POSITION TO*
19 *ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY*
20 *ISSUES.—*

21 (1) *IN GENERAL.—Section 203(a) of the Depart-*
22 *ment of Energy Organization Act (42 U.S.C.*
23 *7133(a)) is amended in the first sentence by striking*
24 *“There shall be in the Department six Assistant Sec-*
25 *retaries” and inserting “Except as provided in sec-*

1 *tion 209, there shall be in the Department 7 Assistant*
2 *Secretaries”.*

3 (2) *ASSISTANT SECRETARY LEVEL.—It is the*
4 *sense of Congress that the leadership for departmental*
5 *missions in nuclear energy should be at the Assistant*
6 *Secretary level.*

7 (d) *TECHNICAL AND CONFORMING AMENDMENTS.—*

8 (1) *Section 202 of the Department of Energy Or-*
9 *ganization Act (42 U.S.C. 7132) (as amended by sub-*
10 *section (b)(1)) is amended by adding at the end the*
11 *following:*

12 “(d)(1) *There shall be in the Department an Under*
13 *Secretary, who shall be appointed by the President, by and*
14 *with the advice and consent of the Senate, and who shall*
15 *perform such functions and duties as the Secretary shall*
16 *prescribe, consistent with this section.*

17 “(2) *The Under Secretary shall be compensated at the*
18 *rate provided for level III of the Executive Schedule under*
19 *section 5314 of title 5, United States Code.*

20 “(e)(1) *There shall be in the Department a General*
21 *Counsel, who shall be appointed by the President, by and*
22 *with the advice and consent of the Senate, and who shall*
23 *perform such functions and duties as the Secretary shall*
24 *prescribe.*

1 “(2) *The General Counsel shall be compensated at the*
2 *rate provided for level IV of the Executive Schedule under*
3 *section 5315 of title 5, United States Code.*”.

4 (2) *Section 5314 of title 5, United States Code,*
5 *is amended by striking “Under Secretaries of Energy*
6 *(2)” and inserting “Under Secretaries of Energy (3)”.*

7 (3) *Section 5315 of title 5, United States Code,*
8 *is amended—*

9 (A) *by striking “Assistant Secretaries of*
10 *Energy (6)” and inserting “Assistant Secretaries*
11 *of Energy (8)”;* and

12 (B) *by striking “Director, Office of Science,*
13 *Department of Energy.”.*

14 **SEC. 1011. OTHER TRANSACTIONS AUTHORITY.**

15 *Section 646 of the Department of Energy Organization*
16 *Act (42 U.S.C. 7256) is amended by adding at the end the*
17 *following:*

18 “(g)(1) *In addition to other authorities granted to the*
19 *Secretary under any other provision of law, the Secretary*
20 *may enter into other transactions on such terms as the Sec-*
21 *retary may consider appropriate in furtherance of research,*
22 *development, or demonstration functions vested in the Sec-*
23 *retary.*”

1 “(2) *The other transactions shall not be subject to sec-*
2 *tion 9 of the Federal Nonnuclear Energy Research and De-*
3 *velopment Act of 1974 (42 U.S.C. 5908).*

4 “(3)(A) *The Secretary shall ensure that—*

5 “(i) *to the maximum extent the Secretary deter-*
6 *mines practicable, no transaction entered into under*
7 *paragraph (1) provides for research, development, or*
8 *demonstration that duplicates research, development,*
9 *or demonstration being conducted under existing*
10 *projects carried out by the Department;*

11 “(ii) *to the extent the Secretary determines prac-*
12 *ticable, the funds provided by the Federal Government*
13 *under a transaction authorized by paragraph (1) do*
14 *not exceed the total amount provided by other parties*
15 *to the transaction; and*

16 “(iii) *to the extent the Secretary determines*
17 *practicable, competitive, merit-based selection proce-*
18 *dures shall be used when entering into transactions*
19 *under paragraph (1).*

20 “(B) *A transaction authorized by paragraph (1) may*
21 *be used for a research, development, or demonstration*
22 *project only if the Secretary determines the use of a stand-*
23 *ard contract, grant, or cooperative agreement for the project*
24 *is not feasible or appropriate.*

1 “(4)(A) *The Secretary shall protect from disclosure*
2 *(including disclosure under section 552 of title 5, United*
3 *States Code) for up to 5 years after the date the information*
4 *is received by the Secretary—*

5 “(i) *a proposal, proposal abstract, and sup-*
6 *porting documents submitted to the Department in a*
7 *competitive or noncompetitive process having the po-*
8 *tential for resulting in an award to the party submit-*
9 *ting the information entering into a transaction*
10 *under paragraph (1); and*

11 “(ii) *a business plan and technical information*
12 *relating to a transaction authorized by paragraph (1)*
13 *submitted to the Department as confidential business*
14 *information.*

15 “(B) *The Secretary may protect from disclosure, for*
16 *up to 5 years after the information was developed, any in-*
17 *formation developed pursuant to a transaction under para-*
18 *graph (1) which developed information is of a character*
19 *that it would be protected from disclosure under section*
20 *552(b)(4) of title 5, United States Code, if obtained from*
21 *a person other than a Federal agency.*

22 “(5)(A) *Not later than 90 days after the date of enact-*
23 *ment of this subsection, the Secretary shall prescribe guide-*
24 *lines for using other transactions authorized by paragraph*
25 *(1).*

1 “(B) *The guidelines shall be published in the Federal*
2 *Register for public comment under rulemaking procedures*
3 *of the Department.*

4 “(6) *The authority of the Secretary under this sub-*
5 *section may be delegated only to an officer of the Depart-*
6 *ment who is appointed by the President by and with the*
7 *advice and consent of the Senate and may not be delegated*
8 *to any other person.”.*

9 **SEC. 1012. PRIZES FOR ACHIEVEMENT IN GRAND CHAL-**
10 **LENGES OF SCIENCE AND TECHNOLOGY.**

11 (a) *AUTHORITY.*—*The Secretary may carry out a pro-*
12 *gram to award cash prizes in recognition of breakthrough*
13 *achievements in research, development, demonstration, and*
14 *commercial application that have the potential for applica-*
15 *tion to the performance of the mission of the Department.*

16 (b) *COMPETITION REQUIREMENTS.*—*The program*
17 *under subsection (a) may include prizes for the achievement*
18 *of goals articulated by the Secretary in a specific area*
19 *through a widely advertised solicitation of submission of re-*
20 *sults for research, development, demonstration, or commer-*
21 *cial application projects.*

22 (c) *RELATIONSHIP TO OTHER AUTHORITY.*—*The pro-*
23 *gram under subsection (a) may be carried out in conjunc-*
24 *tion with or in addition to the exercise of any other author-*
25 *ity of the Secretary to acquire, support, or stimulate re-*

1 *search, development, demonstration, or commercial applica-*
2 *tion projects.*

3 **SEC. 1013. TECHNICAL CORRECTIONS.**

4 *(a) COAL RESEARCH AND DEVELOPMENT.—*

5 *(1) IN GENERAL.—Public Law 86–599 (30*
6 *U.S.C. 661 et seq.) is amended—*

7 *(A) by striking the first section (30 U.S.C.*
8 *661) and inserting the following:*

9 *“SECTION 1. (a) This Act may be cited as the ‘Coal*
10 *Research and Development Act of 1960’.*

11 *“(b) In this Act:*

12 *“(1) The term ‘research’ means scientific, tech-*
13 *nical, and economic research and the practical appli-*
14 *cation of that research.*

15 *“(2) The term ‘Secretary’ means the Secretary of*
16 *Energy.”;*

17 *(B) in section 2 (30 U.S.C. 662), by strik-*
18 *ing “shall establish within” and all that follows*
19 *through “such Office”;*

20 *(C) by striking sections 3, 4, and 7 (30*
21 *U.S.C. 663, 664, 667); and*

22 *(D) by redesignating sections 5, 6, and 8*
23 *(30 U.S.C. 665, 666, 668) as sections 3, 4, and*
24 *5, respectively.*

1 (2) *PATENTS*.—Section 210(a)(8) of title 35,
2 *United States Code*, is amended by striking “*Coal Re-*
3 *search Development Act of 1960*” and inserting “*Coal*
4 *Research and Development Act of 1960*”.

5 (b) *NONNUCLEAR ENERGY RESEARCH AND DEVELOP-*
6 *MENT*.—

7 (1) *SHORT TITLE; DEFINITIONS*.—Section 1 of
8 *the Federal Nonnuclear Energy Research and Devel-*
9 *opment Act of 1974 (42 U.S.C. 5902)* is amended to
10 read as follows:

11 “*SHORT TITLE AND DEFINITIONS*

12 “*SECTION 1. (a) This Act may be cited as the ‘Federal*
13 *Nonnuclear Energy Research and Development Act of*
14 *1974*”.

15 “(b) *In this Act:*

16 “(1) *The term ‘Department’ means the Depart-*
17 *ment of Energy.*

18 “(2) *The term ‘Secretary’ means the Secretary of*
19 *Energy.*”.

20 (2) *STATEMENT OF POLICY*.—Section 3(b) of the
21 *Federal Nonnuclear Energy Research and Develop-*
22 *ment Act of 1974 (42 U.S.C. 5902(b))* is amended—

23 (A) *in paragraph (1), by striking “Energy*
24 *Research and Development Administration” and*
25 *inserting “Department”;*

1 (B) in paragraph (2), by striking “Admin-
2 istrator of the Energy Research and Development
3 Administration (hereinafter in this Act referred
4 to as the ‘Administrator’)” and inserting “Sec-
5 retary”; and

6 (C) in paragraph (3)—

7 (i) by striking “Administrator” and
8 inserting “Secretary”; and

9 (ii) by inserting “Demonstration” after
10 “Cooling”.

11 (3) *DUTIES AND AUTHORITIES.*—Section 4 of the
12 Federal Nonnuclear Energy Research and Develop-
13 ment Act of 1974 (42 U.S.C. 5903) is amended—

14 (A) by striking the section heading and in-
15 serting the following:

16 “DUTIES AND AUTHORITIES OF THE SECRETARY”;

17 and

18 (B) in the matter preceding subsection (a),
19 by striking “Administrator” and inserting “Sec-
20 retary”.

21 (4) *COMPREHENSIVE PLANNING AND PROGRAM-*
22 *MING.*—Section 6 of the Federal Nonnuclear Energy
23 Research and Development Act of 1974 (42 U.S.C.
24 5905) is amended—

25 (A) by striking “Administrator” each place
26 it appears and inserting “Secretary”; and

1 (B) in subsection (b)(3)—

2 (i) in subparagraph (I), by inserting

3 “Demonstration” after “Cooling”; and

4 (ii) in subparagraph (L), by inserting

5 “Energy” after “Solar”.

6 (5) *FORMS OF FEDERAL ASSISTANCE.*—Section 7
7 of the Federal Nonnuclear Energy Research and De-
8 velopment Act of 1974 (42 U.S.C. 5906) is
9 amended—

10 (A) by striking “Administrator” each place
11 it appears and inserting “Secretary”; and

12 (B) in subsection (a)(4), by striking “of the
13 section”.

14 (6) *DEMONSTRATIONS.*—Section 8 of the Federal
15 Nonnuclear Energy Research and Development Act of
16 1974 (42 U.S.C. 5907) is amended—

17 (A) in subsections (a) through (c), by strik-
18 ing “Administrator” each place it appears and
19 inserting “Secretary”;

20 (B) in subsection (d)—

21 (i) in the first sentence of paragraph
22 (1), by inserting “of the Energy Research
23 and Development Administration” after
24 “Administrator”; and

1 (ii) in paragraph (3), by striking “Ad-
2 ministrator” and inserting “Secretary”;
3 and

4 (C) in subsection (f)—

5 (i) by striking “Administrator” each
6 place it appears and inserting “Secretary”;
7 and

8 (ii) in the proviso of the first sentence,
9 by striking “Administrator’s” and inserting
10 “Secretary’s”.

11 (7) *PATENT POLICY.*—Section 9 of the Federal
12 Nonnuclear Energy Research and Development Act of
13 1974 (42 U.S.C. 5908) is amended—

14 (A) by striking “Administration” each
15 place it appears and inserting “Department”;

16 (B) by striking “Administrator” each place
17 it appears and inserting “Secretary”; and

18 (C) in subsection (c)(3), by striking “Ad-
19 ministration’s” and inserting “Department’s”.

20 (8) *ACQUISITION OF ESSENTIAL MATERIALS.*—
21 Section 12 of the Federal Nonnuclear Energy Re-
22 search and Development Act of 1974 (42 U.S.C. 5911)
23 is amended by striking subsection (b) and inserting
24 the following:

1 “(b) A rule or order under subsection (a) shall be con-
2 sidered to be a major rule subject to chapter 8 of title 5,
3 United States Code.”.

4 (9) WATER RESOURCE EVALUATION.—Section 13
5 of the Federal Nonnuclear Energy Research and De-
6 velopment Act of 1974 (42 U.S.C. 5912) is amended
7 by striking “Administrator” each place it appears
8 and inserting “Secretary”.

9 (10) AUTHORIZATION OF APPROPRIATIONS.—
10 Section 16 of the Federal Nonnuclear Energy Re-
11 search and Development Act of 1974 (42 U.S.C. 5915)
12 is amended—

13 (A) by striking the section heading and in-
14 serting the following:

15 “AUTHORIZATION OF APPROPRIATIONS”;

16 (B) by striking “(a) There may be appro-
17 priated to the Administrator” and inserting
18 “There may be appropriated to the Secretary”;
19 and

20 (C) by striking subsections (b) and (c).

21 (11) CENTRAL SOURCE OF NONNUCLEAR ENERGY
22 INFORMATION.—Section 17 of the Federal Nonnuclear
23 Energy Research and Development Act of 1974 (42
24 U.S.C. 5916) is amended—

25 (A) by striking “Administrator” each place
26 it appears and inserting “Secretary”;

1 (B) in the first sentence, by striking “Ad-
2 ministrators”;

3 (C) in the second sentence, by striking “he”
4 and inserting “the Secretary”;

5 (D) in the third sentence—

6 (i) in paragraph (2) of the first pro-
7 viso, by striking “section 1905 or title 18”
8 and inserting “section 1905 of title 18”;
9 and

10 (ii) in subparagraph (B) of the second
11 proviso—

12 (I) by striking “the Federal En-
13 ergy Administration,”;

14 (II) by striking “the Federal
15 Power Commission,” and inserting
16 “the Federal Energy Regulatory Com-
17 mission”; and

18 (III) by striking “General Ac-
19 counting Office” and inserting “Gov-
20 ernment Accountability Office”; and

21 (E) in the last sentence, by inserting “or
22 ranking minority member” after “chairman”.

23 (12) ENERGY INFORMATION, LOAN GUARANTEES,
24 AND FINANCIAL SUPPORT.—Sections 18 through 20 of
25 the Federal Nonnuclear Energy Research and Devel-

1 *opment Act of 1974 (42 U.S.C. 5917 through 5920)*
 2 *are repealed.*

3 (c) *STEVENSON-WYDLER TECHNOLOGY INNOVATION*
 4 *ACT OF 1980.—Section 20 of the Stevenson-Wydlar Tech-*
 5 *nology Innovation Act of 1980 (15 U.S.C. 3712) is amended*
 6 *by striking “and the National Science Foundation” and in-*
 7 *serting “, the Secretary of Energy, and the Director of the*
 8 *National Science Foundation”.*

9 **TITLE XI—PERSONNEL AND**
 10 **TRAINING**

11 **SEC. 1101. WORKFORCE TRENDS AND TRAINEESHIP**
 12 **GRANTS.**

13 (a) *DEFINITIONS.—In this section:*

14 (1) *ENERGY TECHNOLOGY INDUSTRY.—The term*
 15 *“energy technology industry” includes—*

16 (A) *a renewable energy industry;*

17 (B) *a company that develops or commer-*
 18 *cializes a device to increase energy efficiency;*

19 (C) *the oil and gas industry;*

20 (D) *the nuclear power industry;*

21 (E) *the coal industry;*

22 (F) *the electric utility industry; and*

23 (G) *any other industrial sector, as the Sec-*
 24 *retary determines to be appropriate.*

1 (2) *SKILLED TECHNICAL PERSONNEL.*—*The term*
2 “*skilled technical personnel*” *means—*

3 (A) *journey- and apprentice-level workers*
4 *who are enrolled in, or have completed, a feder-*
5 *ally-recognized or State-recognized apprentice-*
6 *ship program; and*

7 (B) *other skilled workers in energy tech-*
8 *nology industries, as determined by the Sec-*
9 *retary.*

10 (b) *WORKFORCE TRENDS.*—

11 (1) *MONITORING.*—*The Secretary, in consulta-*
12 *tion with, and using data collected by, the Secretary*
13 *of Labor, shall monitor trends in the workforce of—*

14 (A) *skilled technical personnel that support*
15 *energy technology industries; and*

16 (B) *electric power and transmission engi-*
17 *neers.*

18 (2) *REPORT ON TRENDS.*—*Not later than 1 year*
19 *after the date of enactment of this Act, the Secretary*
20 *shall submit to Congress a report on current trends*
21 *under paragraph (1), with recommendations (as ap-*
22 *propriate) to meet the future labor requirements for*
23 *the energy technology industries.*

24 (3) *REPORT ON SHORTAGE.*—*As soon as prac-*
25 *ticable after the date on which the Secretary identifies*

1 *or predicts a significant national shortage of skilled*
2 *technical personnel in 1 or more energy technology*
3 *industries, the Secretary shall submit to Congress a*
4 *report describing the shortage.*

5 *(c) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL*
6 *PERSONNEL.—The Secretary, in consultation with the Sec-*
7 *retary of Labor, may establish programs in the appropriate*
8 *offices of the Department under which the Secretary pro-*
9 *vides grants to enhance training (including distance learn-*
10 *ing) for any workforce category for which a shortage is*
11 *identified or predicted under subsection (b)(2).*

12 *(d) AUTHORIZATION OF APPROPRIATIONS.—There is*
13 *authorized to be appropriated to carry out this section*
14 *\$20,000,000 for each of fiscal years 2006 through 2008.*

15 **SEC. 1102. ENERGY RESEARCH FELLOWSHIPS.**

16 *(a) POSTDOCTORAL FELLOWSHIP PROGRAM.—The*
17 *Secretary shall establish a program under which the Sec-*
18 *retary provides fellowships to encourage outstanding young*
19 *scientists and engineers to pursue postdoctoral research ap-*
20 *pointments in energy research and development at institu-*
21 *tions of higher education of their choice.*

22 *(b) SENIOR RESEARCH FELLOWSHIPS.—*

23 *(1) IN GENERAL.—The Secretary shall establish*
24 *a program under which the Secretary provides fellow-*
25 *ships to allow outstanding senior researchers and*

1 *their research groups in energy research and develop-*
2 *ment to explore research and development topics of*
3 *their choosing for a period of not less than 3 years*
4 *to be determined by the Secretary.*

5 (2) *CONSIDERATION.*—*In providing a fellowship*
6 *under the program described in paragraph (1), the*
7 *Secretary shall consider—*

8 (A) *the past scientific or technical accom-*
9 *plishment of a senior researcher; and*

10 (B) *the potential for continued accomplish-*
11 *ment by the researcher during the period of the*
12 *fellowship.*

13 (c) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
14 *authorized to be appropriated to carry out this section*
15 *\$40,000,000 for each of fiscal years 2006 through 2008.*

16 **SEC. 1103. EDUCATIONAL PROGRAMS IN SCIENCE AND**
17 **MATHEMATICS.**

18 (a) *SCIENCE EDUCATION ENHANCEMENT FUND.*—*Sec-*
19 *tion 3164 of the Department of Energy Science Education*
20 *Enhancement Act (42 U.S.C. 7381a) is amended by adding*
21 *at the end:*

22 “(c) *SCIENCE EDUCATION ENHANCEMENT FUND.*—*The*
23 *Secretary shall use not less than 0.2 percent of the amount*
24 *made available to the Department for fiscal year 2006 and*

1 *each fiscal year thereafter to carry out activities authorized*
2 *by this part.”.*

3 (b) *AUTHORIZED EDUCATION ACTIVITIES.*—Section
4 *3165 of the Department of Energy Science Education En-*
5 *hancement Act (42 U.S.C. 7381b) is amended by adding*
6 *at the end the following:*

7 “(14) *Support competitive events for students*
8 *under the supervision of teachers, designed to encour-*
9 *age student interest and knowledge in science and*
10 *mathematics.*

11 “(15) *Support competitively-awarded, peer-re-*
12 *viewed programs to promote professional development*
13 *for mathematics teachers and science teachers who*
14 *teach in grades from kindergarten through grade 12*
15 *at Department research and development facilities.*

16 “(16) *Support summer internships at Depart-*
17 *ment research and development facilities, for mathe-*
18 *matics teachers and science teachers who teach in*
19 *grades from kindergarten through grade 12.*

20 “(17) *Sponsor and assist in educational and*
21 *training activities identified as critical skills needs*
22 *for future workforce development at Department re-*
23 *search and development facilities.”.*

1 (c) *EDUCATIONAL PARTNERSHIPS.*—Section 3166(b) of
2 *the Department of Energy Science Education Enhancement*
3 *Act (42 U.S.C. 7381c(b)) is amended—*

4 (1) *by striking paragraph (1) and inserting the*
5 *following:*

6 “(1) *loaning or transferring equipment to the in-*
7 *stitution;”;*

8 (2) *in paragraph (5), by striking “and” at the*
9 *end;*

10 (3) *in paragraph (6), by striking the period at*
11 *the end and inserting “; and”; and*

12 (4) *by adding at the end the following:*

13 “(7) *providing funds to educational institutions*
14 *to hire personnel to facilitate interactions between*
15 *local school systems, Department research and devel-*
16 *opment facilities, and corporate and governmental en-*
17 *tities.”.*

18 (d) *DEFINITION OF DEPARTMENT RESEARCH AND DE-*
19 *VELOPMENT FACILITIES.*—Section 3167(3) of the *Depart-*
20 *ment of Energy Science Education Enhancement Act (42*
21 *U.S.C. 7381d(3)) is amended by striking “from the Office*
22 *of Science of the Department of Energy” and inserting “by*
23 *the Department of Energy”.*

24 (e) *STUDY.*—

1 (1) *IN GENERAL.*—*The Secretary shall enter into*
2 *an arrangement with the National Academy of Public*
3 *Administration to conduct a study of the priorities,*
4 *quality, local and regional flexibility, and plans for*
5 *educational programs at Department research and de-*
6 *velopment facilities.*

7 (2) *INCLUSION.*—*The study shall recommend*
8 *measures that the Secretary may take to improve De-*
9 *partment-wide coordination of educational, workforce*
10 *development, and critical skills development activities.*

11 (3) *REPORT.*—*Not later than 2 years after the*
12 *date of enactment of this Act, the Secretary shall sub-*
13 *mit to Congress a report on the results of the study*
14 *conducted under this subsection.*

15 **SEC. 1104. TRAINING GUIDELINES FOR ELECTRIC ENERGY**
16 **INDUSTRY PERSONNEL.**

17 (a) *IN GENERAL.*—*The Secretary of Labor, in con-*
18 *sultation with the Secretary and in conjunction with the*
19 *electric industry and recognized employee representatives,*
20 *shall develop model personnel training guidelines to support*
21 *the reliability and safety of the electric system.*

22 (b) *REQUIREMENTS.*—*The training guidelines under*
23 *subsection (a) shall, at a minimum—*

24 (1) *include training requirements for workers en-*
25 *gaged in the construction, operation, inspection, or*

1 maintenance of electric generation, transmission, or
2 distribution systems, including requirements relating
3 to—

4 (A) competency;

5 (B) certification; and

6 (C) assessment, including—

7 (i) initial and continuous evaluation
8 of workers;

9 (ii) recertification procedures; and

10 (iii) methods for examining or testing
11 the qualification of an individual who per-
12 forms a covered task; and

13 (2) consolidate training guidelines in existence
14 on the date on which the guidelines under subsection
15 (a) are developed relating to the construction, oper-
16 ation, maintenance, and inspection of electric genera-
17 tion, transmission, and distribution facilities, such as
18 guidelines established by the National Electric Safety
19 Code and other industry consensus standards.

20 **SEC. 1105. NATIONAL CENTER FOR ENERGY MANAGEMENT**
21 **AND BUILDING TECHNOLOGIES.**

22 *The Secretary shall support the ongoing activities of*
23 *the National Center for Energy Management and Building*
24 *Technologies to carry out research, education, and training*
25 *activities to facilitate the improvement of energy efficiency,*

1 *indoor environmental quality, and security of industrial,*
2 *commercial, residential, and public buildings.*

3 **SEC. 1106. IMPROVED ACCESS TO ENERGY-RELATED SCI-**
4 **ENTIFIC AND TECHNICAL CAREERS.**

5 (a) *SCIENCE EDUCATION PROGRAMS.*—Section 3164 of
6 *the Department of Energy Science Education Enhancement*
7 *Act (42 U.S.C. 7381a) (as amended by section 1103(a)) is*
8 *amended by adding at the end the following:*

9 “(d) *PROGRAMS FOR STUDENTS FROM UNDER-REP-*
10 *RESENTED GROUPS.*—*In carrying out a program under*
11 *subsection (a), the Secretary shall give priority to activities*
12 *that are designed to encourage students from under-rep-*
13 *resented groups to pursue scientific and technical careers.”.*

14 (b) *PARTNERSHIPS WITH HISTORICALLY BLACK COL-*
15 *LEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITU-*
16 *TIONS, AND TRIBAL COLLEGES.*—*The Department of En-*
17 *ergy Science Education Enhancement Act (42 U.S.C. 7381*
18 *et seq.) is amended—*

19 (1) *by redesignating sections 3167 and 3168 as*
20 *sections 3168 and 3169, respectively; and*

21 (2) *by inserting after section 3166 the following:*

1 **“SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK**
2 **COLLEGES AND UNIVERSITIES, HISPANIC-**
3 **SERVING INSTITUTIONS, AND TRIBAL COL-**
4 **LEGES.**

5 “(a) *DEFINITIONS.—In this section:*

6 “(1) *HISPANIC-SERVING INSTITUTION.—The term*
7 *‘Hispanic-serving institution’ has the meaning given*
8 *the term in section 502(a) of the Higher Education*
9 *Act of 1965 (20 U.S.C. 1101a(a)).*

10 “(2) *HISTORICALLY BLACK COLLEGE OR UNIVER-*
11 *SITY.—The term ‘historically Black college or univer-*
12 *sity’ has the meaning given the term ‘part B institu-*
13 *tion’ in section 322 of the Higher Education Act of*
14 *1965 (20 U.S.C. 1061).*

15 “(3) *NATIONAL LABORATORY.—The term ‘Na-*
16 *tional Laboratory’ has the meaning given the term in*
17 *section 2 of the Energy Policy Act of 2005.*

18 “(4) *SCIENCE FACILITY.—The term ‘science facil-*
19 *ity’ has the meaning given the term ‘single-purpose*
20 *research facility’ in section 903 of the Energy Policy*
21 *Act of 2005.*

22 “(5) *TRIBAL COLLEGE.—The term ‘tribal college’*
23 *has the meaning given the term ‘tribally controlled*
24 *college or university’ in section 2(a) of the Tribally*
25 *Controlled College Assistance Act of 1978 (25 U.S.C.*
26 *1801(a)).*

1 “(b) *EDUCATION PARTNERSHIP.*—*The Secretary shall*
2 *require the director of each National Laboratory, and may*
3 *require the head of any science facility, to increase the par-*
4 *ticipation of historically Black colleges or universities, His-*
5 *panic-serving institutions, or tribal colleges in any activity*
6 *that increases the capacity of the historically Black colleges*
7 *or universities, Hispanic-serving institutions, or tribal col-*
8 *leges to train personnel in science or engineering.*

9 “(c) *ACTIVITIES.*—*An activity described in subsection*
10 *(b) includes—*

11 “(1) *collaborative research;*

12 “(2) *equipment transfer;*

13 “(3) *training activities carried out at a National*
14 *Laboratory or science facility; and*

15 “(4) *mentoring activities carried out at a Na-*
16 *tional Laboratory or science facility.*

17 “(d) *REPORT.*—*Not later than 2 years after the date*
18 *of enactment of this subsection, the Secretary shall submit*
19 *to Congress a report describing the activities carried out*
20 *under this section.”.*

21 **SEC. 1107. NATIONAL POWER PLANT OPERATIONS TECH-**
22 **NOLOGY AND EDUCATIONAL CENTER.**

23 “(a) *ESTABLISHMENT.*—*The Secretary shall support the*
24 *establishment of a National Power Plant Operations Tech-*
25 *nology and Education Center (referred to in this section*

1 as the “Center”), to address the need for training and edu-
2 cating certified operators and technicians for the electric
3 power industry.

4 (b) *LOCATION OF CENTER.*—The Secretary shall sup-
5 port the establishment of the Center at an institution of
6 higher education that has—

7 (1) expertise in providing degree programs in
8 electric power generation, transmission, and distribu-
9 tion technologies;

10 (2) expertise in providing onsite and Internet-
11 based training; and

12 (3) demonstrated responsiveness to workforce and
13 training requirements in the electric power industry.

14 (c) *TRAINING AND CONTINUING EDUCATION.*—

15 (1) *IN GENERAL.*—The Center shall provide
16 training and continuing education in electric power
17 generation, transmission, and distribution tech-
18 nologies and operations.

19 (2) *LOCATION.*—The Center shall carry out
20 training and education activities under paragraph

21 (1)—

22 (A) at the Center; and

23 (B) through Internet-based information
24 technologies that allow for learning at remote
25 sites.

1 **TITLE XII—ELECTRICITY**

2 **SEC. 1201. SHORT TITLE.**

3 *This title may be cited as the “Electricity Moderniza-*
4 *tion Act of 2005”.*

5 **Subtitle A—Reliability Standards**

6 **SEC. 1211. ELECTRIC RELIABILITY STANDARDS.**

7 *(a) IN GENERAL.—Part II of the Federal Power Act*
8 *(16 U.S.C 824 et seq.) is amended by adding at the end*
9 *the following:*

10 **“SEC. 215. ELECTRIC RELIABILITY.**

11 *“(a) DEFINITIONS.—In this section:*

12 *“(1)(A) The term ‘bulk-power system’ means—*

13 *“(i) facilities and control systems necessary*
14 *for operating an interconnected electric energy*
15 *transmission network (or any portion of such a*
16 *network); and*

17 *“(ii) electric energy from generation facili-*
18 *ties needed to maintain transmission system re-*
19 *liability.*

20 *“(B) The term ‘bulk-power system’ does not in-*
21 *clude facilities used in the local distribution of elec-*
22 *tric energy.*

23 *“(2) The terms ‘Electric Reliability Organiza-*
24 *tion’ and ‘ERO’ mean the organization certified by*
25 *the Commission under subsection (c) the purpose of*

1 *which is to establish and enforce reliability standards*
2 *for the bulk-power system, subject to review by the*
3 *Commission.*

4 “(3)(A) *The term ‘reliability standard’ means a*
5 *requirement, approved by the Commission under this*
6 *section, to provide for reliable operation of the bulk-*
7 *power system.*

8 “(B) *The term ‘reliability standard’ includes re-*
9 *quirements for the operation of existing bulk-power*
10 *system components and the design of planned addi-*
11 *tions or modifications to those components to the ex-*
12 *tent necessary to provide for reliable operation of the*
13 *bulk-power system, except that the term does not in-*
14 *clude any requirement to enlarge those components or*
15 *to construct new transmission capacity or generation*
16 *capacity.*

17 “(4) *The term ‘reliable operation’ means oper-*
18 *ating the components of the bulk-power system within*
19 *equipment and electric system thermal, voltage, and*
20 *stability limits so that instability, uncontrolled sepa-*
21 *ration, or cascading failures of the system will not*
22 *occur as a result of a sudden disturbance or unantici-*
23 *ipated failure of system components.*

24 “(5) *The term ‘interconnection’ means a geo-*
25 *graphic area in which the operation of bulk-power*

1 *system components is synchronized such that the fail-*
2 *ure of 1 or more of the components may adversely af-*
3 *fect the ability of the operators of other components*
4 *within the system to maintain reliable operation of*
5 *the portion of the system within their control.*

6 *“(6) The term ‘regional entity’ means an entity*
7 *having enforcement authority pursuant to subsection*
8 *(e)(4).*

9 *“(b) JURISDICTION AND APPLICABILITY.—(1) The*
10 *Commission shall have jurisdiction, within the United*
11 *States, over the ERO certified by the Commission under*
12 *subsection (c), any regional entities, and all users, owners*
13 *and operators of the bulk-power system (including the enti-*
14 *ties described in section 201(f)), for purposes of approving*
15 *reliability standards established under this section and en-*
16 *forcing compliance with this section.*

17 *“(2) All users, owners, and operators of the bulk-power*
18 *system shall comply with reliability standards that take ef-*
19 *fect under this section.*

20 *“(3) The Commission shall issue a final rule to imple-*
21 *ment the requirements of this section not later than 180*
22 *days after the date of enactment of this section.*

23 *“(c) CERTIFICATION.—(1) Following the issuance of a*
24 *Commission rule under subsection (b)(3), any person may*

1 *submit an application to the Commission for certification*
2 *as the Electric Reliability Organization.*

3 “(2) *The Commission may certify 1 such ERO if the*
4 *Commission determines that the ERO—*

5 “(A) *has the ability to develop and enforce, sub-*
6 *ject to subsection (e)(2), reliability standards that*
7 *provide for an adequate level of reliability of the bulk-*
8 *power system; and*

9 “(B) *has established rules that—*

10 “(i) *ensure the independence of the ERO*
11 *from the users and owners and operators of the*
12 *bulk-power system, while ensuring fair stake-*
13 *holder representation in the selection of the direc-*
14 *tors of the ERO and balanced decisionmaking in*
15 *any ERO committee or subordinate organiza-*
16 *tional structure;*

17 “(ii) *allocate equitably reasonable dues, fees,*
18 *and other charges among end users for all activi-*
19 *ties under this section;*

20 “(iii) *provide fair and impartial procedures*
21 *for enforcement of reliability standards through*
22 *the imposition of penalties in accordance with*
23 *subsection (e) (including limitations on activi-*
24 *ties, functions, or operations, or other appro-*
25 *priate sanctions);*

1 “(iv) provide for reasonable notice and op-
2 portunity for public comment, due process, open-
3 ness, and balance of interests in developing reli-
4 ability standards and otherwise exercising the
5 duties of the ERO; and

6 “(v) provide for taking, after certification,
7 appropriate steps to gain recognition in Canada
8 and Mexico.

9 “(d) *RELIABILITY STANDARDS.*—(1) *The ERO shall*
10 *file each reliability standard or modification to a reliability*
11 *standard that the ERO proposes to be made effective under*
12 *this section with the Commission.*

13 “(2)(A) *The Commission may approve, by rule or*
14 *order, a proposed reliability standard or modification to*
15 *a reliability standard if the Commission determines that*
16 *the standard is just, reasonable, not unduly discriminatory*
17 *or preferential, and in the public interest.*

18 “(B) *The Commission—*

19 “(i) *shall give due weight to the technical exper-*
20 *tise of the ERO with respect to the content of a pro-*
21 *posed standard or modification to a reliability stand-*
22 *ard and to the technical expertise of a regional entity*
23 *organized on an interconnection-wide basis with re-*
24 *spect to a reliability standard to be applicable within*
25 *that interconnection; but*

1 “(ii) shall not defer with respect to the effect of
2 a standard on competition.

3 “(C) A proposed standard or modification shall take
4 effect on approval by the Commission.

5 “(3) The ERO shall rebuttably presume that a pro-
6 posal from a regional entity organized on an interconnec-
7 tion-wide basis for a reliability standard or modification
8 to a reliability standard to be applicable on an interconnec-
9 tion-wide basis is just, reasonable, not unduly discrimina-
10 tory or preferential, and in the public interest.

11 “(4) The Commission shall remand to the ERO for fur-
12 ther consideration a proposed reliability standard or a
13 modification to a reliability standard that the Commission
14 disapproves in whole or in part.

15 “(5) The Commission, on a motion of the Commission
16 or on complaint, may order the ERO to submit to the Com-
17 mission a proposed reliability standard or a modification
18 to a reliability standard that addresses a specific matter
19 if the Commission considers such a new or modified reli-
20 ability standard appropriate to carry out this section.

21 “(6)(A) The final rule adopted under subsection (b)(2)
22 shall include fair processes for the identification and timely
23 resolution of any conflict between a reliability standard and
24 any function, rule, order, tariff, rate schedule, or agreement

1 *accepted, approved, or ordered by the Commission applica-*
2 *ble to a transmission organization.*

3 “(B) *The transmission organization shall continue to*
4 *comply with such function, rule, order, tariff, rate schedule*
5 *or agreement accepted approved, or ordered by the Commis-*
6 *sion until—*

7 “(i) *the Commission finds a conflict exists be-*
8 *tween a reliability standard and any such provision;*

9 “(ii) *the Commission orders a change to the pro-*
10 *vision pursuant to section 206; and*

11 “(iii) *the ordered change becomes effective under*
12 *this part.*

13 “(C) *If the Commission determines that a reliability*
14 *standard needs to be changed as a result of such a conflict,*
15 *the Commission shall order the ERO to develop and file*
16 *with the Commission a modified reliability standard under*
17 *paragraph (4) or (5).*

18 “(e) *ENFORCEMENT.—(1) Subject to paragraph (2),*
19 *the ERO may impose a penalty on a user or owner or oper-*
20 *ator of the bulk-power system for a violation of a reliability*
21 *standard approved by the Commission under subsection (d)*
22 *if the ERO, after notice and an opportunity for a hearing—*

23 “(A) *finds that the user or owner or operator has*
24 *violated a reliability standard approved by the Com-*
25 *mission under subsection (d); and*

1 “(B) files notice and the record of the proceeding
2 with the Commission.

3 “(2)(A) A penalty imposed under paragraph (1) may
4 take effect not earlier than the day that is 31 days after
5 the date on which the ERO files with the Commission notice
6 of the penalty and the record of proceedings.

7 “(B) The penalty shall be subject to review by the Com-
8 mission on—

9 “(i) a motion by the Commission; or

10 “(ii) application by the user, owner or operator
11 that is the subject of the penalty filed not later than
12 30 days after the date on which the notice is filed
13 with the Commission.

14 “(C) Application to the Commission for review, or the
15 initiation of review by the Commission on a motion of the
16 Commission, shall not operate as a stay of the penalty un-
17 less the Commission orders otherwise on a motion of the
18 Commission or on application by the user, owner or oper-
19 ator that is the subject of the penalty.

20 “(D) In any proceeding to review a penalty imposed
21 under paragraph (1), the Commission, after notice and op-
22 portunity for hearing (which hearing may consist solely of
23 the record before the ERO and opportunity for the presen-
24 tation of supporting reasons to affirm, modify, or set aside
25 the penalty), shall by order—

1 “(i) affirm, set aside, reinstate, or modify the
2 penalty; and

3 “(ii) if appropriate, remand to the ERO for fur-
4 ther proceedings.

5 “(E) The Commission shall implement expedited pro-
6 cedures for the hearings described in subparagraph (D).

7 “(3) On a motion of the Commission or on complaint,
8 the Commission may order compliance with a reliability
9 standard and may impose a penalty against a user or
10 owner or operator of the bulk-power system if the Commis-
11 sion finds, after notice and opportunity for a hearing, that
12 the user or owner or operator of the bulk-power system has
13 engaged or is about to engage in any act or practice that
14 constitutes or will constitute a violation of a reliability
15 standard.

16 “(4)(A) The Commission shall issue regulations au-
17 thorizing the ERO to enter into an agreement to delegate
18 authority to a regional entity for the purpose of proposing
19 reliability standards to the ERO and enforcing reliability
20 standards under paragraph (1) if—

21 “(i) the regional entity is governed by—

22 “(I) an independent board;

23 “(II) a balanced stakeholder board; or

24 “(III) a combination independent and bal-
25 anced stakeholder board;

1 “(ii) the regional entity otherwise meets the re-
2 quirements of paragraphs (1) and (2) of subsection
3 (c); and

4 “(iii) the agreement promotes effective and effi-
5 cient administration of bulk-power system reliability.

6 “(B) The Commission may modify a delegation under
7 this paragraph.

8 “(C) The ERO and the Commission shall rebuttably
9 presume that a proposal for delegation to a regional entity
10 organized on an interconnection-wide basis promotes effec-
11 tive and efficient administration of bulk-power system reli-
12 ability and should be approved.

13 “(D) The regulation issued under this paragraph may
14 provide that the Commission may assign the authority of
15 the ERO to enforce reliability standards under paragraph
16 (1) directly to a regional entity in accordance with this
17 paragraph.

18 “(5) The Commission may take such action as is nec-
19 essary or appropriate against the ERO or a regional entity
20 to ensure compliance with a reliability standard or any
21 Commission order affecting the ERO or a regional entity.

22 “(6) Any penalty imposed under this section shall—

23 “(A) bear a reasonable relation to the seriousness
24 of the violation; and

1 “(B) take into consideration the efforts of the
2 user, owner, or operator to remedy the violation in a
3 timely manner.

4 “(f) *CHANGES IN ELECTRIC RELIABILITY ORGANIZA-*
5 *TION RULES.—(1) The Electric Reliability Organization*
6 *shall file with the Commission for approval any proposed*
7 *rule or proposed rule change, accompanied by an expla-*
8 *nation of the basis and purpose of the rule and proposed*
9 *rule change.*

10 “(2) *The Commission, upon a motion of the Commis-*
11 *sion or upon complaint, may propose a change to the rules*
12 *of the ERO.*

13 “(3) *A proposed rule or proposed rule change shall take*
14 *effect upon a finding by the Commission, after notice and*
15 *opportunity for comment, that the change is just, reason-*
16 *able, and not unduly discriminatory or preferential, is in*
17 *the public interest, and meets the requirements of subsection*
18 *(c).*

19 “(g) *RELIABILITY REPORTS.—The ERO shall conduct*
20 *periodic assessments of the reliability and adequacy of the*
21 *bulk-power system in North America.*

22 “(h) *COORDINATION WITH CANADA AND MEXICO.—*
23 *The President is urged to negotiate international agree-*
24 *ments with the governments of Canada and Mexico to pro-*
25 *vide for effective compliance with reliability standards and*

1 *the effectiveness of the ERO in the United States and Can-*
2 *ada or Mexico.*

3 “(i) *SAVINGS PROVISIONS.—(1) The ERO may develop*
4 *and enforce compliance with reliability standards for only*
5 *the bulk-power system.*

6 “(2) *Nothing in this section authorizes the ERO or the*
7 *Commission to order the construction of additional genera-*
8 *tion or transmission capacity or to set and enforce compli-*
9 *ance with standards for adequacy or safety of electric facili-*
10 *ties or services.*

11 “(3) *Nothing in this section preempts any authority*
12 *of any State to take action to ensure the safety, adequacy,*
13 *and reliability of electric service within that State, as long*
14 *as the action is not inconsistent with any reliability stand-*
15 *ard.*

16 “(4) *Not later than 90 days after the date of applica-*
17 *tion of the Electric Reliability Organization or other af-*
18 *ected party, and after notice and opportunity for comment,*
19 *the Commission shall issue a final order determining*
20 *whether a State action is inconsistent with a reliability*
21 *standard, taking into consideration any recommendation of*
22 *the ERO.*

23 “(5) *The Commission, after consultation with the ERO*
24 *and the State taking action, may stay the effectiveness of*

1 *any State action, pending the issuance by the Commission*
2 *of a final order.*

3 “(j) *REGIONAL ADVISORY BODIES.—(1) The Commis-*
4 *sion shall establish a regional advisory body on the petition*
5 *of at least $\frac{2}{3}$ of the States within a region that have more*
6 *than $\frac{1}{2}$ of the electric load of the States served within the*
7 *region.*

8 “(2) *A regional advisory body—*

9 “(A) *shall be composed of 1 member from each*
10 *participating State in the region, appointed by the*
11 *Governor of the State; and*

12 “(B) *may include representatives of agencies,*
13 *States, and provinces outside the United States.*

14 “(3) *A regional advisory body may provide advice to*
15 *the Electric Reliability Organization, a regional entity, or*
16 *the Commission regarding—*

17 “(A) *the governance of an existing or proposed*
18 *regional entity within the same region;*

19 “(B) *whether a standard proposed to apply with-*
20 *in the region is just, reasonable, not unduly discrimi-*
21 *natory or preferential, and in the public interest;*

22 “(C) *whether fees proposed to be assessed within*
23 *the region are just, reasonable, not unduly discrimi-*
24 *natory or preferential, and in the public interest; and*

1 “(D) any other responsibilities requested by the
2 Commission.

3 “(4) The Commission may give deference to the advice
4 of a regional advisory body if that body is organized on
5 an interconnection-wide basis.

6 “(k) ALASKA AND HAWAII.—This section does not
7 apply to Alaska or Hawaii.”.

8 (b) STATUS OF ERO.—The Electric Reliability Orga-
9 nization certified by the Commission under section 215(c)
10 of the Federal Power Act (as added by subsection (a)) and
11 any regional entity delegated enforcement authority pursu-
12 ant to section 215(e)(4) of that Act (as so added) are not
13 departments, agencies, or instrumentalities of the Federal
14 Government.

15 **Subtitle B—Transmission**
16 **Infrastructure Modernization**

17 **SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANS-**
18 **MISSION FACILITIES.**

19 (a) IN GENERAL.—Part II of the Federal Power Act
20 (16 U.S.C. 824 et seq.) (as amended by section 1211(a))
21 is amended by adding at the end the following:

22 **“SEC. 216. SITING OF INTERSTATE ELECTRIC TRANS-**
23 **MISSION FACILITIES.**

24 “(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC
25 TRANSMISSION CORRIDORS.—(1) Not later than 1 year

1 *after the date of enactment of this section and every 3 years*
2 *thereafter, the Secretary of Energy (referred to in this sec-*
3 *tion as the ‘Secretary’), in consultation with affected States,*
4 *shall conduct a study of electric transmission congestion.*

5 “(2) *After considering alternatives and recommenda-*
6 *tions from interested parties (including an opportunity for*
7 *comment from affected States), the Secretary shall issue a*
8 *report, based on the study, which may designate any geo-*
9 *graphic area experiencing electric energy transmission ca-*
10 *capacity constraints or congestion that adversely affects con-*
11 *sumers as a national interest electric transmission corridor.*

12 “(3) *The Secretary shall conduct the study and issue*
13 *the report in consultation with any appropriate regional*
14 *entity referred to in section 215.*

15 “(4) *In determining whether to designate a national*
16 *interest electric transmission corridor under paragraph (2),*
17 *the Secretary may consider whether—*

18 “(A) *the economic vitality and development of*
19 *the corridor, or the end markets served by the cor-*
20 *ridor, may be constrained by lack of adequate or rea-*
21 *sonably priced electricity;*

22 “(B)(i) *economic growth in the corridor, or the*
23 *end markets served by the corridor, may be jeopard-*
24 *ized by reliance on limited sources of energy; and*

25 “(ii) *a diversification of supply is warranted;*

1 “(C) *the energy independence of the United*
2 *States would be served by the designation;*

3 “(D) *the designation would be in the interest of*
4 *national energy policy; and*

5 “(E) *the designation would enhance national de-*
6 *fense and homeland security.*

7 “(b) *CONSTRUCTION PERMIT.—Except as provided in*
8 *subsection (i), the Commission may, after notice and an*
9 *opportunity for hearing, issue 1 or more permits for the*
10 *construction or modification of electric transmission facili-*
11 *ties in a national interest electric transmission corridor*
12 *designated by the Secretary under subsection (a) if the Com-*
13 *mission finds that—*

14 “(1)(A) *a State in which the transmission facili-*
15 *ties are to be constructed or modified does not have*
16 *authority to—*

17 “(i) *approve the siting of the facilities; or*

18 “(ii) *consider the interstate benefits expected*
19 *to be achieved by the proposed construction or*
20 *modification of transmission facilities in the*
21 *State;*

22 “(B) *the applicant for a permit is a transmit-*
23 *ting utility under this Act but does not qualify to*
24 *apply for a permit or siting approval for the pro-*

1 *posed project in a State because the applicant does*
2 *not serve end-use customers in the State; or*

3 *“(C) a State commission or other entity that has*
4 *authority to approve the siting of the facilities has—*

5 *“(i) withheld approval for more than 1 year*
6 *after the filing of an application seeking ap-*
7 *proval pursuant to applicable law or 1 year*
8 *after the designation of the relevant national in-*
9 *terest electric transmission corridor, whichever is*
10 *later; or*

11 *“(ii) conditioned its approval in such a*
12 *manner that the proposed construction or modi-*
13 *fication will not significantly reduce trans-*
14 *mission congestion in interstate commerce or is*
15 *not economically feasible;*

16 *“(2) the facilities to be authorized by the permit*
17 *will be used for the transmission of electric energy in*
18 *interstate commerce;*

19 *“(3) the proposed construction or modification is*
20 *consistent with the public interest;*

21 *“(4) the proposed construction or modification*
22 *will significantly reduce transmission congestion in*
23 *interstate commerce and protects or benefits con-*
24 *sumers;*

1 “(5) the proposed construction or modification is
2 consistent with sound national energy policy and will
3 enhance energy independence; and

4 “(6) the proposed modification will maximize, to
5 the extent reasonable and economical, the trans-
6 mission capabilities of existing towers or structures so
7 as to minimize the environmental and visual impact
8 of the proposed modification.

9 “(c) *PERMIT APPLICATIONS.*—(1) Permit applications
10 under subsection (b) shall be made in writing to the Com-
11 mission.

12 “(2) The Commission shall issue rules specifying—

13 “(A) the form of the application;

14 “(B) the information to be contained in the ap-
15 plication; and

16 “(C) the manner of service of notice of the permit
17 application on interested persons.

18 “(d) *COMMENTS.*—In any proceeding before the Com-
19 mission under subsection (b), the Commission shall afford
20 each State in which a transmission facility covered by the
21 permit is or will be located, each affected Federal agency
22 and Indian tribe, private property owners, and other inter-
23 ested persons, a reasonable opportunity to present their
24 views and recommendations with respect to the need for and
25 impact of a facility covered by the permit.

1 “(e) *RIGHTS-OF-WAY.*—(1) *In the case of a permit*
2 *under subsection (b) for electric transmission facilities to*
3 *be located on property other than property owned by the*
4 *United States or a State, if the permit holder cannot ac-*
5 *quire by contract, or is unable to agree with the owner of*
6 *the property to the compensation to be paid for, the nec-*
7 *essary right-of-way to construct or modify the transmission*
8 *facilities, the permit holder may acquire the right-of-way*
9 *by the exercise of the right of eminent domain in the district*
10 *court of the United States for the district in which the prop-*
11 *erty concerned is located, or in the appropriate court of the*
12 *State in which the property is located.*

13 “(2) *Any right-of-way acquired under paragraph (1)*
14 *shall be used exclusively for the construction or modification*
15 *of electric transmission facilities within a reasonable period*
16 *of time after the acquisition.*

17 “(3) *The practice and procedure in any action or pro-*
18 *ceeding under this subsection in the district court of the*
19 *United States shall conform as nearly as practicable to the*
20 *practice and procedure in a similar action or proceeding*
21 *in the courts of the State in which the property is located.*

22 “(f) *COMPENSATION.*—(1) *Any right-of-way acquired*
23 *pursuant to subsection (e) shall be considered a taking of*
24 *private property for which just compensation is due.*

1 “(2) *Just compensation shall be an amount equal to*
2 *the fair market value (including applicable severance dam-*
3 *ages) of the property taken on the date of the exercise of*
4 *eminent domain authority.*

5 “(g) *STATE LAW.—Nothing in this section precludes*
6 *any person from constructing or modifying any trans-*
7 *mission facility in accordance with State law.*

8 “(h) *COORDINATION OF FEDERAL AUTHORIZATIONS*
9 *FOR TRANSMISSION FACILITIES.—(1) In this subsection:*

10 “(A) *The term ‘Federal authorization’ means*
11 *any authorization required under Federal law in*
12 *order to site a transmission facility.*

13 “(B) *The term ‘Federal authorization’ includes*
14 *such permits, special use authorizations, certifi-*
15 *cations, opinions, or other approvals as may be re-*
16 *quired under Federal law in order to site a trans-*
17 *mission facility.*

18 “(2) *The Department of Energy shall act as the lead*
19 *agency for purposes of coordinating all applicable Federal*
20 *authorizations and related environmental reviews of the fa-*
21 *cility.*

22 “(3) *To the maximum extent practicable under appli-*
23 *cable Federal law, the Secretary shall coordinate the Fed-*
24 *eral authorization and review process under this subsection*
25 *with any Indian tribes, multistate entities, and State agen-*

1 *cies that are responsible for conducting any separate per-*
2 *mitting and environmental reviews of the facility, to ensure*
3 *timely and efficient review and permit decisions.*

4 “(4)(A) *As head of the lead agency, the Secretary, in*
5 *consultation with agencies responsible for Federal author-*
6 *izations and, as appropriate, with Indian tribes, multistate*
7 *entities, and State agencies that are willing to coordinate*
8 *their own separate permitting and environmental reviews*
9 *with the Federal authorization and environmental reviews,*
10 *shall establish prompt and binding intermediate milestones*
11 *and ultimate deadlines for the review of, and Federal au-*
12 *thorization decisions relating to, the proposed facility.*

13 “(B) *The Secretary shall ensure that, once an applica-*
14 *tion has been submitted with such data as the Secretary*
15 *considers necessary, all permit decisions and related envi-*
16 *ronmental reviews under all applicable Federal laws shall*
17 *be completed—*

18 “(i) *within 1 year; or*

19 “(ii) *if a requirement of another provision of*
20 *Federal law does not permit compliance with clause*
21 *(i), as soon thereafter as is practicable.*

22 “(C) *The Secretary shall provide an expeditious pre-*
23 *application mechanism for prospective applicants to confer*
24 *with the agencies involved to have each such agency deter-*
25 *mine and communicate to the prospective applicant not*

1 *later than 60 days after the prospective applicant submits*
2 *a request for such information concerning—*

3 *“(i) the likelihood of approval for a potential fa-*
4 *cility; and*

5 *“(ii) key issues of concern to the agencies and*
6 *public.*

7 *“(5)(A) As lead agency head, the Secretary, in con-*
8 *sultation with the affected agencies, shall prepare a single*
9 *environmental review document, which shall be used as the*
10 *basis for all decisions on the proposed project under Federal*
11 *law.*

12 *“(B) The Secretary and the heads of other agencies*
13 *shall streamline the review and permitting of transmission*
14 *within corridors designated under section 503 of the Federal*
15 *Land Policy and Management Act (43 U.S.C. 1763) by*
16 *fully taking into account prior analyses and decisions relat-*
17 *ing to the corridors.*

18 *“(C) The document shall include consideration by the*
19 *relevant agencies of any applicable criteria or other matters*
20 *as required under applicable law.*

21 *“(6)(A) If any agency has denied a Federal authoriza-*
22 *tion required for a transmission facility, or has failed to*
23 *act by the deadline established by the Secretary pursuant*
24 *to this section for deciding whether to issue the authoriza-*
25 *tion, the applicant or any State in which the facility would*

1 *be located may file an appeal with the President, who shall,*
2 *in consultation with the affected agency, review the denial*
3 *or failure to take action on the pending application.*

4 “(B) *Based on the overall record and in consultation*
5 *with the affected agency, the President may—*

6 “(i) *issue the necessary authorization with any*
7 *appropriate conditions; or*

8 “(ii) *deny the application.*

9 “(C) *The President shall issue a decision not later than*
10 *90 days after the date of the filing of the appeal.*

11 “(D) *In making a decision under this paragraph, the*
12 *President shall comply with applicable requirements of Fed-*
13 *eral law, including any requirements of—*

14 “(i) *the National Forest Management Act of*
15 *1976 (16 U.S.C. 472a et seq.);*

16 “(ii) *the Endangered Species Act of 1973 (16*
17 *U.S.C. 1531 et seq.);*

18 “(iii) *the Federal Water Pollution Control Act*
19 *(33 U.S.C. 1251 et seq.);*

20 “(iv) *the National Environmental Policy Act of*
21 *1969 (42 U.S.C. 4321 et seq.); and*

22 “(v) *the Federal Land Policy and Management*
23 *Act of 1976 (43 U.S.C. 1701 et seq.).*

1 “(7)(A) Not later than 18 months after the date of en-
2 actment of this section, the Secretary shall issue any regula-
3 tions necessary to implement this subsection.

4 “(B)(i) Not later than 1 year after the date of enact-
5 ment of this section, the Secretary and the heads of all Fed-
6 eral agencies with authority to issue Federal authorizations
7 shall enter into a memorandum of understanding to ensure
8 the timely and coordinated review and permitting of elec-
9 tricity transmission facilities.

10 “(ii) Interested Indian tribes, multistate entities, and
11 State agencies may enter the memorandum of under-
12 standing.

13 “(C) The head of each Federal agency with authority
14 to issue a Federal authorization shall designate a senior
15 official responsible for, and dedicate sufficient other staff
16 and resources to ensure, full implementation of the regula-
17 tions and memorandum required under this paragraph.

18 “(8)(A) Each Federal land use authorization for an
19 electricity transmission facility shall be issued—

20 “(i) for a duration, as determined by the Sec-
21 retary, commensurate with the anticipated use of the
22 facility; and

23 “(ii) with appropriate authority to manage the
24 right-of-way for reliability and environmental protec-
25 tion.

1 “(B) *On the expiration of the authorization (including*
2 *an authorization issued before the date of enactment of this*
3 *section), the authorization shall be reviewed for renewal tak-*
4 *ing fully into account reliance on such electricity infra-*
5 *structure, recognizing the importance of the authorization*
6 *for public health, safety, and economic welfare and as a*
7 *legitimate use of Federal land.*

8 “(9) *In exercising the responsibilities under this sec-*
9 *tion, the Secretary shall consult regularly with—*

10 “(A) *the Federal Energy Regulatory Commis-*
11 *sion;*

12 “(B) *electric reliability organizations (including*
13 *related regional entities) approved by the Commis-*
14 *sion; and*

15 “(C) *Transmission Organizations approved by*
16 *the Commission.*

17 “(i) *INTERSTATE COMPACTS.—(1) The consent of Con-*
18 *gress is given for 3 or more contiguous States to enter into*
19 *an interstate compact, subject to approval by Congress, es-*
20 *tablishing regional transmission siting agencies to—*

21 “(A) *facilitate siting of future electric energy*
22 *transmission facilities within those States; and*

23 “(B) *carry out the electric energy transmission*
24 *siting responsibilities of those States.*

1 “(2) *The Secretary may provide technical assistance*
2 *to regional transmission siting agencies established under*
3 *this subsection.*

4 “(3) *The regional transmission siting agencies shall*
5 *have the authority to review, certify, and permit siting of*
6 *transmission facilities, including facilities in national in-*
7 *terest electric transmission corridors (other than facilities*
8 *on property owned by the United States).*

9 “(4) *The Commission shall have no authority to issue*
10 *a permit for the construction or modification of an electric*
11 *transmission facility within a State that is a party to a*
12 *compact, unless the members of the compact are in disagree-*
13 *ment and the Secretary makes, after notice and an oppor-*
14 *tunity for a hearing, the finding described in subsection*
15 *(b)(1)(C).*

16 “(j) *RELATIONSHIP TO OTHER LAWS.—(1) Except as*
17 *specifically provided, nothing in this section affects any re-*
18 *quirement of an environmental law of the United States,*
19 *including the National Environmental Policy Act of 1969*
20 *(42 U.S.C. 4321 et seq.).*

21 “(2) *Subsection (h)(6) shall not apply to any unit of*
22 *the National Park System, the National Wildlife Refuge*
23 *System, the National Wild and Scenic Rivers System, the*
24 *National Trails System, the National Wilderness Preserva-*
25 *tion System, or a National Monument.”.*

1 (b) *REPORTS TO CONGRESS ON CORRIDORS AND*
2 *RIGHTS OF WAY ON FEDERAL LANDS.*—Not later than 90
3 days after the date of enactment of this Act, the Secretary
4 of the Interior, the Secretary, the Secretary of Agriculture,
5 and the Chairman of the Council on Environmental Qual-
6 ity shall submit to Congress a joint report identifying—

7 (1)(A) all existing designated transmission and
8 distribution corridors on Federal land and the status
9 of work related to proposed transmission and dis-
10 tribution corridor designations under title V of the
11 Federal Land Policy and Management Act of 1976
12 (43 U.S.C. 1761 et seq.);

13 (B) the schedule for completing the work;

14 (C) any impediments to completing the work;
15 and

16 (D) steps that Congress could take to expedite the
17 process;

18 (2)(A) the number of pending applications to lo-
19 cate transmission facilities on Federal land;

20 (B) key information relating to each such facil-
21 ity;

22 (C) how long each application has been pending;

23 (D) the schedule for issuing a timely decision as
24 to each facility; and

1 (E) progress in incorporating existing and new
2 such rights-of-way into relevant land use and resource
3 management plans or the equivalent of those plans;
4 and

5 (3)(A) the number of existing transmission and
6 distribution rights-of-way on Federal land that will
7 come up for renewal within the following 5-, 10-, and
8 15-year periods; and

9 (B) a description of how the Secretaries plan to
10 manage the renewals.

11 **SEC. 1222. THIRD-PARTY FINANCE.**

12 (a) *EXISTING FACILITIES.*—The Secretary, acting
13 through the Administrator of the Western Area Power Ad-
14 ministration (referred to in this section as “WAPA”) or the
15 Administrator of the Southwestern Power Administration
16 (referred to in this section as “SWPA”), or both, may carry
17 out a project to design, develop, construct, operate, main-
18 tain, or own, or participate with other entities in designing,
19 developing, constructing, operating, maintaining, or own-
20 ing, an electric power transmission facility and related fa-
21 cilities needed to upgrade existing transmission facilities
22 owned by the SWPA or WAPA if the Secretary, in consulta-
23 tion with the applicable Administrator, determines that the
24 proposed project—

1 (1)(A) *is located in a national interest electric*
2 *transmission corridor designated under section 216(a)*
3 *of the Federal Power Act and will reduce congestion*
4 *of electric transmission in interstate commerce; or*

5 (B) *is necessary to accommodate an actual or*
6 *projected increase in demand for electric transmission*
7 *capacity;*

8 (2) *is consistent with—*

9 (A) *transmission needs identified, in a*
10 *transmission expansion plan or otherwise, by the*
11 *appropriate Transmission Organization (as de-*
12 *finied in section 3 of the Federal Power Act (16*
13 *U.S.C. 796)), if any, or approved regional reli-*
14 *ability organization; and*

15 (B) *efficient and reliable operation of the*
16 *transmission grid; and*

17 (3) *would be operated in conformance with pru-*
18 *dent utility practice.*

19 (b) *NEW FACILITIES.—The Secretary, acting through*
20 *the WAPA or SWPA, or both, may carry out a project to*
21 *design, develop, construct, operate, maintain, or own, or*
22 *participate with other entities in designing, developing,*
23 *constructing, operating, maintaining, or owning, a new*
24 *electric power transmission facility and related facilities lo-*
25 *cated within any State in which the WAPA or SWPA oper-*

1 *ates if the Secretary, in consultation with the applicable*
2 *Administrator, determines that the proposed project—*

3 *(1)(A) is located in a national interest electric*
4 *transmission corridor designated under section 216(a)*
5 *of the Federal Power Act and will reduce congestion*
6 *of electric transmission in interstate commerce; or*

7 *(B) is necessary to accommodate an actual or*
8 *projected increase in demand for electric transmission*
9 *capacity;*

10 *(2) is consistent with—*

11 *(A) transmission needs identified, in a*
12 *transmission expansion plan or otherwise, by the*
13 *appropriate Transmission Organization, if any,*
14 *or approved regional reliability organization;*
15 *and*

16 *(B) efficient and reliable operation of the*
17 *transmission grid;*

18 *(3) will be operated in conformance with pru-*
19 *dent utility practice;*

20 *(4) will be operated by, or in conformance with*
21 *the rules of, the appropriate—*

22 *(A) Transmission Organization, if any; or*

23 *(B) if such an organization does not exist,*
24 *regional reliability organization; and*

1 (5) *will not duplicate the functions of existing*
2 *transmission facilities or proposed facilities that are*
3 *the subject of ongoing or approved siting and related*
4 *permitting proceedings.*

5 (c) *OTHER FUNDS.—*

6 (1) *IN GENERAL.—In carrying out a project*
7 *under subsection (a) or (b), the Secretary may accept*
8 *and use funds contributed by another entity for the*
9 *purpose of carrying out the project.*

10 (2) *AVAILABILITY.—The contributed funds shall*
11 *be available for expenditure for the purpose of car-*
12 *rying out the project—*

13 (A) *without fiscal year limitation; and*

14 (B) *as if the funds had been appropriated*
15 *specifically for the project.*

16 (3) *ALLOCATION OF COSTS.—In carrying out a*
17 *project under subsection (a) or (b), any costs of the*
18 *project not paid for by contributions from another en-*
19 *tity shall be—*

20 (A) *collected through rates charged to cus-*
21 *tomers using the new transmission capability*
22 *provided by the project; and*

23 (B) *allocated equitably among these project*
24 *beneficiaries using the new transmission capa-*
25 *bility.*

1 (d) *RELATIONSHIP TO OTHER LAWS.*—Nothing in this
2 section affects any requirement of—

3 (1) any Federal environmental law, including
4 the National Environmental Policy Act of 1969 (42
5 U.S.C. 4321 et seq.);

6 (2) any Federal or State law relating to the
7 siting of energy facilities; or

8 (3) any authorizing law in effect on the date of
9 enactment of this Act.

10 (e) *SAVINGS CLAUSE.*—Nothing in this section con-
11 strains or restricts an Administrator in the use of other
12 authority delegated to the Administrator of the WAPA or
13 SWPA.

14 (f) *SECRETARIAL DETERMINATIONS.*—Any determina-
15 tion made pursuant to subsection (a) or (b) shall be based
16 on findings by the Secretary using the best available data.

17 (g) *MAXIMUM FUNDING AMOUNT.*—The Secretary shall
18 not accept and use more than \$100,000,000 under sub-
19 section (c)(1) for the period of fiscal years 2006 through
20 2013.

21 **SEC. 1223. ADVANCED TRANSMISSION TECHNOLOGIES.**

22 (a) *DEFINITION OF ADVANCED TRANSMISSION TECH-*
23 *NOLOGY.*—In this section, the term “advanced transmission
24 technology” means a technology that increases the capacity,

1 *efficiency, or reliability of an existing or new transmission*
2 *facility, including—*

3 (1) *high-temperature lines (including super-*
4 *conducting cables);*

5 (2) *underground cables;*

6 (3) *advanced conductor technology (including*
7 *advanced composite conductors, high-temperature low-*
8 *sag conductors, and fiber optic temperature sensing*
9 *conductors);*

10 (4) *high-capacity ceramic electric wire, connec-*
11 *tors, and insulators;*

12 (5) *optimized transmission line configurations*
13 *(including multiple phased transmission lines);*

14 (6) *modular equipment;*

15 (7) *wireless power transmission;*

16 (8) *ultra-high voltage lines;*

17 (9) *high-voltage DC technology;*

18 (10) *flexible AC transmission systems;*

19 (11) *energy storage devices (including pumped*
20 *hydro, compressed air, superconducting magnetic en-*
21 *ergy storage, flywheels, and batteries);*

22 (12) *controllable load;*

23 (13) *distributed generation (including PV, fuel*
24 *cells, and microturbines);*

25 (14) *enhanced power device monitoring;*

1 (15) *direct system state sensors;*

2 (16) *fiber optic technologies;*

3 (17) *power electronics and related software (in-*
4 *cluding real time monitoring and analytical soft-*
5 *ware);*

6 (18) *mobile transformers and mobile substations;*

7 *and*

8 (19) *any other technologies the Commission con-*
9 *siders appropriate.*

10 (b) *AUTHORITY.—In carrying out the Federal Power*
11 *Act (16 U.S.C. 791a et seq.) and the Public Utility Regu-*
12 *latory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the*
13 *Commission shall encourage, as appropriate, the deploy-*
14 *ment of advanced transmission technologies.*

15 **SEC. 1224. ADVANCED POWER SYSTEM TECHNOLOGY IN-**
16 **CENTIVE PROGRAM.**

17 (a) *DEFINITIONS.—In this section:*

18 (1) *QUALIFYING ADVANCED POWER SYSTEM*
19 *TECHNOLOGY FACILITY.—The term “qualifying ad-*
20 *vanced power system technology facility” means a fa-*
21 *ility using an advanced fuel cell, turbine, or hybrid*
22 *power system or power storage system to generate or*
23 *store electric energy.*

24 (2) *QUALIFYING SECURITY AND ASSURED POWER*
25 *FACILITY.—The term “qualifying security and as-*

1 *sured power facility” means a qualifying advanced*
2 *power system technology facility determined by the*
3 *Secretary, in consultation with the Secretary of*
4 *Homeland Security, to be in critical need of secure,*
5 *reliable, rapidly available, high-quality power for*
6 *critical governmental, industrial, or commercial ap-*
7 *plications.*

8 *(b) PROGRAM.—The Secretary may establish an ad-*
9 *vanced power system technology incentive program to—*

10 *(1) support the deployment of certain advanced*
11 *power system technologies; and*

12 *(2) improve and protect certain critical govern-*
13 *mental, industrial, and commercial processes.*

14 *(c) INCENTIVE PAYMENTS.—*

15 *(1) IN GENERAL.—Funds provided under this*
16 *section shall be used by the Secretary to make incen-*
17 *tive payments to eligible owners or operators of ad-*
18 *vanced power system technologies to increase power*
19 *generation through enhanced operational, economic,*
20 *and environmental performance.*

21 *(2) APPLICATION.—Payments under this section*
22 *may only be made on receipt by the Secretary of an*
23 *incentive payment application establishing an appli-*
24 *cant as—*

1 (A) a qualifying advanced power system
2 technology facility; or

3 (B) a qualifying security and assured
4 power facility.

5 (3) *PAYMENT RATES.*—Subject to availability of
6 funds—

7 (A) a payment of 1.8 cents per kilowatt-
8 hour shall be paid to the owner or operator of a
9 qualifying advanced power system technology fa-
10 cility under this section for electricity generated
11 at the facility; and

12 (B) an additional 0.7 cents per kilowatt-
13 hour shall be paid to the owner or operator of a
14 qualifying security and assured power facility
15 for electricity generated at the facility.

16 (4) *PAYMENT QUANTITY.*—Any facility quali-
17 fying under this section shall be eligible for an incen-
18 tive payment for up to, but not more than, the first
19 10,000,000 kilowatt-hours produced in any fiscal
20 year.

21 (d) *AUTHORIZATION OF APPROPRIATIONS.*—There is
22 authorized to be appropriated to the Secretary to carry out
23 this section \$10,000,000 for each of fiscal years 2006
24 through 2012.

1 **Subtitle C—Transmission**
2 **Operation Improvements**

3 **SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.**

4 *Part II of the Federal Power Act (16 U.S.C. 824 et*
5 *seq.) is amended by inserting after section 211 (16 U.S.C.*
6 *824j) the following:*

7 **“SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMIT-**
8 **TING UTILITIES.**

9 “(a) *DEFINITION OF UNREGULATED TRANSMITTING*
10 *UTILITY.—In this section, the term ‘unregulated transmit-*
11 *ting utility’ means an entity that—*

12 “(1) *owns or operates facilities used for the*
13 *transmission of electric energy in interstate com-*
14 *merce; and*

15 “(2) *is an entity described in section 201(f).*

16 “(b) *TRANSMISSION OPERATION IMPROVEMENTS.—*
17 *Subject to section 212(h), the Commission may, by rule or*
18 *order, require an unregulated transmitting utility to pro-*
19 *vide transmission services—*

20 “(1) *at rates that are comparable to those that*
21 *the unregulated transmitting utility charges itself;*
22 *and*

23 “(2) *on terms and conditions (not relating to*
24 *rates) that are comparable to those under which the*
25 *unregulated transmitting utility provides trans-*

1 mission services to itself and that are not unduly dis-
2 criminatory or preferential.

3 “(c) *EXEMPTION.*—*The Commission shall exempt from*
4 *any rule or order under this section any unregulated trans-*
5 *mitting utility that—*

6 “(1) *sells not more than 4,000,000 megawatt*
7 *hours of electricity per year;*

8 “(2) *does not own or operate any transmission*
9 *facilities that are necessary for operating an inter-*
10 *connected transmission system (or any portion of the*
11 *system); or*

12 “(3) *meets other criteria the Commission deter-*
13 *mines to be in the public interest.*

14 “(d) *LOCAL DISTRIBUTION FACILITIES.*—*The require-*
15 *ments of subsection (b) shall not apply to facilities used*
16 *in local distribution.*

17 “(e) *EXEMPTION TERMINATION.*—*If the Commission,*
18 *after an evidentiary hearing held on a complaint and after*
19 *giving consideration to reliability standards established*
20 *under section 215, finds on the basis of a preponderance*
21 *of the evidence that any exemption granted pursuant to sub-*
22 *section (c) unreasonably impairs the continued reliability*
23 *of an interconnected transmission system, the Commission*
24 *shall revoke the exemption granted to the transmitting util-*
25 *ity.*

1 “(f) *APPLICATION TO UNREGULATED TRANSMITTING*
2 *UTILITIES.*—*The rate changing procedures applicable to*
3 *public utilities under subsections (c) and (d) of section 205*
4 *are applicable to unregulated transmitting utilities for pur-*
5 *poses of this section.*

6 “(g) *REMAND.*—*In exercising authority under sub-*
7 *section (b)(1), the Commission may remand transmission*
8 *rates to an unregulated transmitting utility for review and*
9 *revision if necessary to meet the requirements of subsection*
10 *(b).*

11 “(h) *OTHER REQUESTS.*—*The provision of trans-*
12 *mission services under subsection (b) does not preclude a*
13 *request for transmission services under section 211.*

14 “(i) *LIMITATION.*—*The Commission may not require*
15 *a State or municipality to take action under this section*
16 *that would violate a private activity bond rule for purposes*
17 *of section 141 of the Internal Revenue Code of 1986.*

18 “(j) *TRANSFER OF CONTROL OF TRANSMITTING FA-*
19 *CILITIES.*—*Nothing in this section authorizes the Commis-*
20 *sion to require an unregulated transmitting utility to*
21 *transfer control or operational control of its transmitting*
22 *facilities to a Transmission Organization that is designated*
23 *to provide nondiscriminatory transmission access.”.*

1 **SEC. 1232. REGIONAL TRANSMISSION ORGANIZATIONS.**

2 *Part II of the Federal Power Act (16 U.S.C. 824 et*
3 *seq.) (as amended by section 1221(a)) is amended by adding*
4 *at the end the following:*

5 **“SEC. 217. PROMOTION OF VOLUNTARY TRANSMISSION OR-**
6 **GANIZATIONS.**

7 *“(a) IN GENERAL.—The Commission may encourage*
8 *and may approve the voluntary formation of RTOs, ISOs,*
9 *or other similar organizations approved by the Commission*
10 *for the purposes of—*

11 *“(1) promoting fair, open access to electric trans-*
12 *mission service;*

13 *“(2) facilitating wholesale competition;*

14 *“(3) improving efficiencies in transmission grid*
15 *management;*

16 *“(4) promoting grid reliability;*

17 *“(5) removing opportunities for unduly discrimi-*
18 *natory or preferential transmission practices; and*

19 *“(6) providing for the efficient development of*
20 *transmission infrastructure needed to meet the grow-*
21 *ing demands of competitive wholesale power markets.*

22 *“(b) OPERATIONAL CONTROL.—No order issued under*
23 *this Act shall be conditioned on or require a transmitting*
24 *utility to transfer operational control of jurisdictional fa-*
25 *cilities to a Transmission Organization approved by the*
26 *Commission.*

1 “(c) *ANNUAL AUDITS.*—(1) *Each Transmission Orga-*
2 *nization shall report to the Commission on a scheduled*
3 *basis, as determined by the Commission, the means by*
4 *which the Transmission Organization will ensure that the*
5 *Transmission Organization will operate and perform the*
6 *functions of the Transmission Organization in a cost effec-*
7 *tive manner that is also consistent with the obligations of*
8 *the Transmission Organization under the Commission-ap-*
9 *proved tariffs and agreements of the Transmission Organi-*
10 *zation.*

11 “(2) *The Commission shall annually audit the compli-*
12 *ance of the Transmission Organization with the filed plan*
13 *and any additional Commission requirements concerning*
14 *the performance, operations, and cost efficiencies of the*
15 *Transmission Organization.*

16 “(3) *The Commission shall establish appropriate ac-*
17 *counting procedures for recording costs to facilitate com-*
18 *parisons among Transmission Organizations and, to the ex-*
19 *tent practicable, among other transmitting utilities per-*
20 *forming similar functions.*”.

21 **SEC. 1233. FEDERAL UTILITY PARTICIPATION IN TRANS-**
22 **MISSION ORGANIZATIONS.**

23 “(a) *DEFINITIONS.*—*In this section—*

1 (1) *APPROPRIATE FEDERAL REGULATORY AU-*
2 *THORITY.*—*The term “appropriate Federal regulatory*
3 *authority” means—*

4 (A) *in the case of a Federal power mar-*
5 *keting agency, the Secretary, except that the Sec-*
6 *retary may designate the Administrator of a*
7 *Federal power marketing agency to act as the*
8 *appropriate Federal regulatory authority with*
9 *respect to the transmission system of the Federal*
10 *power marketing agency; and*

11 (B) *in the case of the Tennessee Valley Au-*
12 *thority, the Board of Directors of the Tennessee*
13 *Valley Authority.*

14 (2) *FEDERAL POWER MARKETING AGENCY.*—*The*
15 *term “Federal power marketing agency” has the*
16 *meaning given the term in section 3 of the Federal*
17 *Power Act (16 U.S.C. 796).*

18 (3) *FEDERAL UTILITY.*—*The term “Federal util-*
19 *ity” means—*

20 (A) *a Federal power marketing agency; or*

21 (B) *the Tennessee Valley Authority.*

22 (4) *TRANSMISSION ORGANIZATION.*—*The term*
23 *“Transmission Organization” has the meaning given*
24 *the term in section 3 of the Federal Power Act (16*
25 *U.S.C. 796).*

1 (5) *TRANSMISSION SYSTEM.*—*The term “trans-*
2 *mission system” means an electric transmission facil-*
3 *ity owned, leased, or contracted for by the United*
4 *States and operated by a Federal utility.*

5 (b) *TRANSFER.*—*The appropriate Federal regulatory*
6 *authority may enter into a contract, agreement, or other*
7 *arrangement transferring control and use of all or part of*
8 *the transmission system of a Federal utility to a Trans-*
9 *mission Organization.*

10 (c) *CONTENTS.*—*The contract, agreement, or arrange-*
11 *ment shall include—*

12 (1) *performance standards for operation and use*
13 *of the transmission system that the head of the Fed-*
14 *eral utility determines are necessary or appropriate,*
15 *including standards that ensure—*

16 (A) *recovery of all of the costs and expenses*
17 *of the Federal utility related to the transmission*
18 *facilities that are the subject of the contract,*
19 *agreement, or other arrangement;*

20 (B) *consistency with existing contracts and*
21 *third-party financing arrangements; and*

22 (C) *consistency with the statutory authori-*
23 *ties, obligations, and limitations of the Federal*
24 *utility;*

1 (2) *provisions for monitoring and oversight by*
2 *the Federal utility of the Transmission Organiza-*
3 *tion's terms and conditions of the contract, agree-*
4 *ment, or other arrangement, including a provision for*
5 *the resolution of disputes through arbitration or other*
6 *means with the Transmission Organization or with*
7 *other participants, notwithstanding the obligations*
8 *and limitations of any other law regarding arbitra-*
9 *tion; and*

10 (3) *a provision that allows the Federal utility to*
11 *withdraw from the Transmission Organization and*
12 *terminate the contract, agreement, or other arrange-*
13 *ment in accordance with its terms.*

14 (d) *COMMISSION.—Neither this section, actions taken*
15 *pursuant to this section, nor any other transaction of a*
16 *Federal utility participating in a Transmission Organiza-*
17 *tion shall confer on the Commission jurisdiction or author-*
18 *ity over—*

19 (1) *the electric generation assets, electric capac-*
20 *ity, or energy of the Federal utility that the Federal*
21 *utility is authorized by law to market; or*

22 (2) *the power sales activities of the Federal util-*
23 *ity.*

24 (e) *EXISTING STATUTORY AND OTHER OBLIGA-*
25 *TIONS.—*

1 (1) *SYSTEM OPERATION REQUIREMENTS.*—No
2 *statutory provision requiring or authorizing a Fed-*
3 *eral utility to transmit electric power or to construct,*
4 *operate, or maintain the transmission system of the*
5 *Federal utility prohibits a transfer of control and use*
6 *of the transmission system pursuant to, and subject*
7 *to, the requirements of this section.*

8 (2) *OTHER OBLIGATIONS.*—*This subsection does*
9 *not—*

10 (A) *suspend, or exempt any Federal utility*
11 *from, any provision of Federal law in effect on*
12 *the date of enactment of this Act, including any*
13 *requirement or direction relating to the use of*
14 *the transmission system of the Federal utility,*
15 *environmental protection, fish and wildlife pro-*
16 *tection, flood control, navigation, water delivery,*
17 *or recreation; or*

18 (B) *authorize abrogation of any contract or*
19 *treaty obligation.*

20 (3) *CONFORMING AMENDMENT.*—*Section 311 of*
21 *the Energy and Water Development Appropriations*
22 *Act, 2001 (16 U.S.C. 824n) is repealed.*

23 **SEC. 1234. STANDARD MARKET DESIGN.**

24 *The proposed rulemaking of the Commission entitled*
25 *“Remedying Undue Discrimination through Open Access*

1 *Transmission Service and Standard Electricity Market De-*
2 *sign” (Docket No. RM01–12–000) (commonly known as*
3 *“SMD NOPR”) is terminated and shall not be reissued.*

4 **SEC. 1235. NATIVE LOAD SERVICE OBLIGATION.**

5 *Part II of the Federal Power Act (16 U.S.C. 824 et*
6 *seq.) (as amended by section 1232) is amended by adding*
7 *at the end the following:*

8 **“SEC. 218. NATIVE LOAD SERVICE OBLIGATION.**

9 *“(a) DEFINITIONS.—In this section:*

10 *“(1) The term ‘distribution utility’ means an*
11 *electric utility that has a service obligation to end-*
12 *users or to a State utility or electric cooperative that,*
13 *directly or indirectly, through 1 or more additional*
14 *State utilities or electric cooperatives, provides elec-*
15 *tric service to end-users.*

16 *“(2) The term ‘load-serving entity’ means a dis-*
17 *tribution utility or an electric utility that has a serv-*
18 *ice obligation.*

19 *“(3) The term ‘service obligation’ means a re-*
20 *quirement applicable to, or the exercise of authority*
21 *granted to, an electric utility under Federal, State, or*
22 *local law or under long-term contracts to provide elec-*
23 *tric service to end-users or to a distribution utility.*

24 *“(4) The term ‘State utility’ means a State or*
25 *any political subdivision of a State, or any agency,*

1 *authority, or instrumentality of any 1 or more States*
2 *or political subdivisions, or a corporation that is*
3 *wholly owned, directly or indirectly, by any 1 or*
4 *more of the States or political subdivisions, competent*
5 *to carry on the business of developing, transmitting,*
6 *using, or distributing power.*

7 *“(b) MEETING SERVICE OBLIGATIONS.—(1) Para-*
8 *graph (2) applies to any load-serving entity that, as of the*
9 *date of enactment of this section—*

10 *“(A) owns generation facilities, markets the out-*
11 *put of Federal generation facilities, or holds rights*
12 *under 1 or more wholesale contracts to purchase elec-*
13 *tric energy, for the purpose of meeting a service obli-*
14 *gation; and*

15 *“(B) by reason of ownership of transmission fa-*
16 *cilities, or 1 or more contracts or service agreements*
17 *for firm transmission service, holds firm transmission*
18 *rights for delivery of the output of the generation fa-*
19 *cilities or the purchased energy to meet the service ob-*
20 *ligation.*

21 *“(2) Any load-serving entity described in paragraph*
22 *(1) is entitled to use the firm transmission rights, or, equiv-*
23 *alent tradable or financial transmission rights, in order to*
24 *deliver the output or purchased energy, or the output of*
25 *other generating facilities or purchased energy to the extent*

1 *deliverable using the rights, to the extent required to meet*
2 *the service obligation of the load-serving entity.*

3 “(3)(A) *To the extent that all or a portion of the service*
4 *obligation covered by the firm transmission rights or equiv-*
5 *alent tradable or financial transmission rights is trans-*
6 *ferred to another load-serving entity, the successor load-*
7 *serving entity shall be entitled to use the firm transmission*
8 *rights or equivalent tradable or financial transmission*
9 *rights associated with the transferred service obligation.*

10 “(B) *Subsequent transfers to another load-serving enti-*
11 *ty, or back to the original load-serving entity, shall be enti-*
12 *tled to the same rights.*

13 “(4) *The Commission shall exercise the authority of the*
14 *Commission under this Act in a manner that facilitates the*
15 *planning and expansion of transmission facilities to meet*
16 *the reasonable needs of load-serving entities to satisfy the*
17 *service obligations of the load-serving entities, and enables*
18 *load-serving entities to secure firm transmission rights (or*
19 *equivalent tradable or financial rights) on a long term basis*
20 *for long term power supply arrangements made, or*
21 *planned, to meet such needs.*

22 “(c) *ALLOCATION OF TRANSMISSION RIGHTS.—Not-*
23 *ing in subsections (b)(1), (b)(2) and (b)(3) of this section*
24 *shall affect any existing or future methodology employed by*
25 *a Transmission Organization for allocating or auctioning*

1 *transmission rights if such Transmission Organization was*
2 *authorized by the Commission to allocate or auction finan-*
3 *cial transmission rights on its system as of January 1,*
4 *2005, and the Commission determines that any future allo-*
5 *cation or auction is just, reasonable and not unduly dis-*
6 *criminatory or preferential, provided, however, that if such*
7 *a Transmission Organization never allocated financial*
8 *transmission rights on its system that pertained to a period*
9 *before January 1, 2005, with respect to any application by*
10 *such Transmission Organization that would change its*
11 *methodology the Commission shall exercise its authority in*
12 *a manner consistent with the Act and that takes into ac-*
13 *count the policies expressed in subsections (b)(1), (b)(2) and*
14 *(b)(3) as applied to firm transmission rights held by a load-*
15 *serving entity as of January 1, 2005, to the extent the asso-*
16 *ciated generation ownership or power purchase arrange-*
17 *ments remain in effect.*

18 “(d) *CERTAIN TRANSMISSION RIGHTS.—The Commis-*
19 *sion may exercise authority under this Act to make trans-*
20 *mission rights not used to meet an obligation covered by*
21 *subsection (b) available to other entities in a manner deter-*
22 *mined by the Commission to be just, reasonable, and not*
23 *unduly discriminatory or preferential.*

24 “(e) *OBLIGATION TO BUILD.—Nothing in this Act re-*
25 *lieves a load-serving entity from any obligation under State*

1 *or local law to build transmission or distribution facilities*
2 *adequate to meet the service obligations of the load-serving*
3 *entity.*

4 “(f) *CONTRACTS.*—*Nothing in this section shall pro-*
5 *vide a basis for abrogating any contract or service agree-*
6 *ment for firm transmission service or rights in effect as of*
7 *the date of the enactment of this subsection. If an ISO in*
8 *the Western Interconnection had allocated financial trans-*
9 *mission rights prior to the date of enactment of this section*
10 *but had not done so with respect to one or more load-serving*
11 *entities’ firm transmission rights held under contracts to*
12 *which the preceding sentence applies (or held by reason of*
13 *ownership or future ownership of transmission facilities),*
14 *such load-serving entities may not be required, without*
15 *their consent, to convert such firm transmission rights to*
16 *tradable or financial rights, except where the load-serving*
17 *entity has voluntarily joined the ISO as a participating*
18 *transmission owner (or its successor) in accordance with*
19 *the ISO tariff.*

20 “(g) *WATER PUMPING FACILITIES.*—*The Commission*
21 *shall ensure that any entity described in section 201(f) that*
22 *owns transmission facilities used predominately to support*
23 *its own water pumping facilities shall have, with respect*
24 *to the facilities, protections for transmission service com-*

1 *parable to those provided to load-serving entities pursuant*
2 *to this section.*

3 “(h) *ERCOT.*—*This section shall not apply within the*
4 *area referred to in section 212(k)(2)(A).*

5 “(i) *JURISDICTION.*—*This section does not authorize*
6 *the Commission to take any action not otherwise within*
7 *the jurisdiction of the Commission.*

8 “(j) *TVA AREA.*—(1) *Subject to paragraphs (2) and*
9 *(3), for purposes of subsection (b)(1)(B), a load-serving en-*
10 *tity that is located within the service area of the Tennessee*
11 *Valley Authority and that has a firm wholesale power sup-*
12 *ply contract with the Tennessee Valley Authority shall be*
13 *considered to hold firm transmission rights for the trans-*
14 *mission of the power provided.*

15 “(2) *Nothing in this subsection affects the requirements*
16 *of section 212(j).*

17 “(3) *The Commission shall not issue an order on the*
18 *basis of this subsection that is contrary to the purposes of*
19 *section 212(j).”.*

20 (h) *FERC RULEMAKING ON LONG-TERM TRANS-*
21 *MISSION RIGHTS IN ORGANIZED MARKETS.*—*Within one*
22 *year after the date of enactment of this section and after*
23 *notice and an opportunity for comment, the Commission*
24 *shall by rule or order implement subsection (b)(4) in Trans-*
25 *mission Organizations with organized electricity markets.*

1 (i) *EFFECT OF EXERCISING RIGHTS.*—An entity that
2 to the extent required to meet its service obligations exercises
3 rights described in subsection (b) shall not be considered by
4 such action as engaging in undue discrimination or pref-
5 erence under this Act.

6 **SEC. 1236. PROTECTION OF TRANSMISSION CONTRACTS IN**
7 **THE PACIFIC NORTHWEST.**

8 Part II of the Federal Power Act (16 U.S.C. 824 et
9 seq.) (as amended by section 1235) is amended by adding
10 at the end the following:

11 **“SEC. 219. PROTECTION OF TRANSMISSION CONTRACTS IN**
12 **THE PACIFIC NORTHWEST.**

13 “(a) *DEFINITION OF ELECTRIC UTILITY OR PERSON.*—
14 In this section, the term ‘electric utility or person’ means
15 an electric utility or person that—

16 “(1) as of the date of enactment of the Energy
17 Policy Act of 2005 holds firm transmission rights
18 pursuant to contract or by reason of ownership of
19 transmission facilities; and

20 “(2) is located—

21 “(A) in the Pacific Northwest, as that re-
22 gion is defined in section 3 of the Pacific North-
23 west Electric Power Planning and Conservation
24 Act (16 U.S.C. 839a); or

1 “(B) in that portion of a State included in
2 the geographic area proposed for a regional
3 transmission organization in Commission Docket
4 Number RT01–35 on the date on which that
5 docket was opened.

6 “(b) *PROTECTION OF TRANSMISSION CONTRACTS.*—
7 Nothing in this Act confers on the Commission the author-
8 ity to require an electric utility or person to convert to
9 tradable or financial rights—

10 “(1) firm transmission rights described in sub-
11 section (a)(1); or

12 “(2) firm transmission rights obtained by exer-
13 cising contract or tariff rights associated with the
14 firm transmission rights described in subsection
15 (a)(1).”.

16 ***Subtitle D—Transmission Rate***
17 ***Reform***

18 ***SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.***

19 *Part II of the Federal Power Act (16 U.S.C. 824 et*
20 *seq.) (as amended by section 1236) is amended by adding*
21 *at the end the following:*

22 ***“SEC. 220. TRANSMISSION INFRASTRUCTURE INVESTMENT.***

23 ***“(a) RULEMAKING REQUIREMENT.***—*Not later than 1*
24 *year after the date of enactment of this section, the Commis-*
25 *sion shall establish, by rule, incentive-based (including per-*

1 *formance-based) rate treatments for the transmission of*
2 *electric energy in interstate commerce by public utilities for*
3 *the purpose of benefiting consumers by ensuring reliability*
4 *and reducing the cost of delivered power by reducing trans-*
5 *mission congestion.*

6 “(b) *CONTENTS.—The rule shall—*

7 “(1) *promote reliable and economically efficient*
8 *transmission and generation of electricity by pro-*
9 *moting capital investment in the enlargement, im-*
10 *provement, maintenance, and operation of all facili-*
11 *ties for the transmission of electric energy in inter-*
12 *state commerce, regardless of the ownership of the fa-*
13 *cilities;*

14 “(2) *provide a return on equity that attracts*
15 *new investment in transmission facilities (including*
16 *related transmission technologies);*

17 “(3) *encourage deployment of transmission tech-*
18 *nologies and other measures to increase the capacity*
19 *and efficiency of existing transmission facilities and*
20 *improve the operation of the facilities; and*

21 “(4) *allow recovery of—*

22 “(A) *all prudently incurred costs necessary*
23 *to comply with mandatory reliability standards*
24 *issued pursuant to section 215; and*

1 “(B) all prudently incurred costs related to
2 transmission infrastructure development pursu-
3 ant to section 216.

4 “(c) *JUST AND REASONABLE RATES.*—All rates ap-
5 proved under the rules adopted pursuant to this section, in-
6 cluding any revisions to the rules, are subject to the require-
7 ments of sections 205 and 206 that all rates, charges, terms,
8 and conditions be just and reasonable and not unduly dis-
9 criminatory or preferential.”.

10 **SEC. 1242. FUNDING NEW INTERCONNECTION AND TRANS-**
11 **MISSION UPGRADES.**

12 *The Commission may approve a participant funding*
13 *plan that allocates costs related to transmission upgrades*
14 *or new generator interconnection, without regard to whether*
15 *an applicant is a member of a Commission-approved*
16 *Transmission Organization, if the plan results in rates*
17 *that—*

18 (1) *are just and reasonable;*

19 (2) *are not unduly discriminatory or pref-*
20 *erential; and*

21 (3) *are otherwise consistent with sections 205*
22 *and 206 of the Federal Power Act (16 U.S.C. 824d,*
23 *824e).*

1 ***Subtitle E—Amendments to PURPA***

2 ***SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.***

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

6 *“(11) NET METERING.—Each electric utility*
7 *shall make available upon request net metering serv-*
8 *ice to any electric consumer that the electric utility*
9 *serves. For purposes of this paragraph, the term ‘net*
10 *metering service’ means service to an electric con-*
11 *sumer under which electric energy generated by that*
12 *electric consumer from an eligible on-site generating*
13 *facility and delivered to the local distribution facili-*
14 *ties may be used to offset electric energy provided by*
15 *the electric utility to the electric consumer during the*
16 *applicable billing period.*

17 *“(12) FUEL SOURCES.—Each electric utility*
18 *shall develop a plan to minimize dependence on 1 fuel*
19 *source and to ensure that the electric energy it sells*
20 *to consumers is generated using a diverse range of*
21 *fuels and technologies, including renewable tech-*
22 *nologies.*

23 *“(13) FOSSIL FUEL GENERATION EFFICIENCY.—*
24 *Each electric utility shall develop and implement a*

1 10-year plan to increase the efficiency of its fossil fuel
2 generation.”.

3 (b) COMPLIANCE.—

4 (1) TIME LIMITATIONS.—Section 112(b) of the
5 Public Utility Regulatory Policies Act of 1978 (16
6 U.S.C. 2622(b)) is amended by adding at the end the
7 following:

8 “(3)(A) Not later than 2 years after the enactment of
9 this paragraph, each State regulatory authority (with re-
10 spect to each electric utility for which it has ratemaking
11 authority) and each nonregulated electric utility shall com-
12 mence the consideration referred to in section 111, or set
13 a hearing date for such consideration, with respect to each
14 standard established by paragraphs (11) through (13) of
15 section 111(d).

16 “(B) Not later than 3 years after the date of the enact-
17 ment of this paragraph, each State regulatory authority
18 (with respect to each electric utility for which it has rate-
19 making authority), and each nonregulated electric utility,
20 shall complete the consideration, and shall make the deter-
21 mination, referred to in section 111 with respect to each
22 standard established by paragraphs (11) through (13) of
23 section 111(d).”.

24 (2) FAILURE TO COMPLY.—Section 112(c) of the
25 Public Utility Regulatory Policies Act of 1978 (16

1 *U.S.C. 2622(c) is amended by adding at the end the*
2 *following:*

3 *“In the case of each standard established by paragraphs*
4 *(11) through (13) of section 111(d), the reference contained*
5 *in this subsection to the date of enactment of this Act shall*
6 *be deemed to be a reference to the date of enactment of such*
7 *paragraphs (11) through (13).”.*

8 *(3) PRIOR STATE ACTIONS.—*

9 *(A) IN GENERAL.—Section 112 of the Public*
10 *Utility Regulatory Policies Act of 1978 (16*
11 *U.S.C. 2622) is amended by adding at the end*
12 *the following:*

13 *“(d) PRIOR STATE ACTIONS.—Subsections (b) and (c)*
14 *of this section shall not apply to the standards established*
15 *by paragraphs (11) through (13) of section 111(d) in the*
16 *case of any electric utility in a State if, before the enact-*
17 *ment of this subsection—*

18 *“(1) the State has implemented for such utility*
19 *the standard concerned (or a comparable standard);*

20 *“(2) the State regulatory authority for such*
21 *State or relevant nonregulated electric utility has con-*
22 *ducted a proceeding to consider implementation of the*
23 *standard concerned (or a comparable standard) for*
24 *such utility; or*

1 “(3) the State legislature has voted on the imple-
2 mentation of such standard (or a comparable stand-
3 ard) for such utility.”.

4 (B) *CROSS REFERENCE.*—Section 124 of
5 such Act (16 U.S.C. 2634) is amended by adding
6 the following at the end thereof: “In the case of
7 each standard established by paragraphs (11)
8 through (13) of section 111(d), the reference con-
9 tained in this subsection to the date of enactment
10 of this Act shall be deemed to be a reference to
11 the date of enactment of such paragraphs (11)
12 through (13).”.

13 **SEC. 1252. SMART METERING.**

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

17 “(14) *TIME-BASED METERING AND COMMUNICA-*
18 *TIONS.*—

19 “(A) Not later than 18 months after the
20 date of enactment of this paragraph, each electric
21 utility shall offer each of its customer classes,
22 and provide individual customers upon customer
23 request, a time-based rate schedule under which
24 the rate charged by the electric utility varies
25 during different time periods and reflects the

1 variance, if any, in the utility’s costs of gener-
2 ating and purchasing electricity at the wholesale
3 level. The time-based rate schedule shall enable
4 the electric consumer to manage energy use and
5 cost through advanced metering and communica-
6 tions technology.

7 “(B) The types of time-based rate schedules
8 that may be offered under the schedule referred
9 to in subparagraph (A) include, among others—

10 “(i) time-of-use pricing whereby elec-
11 tricity prices are set for a specific time pe-
12 riod on an advance or forward basis, typi-
13 cally not changing more often than twice a
14 year, based on the utility’s cost of gener-
15 ating and/or purchasing such electricity at
16 the wholesale level for the benefit of the con-
17 sumer. Prices paid for energy consumed
18 during these periods shall be pre-established
19 and known to consumers in advance of such
20 consumption, allowing them to vary their
21 demand and usage in response to such
22 prices and manage their energy costs by
23 shifting usage to a lower cost period or re-
24 ducing their consumption overall;

1 “(ii) *critical peak pricing whereby*
2 *time-of-use prices are in effect except for*
3 *certain peak days, when prices may reflect*
4 *the costs of generating and/or purchasing*
5 *electricity at the wholesale level and when*
6 *consumers may receive additional discounts*
7 *for reducing peak period energy consump-*
8 *tion;*

9 “(iii) *real-time pricing whereby elec-*
10 *tricity prices are set for a specific time pe-*
11 *riod on an advanced or forward basis, re-*
12 *flecting the utility’s cost of generating and/*
13 *or purchasing electricity at the wholesale*
14 *level, and may change as often as hourly;*
15 *and*

16 “(iv) *credits for consumers with large*
17 *loads who enter into pre-established peak*
18 *load reduction agreements that reduce the*
19 *planned capacity obligations of a utility.*

20 “(C) *Each electric utility subject to sub-*
21 *paragraph (A) shall provide each customer re-*
22 *questing a time-based rate with a time-based*
23 *meter capable of enabling the utility and cus-*
24 *tomers to offer and receive such rate, respectively.*

1 “(D) For purposes of implementing this
2 paragraph, any reference contained in this sec-
3 tion to the date of enactment of the Public Util-
4 ity Regulatory Policies Act of 1978 shall be
5 deemed to be a reference to the date of enactment
6 of this paragraph.

7 “(E) In a State that permits third-party
8 marketers to sell electric energy to retail electric
9 consumers, such consumers shall be entitled to re-
10 ceive the same time-based metering and commu-
11 nications device and service as a retail electric
12 consumer of the electric utility.

13 “(F) Notwithstanding subsections (b) and
14 (c) of section 112, each State regulatory author-
15 ity shall, not later than 18 months after the date
16 of enactment of this paragraph conduct an inves-
17 tigation in accordance with section 115(i) and
18 issue a decision whether it is appropriate to im-
19 plement the standards set out in subparagraphs
20 (A) and (C).”.

21 (b) *STATE INVESTIGATION OF DEMAND RESPONSE AND*
22 *TIME-BASED METERING.*—Section 115 of the Public Utili-
23 ties Regulatory Policies Act of 1978 (16 U.S.C. 2625) is
24 amended as follows:

1 (1) *By inserting in subsection (b) after the*
2 *phrase “the standard for time-of-day rates established*
3 *by section 111(d)(3)” the following: “and the stand-*
4 *ard for time-based metering and communications es-*
5 *tablished by section 111(d)(14)”.*

6 (2) *By inserting in subsection (b) after the*
7 *phrase “are likely to exceed the metering” the fol-*
8 *lowing: “and communications”.*

9 (3) *By adding at the end the following:*

10 “(i) *TIME-BASED METERING AND COMMUNICATIONS.—*
11 *In making a determination with respect to the standard*
12 *established by section 111(d)(14), the investigation require-*
13 *ment of section 111(d)(14)(F) shall be as follows: Each*
14 *State regulatory authority shall conduct an investigation*
15 *and issue a decision whether or not it is appropriate for*
16 *electric utilities to provide and install time-based meters*
17 *and communications devices for each of their customers*
18 *which enable such customers to participate in time-based*
19 *pricing rate schedules and other demand response pro-*
20 *grams.”.*

21 (c) *FEDERAL ASSISTANCE ON DEMAND RESPONSE.—*
22 *Section 132(a) of the Public Utility Regulatory Policies Act*
23 *of 1978 (16 U.S.C. 2642(a)) is amended by striking “and”*
24 *at the end of paragraph (3), striking the period at the end*

1 of paragraph (4) and inserting “; and”, and by adding the
2 following at the end thereof:

3 “(5) technologies, techniques, and rate-making
4 methods related to advanced metering and commu-
5 nications and the use of these technologies, techniques
6 and methods in demand response programs.”.

7 (d) *FEDERAL GUIDANCE*.—Section 132 of the Public
8 Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642)
9 is amended by adding the following at the end thereof:

10 “(d) *DEMAND RESPONSE*.—The Secretary shall be re-
11 sponsible for—

12 “(1) educating consumers on the availability, ad-
13 vantages, and benefits of advanced metering and com-
14 munications technologies, including the funding of
15 demonstration or pilot projects;

16 “(2) working with States, utilities, other energy
17 providers and advanced metering and communica-
18 tions experts to identify and address barriers to the
19 adoption of demand response programs; and

20 “(3) not later than 180 days after the date of en-
21 actment of the Energy Policy Act of 2005, providing
22 Congress with a report that identifies and quantifies
23 the national benefits of demand response and makes
24 a recommendation on achieving specific levels of such
25 benefits by January 1, 2007.”.

1 (e) *DEMAND RESPONSE AND REGIONAL COORDINA-*
2 *TION.—*

3 (1) *IN GENERAL.—It is the policy of the United*
4 *States to encourage States to coordinate, on a re-*
5 *gional basis, State energy policies to provide reliable*
6 *and affordable demand response services to the public.*

7 (2) *TECHNICAL ASSISTANCE.—The Secretary*
8 *shall provide technical assistance to States and re-*
9 *gional organizations formed by 2 or more States to*
10 *assist them in—*

11 (A) *identifying the areas with the greatest*
12 *demand response potential;*

13 (B) *identifying and resolving problems in*
14 *transmission and distribution networks, includ-*
15 *ing through the use of demand response;*

16 (C) *developing plans and programs to use*
17 *demand response to respond to peak demand or*
18 *emergency needs; and*

19 (D) *identifying specific measures consumers*
20 *can take to participate in these demand response*
21 *programs.*

22 (3) *REPORT.—Not later than 1 year after the*
23 *date of enactment of this Act, the Commission shall*
24 *prepare and publish an annual report, by appro-*
25 *priate region, that assesses demand response re-*

1 sources, including those available from all consumer
2 classes, and which identifies and reviews—

3 (A) saturation and penetration rate of ad-
4 vanced meters and communications technologies,
5 devices and systems;

6 (B) existing demand response programs and
7 time-based rate programs;

8 (C) the annual resource contribution of de-
9 mand resources;

10 (D) the potential for demand response as a
11 quantifiable, reliable resource for regional plan-
12 ning purposes;

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

20 (F) regulatory barriers to improved cus-
21 tomer participation in demand response, peak
22 reduction, and critical period pricing programs.

23 (f) *FEDERAL ENCOURAGEMENT OF DEMAND RE-*
24 *SPONSE DEVICES.*—It is the policy of the United States that
25 time-based pricing and other forms of demand response,

1 *whereby electricity customers are provided with electricity*
2 *price signals and the ability to benefit by responding to*
3 *them, shall be encouraged, and the deployment of such tech-*
4 *nology and devices that enable electricity customers to par-*
5 *ticipate in such pricing and demand response systems shall*
6 *be facilitated, and unnecessary barriers to demand response*
7 *participation in energy, capacity, and ancillary service*
8 *markets shall be eliminated. It is further the policy of the*
9 *United States that the benefits of such demand response that*
10 *accrue to those not deploying such technology and devices,*
11 *but who are part of the same regional electricity entity,*
12 *shall be recognized.*

13 *(g) TIME LIMITATIONS.—Section 112(b) of the Public*
14 *Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b))*
15 *is amended by adding at the end the following:*

16 *“(4)(A) Not later than 1 year after the enact-*
17 *ment of this paragraph, each State regulatory author-*
18 *ity (with respect to each electric utility for which it*
19 *has ratemaking authority) and each nonregulated*
20 *electric utility shall commence the consideration re-*
21 *ferred to in section 111, or set a hearing date for such*
22 *consideration, with respect to the standard established*
23 *by paragraph (14) of section 111(d).*

24 *“(B) Not later than 2 years after the date of the*
25 *enactment of this paragraph, each State regulatory*

1 *authority (with respect to each electric utility for*
2 *which it has ratemaking authority), and each non-*
3 *regulated electric utility, shall complete the consider-*
4 *ation, and shall make the determination, referred to*
5 *in section 111 with respect to the standard established*
6 *by paragraph (14) of section 111(d).”.*

7 *(h) FAILURE TO COMPLY.—Section 112(c) of the Pub-*
8 *lic Utility Regulatory Policies Act of 1978 (16 U.S.C.*
9 *2622(c)) is amended by adding at the end the following:*
10 *“In the case of the standard established by paragraph (14)*
11 *of section 111(d), the reference contained in this subsection*
12 *to the date of enactment of this Act shall be deemed to be*
13 *a reference to the date of enactment of such paragraph*
14 *(14).”.*

15 *(i) PRIOR STATE ACTIONS REGARDING SMART ME-*
16 *TERING STANDARDS.—*

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

20 *“(e) PRIOR STATE ACTIONS.—Subsections (b) and (c)*
21 *of this section shall not apply to the standard established*
22 *by paragraph (14) of section 111(d) in the case of any elec-*
23 *tric utility in a State if, before the enactment of this*
24 *subsection—*

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

3 “(2) the State regulatory authority for such
4 State or relevant nonregulated electric utility has con-
5 ducted a proceeding to consider implementation of the
6 standard concerned (or a comparable standard) for
7 such utility within the previous 3 years; or

8 “(3) the State legislature has voted on the imple-
9 mentation of such standard (or a comparable stand-
10 ard) for such utility within the previous 3 years.”.

11 (2) *CROSS REFERENCE.*—Section 124 of such Act
12 (16 U.S.C. 2634) is amended by adding the following
13 at the end thereof: “In the case of the standard estab-
14 lished by paragraph (14) of section 111(d), the ref-
15 erence contained in this subsection to the date of en-
16 actment of this Act shall be deemed to be a reference
17 to the date of enactment of such paragraph (14).”.

18 **SEC. 1253. COGENERATION AND SMALL POWER PRODUC-**

19 **TION PURCHASE AND SALE REQUIREMENTS.**

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

24 “(m) *TERMINATION OF MANDATORY PURCHASE AND*
25 *SALE REQUIREMENTS.*—

1 “(1) *OBLIGATION TO PURCHASE.*—*After the date*
2 *of enactment of this subsection, no electric utility*
3 *shall be required to enter into a new contract or obli-*
4 *gation to purchase electric energy from a qualifying*
5 *cogeneration facility or a qualifying small power pro-*
6 *duction facility under this section if the Commission*
7 *finds that the qualifying cogeneration facility or*
8 *qualifying small power production facility has non-*
9 *discriminatory access to—*

10 “(A)(i) *independently administered, auc-*
11 *tion-based day ahead and real time wholesale*
12 *markets for the sale of electric energy; and (ii)*
13 *wholesale markets for long-term sales of capacity*
14 *and electric energy; or*

15 “(B)(i) *transmission and interconnection*
16 *services that are provided by a Commission-ap-*
17 *proved regional transmission entity and admin-*
18 *istered pursuant to an open access transmission*
19 *tariff that affords nondiscriminatory treatment*
20 *to all customers; and (ii) competitive wholesale*
21 *markets that provide a meaningful opportunity*
22 *to sell capacity, including long-term and short-*
23 *term sales, and electric energy, including long-*
24 *term, short-term and real-time sales, to buyers*
25 *other than the utility to which the qualifying fa-*

1 *cility is interconnected. In determining whether*
2 *a meaningful opportunity to sell exists, the Com-*
3 *mission shall consider, among other factors, evi-*
4 *dence of transactions within the relevant market;*
5 *or*

6 “(C) *wholesale markets for the sale of capac-*
7 *ity and electric energy that are, at a minimum,*
8 *of comparable competitive quality as markets de-*
9 *scribed in subparagraphs (A) and (B).*

10 “(2) *REVISED PURCHASE AND SALE OBLIGATION*
11 *FOR NEW FACILITIES.—(A) After the date of enact-*
12 *ment of this subsection, no electric utility shall be re-*
13 *quired pursuant to this section to enter into a new*
14 *contract or obligation to purchase from or sell electric*
15 *energy to a facility that is not an existing qualifying*
16 *cogeneration facility unless the facility meets the cri-*
17 *teria for qualifying cogeneration facilities established*
18 *by the Commission pursuant to the rulemaking re-*
19 *quired by subsection (n).*

20 “(B) *For the purposes of this paragraph, the*
21 *term ‘existing qualifying cogeneration facility’ means*
22 *a facility that—*

23 “(i) *was a qualifying cogeneration facility*
24 *on the date of enactment of subsection (m); or*

1 “(ii) had filed with the Commission a no-
2 tice of self-certification, self recertification or an
3 application for Commission certification under
4 18 C.F.R. 292.207 prior to the date on which the
5 Commission issues the final rule required by sub-
6 section (n).

7 “(3) COMMISSION REVIEW.—Any electric utility
8 may file an application with the Commission for re-
9 lief from the mandatory purchase obligation pursuant
10 to this subsection on a service territory-wide basis.
11 Such application shall set forth the factual basis upon
12 which relief is requested and describe why the condi-
13 tions set forth in subparagraphs (A), (B) or (C) of
14 paragraph (1) of this subsection have been met. After
15 notice, including sufficient notice to potentially af-
16 fected qualifying cogeneration facilities and quali-
17 fying small power production facilities, and an op-
18 portunity for comment, the Commission shall make a
19 final determination within 90 days of such applica-
20 tion regarding whether the conditions set forth in sub-
21 paragraphs (A), (B) or (C) of paragraph (1) have
22 been met.

23 “(4) REINSTATEMENT OF OBLIGATION TO PUR-
24 CHASE.—At any time after the Commission makes a
25 finding under paragraph (3) relieving an electric

1 *utility of its obligation to purchase electric energy, a*
2 *qualifying cogeneration facility, a qualifying small*
3 *power production facility, a State agency, or any*
4 *other affected person may apply to the Commission*
5 *for an order reinstating the electric utility's obliga-*
6 *tion to purchase electric energy under this section.*
7 *Such application shall set forth the factual basis upon*
8 *which the application is based and describe why the*
9 *conditions set forth in subparagraphs (A), (B) or (C)*
10 *of paragraph (1) of this subsection are no longer met.*
11 *After notice, including sufficient notice to potentially*
12 *affected utilities, and opportunity for comment, the*
13 *Commission shall issue an order within 90 days of*
14 *such application reinstating the electric utility's obli-*
15 *gation to purchase electric energy under this section*
16 *if the Commission finds that the conditions set forth*
17 *in subparagraphs (A), (B) or (C) of paragraph (1)*
18 *which relieved the obligation to purchase, are no*
19 *longer met.*

20 *“(5) OBLIGATION TO SELL.—After the date of en-*
21 *actment of this subsection, no electric utility shall be*
22 *required to enter into a new contract or obligation to*
23 *sell electric energy to a qualifying cogeneration facil-*
24 *ity or a qualifying small power production facility*
25 *under this section if the Commission finds that—*

1 “(A) competing retail electric suppliers are
2 willing and able to sell and deliver electric en-
3 ergy to the qualifying cogeneration facility or
4 qualifying small power production facility; and

5 “(B) the electric utility is not required by
6 State law to sell electric energy in its service ter-
7 ritory.

8 “(6) NO EFFECT ON EXISTING RIGHTS AND REM-
9 EDIES.—Nothing in this subsection affects the rights
10 or remedies of any party under any contract or obli-
11 gation, in effect or pending approval before the ap-
12 propriate State regulatory authority or non-regulated
13 electric utility on the date of enactment of this sub-
14 section, to purchase electric energy or capacity from
15 or to sell electric energy or capacity to a qualifying
16 cogeneration facility or qualifying small power pro-
17 duction facility under this Act (including the right to
18 recover costs of purchasing electric energy or capac-
19 ity).

20 “(7) RECOVERY OF COSTS.—(A) The Commission
21 shall issue and enforce such regulations as are nec-
22 essary to ensure that an electric utility that purchases
23 electric energy or capacity from a qualifying cogen-
24 eration facility or qualifying small power production
25 facility in accordance with any legally enforceable ob-

1 *ligation entered into or imposed under this section re-*
2 *covers all prudently incurred costs associated with the*
3 *purchase.*

4 *“(B) A regulation under subparagraph (A) shall*
5 *be enforceable in accordance with the provisions of*
6 *law applicable to enforcement of regulations under the*
7 *Federal Power Act (16 U.S.C. 791a et seq.).*

8 *“(n) RULEMAKING FOR NEW QUALIFYING FACILI-*
9 *TIES.—(1)(A) Not later than 180 days after the date of en-*
10 *actment of this section, the Commission shall issue a rule*
11 *revising the criteria in 18 C.F.R. 292.205 for new quali-*
12 *fying cogeneration facilities seeking to sell electric energy*
13 *pursuant to section 210 of this Act to ensure—*

14 *“(i) that the thermal energy output of a new*
15 *qualifying cogeneration facility is used in a produc-*
16 *tive and beneficial manner;*

17 *“(ii) the electrical, thermal, and chemical output*
18 *of the cogeneration facility is used fundamentally for*
19 *industrial, commercial, or institutional purposes and*
20 *is not intended fundamentally for sale to an electric*
21 *utility, taking into account technological, efficiency,*
22 *economic, and variable thermal energy requirements,*
23 *as well as State laws applicable to sales of electric en-*
24 *ergy from a qualifying facility to its host facility;*
25 *and*

1 “(iii) continuing progress in the development of
2 efficient electric energy generating technology.

3 “(B) The rule issued pursuant to section (n)(1)(A)
4 shall be applicable only to facilities that seek to sell electric
5 energy pursuant to section 210 of this Act. For all other
6 purposes, except as specifically provided in section
7 (m)(2)(A), qualifying facility status shall be determined in
8 accordance with the rules and regulations of this Act.

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

14 “(A) was a qualifying cogeneration facility on
15 the date of enactment of subsection (m), or

16 “(B) had filed with the Commission a notice of
17 self-certification, self-recertification or an application
18 for Commission certification under 18 C.F.R. 292.207
19 prior to the date on which the Commission issues the
20 final rule required by paragraph (1).”.

21 (b) *ELIMINATION OF OWNERSHIP LIMITATIONS.*—

22 (1) *QUALIFYING SMALL POWER PRODUCTION FA-*
23 *CILITY.*—Section 3(17)(C) of the Federal Power Act
24 (16 U.S.C. 796(17)(C)) is amended to read as follows:

1 “(C) ‘qualifying small power production fa-
2 cility’ means a small power production facility
3 that the Commission determines, by rule, meets
4 such requirements (including requirements re-
5 specting fuel use, fuel efficiency, and reliability)
6 as the Commission may, by rule, prescribe;”.

7 (2) *QUALIFYING COGENERATION FACILITY.*—Sec-
8 tion 3(18)(B) of the Federal Power Act (16 U.S.C.
9 796(18)(B)) is amended to read as follows:

10 “(B) ‘qualifying cogeneration facility’
11 means a cogeneration facility that the Commis-
12 sion determines, by rule, meets such requirements
13 (including requirements respecting minimum
14 size, fuel use, and fuel efficiency) as the Commis-
15 sion may, by rule, prescribe;”.

16 **SEC. 1254. INTERCONNECTION.**

17 (a) *ADOPTION OF STANDARDS.*—Section 111(d) of the
18 *Public Utility Regulatory Policies Act of 1978* (16 U.S.C.
19 2621(d)) (as amended by section 1252(a)) is amended by
20 adding at the end the following:

21 “(15) *INTERCONNECTION.*—(A) In this para-
22 graph, the term ‘interconnection service’ means serv-
23 ice to an electric consumer by which an on-site gener-
24 ating facility on the premises of the electric consumer
25 is connected to the local distribution facilities.

1 “(B)(i) Each electric utility shall make avail-
2 able, on request, interconnection service to any electric
3 consumer that the electric utility serves.

4 “(ii) Interconnection services shall be made
5 available under clause (i) based on the standards de-
6 veloped by the Institute of Electrical and Electronics
7 Engineers, entitled “IEEE Standard 1547 for Inter-
8 connecting Distributed Resources with Electric Power
9 Systems” (or successor standards).

10 “(C)(i) Electric utilities shall establish agree-
11 ments and procedures providing that the interconnec-
12 tion services made available under subparagraph (B)
13 promote current best practices of interconnection for
14 distributed generation, including practices stipulated
15 in model codes adopted by associations of State regu-
16 latory agencies.

17 “(ii) Any agreements and procedures established
18 under clause (i) shall be just and reasonable and not
19 unduly discriminatory or preferential.”.

20 (b) COMPLIANCE.—

21 (1) TIME LIMITATIONS.—Section 112(b) of the
22 Public Utility Regulatory Policies Act of 1978 (16
23 U.S.C. 2622(b)) (as amended by section 1252(g)) is
24 amended by adding at the end the following:

1 “(5)(A) Not later than 1 year after the date of
2 enactment of this paragraph, each State regulatory
3 authority (with respect to each electric utility for
4 which the State regulatory authority has ratemaking
5 authority) and each nonregulated utility shall, with
6 respect to the standard established by section
7 111(d)(15)—

8 “(i) commence the consideration under sec-
9 tion 111(a); or

10 “(ii) set a hearing date for the consider-
11 ation.

12 “(B) Not later than 2 years after the date of en-
13 actment of this paragraph, each State regulatory au-
14 thority (with respect to each electric utility for which
15 the State regulatory authority has ratemaking au-
16 thority) and each nonregulated electric utility shall,
17 with respect to the standard established by section
18 111(d)(15), complete the consideration and make the
19 determination under section 111(a).”.

20 (2) *FAILURE TO COMPLY.*—Section 112(c) of the
21 Public Utility Regulatory Policies Act of 1978 (16
22 U.S.C. 2622(c)) (as amended by section 1252(h)) is
23 amended by adding at the end the following: “In the
24 case of the standard established by paragraph (15),
25 the reference contained in this subsection to the date

1 of enactment of this Act shall be considered to be a
2 reference to the date of enactment of paragraph
3 (15).”.

4 (3) *PRIOR STATE ACTIONS.*—

5 (A) *IN GENERAL.*—Section 112(e) of the
6 *Public Utility Regulatory Policies Act of 1978*
7 *(as added by section 1252(i)(1))* is amended by
8 striking “paragraph 14” and inserting “para-
9 graph (14) or (15)”.

10 (B) *CONFORMING AMENDMENT.*—Section
11 *124 of the Public Utility Regulatory Policies Act*
12 *of 1978 (16 U.S.C. 2634)* (as amended by section
13 *1252(i)(2))* is amended by adding at the end the
14 following: “In the case of each standard estab-
15 lished by section 111(d)(15), the reference con-
16 tained in this section to the date of enactment of
17 the Act shall be considered to be a reference to
18 the date of enactment of paragraph (15).”.

19 ***Subtitle F—Market Transparency,***
20 ***Enforcement, and Consumer***
21 ***Protection***

22 ***SEC. 1261. MARKET TRANSPARENCY RULES.***

23 *Part II of the Federal Power Act (16 U.S.C. 824 et*
24 *seq.) (as amended by section 1241)* is amended by adding
25 *at the end the following:*

1 **“SEC. 221. MARKET TRANSPARENCY RULES.**

2 “(a) *IN GENERAL.*—*The Commission may issue such*
3 *rules as the Commission considers to be appropriate to es-*
4 *tablish an electronic information system to provide the*
5 *Commission and the public with access to such information*
6 *as is necessary or appropriate to facilitate price trans-*
7 *parency and participation in markets for the sale in inter-*
8 *state commerce of electric energy at wholesale.*

9 “(b) *INFORMATION TO BE MADE AVAILABLE.*—(1) *The*
10 *system under subsection (a) shall provide, on a timely basis,*
11 *information about the availability and market price of*
12 *wholesale electric energy and transmission services to the*
13 *Commission, State commissions, buyers and sellers of*
14 *wholesale electric energy, users of transmission services, and*
15 *the public.*

16 “(2) *In determining the information to be made avail-*
17 *able under the system and the time at which to make such*
18 *information available, the Commission shall seek to ensure*
19 *that consumers and competitive markets are protected from*
20 *the adverse effects of potential collusion or other anti-*
21 *competitive behaviors that can be facilitated by untimely*
22 *public disclosure of transaction-specific information.*

23 “(c) *AUTHORITY TO OBTAIN INFORMATION.*—*The*
24 *Commission shall have authority to obtain information de-*
25 *scribed in subsections (a) and (b) from any electric utility*

1 *or transmitting utility (including any entity described in*
2 *section 201(f)).*

3 “(d) *EXEMPTIONS.—The rules of the Commission, if*
4 *adopted, shall exempt from disclosure information that the*
5 *Commission determines would, if disclosed—*

6 “(1) *be detrimental to the operation of an effec-*
7 *tive market; or*

8 “(2) *jeopardize system security.*

9 “(e) *COMMODITY FUTURES TRADING COMMISSION.—*
10 *(1) This section shall not affect the exclusive jurisdiction*
11 *of the Commodity Futures Trading Commission with re-*
12 *spect to accounts, agreements, contracts, or transactions in*
13 *commodities under the Commodity Exchange Act (7 U.S.C.*
14 *1 et seq.).*

15 “(2) *Any request by the Commission for information*
16 *to a designated contract market, registered derivatives*
17 *transaction execution facility, board of trade, exchange, or*
18 *market involving an account, agreement, contract, or trans-*
19 *action in a commodity (including natural gas, electricity*
20 *and other energy commodities) within the exclusive juris-*
21 *isdiction of the Commodity Futures Trading Commission*
22 *shall be directed to the Commodity Futures Trading Com-*
23 *mission, which shall cooperate in responding to any infor-*
24 *mation request by the Commission.*

1 “(f) SAVINGS PROVISION.—In exercising authority
2 under this section, the Commission shall not—

3 “(1) compete with, or displace from the market
4 place, any price publisher (including any electronic
5 price publisher); or

6 “(2) regulate price publishers (including any
7 electronic price publisher) or impose any require-
8 ments on the publication of information by price pub-
9 lishers (including any electronic price publisher).

10 “(g) ERCOT.—This section shall not apply to a trans-
11 action for the purchase or sale of wholesale electric energy
12 or transmission services within the area described in section
13 212(k)(2)(A).”.

14 **SEC. 1262. FALSE STATEMENTS.**

15 Part II of the Federal Power Act (16 U.S.C. 824 et
16 seq.) (as amended by section 1261) is amended by adding
17 at the end the following:

18 **“SEC. 222. PROHIBITION ON FILING FALSE INFORMATION.**

19 “No entity (including an entity described in section
20 201(f)) shall willfully and knowingly report any informa-
21 tion relating to the price of electricity sold at wholesale or
22 the availability of transmission capacity, which informa-
23 tion the person or any other entity knew to be false at the
24 time of the reporting, to a Federal agency with intent to

1 *fraudulently affect the data being compiled by the Federal*
2 *agency.”.*

3 **SEC. 1263. MARKET MANIPULATION.**

4 *Part II of the Federal Power Act (16 U.S.C. 824 et*
5 *seq.) (as amended by section 1262) is amended by adding*
6 *at the end the following:*

7 **“SEC. 223. PROHIBITION OF ENERGY MARKET MANIPULA-**
8 **TION.**

9 *“It shall be unlawful for any entity (including an enti-*
10 *ty described in section 201(f)), directly or indirectly, to use*
11 *or employ, in connection with the purchase or sale of elec-*
12 *tric energy or the purchase or sale of transmission services*
13 *subject to the jurisdiction of the Commission, any manipu-*
14 *lative or deceptive device or contrivance (as those terms are*
15 *used in section 10(b) of the Securities Exchange Act of 1934*
16 *(15 U.S.C. 78j(b))), in contravention of such rules and regu-*
17 *lations as the Commission may prescribe as necessary or*
18 *appropriate in the public interest or for the protection of*
19 *electric ratepayers.”.*

20 **SEC. 1264. ENFORCEMENT.**

21 *(a) COMPLAINTS.—Section 306 of the Federal Power*
22 *Act (16 U.S.C. 825e) is amended—*

23 *(1) by inserting “electric utility,” after “Any*
24 *person,”; and*

1 (2) by inserting “, transmitting utility,” after
2 “licensee” each place it appears.

3 (b) *INVESTIGATIONS*.—Section 307(a) of the Federal
4 *Power Act* (16 U.S.C. 825f(a)) is amended—

5 (1) by inserting “, electric utility, transmitting
6 utility, or other entity” after “person” each place it
7 appears; and

8 (2) in the first sentence, by inserting before the
9 period at the end the following: “, or in obtaining in-
10 formation about the sale of electric energy at whole-
11 sale in interstate commerce and the transmission of
12 electric energy in interstate commerce”.

13 (c) *REVIEW OF COMMISSION ORDERS*.—Section 313(a)
14 of the *Federal Power Act* (16 U.S.C. 825l) is amended by
15 inserting “electric utility,” after “person,” in the first 2
16 places it appears and by striking “any person unless such
17 person” and inserting “any entity unless such entity”.

18 (d) *CRIMINAL PENALTIES*.—Section 316 of the *Federal*
19 *Power Act* (16 U.S.C. 825o) is amended—

20 (1) in subsection (a)—

21 (A) by striking “\$5,000” and inserting
22 “\$1,000,000”; and

23 (B) by striking “two years” and inserting
24 “5 years”;

1 (2) *in subsection (b), by striking “\$500” and in-*
2 *serting “\$25,000”; and*

3 (3) *by striking subsection (c).*

4 (e) *CIVIL PENALTIES.—Section 316A of the Federal*
5 *Power Act (16 U.S.C. 8250–1) is amended—*

6 (1) *by striking “section 211, 212, 213, or 214”*
7 *each place it appears and inserting “part II”; and*

8 (2) *in subsection (b), by striking “\$10,000” and*
9 *inserting “\$1,000,000”.*

10 **SEC. 1265. REFUND EFFECTIVE DATE.**

11 *Section 206(b) of the Federal Power Act (16 U.S.C.*
12 *824e(b)) is amended—*

13 (1) *by striking “the date 60 days after the filing*
14 *of such complaint nor later than 5 months after the*
15 *expiration of such 60-day period” in the second sen-*
16 *tence and inserting “the date of the filing of such*
17 *complaint nor later than 5 months after the filing of*
18 *such complaint”;*

19 (2) *by striking “60 days after” in the third sen-*
20 *tence and inserting “of”;*

21 (3) *by striking “expiration of such 60-day pe-*
22 *riod” in the third sentence and inserting “publication*
23 *date”; and*

24 (4) *by striking the fifth sentence and inserting*
25 *the following: “If no final decision is rendered by the*

1 *conclusion of the 180-day period commencing upon*
2 *initiation of a proceeding pursuant to this section,*
3 *the Commission shall state the reasons why it has*
4 *failed to do so and shall state its best estimate as to*
5 *when it reasonably expects to make such decision.”.*

6 **SEC. 1266. REFUND AUTHORITY.**

7 *Section 206 of the Federal Power Act (16 U.S.C. 824e)*
8 *is amended by adding at the end the following:*

9 *“(e)(1) In this subsection:*

10 *“(A) The term ‘short-term sale’ means an agree-*
11 *ment for the sale of electric energy at wholesale in*
12 *interstate commerce that is for a period of 48 hours*
13 *or less.*

14 *“(B) The term ‘applicable Commission rule’*
15 *means a Commission rule applicable to sales at*
16 *wholesale by public utilities that the Commission de-*
17 *termines after notice and comment should also be ap-*
18 *plicable to entities subject to this subsection.*

19 *“(2) If an entity described in section 201(f) volun-*
20 *tarily makes a short-term sale of electric energy through an*
21 *organized market in which the rates for the sale are estab-*
22 *lished by Commission-approved tariff (rather than by con-*
23 *tract) and the sale violates the terms of the tariff or applica-*
24 *ble Commission rules in effect at the time of the sale, the*

1 *entity shall be subject to the refund authority of the Com-*
2 *mission under this section with respect to the violation.*

3 *“(3) This section shall not apply to—*

4 *“(A) any entity that sells in total (including af-*
5 *filiates of the entity) less than 8,000,000 megawatt*
6 *hours of electricity per year; or*

7 *“(B) any electric cooperative.*

8 *“(4)(A) The Commission shall have refund authority*
9 *under paragraph (2) with respect to a voluntary short-term*
10 *sale of electric energy by the Bonneville Power Administra-*
11 *tion only if the sale is at an unjust and unreasonable rate.*

12 *“(B) The Commission may order a refund under sub-*
13 *paragraph (A) only for short-term sales made by the Bonne-*
14 *ville Power Administration at rates that are higher than*
15 *the highest just and reasonable rate charged by any other*
16 *entity for a short-term sale of electric energy in the same*
17 *geographic market for the same, or most nearly comparable,*
18 *period as the sale by the Bonneville Power Administration.*

19 *“(5) In the case of any Federal power marketing agen-*
20 *cy or the Tennessee Valley Authority, the Commission shall*
21 *not assert or exercise any regulatory authority or power*
22 *under paragraph (2) other than the ordering of refunds to*
23 *achieve a just and reasonable rate.”.*

1 **SEC. 1267. CONSUMER PRIVACY AND UNFAIR TRADE PRAC-**
2 **TICES.**

3 (a) *DEFINITIONS.—In this section:*

4 (1) *COMMISSION.—The term “Commission”*
5 *means the Federal Trade Commission.*

6 (2) *STATE REGULATORY AUTHORITY.—The term*
7 *“State regulatory authority” has the meaning given*
8 *the term in section 3 of the Federal Power Act (16*
9 *U.S.C. 796).*

10 (3) *ELECTRIC CONSUMER; ELECTRIC UTILITY.—*
11 *The terms “electric consumer” and “electric utility”*
12 *have the meanings given those terms in section 3 of*
13 *the Public Utility Regulatory Policies Act of 1978 (16*
14 *U.S.C. 2602).*

15 (b) *PRIVACY.—The Commission may issue rules pro-*
16 *tecting the privacy of electric consumers from the disclosure*
17 *of consumer information obtained in connection with the*
18 *sale or delivery of electric energy to electric consumers.*

19 (c) *SLAMMING.—The Commission may issue rules pro-*
20 *hibiting the change of selection of an electric utility except*
21 *with the informed consent of the electric consumer or if ap-*
22 *proved by the appropriate State regulatory authority.*

23 (d) *CRAMMING.—The Commission may issue rules pro-*
24 *hibiting the sale of goods and services to an electric con-*
25 *sumer unless expressly authorized by law or the electric con-*
26 *sumer.*

1 (e) *RULEMAKING.*—*The Commission shall proceed in*
2 *accordance with section 553 of title 5, United States Code,*
3 *when prescribing a rule under this section.*

4 (f) *STATE AUTHORITY.*—*If the Commission determines*
5 *that the regulations of a State provide equivalent or greater*
6 *protection than the protection provided under this section,*
7 *the regulations of the State shall apply in that State in*
8 *lieu of the regulations issued by the Commission under this*
9 *section.*

10 **SEC. 1268. OFFICE OF CONSUMER ADVOCACY.**

11 (a) *DEFINITIONS.*—*In this section:*

12 (1) *ENERGY CUSTOMER.*—*The term “energy cus-*
13 *tomer” means a residential customer or a small com-*
14 *mercial customer that receives products or services*
15 *from a public utility or natural gas company under*
16 *the jurisdiction of the Commission.*

17 (2) *NATURAL GAS COMPANY.*—*The term “natural*
18 *gas company” has the meaning given the term in sec-*
19 *tion 2 of the Natural Gas Act (15 U.S.C. 717a), as*
20 *modified by section 601(a) of the Natural Gas Policy*
21 *Act of 1978 (15 U.S.C. 3431(a)).*

22 (3) *OFFICE.*—*The term “Office” means the Office*
23 *of Consumer Advocacy established by subsection*
24 *(b)(1).*

1 (4) *PUBLIC UTILITY.*—*The term “public utility”*
2 *has the meaning given the term in section 201(e) of*
3 *the Federal Power Act (16 U.S.C. 824(e)).*

4 (5) *SMALL COMMERCIAL CUSTOMER.*—*The term*
5 *“small commercial customer” means a commercial*
6 *customer that has a peak demand of not more than*
7 *1,000 kilowatts per hour.*

8 (b) *OFFICE.*—

9 (1) *ESTABLISHMENT.*—*There is established with-*
10 *in the Department the Office of Consumer Advocacy.*

11 (2) *DUTIES.*—*The Office may represent the in-*
12 *terests of energy customers on matters concerning*
13 *rates or service of public utilities and natural gas*
14 *companies under the jurisdiction of the*
15 *Commission—*

16 (A) *at hearings of the Commission;*

17 (B) *in civil actions brought in connection*
18 *with any function carried out by the Commis-*
19 *sion, except as provided in section 518 of title*
20 *28, United States Code; and*

21 (C) *at hearings or proceedings of other Fed-*
22 *eral regulatory agencies and commissions.*

1 **SEC. 1269. AUTHORITY OF COURT TO PROHIBIT PERSONS**
2 **FROM SERVING AS OFFICERS, DIRECTORS,**
3 **AND ENERGY TRADERS.**

4 *Section 314 of the Federal Power Act (16 U.S.C.*
5 *825m) is amended by adding at the end the following:*

6 *“(d) In any proceedings under subsection (a), the court*
7 *may prohibit, conditionally or unconditionally, and per-*
8 *manently or for such period of time as the court determines,*
9 *any person who is engaged or has engaged in practices con-*
10 *stituting a violation of section 222 (and related rules and*
11 *regulations) from—*

12 *“(1) acting as an officer or director of an electric*
13 *utility; or*

14 *“(2) engaging in the business of purchasing or*
15 *selling—*

16 *“(A) electric energy; or*

17 *“(B) transmission services subject to the ju-*
18 *risdiction of the Commission.”.*

19 **SEC. 1270. RELIEF FOR EXTRAORDINARY VIOLATIONS.**

20 *(a) APPLICATION.—This section applies to any con-*
21 *tract entered into the Western Interconnection prior to June*
22 *20, 2001, with a seller of wholesale electricity that the Com-*
23 *mission has—*

24 *(1) found to have manipulated the electricity*
25 *market resulting in unjust and unreasonable rates;*
26 *and*

1 (2) *revoked the seller’s authority to sell any elec-*
2 *tricity at market-based rates.*

3 (b) *RELIEF.*—*Notwithstanding section 222 of the Fed-*
4 *eral Power Act (as added by section 1262), any provision*
5 *of title 11, United States Code, or any other provision of*
6 *law, in the case of a contract described in subsection (a),*
7 *the Commission shall have exclusive jurisdiction under the*
8 *Federal Power Act (16 U.S.C. 791a et seq.) to determine*
9 *whether a requirement to make termination payments for*
10 *power not delivered by the seller, or any successor in inter-*
11 *est of the seller, is not permitted under a rate schedule (or*
12 *contract under such a schedule) or is otherwise unlawful*
13 *on the grounds that the contract is unjust and unreasonable*
14 *or contrary to the public interest.*

15 (c) *APPLICABILITY.*—*This section applies to any pro-*
16 *ceeding pending on the date of enactment of this section*
17 *involving a seller described in subsection (a) in which there*
18 *is not a final, nonappealable order by the Commission or*
19 *any other jurisdiction determining the respective rights of*
20 *the seller.*

21 ***Subtitle G—Repeal of PUHCA and***
22 ***Merger Reform***

23 ***SEC. 1271. SHORT TITLE.***

24 *This subtitle may be cited as the “Public Utility Hold-*
25 *ing Company Act of 2005”.*

1 **SEC. 1272. DEFINITIONS.**

2 *For purposes of this subtitle:*

3 (1) *AFFILIATE.*—*The term “affiliate” of a com-*
4 *pany means any company, 5 percent or more of the*
5 *outstanding voting securities of which are owned, con-*
6 *trolled, or held with power to vote, directly or indi-*
7 *rectly, by such company.*

8 (2) *ASSOCIATE COMPANY.*—*The term “associate*
9 *company” of a company means any company in the*
10 *same holding company system with such company.*

11 (3) *COMMISSION.*—*The term “Commission”*
12 *means the Federal Energy Regulatory Commission.*

13 (4) *COMPANY.*—*The term “company” means a*
14 *corporation, partnership, association, joint stock com-*
15 *pany, business trust, or any organized group of per-*
16 *sons, whether incorporated or not, or a receiver, trust-*
17 *ee, or other liquidating agent of any of the foregoing.*

18 (5) *ELECTRIC UTILITY COMPANY.*—*The term*
19 *“electric utility company” means any company that*
20 *owns or operates facilities used for the generation,*
21 *transmission, or distribution of electric energy for*
22 *sale.*

23 (6) *EXEMPT WHOLESALE GENERATOR AND FOR-*
24 *EIGN UTILITY COMPANY.*—*The terms “exempt whole-*
25 *sale generator” and “foreign utility company” have*
26 *the same meanings as in sections 32 and 33, respec-*

1 *tively, of the Public Utility Holding Company Act of*
2 *1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections ex-*
3 *isted on the day before the effective date of this sub-*
4 *title.*

5 (7) *GAS UTILITY COMPANY.*—*The term “gas util-*
6 *ity company” means any company that owns or op-*
7 *erates facilities used for distribution at retail (other*
8 *than the distribution only in enclosed portable con-*
9 *tainers or distribution to tenants or employees of the*
10 *company operating such facilities for their own use*
11 *and not for resale) of natural or manufactured gas for*
12 *heat, light, or power.*

13 (8) *HOLDING COMPANY.*—*The term “holding*
14 *company” means—*

15 (A) *any company that directly or indirectly*
16 *owns, controls, or holds, with power to vote, 10*
17 *percent or more of the outstanding voting securi-*
18 *ties of a public-utility company or of a holding*
19 *company of any public-utility company; and*

20 (B) *any person, determined by the Commis-*
21 *sion, after notice and opportunity for hearing, to*
22 *exercise directly or indirectly (either alone or*
23 *pursuant to an arrangement or understanding*
24 *with 1 or more persons) such a controlling influ-*
25 *ence over the management or policies of any*

1 *public-utility company or holding company as to*
2 *make it necessary or appropriate for the rate*
3 *protection of utility customers with respect to*
4 *rates that such person be subject to the obliga-*
5 *tions, duties, and liabilities imposed by this sub-*
6 *title upon holding companies.*

7 (9) *HOLDING COMPANY SYSTEM.*—*The term*
8 *“holding company system” means a holding com-*
9 *pany, together with its subsidiary companies.*

10 (10) *JURISDICTIONAL RATES.*—*The term “juris-*
11 *isdictional rates” means rates accepted or established*
12 *by the Commission for the transmission of electric en-*
13 *ergy in interstate commerce, the sale of electric energy*
14 *at wholesale in interstate commerce, the transpor-*
15 *tation of natural gas in interstate commerce, and the*
16 *sale in interstate commerce of natural gas for resale*
17 *for ultimate public consumption for domestic, com-*
18 *mmercial, industrial, or any other use.*

19 (11) *NATURAL GAS COMPANY.*—*The term “nat-*
20 *ural gas company” means a person engaged in the*
21 *transportation of natural gas in interstate commerce*
22 *or the sale of such gas in interstate commerce for re-*
23 *sale.*

24 (12) *PERSON.*—*The term “person” means an in-*
25 *dividual or company.*

1 (13) *PUBLIC UTILITY.*—*The term “public util-*
2 *ity” means any person who owns or operates facilities*
3 *used for transmission of electric energy in interstate*
4 *commerce or sales of electric energy at wholesale in*
5 *interstate commerce.*

6 (14) *PUBLIC-UTILITY COMPANY.*—*The term “pub-*
7 *lic-utility company” means an electric utility com-*
8 *pany or a gas utility company.*

9 (15) *STATE COMMISSION.*—*The term “State com-*
10 *mission” means any commission, board, agency, or*
11 *officer, by whatever name designated, of a State, mu-*
12 *nicipality, or other political subdivision of a State*
13 *that, under the laws of such State, has jurisdiction to*
14 *regulate public utility companies.*

15 (16) *SUBSIDIARY COMPANY.*—*The term “sub-*
16 *subsidiary company” of a holding company means—*

17 (A) *any company, 10 percent or more of the*
18 *outstanding voting securities of which are di-*
19 *rectly or indirectly owned, controlled, or held*
20 *with power to vote, by such holding company;*
21 *and*

22 (B) *any person, the management or policies*
23 *of which the Commission, after notice and oppor-*
24 *tunity for hearing, determines to be subject to a*
25 *controlling influence, directly or indirectly, by*

1 *such holding company (either alone or pursuant*
2 *to an arrangement or understanding with 1 or*
3 *more other persons) so as to make it necessary*
4 *for the rate protection of utility customers with*
5 *respect to rates that such person be subject to the*
6 *obligations, duties, and liabilities imposed by*
7 *this subtitle upon subsidiary companies of hold-*
8 *ing companies.*

9 (17) *VOTING SECURITY.*—*The term “voting secu-*
10 *urity” means any security presently entitling the*
11 *owner or holder thereof to vote in the direction or*
12 *management of the affairs of a company.*

13 **SEC. 1273. REPEAL OF THE PUBLIC UTILITY HOLDING COM-**
14 **PANY ACT OF 1935.**

15 *The Public Utility Holding Company Act of 1935 (15*
16 *U.S.C. 79 et seq.) is repealed.*

17 **SEC. 1274. FEDERAL ACCESS TO BOOKS AND RECORDS.**

18 (a) *IN GENERAL.*—*Each holding company and each*
19 *associate company thereof shall maintain, and shall make*
20 *available to the Commission, such books, accounts, memo-*
21 *randa, and other records as the Commission determines are*
22 *relevant to costs incurred by a public utility or natural gas*
23 *company that is an associate company of such holding com-*
24 *pany and necessary or appropriate for the protection of*
25 *utility customers with respect to jurisdictional rates.*

1 (b) *AFFILIATE COMPANIES.*—*Each affiliate of a hold-*
2 *ing company or of any subsidiary company of a holding*
3 *company shall maintain, and shall make available to the*
4 *Commission, such books, accounts, memoranda, and other*
5 *records with respect to any transaction with another affil-*
6 *iate, as the Commission determines are relevant to costs in-*
7 *curred by a public utility or natural gas company that is*
8 *an associate company of such holding company and nec-*
9 *essary or appropriate for the protection of utility customers*
10 *with respect to jurisdictional rates.*

11 (c) *HOLDING COMPANY SYSTEMS.*—*The Commission*
12 *may examine the books, accounts, memoranda, and other*
13 *records of any company in a holding company system, or*
14 *any affiliate thereof, as the Commission determines are rel-*
15 *evant to costs incurred by a public utility or natural gas*
16 *company within such holding company system and nec-*
17 *essary or appropriate for the protection of utility customers*
18 *with respect to jurisdictional rates.*

19 (d) *CONFIDENTIALITY.*—*No member, officer, or em-*
20 *ployee of the Commission shall divulge any fact or informa-*
21 *tion that may come to his or her knowledge during the*
22 *course of examination of books, accounts, memoranda, or*
23 *other records as provided in this section, except as may be*
24 *directed by the Commission or by a court of competent ju-*
25 *risdiction.*

1 **SEC. 1275. STATE ACCESS TO BOOKS AND RECORDS.**

2 (a) *IN GENERAL.*—Upon the written request of a State
3 commission having jurisdiction to regulate a public-utility
4 company in a holding company system, the holding com-
5 pany or any associate company or affiliate thereof, other
6 than such public-utility company, wherever located, shall
7 produce for inspection books, accounts, memoranda, and
8 other records that—

9 (1) *have been identified in reasonable detail in*
10 *a proceeding before the State commission;*

11 (2) *the State commission determines are relevant*
12 *to costs incurred by such public-utility company; and*

13 (3) *are necessary for the effective discharge of the*
14 *responsibilities of the State commission with respect*
15 *to such proceeding.*

16 (b) *LIMITATION.*—Subsection (a) does not apply to
17 any person that is a holding company solely by reason of
18 ownership of 1 or more qualifying facilities under the Pub-
19 lic Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601
20 *et seq.*).

21 (c) *CONFIDENTIALITY OF INFORMATION.*—The produc-
22 tion of books, accounts, memoranda, and other records
23 under subsection (a) shall be subject to such terms and con-
24 ditions as may be necessary and appropriate to safeguard
25 against unwarranted disclosure to the public of any trade
26 secrets or sensitive commercial information.

1 (d) *EFFECT ON STATE LAW.*—*Nothing in this section*
2 *shall preempt applicable State law concerning the provision*
3 *of books, accounts, memoranda, and other records, or in any*
4 *way limit the rights of any State to obtain books, accounts,*
5 *memoranda, and other records under any other Federal*
6 *law, contract, or otherwise.*

7 (e) *COURT JURISDICTION.*—*Any United States district*
8 *court located in the State in which the State commission*
9 *referred to in subsection (a) is located shall have jurisdic-*
10 *tion to enforce compliance with this section.*

11 **SEC. 1276. EXEMPTION AUTHORITY.**

12 (a) *RULEMAKING.*—*Not later than 90 days after the*
13 *effective date of this subtitle, the Commission shall issue a*
14 *final rule to exempt from the requirements of section 1274*
15 *(relating to Federal access to books and records) any person*
16 *that is a holding company, solely with respect to 1 or*
17 *more—*

18 (1) *qualifying facilities under the Public Utility*
19 *Regulatory Policies Act of 1978 (16 U.S.C. 2601 et*
20 *seq.);*

21 (2) *exempt wholesale generators; or*

22 (3) *foreign utility companies.*

23 (b) *OTHER AUTHORITY.*—*The Commission shall ex-*
24 *empt a person or transaction from the requirements of sec-*
25 *tion 1274 (relating to Federal access to books and records)*

1 *if, upon application or upon the motion of the*
2 *Commission—*

3 (1) *the Commission finds that the books, ac-*
4 *counts, memoranda, and other records of any person*
5 *are not relevant to the jurisdictional rates of a public*
6 *utility or natural gas company; or*

7 (2) *the Commission finds that any class of trans-*
8 *actions is not relevant to the jurisdictional rates of a*
9 *public utility or natural gas company.*

10 **SEC. 1277. AFFILIATE TRANSACTIONS.**

11 (a) *COMMISSION AUTHORITY UNAFFECTED.—Nothing*
12 *in this subtitle shall limit the authority of the Commission*
13 *under the Federal Power Act (16 U.S.C. 791a et seq.) to*
14 *require that jurisdictional rates are just and reasonable, in-*
15 *cluding the ability to deny or approve the pass through of*
16 *costs, the prevention of cross-subsidization, and the issuance*
17 *of such rules and regulations as are necessary or appro-*
18 *priate for the protection of utility consumers.*

19 (b) *RECOVERY OF COSTS.—Nothing in this subtitle*
20 *shall preclude the Commission or a State commission from*
21 *exercising its jurisdiction under otherwise applicable law*
22 *to determine whether a public-utility company, public util-*
23 *ity, or natural gas company may recover in rates any costs*
24 *of an activity performed by an associate company, or any*

1 *costs of goods or services acquired by such public-utility*
2 *company from an associate company.*

3 **SEC. 1278. APPLICABILITY.**

4 *Except as otherwise specifically provided in this sub-*
5 *title, no provision of this subtitle shall apply to, or be*
6 *deemed to include—*

7 *(1) the United States;*

8 *(2) a State or any political subdivision of a*
9 *State;*

10 *(3) any foreign governmental authority not oper-*
11 *ating in the United States;*

12 *(4) any agency, authority, or instrumentality of*
13 *any entity referred to in paragraph (1), (2), or (3);*
14 *or*

15 *(5) any officer, agent, or employee of any entity*
16 *referred to in paragraph (1), (2), (3), or (4) acting*
17 *as such in the course of his or her official duty.*

18 **SEC. 1279. EFFECT ON OTHER REGULATIONS.**

19 *Nothing in this subtitle precludes the Commission or*
20 *a State commission from exercising its jurisdiction under*
21 *otherwise applicable law to protect utility customers.*

22 **SEC. 1280. ENFORCEMENT.**

23 *The Commission shall have the same powers as set*
24 *forth in sections 306 through 317 of the Federal Power Act*

1 *(16 U.S.C. 825e–825p) to enforce the provisions of this sub-*
2 *title.*

3 **SEC. 1281. SAVINGS PROVISIONS.**

4 (a) *IN GENERAL.*—*Nothing in this subtitle, or other-*
5 *wise in the Public Utility Holding Company Act of 1935,*
6 *or rules, regulations, or orders thereunder, prohibits a per-*
7 *son from engaging in or continuing to engage in activities*
8 *or transactions in which it is legally engaged or authorized*
9 *to engage on the date of enactment of this Act, if that person*
10 *continues to comply with the terms (other than an expira-*
11 *tion date or termination date) of any such authorization,*
12 *whether by rule or by order.*

13 (b) *EFFECT ON OTHER COMMISSION AUTHORITY.*—
14 *Nothing in this subtitle limits the authority of the Commis-*
15 *sion under the Federal Power Act (16 U.S.C. 791a et seq.)*
16 *or the Natural Gas Act (15 U.S.C. 717 et seq.).*

17 **SEC. 1282. IMPLEMENTATION.**

18 *Not later than 4 months after the date of enactment*
19 *of this subtitle, the Commission shall—*

20 (1) *promulgate such regulations as may be nec-*
21 *essary or appropriate to implement this subtitle*
22 *(other than section 1275, relating to State access to*
23 *books and records); and*

24 (2) *submit to Congress detailed recommendations*
25 *on technical and conforming amendments to Federal*

1 *law necessary to carry out this subtitle and the*
2 *amendments made by this subtitle.*

3 **SEC. 1283. TRANSFER OF RESOURCES.**

4 *All books and records that relate primarily to the func-*
5 *tions transferred to the Commission under this subtitle shall*
6 *be transferred from the Securities and Exchange Commis-*
7 *sion to the Commission.*

8 **SEC. 1284. EFFECTIVE DATE.**

9 *(a) IN GENERAL.—Except for section 1282 (relating*
10 *to implementation), this subtitle shall take effect 6 months*
11 *after the date of enactment of this subtitle.*

12 *(b) COMPLIANCE WITH CERTAIN RULES.—If the Com-*
13 *mission approves and makes effective any final rulemaking*
14 *modifying the standards of conduct governing entities that*
15 *own, operate, or control facilities for transmission of elec-*
16 *tricity in interstate commerce or transportation of natural*
17 *gas in interstate commerce prior to the effective date of this*
18 *subtitle, any action taken by a public-utility company or*
19 *utility holding company to comply with the requirements*
20 *of such rulemaking shall not subject such public-utility com-*
21 *pany or utility holding company to any regulatory require-*
22 *ment applicable to a holding company under the Public*
23 *Utility Holding Company Act of 1935 (15 U.S.C. 79 et*
24 *seq.).*

1 **SEC. 1285. SERVICE ALLOCATION.**

2 (a) *FERC REVIEW.*—*In the case of non-power goods*
3 *or administrative or management services provided by an*
4 *associate company organized specifically for the purpose of*
5 *providing such goods or services to any public utility in*
6 *the same holding company system, at the election of the sys-*
7 *tem or a State commission having jurisdiction over the pub-*
8 *lic utility, the Commission, after the effective date of this*
9 *subtitle, shall review and authorize the allocation of the*
10 *costs for such goods or services to the extent relevant to that*
11 *associate company in order to assure that each allocation*
12 *is appropriate for the protection of investors and consumers*
13 *of such public utility.*

14 (b) *COST ALLOCATION.*—*Nothing in this section shall*
15 *preclude the Commission or a State commission from exer-*
16 *cising its jurisdiction under other applicable law with re-*
17 *spect to the review or authorization of any costs allocated*
18 *to a public utility in a holding company system located*
19 *in the affected State as a result of the acquisition of non-*
20 *power goods or administrative and management services by*
21 *such public utility from an associate company organized*
22 *specifically for that purpose.*

23 (c) *RULES.*—*Not later than 6 months after the date*
24 *of enactment of this Act, the Commission shall issue rules*
25 *(which rules shall be effective no earlier than the effective*
26 *date of this subtitle) to exempt from the requirements of*

1 *this section any company in a holding company system*
2 *whose public utility operations are confined substantially*
3 *to a single State and any other class of transactions that*
4 *the Commission finds is not relevant to the jurisdictional*
5 *rates of a public utility.*

6 (d) *PUBLIC UTILITY.*—*As used in this section, the term*
7 *“public utility” has the meaning given that term in section*
8 *201(e) of the Federal Power Act.*

9 **SEC. 1286. AUTHORIZATION OF APPROPRIATIONS.**

10 *There are authorized to be appropriated such funds as*
11 *may be necessary to carry out this subtitle.*

12 **SEC. 1287. CONFORMING AMENDMENTS TO THE FEDERAL**
13 **POWER ACT.**

14 (a) *CONFLICT OF JURISDICTION.*—*Section 318 of the*
15 *Federal Power Act (16 U.S.C. 825q) is repealed.*

16 (b) *DEFINITIONS.*—(1) *Section 201(g)(5) of the Fed-*
17 *eral Power Act (16 U.S.C. 824(g)(5)) is amended by strik-*
18 *ing “1935” and inserting “2005”.*

19 (2) *Section 214 of the Federal Power Act (16 U.S.C.*
20 *824m) is amended by striking “1935” and inserting*
21 *“2005”.*

22 **SEC. 1288. MERGER REVIEW REFORM.**

23 (a) *IN GENERAL.*—*Section 203(a) of the Federal*
24 *Power Act (16 U.S.C. 824b(a)) is amended to read as fol-*
25 *lows:*

1 “(a)(1) No public utility shall, without first having se-
2 cured an order of the Commission authorizing it to do so—

3 “(A) sell, lease, or otherwise dispose of the
4 whole of its facilities subject to the jurisdiction
5 of the Commission, or any part thereof of a value
6 in excess of \$10,000,000;

7 “(B) merge or consolidate, directly or indi-
8 rectly, such facilities or any part thereof with
9 those of any other person, by any means whatso-
10 ever;

11 “(C) purchase, acquire, or take any security
12 with a value in excess of \$10,000,000 of any
13 other public utility; or

14 “(D) purchase, lease, or otherwise acquire
15 an existing generation facility—

16 “(i) that has a value in excess of
17 \$10,000,000; and

18 “(ii) that is used for interstate whole-
19 sale sales and over which the Commission
20 has jurisdiction for ratemaking purposes.

21 “(2) No holding company in a holding company
22 system that includes a transmitting utility or an elec-
23 tric utility shall purchase, acquire, or take any secu-
24 rity with a value in excess of \$10,000,000 of, or, by
25 any means whatsoever, directly or indirectly, merge

1 *or consolidate with, a transmitting utility, an electric*
2 *utility company, or a gas utility company, or a hold-*
3 *ing company in a holding company system that in-*
4 *cludes a transmitting utility, an electric utility com-*
5 *pany, or a gas utility company with a value in excess*
6 *of \$10,000,000 without first having secured an order*
7 *of the Commission authorizing it to do so.*

8 *“(3) Upon receipt of an application for such ap-*
9 *proval the Commission shall give reasonable notice in*
10 *writing to the Governor and State commission of each*
11 *of the States in which the physical property affected,*
12 *or any part thereof, is situated, and to such other per-*
13 *sons as it may deem advisable.*

14 *“(4) After notice and opportunity for hearing,*
15 *the Commission shall approve the proposed disposi-*
16 *tion, consolidation, acquisition, or change in control,*
17 *if it finds that the proposed transaction—*

18 *“(A) will be consistent with the public in-*
19 *terest, taking into account the effect of the trans-*
20 *action on competition in the electricity markets,*
21 *electric rates, and effective regulation; and*

22 *“(B) shall not result in cross-subsidization*
23 *of a non-utility associate company or the pledge*
24 *or encumbrance of utility assets for the benefit of*
25 *an associate company, unless the Commission*

1 *determines that the cross-subsidization, pledge, or*
2 *encumbrance would not be harmful.*

3 “(5) *The Commission shall, by rule, adopt proce-*
4 *dures for the expeditious consideration of applications*
5 *for the approval of dispositions, consolidations, or ac-*
6 *quisitions, under this section. Such rules shall iden-*
7 *tify classes of transactions, or specify criteria for*
8 *transactions, that normally meet the standards estab-*
9 *lished in paragraph (4). The Commission shall pro-*
10 *vide expedited review for such transactions. The Com-*
11 *mission shall grant or deny any other application for*
12 *approval of a transaction not later than 180 days*
13 *after the application is filed. If the Commission does*
14 *not act within 180 days, such application shall be*
15 *deemed granted unless the Commission finds, based on*
16 *good cause, that further consideration is required to*
17 *determine whether the proposed transaction meets the*
18 *standards of paragraph (4) and issues an order toll-*
19 *ing the time for acting on the application for not*
20 *more than 180 days, at the end of which additional*
21 *period the Commission shall grant or deny the appli-*
22 *cation.*

23 “(6) *For purposes of this subsection, the terms*
24 *‘associate company’, ‘holding company’, and ‘holding*
25 *company system’ have the meaning given those terms*

1 *in the Public Utility Holding Company Act of*
2 *2005.”.*

3 **(b) EFFECTIVE DATE.**—*The amendments made by this*
4 *section shall take effect 6 months after the date of enactment*
5 *of this Act.*

6 **Subtitle H—Definitions**

7 **SEC. 1291. DEFINITIONS.**

8 **(a) COMMISSION.**—*In this title, the term “Commis-*
9 *sion” means the Federal Energy Regulatory Commission.*

10 **(b) AMENDMENT.**—*Section 3 of the Federal Power Act*
11 *(16 U.S.C. 796) is amended—*

12 *(1) by striking paragraphs (22) and (23) and*
13 *inserting the following:*

14 **“(22) ELECTRIC UTILITY.**—*(A) The term ‘electric*
15 *utility’ means a person or Federal or State agency*
16 *(including an entity described in section 201(f)) that*
17 *sells electric energy.*

18 **“(B) The term ‘electric utility’ includes the Ten-**
19 *nessee Valley Authority and each Federal power mar-*
20 *keting administration.*

21 **“(23) TRANSMITTING UTILITY.**—*The term ‘trans-*
22 *mitting utility’ means an entity (including an entity*
23 *described in section 201(f)) that owns, operates, or*
24 *controls facilities used for the transmission of electric*
25 *energy—*

1 “(A) *in interstate commerce;*

2 “(B) *for the sale of electric energy at whole-*
3 *sale.*”; and

4 (2) *by adding at the end the following:*

5 “(26) *ELECTRIC COOPERATIVE.*—*The term ‘elec-*
6 *tric cooperative’ means a cooperatively owned electric*
7 *utility.*

8 “(27) *RTO.*—*The term ‘Regional Transmission*
9 *Organization’ or ‘RTO’ means an entity of sufficient*
10 *regional scope approved by the Commission—*

11 “(A) *to exercise operational or functional*
12 *control of facilities used for the transmission of*
13 *electric energy in interstate commerce; and*

14 “(B) *to ensure nondiscriminatory access to*
15 *the facilities.*

16 “(28) *ISO.*—*The term ‘Independent System Op-*
17 *erator’ or ‘ISO’ means an entity approved by the*
18 *Commission—*

19 “(A) *to exercise operational or functional*
20 *control of facilities used for the transmission of*
21 *electric energy in interstate commerce; and*

22 “(B) *to ensure nondiscriminatory access to*
23 *the facilities.*

24 “(29) *TRANSMISSION ORGANIZATION.*—*The term*
25 *‘Transmission Organization’ means a Regional*

1 *Transmission Organization, Independent System Op-*
 2 *erator, independent transmission provider, or other*
 3 *transmission organization finally approved by the*
 4 *Commission for the operation of transmission facili-*
 5 *ties.”.*

6 (c) *APPLICABILITY.—Section 201(f) of the Federal*
 7 *Power Act (16 U.S.C. 824(f)) is amended by striking “polit-*
 8 *ical subdivision of a state,” and inserting “political sub-*
 9 *division of a State, an electric cooperative that receives fi-*
 10 *nancing under the Rural Electrification Act of 1936 (7*
 11 *U.S.C. 901 et seq.) or that sells less than 4,000,000 mega-*
 12 *watt hours of electricity per year,”.*

13 **SEC. 1292. ENERGY POLICY AND CONSERVATION TECH-**
 14 **NICAL CORRECTION.**

15 *Section 609(c)(4) of the Public Utility Regulatory*
 16 *Policies Act of 1978 (as added by section 291) is amended*
 17 *by striking “of 1954 (42 U.S.C. 6303)” and inserting “(42*
 18 *U.S.C. 6303(d))”.*

19 ***Subtitle I—Technical and***
 20 ***Conforming Amendments***

21 **SEC. 1295. CONFORMING AMENDMENTS.**

22 (a) *Section 201 of the Federal Power Act (16 U.S.C.*
 23 *824) is amended—*

24 (1) *in subsection (b)(2)—*

25 (A) *in the first sentence—*

1 (i) by striking “The” and inserting
2 “Notwithstanding section 201(f), the”; and

3 (ii) by striking “210, 211, and 212”
4 and inserting “203(a)(2), 206(e), 210, 211,
5 211A, 212, 215, 216, 217, 218, 219, 220,
6 221, 222, and 223”; and

7 (B) in the second sentence—

8 (i) by inserting “or rule” after “any
9 order”; and

10 (ii) by striking “210 or 211” and in-
11 serting “203(a)(2), 206(e), 210, 211, 211A,
12 212, 215, 216, 217, 218, 219, 220, 221, 222,
13 or 223”; and

14 (2) in subsection (e), by striking “210, 211, or
15 212” and inserting “206(e), 206(f), 210, 211, 211A,
16 212, 215, 216, 217, 218, 219, 220, 221, 222, or 223”.

17 (b) Section 206 of the Federal Power Act (16 U.S.C.
18 824e) is amended—

19 (1) in the first sentence of subsection (a), by
20 striking “hearing had” and inserting “hearing held”;
21 and

22 (2) in the seventh sentence of subsection (b), by
23 striking “the public utility to make”.

24 (c) Section 211 of the Federal Power Act (16 U.S.C.
25 824j) is amended—

1 (1) *in subsection (c)—*

2 (A) *by striking “(2)”;*

3 (B) *by striking “(A)” and inserting “(1)”*

4 (C) *by striking “(B)” and inserting “(2)”;*

5 *and*

6 (D) *by striking “termination of modifica-*
7 *tion” and inserting “termination or modifica-*
8 *tion”;* *and*

9 (2) *in the second sentence of subsection (d)(1), by*
10 *striking “electric utility” the second place it appears*
11 *and inserting “transmitting utility”.*

12 (d) *Section 315(c) of the Federal Power Act (16 U.S.C.*
13 *825n(c)) is amended by striking “subsection” and inserting*
14 *“section”.*

15 **TITLE XIII—STUDIES**

16 **SEC. 1301. ENERGY AND WATER SAVING MEASURES IN CON-** 17 **GRESSIONAL BUILDINGS.**

18 (a) *IN GENERAL.—The Architect of the Capitol, as*
19 *part of the process of updating the Master Plan Study for*
20 *the Capitol complex, shall—*

21 (A) *carry out a study to evaluate the energy*
22 *infrastructure of the Capitol complex to deter-*
23 *mine how to augment the infrastructure to be-*
24 *come more energy efficient—*

- 1 (i) *by using unconventional and re-*
2 *newable energy resources;*
- 3 (ii) *by—*
- 4 (I) *incorporating new technologies*
5 *to implement effective green building*
6 *solutions;*
- 7 (II) *adopting computer-based*
8 *building management systems; and*
- 9 (III) *recommending strategies*
10 *based on end-user behavioral changes*
11 *to implement low-cost environmental*
12 *gains; and*
- 13 (iii) *in a manner that would enable*
14 *the Capitol complex to have reliable utility*
15 *service in the event of power fluctuations,*
16 *shortages, or outages;*
- 17 (B) *carry out a study to explore the feasi-*
18 *bility of installing energy and water conserva-*
19 *tion measures on the rooftop of the Dirksen Sen-*
20 *ate Office Building, including the area directly*
21 *above the food service facilities in the center of*
22 *the building, including the installation of—*
- 23 (i) *a vegetative covering area, using*
24 *native species to the maximum extent prac-*
25 *ticable, to—*

1 (I) *insulate and increase the en-*
2 *ergy efficiency of the building;*

3 (II) *reduce precipitation runoff*
4 *and conserve water for landscaping or*
5 *other uses;*

6 (III) *increase, and provide more*
7 *efficient use of, available outdoor space*
8 *through management of the rooftop of*
9 *the center of the building as a park or*
10 *garden area for occupants of the build-*
11 *ing; and*

12 (IV) *improve the aesthetics of the*
13 *building; and*

14 (ii) *onsite renewable energy and other*
15 *state-of-the-art technologies to—*

16 (I) *improve the energy efficiency*
17 *and energy security of the building or*
18 *the Capitol complex by providing addi-*
19 *tional or backup sources of power in*
20 *the event of a power shortage or other*
21 *emergency;*

22 (II) *reduce the use of resources by*
23 *the building; or*

24 (III) *enhance worker productivity;*
25 *and*

1 (C) not later than 180 days after the date
2 of enactment of this Act, submit to Congress a
3 report describing the findings and recommenda-
4 tions of the study under subparagraph (B).

5 (b) *AUTHORIZATION OF APPROPRIATIONS.*—There is
6 authorized to be appropriated to the Architect of the Capitol
7 to carry out this section \$2,000,000 for each of fiscal years
8 2006 through 2010.

9 **SEC. 1302. INCREASED HYDROELECTRIC GENERATION AT**
10 **EXISTING FEDERAL FACILITIES.**

11 (a) *STUDY.*—

12 (1) *IN GENERAL.*—The Secretary and the Sec-
13 retary of the Interior, in consultation with the Sec-
14 retary of the Army, shall conduct a study of the po-
15 tential for increasing electric power production capa-
16 bility, in accordance with applicable law, at federally
17 owned or operated water regulation, storage, and con-
18 veyance facilities.

19 (2) *CONTENTS.*—The study under paragraph (1)
20 shall include an identification and detailed descrip-
21 tion of each facility that is capable, with or without
22 modification, of producing additional hydroelectric
23 power, including an estimate of the potential of the
24 facility to generate hydroelectric power.

25 (b) *REPORT.*—

1 (1) *IN GENERAL.*—Not later than 18 months
2 after the date of enactment of this Act, the Secretaries
3 shall submit to the Committee on Energy and the
4 Committee on Commerce, Resources, Transportation
5 and Infrastructure of the House of Representatives,
6 and the Committee on Energy and Natural Resources
7 of the Senate, a report describing the findings, conclu-
8 sions, and recommendations of the study under sub-
9 section (a).

10 (2) *INCLUSIONS.*—The report under paragraph
11 (1) shall include—

12 (A) each identification, description, and es-
13 timate under subsection (a)(2);

14 (B) a description of any activity that is
15 conducted or under consideration, or that could
16 be considered, to produce additional hydroelectric
17 power at an identified facility;

18 (C) a summary of actions taken by the Sec-
19 retaries before the date on which the study was
20 completed to produce additional hydroelectric
21 power at an identified facility;

22 (D) a calculation of—

23 (i) the costs of installing, upgrading,
24 modifying, or taking any other action relat-
25 ing to, equipment to produce additional hy-

1 *hydroelectric power at an identified facility;*

2 *and*

3 *(ii) the level of involvement of Federal*

4 *power customers in the determination of the*

5 *costs;*

6 *(E) a description of any benefit to be*

7 *achieved by an installation, upgrade, modifica-*

8 *tion, or other action under subparagraph (D),*

9 *including a quantified estimate of any addi-*

10 *tional energy or capacity produced at an identi-*

11 *fied facility;*

12 *(F) a description of any action that is*

13 *planned, is being carried out on the date on*

14 *which the report is submitted, or might reason-*

15 *ably be considered to increase hydroelectric*

16 *power production by replacing turbine runners,*

17 *upgrading or rewinding generators, or con-*

18 *structing pumped storage facilities;*

19 *(G) a description of the effect of increased*

20 *hydroelectric power production on—*

21 *(i) irrigation;*

22 *(ii) fish;*

23 *(iii) wildlife;*

24 *(iv) Indian land;*

25 *(v) river health;*

- 1 (vi) water quality;
2 (vii) navigation;
3 (viii) recreation;
4 (ix) fishing; and
5 (x) flood control; and

6 (H) any additional recommendations of the
7 Secretaries to increase hydroelectric power pro-
8 duction, and reduce costs and improve efficiency,
9 in accordance with applicable law, at federally
10 owned or operated water regulation, storage, and
11 conveyance facilities.

12 **SEC. 1303. ALASKA NATURAL GAS PIPELINE.**

13 Not later than 180 days after the date of enactment
14 of this Act, and every 180 days thereafter until the Alaska
15 natural gas pipeline commences operation, the Federal En-
16 ergy Regulatory Commission shall submit to Congress a re-
17 port describing—

18 (1) the progress made in licensing and con-
19 structing the pipeline; and

20 (2) any issue impeding that progress.

21 **SEC. 1304. RENEWABLE ENERGY ON FEDERAL LAND.**

22 (a) NATIONAL ACADEMY OF SCIENCES STUDY.—Not
23 later than 90 days after the date of enactment of this Act,
24 the Secretary of the Interior shall enter into a contract with

1 *the National Academy of Sciences under which the National*
2 *Academy of Sciences shall—*

3 (1) *study the potential of developing wind, solar,*
4 *and ocean energy resources (including tidal, wave,*
5 *and thermal energy) on Federal land available for*
6 *those uses under current law and the outer Conti-*
7 *ental Shelf;*

8 (2) *assess any Federal law (including regula-*
9 *tions) relating to the development of those resources*
10 *that is in existence on the date of enactment of this*
11 *Act; and*

12 (3) *recommend statutory and regulatory mecha-*
13 *nisms for developing those resources.*

14 (b) *SUBMISSION TO CONGRESS.—Not later than 2*
15 *years after the date of enactment of this Act, the Secretary*
16 *of the Interior shall submit to Congress the results of the*
17 *study under subsection (a).*

18 **SEC. 1305. COAL BED METHANE STUDY.**

19 (a) *STUDY.—*

20 (1) *IN GENERAL.—The Secretary of the Interior,*
21 *in consultation with the Administrator of the Envi-*
22 *ronmental Protection Agency, shall enter into an ar-*
23 *rangement under which the National Academy of*
24 *Sciences shall conduct a study on the effect of coalbed*
25 *natural gas production on surface and ground water*

1 *resources, including ground water aquifers, in the*
2 *States of Montana, Wyoming, Colorado, New Mexico,*
3 *North Dakota, and Utah.*

4 (2) *MATTERS TO BE ADDRESSED.—The study*
5 *shall address the effectiveness of—*

6 (A) *the management of coal bed methane*
7 *produced water;*

8 (B) *the use of best management practices;*
9 *and*

10 (C) *various production techniques for coal*
11 *bed methane natural gas in minimizing impacts*
12 *on water resources.*

13 (b) *DATA ANALYSIS.—The study shall analyze avail-*
14 *able hydrologic, geologic and water quality data, along*
15 *with—*

16 (1) *production techniques, produced water man-*
17 *agement techniques, best management practices, and*
18 *other factors that can mitigate effects of coal bed*
19 *methane development;*

20 (2) *the costs associated with mitigation tech-*
21 *niques;*

22 (3) *effects on surface or ground water resources,*
23 *including drinking water, associated with surface or*
24 *subsurface disposal of waters produced during extrac-*
25 *tion of coal bed methane; and*

1 (4) *any other significant effects on surface or*
2 *ground water resources associated with production of*
3 *coal-bed methane.*

4 (c) *RECOMMENDATIONS.*—*The study shall analyze the*
5 *effectiveness of current mitigation practices of coal bed*
6 *methane produced water handling in relation to existing*
7 *Federal and State laws and regulations, and make rec-*
8 *ommendations as to changes, if any, to Federal law nec-*
9 *essary to address adverse impacts to surface or ground*
10 *water resources associated with coal bed methane develop-*
11 *ment.*

12 (d) *COMPLETION OF STUDY.*—*The National Academy*
13 *of Sciences shall submit the findings and recommendations*
14 *of the study to the Secretary of the Interior and the Admin-*
15 *istrator of the Environmental Protection Agency within 12*
16 *months after the date of enactment of this Act, and shall*
17 *upon completion make the results of the study available to*
18 *the public.*

19 (e) *REPORT TO CONGRESS.*—*The Secretary of the Inte-*
20 *rior and the Administrator of the Environmental Protec-*
21 *tion Agency, after consulting with States, shall report to*
22 *the Congress within 6 months after receiving the results of*
23 *the study on—*

24 (1) *the findings and recommendations of the*
25 *study;*

1 (2) *the agreement or disagreement of the Sec-*
2 *retary of the Interior and the Administrator of the*
3 *Environmental Protection Agency with each of its*
4 *findings and recommendations; and*

5 (3) *any recommended changes in funding to ad-*
6 *dress the effects of coal bed methane production on*
7 *surface and ground water resources.*

8 **SEC. 1306. BACKUP FUEL CAPABILITY STUDY.**

9 (a) *STUDY.—*

10 (1) *IN GENERAL.—The Secretary shall conduct a*
11 *study of the effect of obtaining and maintaining liq-*
12 *uid and other fuel backup capability at—*

13 (A) *gas-fired power generation facilities;*

14 *and*

15 (B) *other gas-fired industrial facilities.*

16 (2) *CONTENTS.—The study under paragraph (1)*
17 *shall address—*

18 (A) *the costs and benefits of adding a dif-*
19 *ferent fuel capability to a power gas-fired power*
20 *generating or industrial facility, taking into*
21 *consideration regional differences;*

22 (B) *methods of the Federal Government and*
23 *State governments to encourage gas-fired power*
24 *generators and industries to develop the capa-*
25 *bility to power the facilities using a backup fuel;*

1 (C) the effect on the supply and cost of nat-
2 ural gas of—

3 (i) a balanced portfolio of fuel choices
4 in power generation and industrial applica-
5 tions; and

6 (ii) State regulations that permit agen-
7 cies in the State to carry out policies that
8 encourage the use of other backup fuels in
9 gas-fired power generation; and

10 (D) changes required in the Clean Air Act
11 (42 U.S.C. 7401 et seq.) to allow natural gas
12 generators to add clean backup fuel capabilities.

13 (b) *REPORT TO CONGRESS.*—Not later than 1 year
14 after the date of enactment of this Act, the Secretary shall
15 submit to Congress a report on the results of the study under
16 subsection (a), including recommendations regarding future
17 activity of the Federal Government relating to backup fuel
18 capability.

19 **SEC. 1307. INDIAN LAND RIGHTS-OF-WAY.**

20 (a) *STUDY.*—

21 (1) *IN GENERAL.*—The Secretary and the Sec-
22 retary of the Interior (referred to in this section as
23 the “Secretaries”) shall jointly conduct a study of
24 issues regarding energy rights-of-way on tribal land
25 (as defined in section 2601 of the Energy Policy Act

1 of 1992 (as amended by section 503)) (referred to in
2 this section as “tribal land”).

3 (2) *CONSULTATION.*—In conducting the study
4 under paragraph (1), the Secretaries shall consult
5 with Indian tribes, the energy industry, appropriate
6 governmental entities, and affected businesses and
7 consumers.

8 (b) *REPORT.*—Not later than 1 year after the date of
9 enactment of this Act, the Secretaries shall submit to Con-
10 gress a report on the findings of the study, including—

11 (1) *an analysis of historic rates of compensation*
12 *paid for energy rights-of-way on tribal land;*

13 (2) *recommendations for appropriate standards*
14 *and procedures for determining fair and appropriate*
15 *compensation to Indian tribes for grants, expansions,*
16 *and renewals of energy rights-of-way on tribal land;*

17 (3) *an assessment of the tribal self-determination*
18 *and sovereignty interests implicated by applications*
19 *for the grant, expansion, or renewal of energy rights-*
20 *of-way on tribal land; and*

21 (4) *an analysis of relevant national energy*
22 *transportation policies relating to grants, expansions,*
23 *and renewals of energy rights-of-way on tribal land.*

1 **SEC. 1308. REVIEW OF ENERGY POLICY ACT OF 1992 PRO-**
2 **GRAMS.**

3 (a) *IN GENERAL.*—Not later than 180 days after the
4 date of enactment of this Act, the Secretary shall complete
5 a study to determine the effect that titles III, IV, and V
6 of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.)
7 have had during the period beginning on the date of enact-
8 ment of those titles and ending on the date on which the
9 study begins on—

10 (1) *the development of alternative fueled vehicle*
11 *technology;*

12 (2) *the availability of that technology in the*
13 *market; and*

14 (3) *the cost of alternative fueled vehicles.*

15 (b) *TOPICS.*—In conducting the study under subsection
16 (a), the Secretary shall identify—

17 (1) *the number of alternative fueled vehicles ac-*
18 *quired by fleets or covered persons required to acquire*
19 *alternative fueled vehicles;*

20 (2) *the quantity, by type, of alternative fuel used*
21 *in alternative fueled vehicles acquired by fleets or cov-*
22 *ered persons;*

23 (3) *the quantity of petroleum displaced by the*
24 *use of alternative fuels in alternative fueled vehicles*
25 *acquired by fleets or covered persons;*

1 (4) *the direct and indirect costs of compliance*
2 *with requirements under titles III, IV, and V of the*
3 *Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.),*
4 *including—*

5 (A) *vehicle acquisition requirements im-*
6 *posed on fleets or covered persons;*

7 (B) *administrative and recordkeeping ex-*
8 *penses;*

9 (C) *fuel and fuel infrastructure costs;*

10 (D) *associated training and employee ex-*
11 *penses; and*

12 (E) *any other factors or expenses the Sec-*
13 *retary determines to be necessary to compile reli-*
14 *able estimates of the overall costs and benefits of*
15 *complying with programs under those titles for*
16 *fleets, covered persons, and the national economy;*

17 (5) *the existence of obstacles preventing compli-*
18 *ance with vehicle acquisition requirements and in-*
19 *creased use of alternative fuel in alternative fueled ve-*
20 *hicles acquired by fleets or covered persons; and*

21 (6) *the projected impact of amendments to the*
22 *Energy Policy Act of 1992 made by this Act.*

23 (c) *REPORT.—On the date on which the study under*
24 *subsection (a) is completed, the Secretary shall submit to*
25 *Congress a report that—*

1 (1) describes the results of the study; and

2 (2) includes any recommendations of the Sec-
3 retary for legislative or administrative changes con-
4 cerning the alternative fueled vehicle requirements
5 under titles III, IV and V of the Energy Policy Act
6 of 1992 (42 U.S.C. 13211 et seq.).

7 **SEC. 1309. STUDY OF FEASIBILITY AND EFFECTS OF REDUC-**
8 **ING USE OF FUEL FOR AUTOMOBILES.**

9 (a) *STUDY.*—

10 (1) *IN GENERAL.*—Not later than 30 days after
11 the date of the enactment of this Act, the Adminis-
12 trator of the National Highway Traffic Safety Ad-
13 ministration shall conduct a study of the feasibility
14 and effects of reducing, by a significant percentage,
15 by model year 2012, the amount of fuel consumed by
16 automobiles.

17 (2) *INCLUSIONS.*—The study under paragraph
18 (1) shall include an examination of—

19 (A) the Federal policy of establishing aver-
20 age fuel economy standards for automobiles and
21 requiring each automobile manufacturer to com-
22 ply with average fuel economy standards that
23 apply to the automobiles the manufacturer pro-
24 duces (including recommendations of alternatives
25 to that policy);

1 (B) methods by which automobile manufac-
2 turers could contribute toward achieving the re-
3 duction described in paragraph (1);

4 (C) the potential of using fuel cell tech-
5 nology in motor vehicles to determine the extent
6 to which fuel cell technology contributes to
7 achieving the reduction described in paragraph
8 (1); and

9 (D) the effects of the reduction described in
10 paragraph (1) on—

11 (i) gasoline supplies;

12 (ii) the automobile industry, including
13 sales of automobiles manufactured in the
14 United States;

15 (iii) motor vehicle safety;

16 (iv) air quality; and

17 (v) the consumer price for light duty
18 trucks typically purchased for agricultural
19 purposes, including by providing estimates
20 for price differences for the years 2008
21 through 2012, comparing—

22 (I) light duty truck fuel economy
23 if no legislative changes are made to
24 average fuel economy standards; to

1 (ii) light duty truck fuel economy
2 under the reduction described in para-
3 graph (1).

4 (b) *REPORT.*—Not later than 1 year after the date of
5 enactment of this Act, the Administrator shall submit to
6 Congress a report on the findings, conclusions, and rec-
7 ommendations of the study under subsection (a).

8 **SEC. 1310. HYBRID DISTRIBUTED POWER SYSTEMS.**

9 Not later than 1 year after the date of enactment of
10 this Act, the Secretary shall develop, and submit to Congress
11 a report on, a strategy for a comprehensive research, devel-
12 opment, demonstration, and commercial application pro-
13 gram to develop hybrid distributed power systems that
14 combine—

15 (1) 1 or more renewable electric power genera-
16 tion technologies of 10 megawatts or less located near
17 the site of electric energy use; and

18 (2) nonintermittent electric power generation
19 technologies suitable for use in a distributed power
20 system.

21 **SEC. 1311. MOBILITY OF SCIENTIFIC AND TECHNICAL PER-**
22 **SONNEL.**

23 Not later than 2 years after the date of enactment of
24 this section, the Secretary shall transmit to Congress a re-
25 port that—

1 (1) *identifies any policies or procedures of a con-*
2 *tractor operating a National Laboratory or single-*
3 *purpose research facility that create disincentives to*
4 *the temporary or permanent transfer of scientific and*
5 *technical personnel among the contractor-operated*
6 *National Laboratories or contractor-operated single-*
7 *purpose research facilities; and*

8 (2) *provides recommendations for improving*
9 *interlaboratory exchange of scientific and technical*
10 *personnel.*

11 **SEC. 1312. NATIONAL ACADEMY OF SCIENCES REPORT.**

12 *Not later than 90 days after the date of enactment of*
13 *this Act, the Secretary shall enter into an arrangement with*
14 *the National Academy of Sciences for the Academy to—*

15 (1) *conduct a study on—*

16 (A) *the obstacles to accelerating the re-*
17 *search, development, demonstration, and com-*
18 *mercial application cycle for energy technology;*
19 *and*

20 (B) *the adequacy of Department policies*
21 *and procedures for, and oversight of, technology*
22 *transfer-related disputes between contractors of*
23 *the Department and the private sector; and*

24 (2) *report to Congress on recommendations devel-*
25 *oped as a result of the study.*

1 **SEC. 1313. REPORT ON RESEARCH AND DEVELOPMENT PRO-**
2 **GRAM EVALUATION METHODOLOGIES.**

3 (a) *IN GENERAL.*—Not later than 180 days after the
4 date of enactment of this Act, the Secretary shall enter into
5 appropriate arrangements with the National Academy of
6 Sciences to investigate and report on the scientific and tech-
7 nical merits of any evaluation methodology currently in use
8 or proposed for use in relation to the scientific and technical
9 programs of the Department by the Secretary or other Fed-
10 eral official.

11 (b) *REPORT.*—Not later than 180 days after receiving
12 the report of the National Academy of Sciences, the Sec-
13 retary shall submit to Congress a report, along with any
14 other views or plans of the Secretary with respect to the
15 future use of the evaluation methodology.

16 **SEC. 1314. TRANSMISSION SYSTEM MONITORING STUDY.**

17 (a) *IN GENERAL.*—Not later than 180 days after the
18 date of enactment of this Act, the Secretary and the Chair-
19 person of the Federal Energy Regulatory Commission shall
20 conduct a study, and submit to Congress a report, on any
21 action the Secretary determines to be necessary to establish
22 a system that makes available to all transmission system
23 owners and regional transmission organizations in the
24 Eastern and Western Interconnections real-time informa-
25 tion on the functional status of all transmission lines with-
26 in those Interconnections.

1 (b) *INCLUSIONS.*—*The study under this section shall*
2 *include—*

3 (1) *an assessment of any technical method of im-*
4 *plementing the information transmission system de-*
5 *scribed in subsection (a); and*

6 (2) *an identification of any action the Secretary*
7 *and the Chairperson shall carry out to implement the*
8 *information transmission system.*

9 **SEC. 1315. INTERAGENCY REVIEW OF COMPETITION IN THE**
10 **WHOLESALE AND RETAIL MARKETS FOR**
11 **ELECTRIC ENERGY.**

12 (a) *TASK FORCE.*—*There is established an inter-agen-*
13 *cy task force, to be known as the “Electric Energy Market*
14 *Competition Task Force” (referred to in this section as the*
15 *“task force”), consisting of 5 members—*

16 (1) *1 of whom shall be an employee of the De-*
17 *partment of Justice, to be appointed by the Attorney*
18 *General of the United States;*

19 (2) *1 of whom shall be an employee of the Fed-*
20 *eral Energy Regulatory Commission, to be appointed*
21 *by the Chairperson of that Commission;*

22 (3) *1 of whom shall be an employee of the Fed-*
23 *eral Trade Commission, to be appointed by the Chair-*
24 *person of that Commission;*

1 (4) 1 of whom shall be an employee of the De-
2 partment, to be appointed by the Secretary; and

3 (5) 1 of whom shall be an employee of the Rural
4 Utilities Service, to be appointed by the Secretary of
5 Agriculture.

6 (b) *STUDY AND REPORT.*—

7 (1) *STUDY.*—The task force shall conduct a study
8 and analysis of competition within the wholesale and
9 retail market for electric energy in the United States.

10 (2) *REPORT.*—

11 (A) *FINAL REPORT.*—Not later than 1 year
12 after the date of enactment of this Act, the task
13 force shall submit to Congress a final report on
14 the findings of the task force under paragraph
15 (1).

16 (B) *PUBLIC COMMENT.*—Not later than the
17 date that is 60 days before a final report is sub-
18 mitted to Congress under subparagraph (A), the
19 task force shall—

20 (i) publish in the *Federal Register* a
21 draft of the report; and

22 (ii) provide an opportunity for public
23 comment on the report.

24 (c) *CONSULTATION.*—In conducting the study under
25 subsection (b), the task force shall consult with and solicit

1 *comments from any advisory entity of the task force, the*
2 *States, representatives of the electric power industry, and*
3 *the public.*

4 **SEC. 1316. STUDY ON THE BENEFITS OF ECONOMIC DIS-**
5 **PATCH.**

6 (a) *DEFINITION OF ECONOMIC DISPATCH.—In this*
7 *section, the term “economic dispatch” means the operation*
8 *of a generation facility to produce energy at the lowest cost*
9 *in order to reliably serve consumers, taking into consider-*
10 *ation any operational limit of a generation or transmission*
11 *facility.*

12 (b) *STUDY.—The Secretary, in coordination and con-*
13 *sultation with the States, shall conduct a study of—*

14 (1) *the procedures currently used by electric util-*
15 *ities to carry out economic dispatch;*

16 (2) *possible revisions to those procedures to im-*
17 *prove the ability of nonutility generation resources to*
18 *offer the output of the resources for sale for inclusion*
19 *in economic dispatch; and*

20 (3) *the potential benefits to residential, commer-*
21 *cial, and industrial electricity consumers, nationally*
22 *and in each State, of revising economic dispatch pro-*
23 *cedures to improve the ability of nonutility genera-*
24 *tion resources to offer the output of the resources for*
25 *inclusion in economic dispatch.*

1 (c) *REPORT TO CONGRESS AND THE STATES.*—Not
2 later than 90 days after the date of enactment of this Act,
3 and annually thereafter, the Secretary shall submit to Con-
4 gress and each State a report describing the results of the
5 study under subsection (b), including recommendations of
6 the Secretary for such legislative and administrative ac-
7 tions as the Secretary determines to be appropriate.

8 **SEC. 1317. STUDY OF RAPID ELECTRICAL GRID RESTORA-**
9 **TION.**

10 (a) *STUDY.*—

11 (1) *IN GENERAL.*—The Secretary shall conduct a
12 study of the benefits of using mobile transformers and
13 mobile substations to rapidly restore electrical service
14 to areas subjected to blackouts as a result of—

15 (A) equipment failure;

16 (B) natural disasters;

17 (C) acts of terrorism; or

18 (D) war.

19 (2) *CONTENTS.*—The study under paragraph (1)
20 shall contain an analysis of—

21 (A) the feasibility of using mobile trans-
22 formers and mobile substations to reduce depend-
23 ence on foreign entities for key elements of the
24 electrical grid system of the United States;

1 (B) *the feasibility of using mobile trans-*
2 *formers and mobile substations to rapidly restore*
3 *electrical power to—*

4 (i) *military bases;*

5 (ii) *the Federal Government;*

6 (iii) *communications industries;*

7 (iv) *first responders; and*

8 (v) *other critical infrastructures, as de-*
9 *termined by the Secretary;*

10 (C) *the quantity of mobile transformers and*
11 *mobile substations necessary—*

12 (i) *to eliminate dependence on foreign*
13 *sources for key electrical grid components in*
14 *the United States;*

15 (ii) *to rapidly deploy technology to*
16 *fully restore full electrical service to*
17 *prioritized Governmental functions; and*

18 (iii) *to identify manufacturing sources*
19 *in existence on the date of enactment of this*
20 *Act that have previously manufactured spe-*
21 *cialized mobile transformer or mobile sub-*
22 *station products for Federal agencies.*

23 (b) *REPORT.—*

24 (1) *IN GENERAL.—Not later than 1 year after*
25 *the date of enactment of this Act, the Secretary shall*

1 submit to the President and Congress a report on the
2 study under subsection (a).

3 (2) *INCLUSION.*—The report shall include a de-
4 scription of the results of the analysis under sub-
5 section (a)(2).

6 **SEC. 1318. STUDY OF DISTRIBUTED GENERATION.**

7 (a) *STUDY.*—

8 (1) *IN GENERAL.*—

9 (A) *POTENTIAL BENEFITS.*—The Secretary,
10 in consultation with the Federal Energy Regu-
11 latory Commission, shall conduct a study of the
12 potential benefits of cogeneration and small
13 power production.

14 (B) *RECIPIENTS.*—The benefits described in
15 subparagraph (A) include benefits that are re-
16 ceived directly or indirectly by—

17 (i) an electricity distribution or trans-
18 mission service provider;

19 (ii) other customers served by an elec-
20 tricity distribution or transmission service
21 provider; and

22 (iii) the general public in the area
23 served by the public utility in which the co-
24 generator or small power producer is lo-
25 cated.

1 (2) *INCLUSIONS.—The study shall include an*
2 *analysis of—*

3 (A) *the potential benefits of—*

4 (i) *increased system reliability;*

5 (ii) *improved power quality;*

6 (iii) *the provision of ancillary services;*

7 (iv) *reduction of peak power require-*
8 *ments through onsite generation;*

9 (v) *the provision of reactive power or*
10 *volt-ampere reactives;*

11 (vi) *an emergency supply of power;*

12 (vii) *offsets to investments in genera-*
13 *tion, transmission, or distribution facilities*
14 *that would otherwise be recovered through*
15 *rates;*

16 (viii) *diminished land use effects and*
17 *right-of-way acquisition costs; and*

18 (ix) *reducing the vulnerability of a*
19 *system to terrorism; and*

20 (B) *any rate-related issue that may impede*
21 *or otherwise discourage the expansion of cogen-*
22 *eration and small power production facilities,*
23 *including a review of whether rates, rules, or*
24 *other requirements imposed on the facilities are*
25 *comparable to rates imposed on customers of the*

1 *same class that do not have cogeneration or*
2 *small power production.*

3 (3) *VALUATION OF BENEFITS.*—*In carrying out*
4 *the study, the Secretary shall determine an appro-*
5 *priate method of valuing potential benefits under*
6 *varying circumstances for individual cogeneration or*
7 *small power production units.*

8 (b) *REPORT.*—*Not later than 18 months after the date*
9 *of enactment of this Act, the Secretary shall—*

10 (1) *complete the study;*

11 (2) *provide an opportunity for public comment*
12 *on the results of the study; and*

13 (3) *submit to the President and Congress a re-*
14 *port describing—*

15 (A) *the results of the study; and*

16 (B) *information relating to the public com-*
17 *ments received under paragraph (2).*

18 (c) *PUBLICATION.*—*After submission of the report*
19 *under subsection (b) to the President and Congress, the Sec-*
20 *retary shall publish the report.*

21 **SEC. 1319. STUDY ON INVENTORY OF PETROLEUM AND NAT-**
22 **URAL GAS STORAGE.**

23 (a) *DEFINITION OF PETROLEUM.*—*In this section, the*
24 *term “petroleum” means—*

25 (1) *crude oil;*

- 1 (2) *motor gasoline;*
- 2 (3) *jet fuel;*
- 3 (4) *distillates; and*
- 4 (5) *propane.*

5 **(b) STUDY.—**

6 (1) *IN GENERAL.—The Secretary shall conduct a*
7 *study of petroleum and natural gas storage capacity*
8 *and operational inventory levels, nationwide and by*
9 *major geographical regions.*

10 (2) *INCLUSIONS.—The study shall include an*
11 *analysis of, for petroleum and natural gas—*

12 (A) *historical normal ranges of inventory*
13 *levels;*

14 (B) *historical and projected storage capac-*
15 *ity trends;*

16 (C) *estimated operation inventory levels*
17 *below which outages, delivery slowdown, ration-*
18 *ing, interruptions in service, or other indicators*
19 *of shortage begin to appear;*

20 (D) *explanations for inventory levels drop-*
21 *ping below normal ranges; and*

22 (E) *the ability of industry to meet the de-*
23 *mand of the United States for petroleum and*
24 *natural gas without shortages or price spikes, if*
25 *inventory levels are below normal ranges.*

1 (c) *REPORT.*—Not later than 1 year after the date of
2 enactment of this Act, the Secretary shall submit to Con-
3 gress a report on the results of the study, including—

4 (1) *the findings of the study; and*

5 (2) *any recommendations of the Secretary for*
6 *preventing future supply shortages.*

7 **SEC. 1320. NATURAL GAS SUPPLY SHORTAGE REPORT.**

8 (a) *IN GENERAL.*—Not later than 180 days after the
9 date of enactment of this Act, the Secretary shall submit
10 to Congress a report on natural gas supplies and demand.

11 (b) *PURPOSE.*—The purpose of the report under sub-
12 section (a) is to develop recommendations for achieving a
13 balance between natural gas supply and demand in order
14 to—

15 (1) *provide residential consumers with natural*
16 *gas at reasonable and stable prices;*

17 (2) *accommodate long-term maintenance and*
18 *growth of domestic natural gas-dependent industrial,*
19 *manufacturing, and commercial enterprises;*

20 (3) *facilitate the attainment of national ambient*
21 *air quality standards under the Clean Air Act (43*
22 *U.S.C. 7401 et seq.);*

23 (4) *achieve continued progress in reducing the*
24 *emissions associated with electric power generation;*
25 *and*

1 (5) support the development of the preliminary
2 phases of hydrogen-based energy technologies.

3 (c) *COMPREHENSIVE ANALYSIS*.—The report shall in-
4 clude a comprehensive analysis of, for the period beginning
5 on January 1, 2004, and ending on December 31, 2015,
6 natural gas supply and demand in the United States,
7 including—

8 (1) estimates of annual domestic demand for
9 natural gas, taking into consideration the effect of
10 Federal policies and actions that are likely to increase
11 or decrease the demand for natural gas;

12 (2) projections of annual natural gas supplies,
13 from domestic and foreign sources, under Federal
14 policies in existence on the date of enactment of this
15 Act;

16 (3) an identification of estimated natural gas
17 supplies that are not available under those Federal
18 policies;

19 (4) scenarios for decreasing natural gas demand
20 and increasing natural gas supplies that compare the
21 relative economic and environmental impacts of Fed-
22 eral policies that—

23 (A) encourage or require the use of natural
24 gas to meet air quality, carbon dioxide emission
25 reduction, or energy security goals;

1 (B) encourage or require the use of energy
2 sources other than natural gas, including coal,
3 nuclear, and renewable sources;

4 (C) support technologies to develop alter-
5 native sources of natural gas and synthetic gas,
6 including coal gasification technologies;

7 (D) encourage or require the use of energy
8 conservation and demand side management
9 practices; and

10 (E) affect access to domestic natural gas
11 supplies; and

12 (5) recommendations for Federal actions to
13 achieve the purposes described in subsection (b), in-
14 cluding recommendations that—

15 (A) encourage or require the use of energy
16 sources other than natural gas, including coal,
17 nuclear, and renewable sources;

18 (B) encourage or require the use of energy
19 conservation or demand side management prac-
20 tices;

21 (C) support technologies for the development
22 of alternative sources of natural gas and syn-
23 thetic gas, including coal gasification tech-
24 nologies; and

1 (D) would improve access to domestic nat-
2 ural gas supplies.

3 (d) CONSULTATION.—In preparing the report under
4 subsection (a), the Secretary shall consult with—

5 (1) experts in natural gas supply and demand;
6 and

7 (2) representatives of—

8 (A) State and local governments;

9 (B) tribal organizations; and

10 (C) consumer and other organizations.

11 (e) HEARINGS.—In preparing the report under sub-
12 section (a), the Secretary may hold public hearings and
13 provide other opportunities for public comment, as the Sec-
14 retary considers appropriate.

15 **SEC. 1321. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING**
16 **AND DEVELOPMENT PRACTICES.**

17 (a) REVIEW.—

18 (1) IN GENERAL.—In consultation with affected
19 private surface owners, representatives of the oil and
20 gas industry, and other interested parties, the Sec-
21 retary of the Interior shall undertake a review of the
22 current policies and practices with respect to manage-
23 ment of Federal subsurface oil and gas development
24 activities and the effects of those activities on the pri-
25 vately owned surface.

1 (2) *INCLUSIONS.*—*The review shall include—*

2 (A) *a comparison of the rights and respon-*
3 *sibilities under existing mineral and land law*
4 *for the owner of a Federal mineral lease, the pri-*
5 *vate surface owners and the Department;*

6 (B) *a comparison of the surface owner con-*
7 *sent provisions in section 714 of the Surface*
8 *Mining Control and Reclamation Act of 1977*
9 *(30 U.S.C. 1304) concerning surface mining of*
10 *Federal coal deposits and the surface owner con-*
11 *sent provisions for oil and gas development, in-*
12 *cluding coalbed methane production;*

13 (C) *an analysis and comparison of existing*
14 *State laws addressing surface owner protection*
15 *on split estates in which the surface estate is pri-*
16 *vately held and the subsurface estate is federally*
17 *owned, or other split estate situations; and*

18 (D) *recommendations for administrative or*
19 *legislative action necessary to facilitate reason-*
20 *able access for Federal oil and gas activities*
21 *while addressing surface owner concerns and*
22 *minimizing impacts to private surface.*

23 (b) *REPORT.*—*The Secretary of the Interior shall re-*
24 *port the results of such review to Congress not later than*
25 *180 days after the date of enactment of this Act.*

1 **SEC. 1322. RESOLUTION OF FEDERAL RESOURCE DEVELOP-**
2 **MENT CONFLICTS IN THE POWDER RIVER**
3 **BASIN.**

4 (a) *REVIEW.*—*The Secretary of the Interior shall re-*
5 *view Federal and State laws in existence on the date of en-*
6 *actment of this Act in order to resolve any conflict relating*
7 *to the Powder River Basin in Wyoming and Montana*
8 *between—*

9 (1) *the development of Federal coal; and*
10 (2) *the development of Federal and non-Federal*
11 *coalbed methane.*

12 (b) *REPORT.*—*Not later than 180 days after the date*
13 *of enactment of this Act, the Secretary of the Interior shall*
14 *submit to Congress a report that—*

15 (1) *describes methods of resolving a conflict de-*
16 *scribed in subsection (a); and*
17 (2) *identifies a method preferred by the Sec-*
18 *retary of the Interior, including proposed legislative*
19 *language, if any, required to implement the method.*

20 **SEC. 1323. STUDY OF ENERGY EFFICIENCY STANDARDS.**

21 (a) *STUDY.*—*The Secretary shall enter into a contract*
22 *with the National Academy of Sciences under which the Na-*
23 *tional Academy of Sciences, not later than 1 year after the*
24 *date of enactment of this Act, shall conduct a study of*
25 *whether the goals of energy efficiency standards are best*
26 *served—*

1 (1) *by measuring energy consumed, and effi-*
2 *ciency improvements, at the site of energy consump-*
3 *tion; or*

4 (2) *through the full fuel cycle, beginning at the*
5 *source of energy production.*

6 (b) *REPORT.*—*Not later than 1 year after the date of*
7 *enactment of this Act, the Secretary shall submit to Con-*
8 *gress a report on the study under subsection (a).*

9 **SEC. 1324. TELECOMMUTING STUDY.**

10 (a) *DEFINITIONS.*—*In this section:*

11 (1) *FEDERAL EMPLOYEE.*—*The term “Federal*
12 *employee” has the meaning given the term “em-*
13 *ployee” in section 2105 of title 5, United States Code.*

14 (2) *TELECOMMUTING.*—*The term “telecom-*
15 *muting” means the performance of work functions*
16 *using communications technologies, which eliminates*
17 *or substantially reduces the need to commute to and*
18 *from traditional worksites.*

19 (b) *STUDY REQUIRED.*—*The Secretary, in consulta-*
20 *tion with the Chairperson of the Federal Energy Regulatory*
21 *Commission, the Director of the Office of Personnel Manage-*
22 *ment, the Administrator of General Services, and the Ad-*
23 *ministrator of National Telecommunications and Informa-*
24 *tion Administration, shall conduct a study of the energy*

1 *conservation implications of the widespread adoption of*
2 *telecommuting by Federal employees in the United States.*

3 (c) *INCLUSIONS.—The study under subsection (b) shall*
4 *include an analysis of the following subjects in relation to*
5 *the energy saving potential of telecommuting by Federal*
6 *employees:*

7 (1) *Reductions of energy use and energy costs in*
8 *commuting and regular office heating, cooling, and*
9 *other operations.*

10 (2) *Other energy reductions accomplished by tele-*
11 *commuting.*

12 (3) *Existing regulatory barriers that hamper*
13 *telecommuting, including barriers to broadband tele-*
14 *communications services deployment.*

15 (4) *Collateral benefits to the environment, family*
16 *life, and other values.*

17 (d) *REPORT.—Not later than 180 days after the date*
18 *of enactment of this Act, the Secretary shall submit to the*
19 *President and Congress a report on the study under sub-*
20 *section (b), including a description of the results of the*
21 *analysis of each of subject referred to in subsection (c).*

22 **SEC. 1325. OIL BYPASS FILTRATION TECHNOLOGY.**

23 *The Secretary and the Administrator of the Environ-*
24 *mental Protection Agency shall—*

1 (1) *conduct a joint study of the benefits of oil by-*
2 *pass filtration technology in—*

3 (A) *reducing demand for oil; and*

4 (B) *protecting the environment;*

5 (2) *evaluate various products and manufacturers*
6 *with respect to oil bypass filtration technology; and*

7 (3) *after conducting the evaluation under para-*
8 *graph (2), examine the feasibility of using oil bypass*
9 *filtration technology in Federal motor vehicle fleets.*

10 **SEC. 1326. TOTAL INTEGRATED THERMAL SYSTEMS.**

11 *The Secretary shall—*

12 (1) *conduct a study of the benefits of total inte-*
13 *grated thermal systems in—*

14 (A) *reducing demand for oil; and*

15 (B) *protecting the environment; and*

16 (2) *examine the feasibility of using total inte-*
17 *grated thermal systems in Federal motor vehicle fleets*
18 *(including the motor vehicle fleet of the Department*
19 *of Defense).*

20 **SEC. 1327. UNIVERSITY COLLABORATION.**

21 (a) *REPORT.*—*Not later than 2 years after the date*
22 *of enactment of this Act, the Secretary shall submit to Con-*
23 *gress a report that examines the feasibility of promoting*
24 *collaborations between large institutions of higher education*
25 *and small institutions of higher education (as determined*

1 *by the Secretary) through grants, contracts, and cooperative*
2 *agreements made by the Secretary for energy projects.*

3 (b) *CONSIDERATION.*—*In preparing the report under*
4 *subsection (a), the Secretary shall take into consideration*
5 *the feasibility of providing incentives for including small*
6 *institutions of higher education (including institutions that*
7 *primarily serve minorities), as determined by the Sec-*
8 *retary, in—*

9 (1) *energy research grants;*

10 (2) *contracts; and*

11 (3) *cooperative agreements.*

12 **SEC. 1328. HYDROGEN PARTICIPATION STUDY.**

13 *Not later than 1 year after the date of enactment of*
14 *this Act, the Secretary shall submit to Congress a report*
15 *evaluating methodologies to ensure the widest participation*
16 *practicable in setting goals and milestones under the hydro-*
17 *gen program of the Department, including international*
18 *participants.*

19 **SEC. 1329. OVERALL EMPLOYMENT IN A HYDROGEN ECON-**

20 **OMY.**

21 (a) *STUDY.*—

22 (1) *IN GENERAL.*—*The Secretary shall carry out*
23 *a study of the likely effects of a transition to a hydro-*
24 *gen economy on overall employment in the United*
25 *States.*

1 (2) *CONTENTS.*—*In completing the study, the*
2 *Secretary shall take into consideration—*

3 (A) *the replacement effects of new goods and*
4 *services;*

5 (B) *international competition;*

6 (C) *workforce training requirements;*

7 (D) *multiple possible fuel cycles, including*
8 *usage of raw materials;*

9 (E) *rates of market penetration of tech-*
10 *nologies; and*

11 (F) *regional variations based on geography.*

12 (b) *REPORT.*—*Not later than 18 months after the date*
13 *of enactment of this Act, the Secretary shall submit to Con-*
14 *gress a report describing the findings, conclusions, and rec-*
15 *ommendations of the study under subsection (a).*

16 **SEC. 1330. STUDY OF BEST MANAGEMENT PRACTICES FOR**
17 **ENERGY RESEARCH AND DEVELOPMENT PRO-**
18 **GRAMS.**

19 (a) *IN GENERAL.*—*The Secretary shall enter into an*
20 *arrangement with the National Academy of Public Admin-*
21 *istration under which the Academy shall conduct a study*
22 *to assess management practices for research, development,*
23 *and demonstration programs at the Department.*

24 (b) *SCOPE OF THE STUDY.*—*The study shall*
25 *consider—*

1 (1) *management practices that act as barriers*
2 *between the Office of Science and offices conducting*
3 *mission-oriented research;*

4 (2) *recommendations for management practices*
5 *that would improve coordination and bridge the inno-*
6 *vation gap between the Office of Science and offices*
7 *conducting mission-oriented research;*

8 (3) *the applicability of the management prac-*
9 *tices used by the Department of Defense Advanced Re-*
10 *search Programs Agency to research programs at the*
11 *Department;*

12 (4) *the advisability of creating an agency within*
13 *the Department modeled after the Department of De-*
14 *fense Advanced Research Projects Agency;*

15 (5) *recommendations for management practices*
16 *that could best encourage innovative research and effi-*
17 *ciency at the Department; and*

18 (6) *any other relevant considerations.*

19 (c) *REPORT.—Not later than 18 months after the date*
20 *of enactment of this Act, the Secretary shall submit to Con-*
21 *gress a report on the study conducted under this section.*

1 **SEC. 1331. EFFECT OF ELECTRICAL CONTAMINANTS ON RE-**
2 **LIABILITY OF ENERGY PRODUCTION SYS-**
3 **TEMS.**

4 *Not later than 180 days after the date of enactment*
5 *of this Act, the Secretary shall enter into a contract with*
6 *the National Academy of Sciences under which the National*
7 *Academy of Sciences shall determine the effect that electrical*
8 *contaminants (such as tin whiskers) may have on the reli-*
9 *ability of energy production systems, including nuclear en-*
10 *ergy.*

11 **SEC. 1332. ALTERNATIVE FUELS REPORTS.**

12 *(a) IN GENERAL.—Not later than 1 year after the date*
13 *of enactment of this Act, the Secretary shall submit to Con-*
14 *gress reports on the potential for each of biodiesel and*
15 *hythane to become major, sustainable, alternative fuels.*

16 *(b) BIODIESEL REPORT.—The report relating to bio-*
17 *diesel submitted under subsection (a) shall—*

18 *(1) provide a detailed assessment of—*

19 *(A) potential biodiesel markets and manu-*
20 *facturing capacity; and*

21 *(B) environmental and energy security ben-*
22 *efits with respect to the use of biodiesel;*

23 *(2) identify any impediments, especially in in-*
24 *frastructure needed for production, distribution, and*
25 *storage, to biodiesel becoming a substantial source of*

1 *fuel for conventional diesel and heating oil applica-*
2 *tions;*

3 *(3) identify strategies to enhance the commercial*
4 *deployment of biodiesel; and*

5 *(4) include an examination and recommenda-*
6 *tions, as appropriate, of the ways in which biodiesel*
7 *may be modified to be a cleaner-burning fuel.*

8 *(c) HYTHANE REPORT.—The report relating to*
9 *hythane submitted under subsection (a) shall—*

10 *(1) provide a detailed assessment of potential*
11 *hythane markets and the research and development*
12 *activities that are necessary to facilitate the commer-*
13 *cialization of hythane as a competitive, environ-*
14 *mentally-friendly transportation fuel;*

15 *(2) address—*

16 *(A) the infrastructure necessary to produce,*
17 *blend, distribute, and store hythane for wide-*
18 *spread commercial purposes; and*

19 *(B) other potential market barriers to the*
20 *commercialization of hythane;*

21 *(3) examine the viability of producing hydrogen*
22 *using energy-efficient, environmentally friendly meth-*
23 *ods so that the hydrogen can be blended with natural*
24 *gas to produce hythane; and*

1 (4) *include an assessment of the modifications*
2 *that would be required to convert compressed natural*
3 *gas vehicle engines to engines that use hythane as*
4 *fuel.*

5 (d) *GRANTS FOR REPORT COMPLETION.—The Sec-*
6 *retary may use such sums as are available to the Secretary*
7 *to provide, to 1 or more colleges or universities selected by*
8 *the Secretary, grants for use in carrying out research to*
9 *assist the Secretary in preparing the reports required to*
10 *be submitted under subsection (a).*

11 **SEC. 1333. FINAL ACTION ON REFUNDS FOR EXCESSIVE**
12 **CHARGES.**

13 (a) *FINDINGS.—Congress finds that—*

14 (1) *The state of California experienced an energy*
15 *crisis;*

16 (2) *FERC issued an order requiring a refund of*
17 *the portion of charges on the sale of electric energy*
18 *that was unjust or unreasonable during that crisis;*

19 (3) *As of the date of enactment of this act, none*
20 *of the refunds ordered to date have been received by*
21 *the state of California; and*

22 (4) *the Commission has ruled that the state of*
23 *California is entitled to approximately \$3 billion in*
24 *refunds; the state of California maintains that that*
25 *\$8.9 billion in refunds is owed.*

1 **(b) FERC shall—**

2 (1) *seek to conclude its investigation into the un-*
3 *just or unreasonable charges incurred by California*
4 *during the 2000–2001 electricity crisis as soon as pos-*
5 *sible;*

6 (2) *seek to ensure that refunds the Commission*
7 *determines are owed to the State of California are*
8 *paid to the state of California; and*

9 (3) *submit to Congress a report by December 31,*
10 *2005 describing the actions taken by the Commission*
11 *to date under this section and timetables for further*
12 *actions.*

13 **SEC. 1334. FUEL CELL AND HYDROGEN TECHNOLOGY**
14 **STUDY.**

15 **(a) FINDINGS.—***Congress finds that—*

16 (1) *according to the National Academy of*
17 *Sciences, “Greenhouse gases are accumulating in*
18 *Earth’s atmosphere as a result of human activities,*
19 *causing surface air temperatures and subsurface*
20 *ocean temperatures to rise . . . Human-induced*
21 *warming and associated sea level rises are expected to*
22 *continue through the 21st century.”;*

23 (2) *in 2001, the Intergovernmental Panel on Cli-*
24 *mate Change (IPCC) concluded that the average tem-*
25 *perature of the Earth can be expected to rise between*

1 2.5 and 10.4 degrees Fahrenheit in this century and
2 “there is new and stronger evidence that most of the
3 warming observed over the last 50 years is attrib-
4 utable to human activities”;

5 (3) the National Academy of Sciences has stated
6 that “the IPCC’s conclusion that most of the observed
7 warming of the last 50 years is likely to have been
8 due to the increase of greenhouse gas concentrations
9 accurately reflects the current thinking of the sci-
10 entific community on this issue” and that “there is
11 general agreement that the observed warming is real
12 and particularly strong within the past twenty
13 years”;

14 (4) a significant Federal investment toward the
15 development of fuel cell technologies and the transi-
16 tion from petroleum to hydrogen in vehicles could sig-
17 nificantly contribute to the reduction of carbon diox-
18 ide emissions by reducing fuel consumption;

19 (5) a massive infusion of resources and leader-
20 ship from the Federal Government would be needed to
21 create the necessary fuel cell technologies that provide
22 alternatives to petroleum and the more efficient use of
23 energy; and

24 (6) the Federal Government would need to com-
25 mit to developing, in conjunction with private indus-

1 *try and academia, advanced vehicle technologies and*
2 *the necessary hydrogen infrastructure to provide al-*
3 *ternatives to petroleum.*

4 *(b) STUDY.—*

5 *(1) IN GENERAL.—As soon as practicable after*
6 *the date of enactment of this Act, the Secretary shall*
7 *enter into a contract with the National Academy of*
8 *Sciences and the National Research Council to carry*
9 *out a study of fuel cell technologies that provides a*
10 *budget roadmap for the development of fuel cell tech-*
11 *nologies and the transition from petroleum to hydro-*
12 *gen in a significant percentage of the vehicles sold by*
13 *2020.*

14 *(2) REQUIREMENTS.—In carrying out the study,*
15 *the National Academy of Sciences and the National*
16 *Research Council shall—*

17 *(A) establish as a goal the maximum per-*
18 *centage practicable of vehicles that the National*
19 *Academy of Sciences and the National Research*
20 *Council determines can be fueled by hydrogen by*
21 *2020;*

22 *(B) determine the amount of Federal and*
23 *private funding required to meet the goal estab-*
24 *lished under subparagraph (A);*

1 (C) determine what actions are required to
2 meet the goal established under subparagraph
3 (A);

4 (D) examine the need for expanded and en-
5 hanced Federal research and development pro-
6 grams, changes in regulations, grant programs,
7 partnerships between the Federal Government
8 and industry, private sector investments, infra-
9 structure investments by the Federal Government
10 and industry, educational and public informa-
11 tion initiatives, and Federal and State tax in-
12 centives to meet the goal established under sub-
13 paragraph (A);

14 (E) consider whether other technologies
15 would be less expensive or could be more quickly
16 implemented than fuel cell technologies to achieve
17 significant reductions in carbon dioxide emis-
18 sions;

19 (F) take into account any reports relating
20 to fuel cell technologies and hydrogen-fueled vehi-
21 cles, including—

22 (i) the report prepared by the National
23 Academy of Engineering and the National
24 Research Council in 2004 entitled “Hydro-

1 *gen Economy: Opportunities, Costs, Bar-*
2 *riers, and R&D Needs”;* and

3 *(ii) the report prepared by the U.S.*
4 *Fuel Cell Council in 2003 entitled “Fuel*
5 *Cells and Hydrogen: The Path Forward”;*

6 *(G) consider the challenges, difficulties, and*
7 *potential barriers to meeting the goal established*
8 *under subparagraph (A); and*

9 *(H) with respect to the budget roadmap—*

10 *(i) specify the amount of funding re-*
11 *quired on an annual basis from the Federal*
12 *Government and industry to carry out the*
13 *budget roadmap; and*

14 *(ii) specify the advantages and dis-*
15 *advantages to moving toward the transition*
16 *to hydrogen in vehicles in accordance with*
17 *the timeline established by the budget road-*
18 *map.*

19 **SEC. 1335. PASSIVE SOLAR TECHNOLOGIES.**

20 *(a) DEFINITION OF PASSIVE SOLAR TECHNOLOGY.—*

21 *In this section, the term “passive solar technology” means*
22 *a passive solar technology, including daylighting, that—*

23 *(1) is used exclusively to avoid electricity use;*

24 *and*

25 *(2) can be metered to determine energy savings.*

1 (b) *STUDY.*—*The Secretary shall conduct a study to*
2 *determine—*

3 (1) *the range of levelized costs of avoided elec-*
4 *tricity for passive solar technologies;*

5 (2) *the quantity of electricity displaced using*
6 *passive solar technologies in the United States as of*
7 *the date of enactment of this Act; and*

8 (3) *the projected energy savings from passive*
9 *solar technologies in 5, 10, 15, 20, and 25 years after*
10 *the date of enactment of this Act if—*

11 (A) *incentives comparable to the incentives*
12 *provided for electricity generation technologies*
13 *were provided for passive solar technologies; and*

14 (B) *no new incentives for passive solar tech-*
15 *nologies were provided.*

16 (c) *REPORT.*—*Not later than 120 days after the date*
17 *of enactment of this Act, the Secretary shall submit to Con-*
18 *gress a report that describes the results of the study under*
19 *subsection (b).*

20 **SEC. 1336. STUDY OF LINK BETWEEN ENERGY SECURITY**
21 **AND INCREASES IN VEHICLE MILES TRAV-**
22 **ELED.**

23 (a) *IN GENERAL.*—*The Secretary shall enter into an*
24 *arrangement with the National Academy of Sciences under*
25 *which the Academy shall conduct a study to assess the im-*

1 *plications on energy use and efficiency of land development*
2 *patterns in the United States.*

3 (b) *SCOPE.*—*The study shall consider—*

4 (1) *the correlation, if any, between land develop-*
5 *ment patterns and increases in vehicle miles traveled;*

6 (2) *whether petroleum use in the transportation*
7 *sector can be reduced through changes in the design*
8 *of development patterns;*

9 (3) *the potential benefits of—*

10 (A) *information and education programs*
11 *for State and local officials (including planning*
12 *officials) on the potential for energy savings*
13 *through planning, design, development, and in-*
14 *frastructure decisions;*

15 (B) *incorporation of location efficiency*
16 *models in transportation infrastructure planning*
17 *and investments; and*

18 (C) *transportation policies and strategies to*
19 *help transportation planners manage the de-*
20 *mand for the number and length of vehicle trips,*
21 *including trips that increase the viability of*
22 *other means of travel; and*

23 (4) *such other considerations relating to the*
24 *study topic as the National Academy of Sciences finds*
25 *appropriate.*

1 (c) *REPORT.*—Not later than 2 years after the date of
2 enactment of this Act, the National Academy of Sciences
3 shall submit to the Secretary and Congress a report on the
4 study conducted under this section.

5 **SEC. 1337. STUDY OF AVAILABILITY OF SKILLED WORKERS.**

6 (a) *IN GENERAL.*—The Secretary shall enter into an
7 arrangement with the National Academy of Sciences under
8 which the National Academy of Sciences shall conduct a
9 study of the short-term and long-term availability of skilled
10 workers to meet the energy and mineral security require-
11 ments of the United States.

12 (b) *INCLUSIONS.*—The study shall include an analysis
13 of—

14 (1) the need for and availability of workers for
15 the oil, gas, and mineral industries;

16 (2) the availability of skilled labor at both entry
17 level and more senior levels; and

18 (3) recommendations for future actions needed to
19 meet future labor requirements.

20 (c) *REPORT.*—Not later than 2 years after the date of
21 enactment of this Act, the Secretary shall submit to Con-
22 gress a report that describes the results of the study.

1 **SEC. 1338. SCIENCE STUDY ON CUMULATIVE IMPACTS OF**
2 **MULTIPLE OFFSHORE LIQUEFIED NATURAL**
3 **GAS FACILITIES.**

4 (a) *IN GENERAL.*—*The Secretary (in consultation*
5 *with the National Oceanic Atmospheric Administration, the*
6 *Commandant of the Coast Guard, affected recreational and*
7 *commercial fishing industries and affected energy and*
8 *transportation stakeholders) shall carry out a study and*
9 *compile existing science (including studies and data) to de-*
10 *termine the risks or benefits presented by cumulative im-*
11 *pacts of multiple offshore liquefied natural gas facilities*
12 *reasonably assumed to be constructed in an area of the Gulf*
13 *of Mexico using the open-rack vaporization system.*

14 (b) *ACCURACY.*—*In carrying out subsection (a), the*
15 *Secretary shall verify the accuracy of available science and*
16 *develop a science-based evaluation of significant short-term*
17 *and long-term cumulative impacts, both adverse and bene-*
18 *ficial, of multiple offshore liquefied natural gas facilities*
19 *reasonably assumed to be constructed in an area of the Gulf*
20 *of Mexico using or proposing the open-rack vaporization*
21 *system on the fisheries and marine populations in the vicin-*
22 *ity of the facility.*

23 **TITLE XIV—INCENTIVES FOR**
24 **INNOVATIVE TECHNOLOGIES**

25 **SEC. 1401. DEFINITIONS.**

26 *In this title:*

1 (1) *COMMERCIAL TECHNOLOGY.*—

2 (A) *IN GENERAL.*—*The term “commercial*
3 *technology” means a technology in general use in*
4 *the commercial marketplace.*

5 (B) *INCLUSIONS.*—*The term “commercial*
6 *technology” does not include a technology solely*
7 *by use of the technology in a demonstration*
8 *project funded by the Department.*

9 (2) *COST.*—*The term “cost” has the meaning*
10 *given the term “cost of a loan guarantee” within the*
11 *meaning of section 502(5)(C) of the Federal Credit*
12 *Reform Act of 1990 (2 U.S.C. 661a(5)(C)).*

13 (3) *ELIGIBLE PROJECT.*—*The term “eligible*
14 *project” means a project described in section 1403.*

15 (4) *GUARANTEE.*—

16 (A) *IN GENERAL.*—*The term “guarantee”*
17 *has the meaning given the term “loan guar-*
18 *antee” in section 502 of the Federal Credit Re-*
19 *form Act of 1990 (2 U.S.C. 661a).*

20 (B) *INCLUSION.*—*The term “guarantee” in-*
21 *cludes a loan guarantee commitment (as defined*
22 *in section 502 of the Federal Credit Reform Act*
23 *of 1990 (2 U.S.C. 661a)).*

1 (5) *OBLIGATION.*—*The term “obligation” means*
2 *the loan or other debt obligation that is guaranteed*
3 *under this section.*

4 **SEC. 1402. TERMS AND CONDITIONS.**

5 (a) *IN GENERAL.*—*Except for division C of Public*
6 *Law 108–324, the Secretary shall make guarantees under*
7 *this or any other Act for projects on such terms and condi-*
8 *tions as the Secretary determines, after consultation with*
9 *the Secretary of the Treasury, only in accordance with this*
10 *section.*

11 (b) *SPECIFIC APPROPRIATION OR CONTRIBUTION.*—*No*
12 *guarantee shall be made unless—*

13 (1) *an appropriation for the cost has been made;*
14 *or*

15 (2) *the Secretary has received from the borrower*
16 *a payment in full for the cost of the obligation and*
17 *deposited the payment into the Treasury.*

18 (c) *AMOUNT.*—*Unless otherwise provided by law, a*
19 *guarantee by the Secretary shall not exceed an amount*
20 *equal to 80 percent of the project cost of the facility that*
21 *is the subject of the guarantee, as estimated at the time at*
22 *which the guarantee is issued.*

23 (d) *REPAYMENT.*—

24 (1) *IN GENERAL.*—*No guarantee shall be made*
25 *unless the Secretary determines that there is reason-*

1 *able prospect of repayment of the principal and inter-*
2 *est on the obligation by the borrower.*

3 (2) *AMOUNT.*—*No guarantee shall be made un-*
4 *less the Secretary determines that the amount of the*
5 *obligation (when combined with amounts available to*
6 *the borrower from other sources) will be sufficient to*
7 *carry out the project.*

8 (3) *SUBORDINATION.*—*The obligation shall be*
9 *subject to the condition that the obligation is not sub-*
10 *ordinate to other financing.*

11 (e) *INTEREST RATE.*—*An obligation shall bear interest*
12 *at a rate that does not exceed a level that the Secretary*
13 *determines appropriate, taking into account the prevailing*
14 *rate of interest in the private sector for similar loans and*
15 *risks.*

16 (f) *TERM.*—*The term of an obligation shall require full*
17 *repayment over a period not to exceed the lesser of—*

18 (1) *30 years; or*

19 (2) *90 percent of the projected useful life of the*
20 *physical asset to be financed by the obligation (as de-*
21 *termined by the Secretary).*

22 (g) *DEFAULTS.*—

23 (1) *PAYMENT BY SECRETARY.*—

24 (A) *IN GENERAL.*—*If a borrower defaults on*
25 *the obligation (as defined in regulations promul-*

1 gated by the Secretary and specified in the guar-
2 antee contract), the holder of the guarantee shall
3 have the right to demand payment of the unpaid
4 amount from the Secretary.

5 (B) *PAYMENT REQUIRED.*—Within such pe-
6 riod as may be specified in the guarantee or re-
7 lated agreements, the Secretary shall pay to the
8 holder of the guarantee the unpaid interest on,
9 and unpaid principal of the obligation as to
10 which the borrower has defaulted, unless the Sec-
11 retary finds that there was no default by the bor-
12 rower in the payment of interest or principal or
13 that the default has been remedied.

14 (C) *FORBEARANCE.*—Nothing in this sub-
15 section precludes any forbearance by the holder
16 of the obligation for the benefit of the borrower
17 which may be agreed upon by the parties to the
18 obligation and approved by the Secretary.

19 (2) *SUBROGATION.*—

20 (A) *IN GENERAL.*—If the Secretary makes a
21 payment under paragraph (1), the Secretary
22 shall be subrogated to the rights of the recipient
23 of the payment as specified in the guarantee or
24 related agreements including, where appropriate,

1 *the authority (notwithstanding any other provi-*
2 *sion of law) to—*

3 *(i) complete, maintain, operate, lease,*
4 *or otherwise dispose of any property ac-*
5 *quired pursuant to such guarantee or re-*
6 *lated agreements; or*

7 *(ii) permit the borrower, pursuant to*
8 *an agreement with the Secretary, to con-*
9 *tinue to pursue the purposes of the project*
10 *if the Secretary determines this to be in the*
11 *public interest.*

12 *(B) SUPERIORITY OF RIGHTS.—The rights*
13 *of the Secretary, with respect to any property ac-*
14 *quired pursuant to a guarantee or related agree-*
15 *ments, shall be superior to the rights of any other*
16 *person with respect to the property.*

17 *(C) TERMS AND CONDITIONS.—A guarantee*
18 *agreement shall include such detailed terms and*
19 *conditions as the Secretary determines appro-*
20 *priate to—*

21 *(i) protect the interests of the United*
22 *States in the case of default; and*

23 *(ii) have available all the patents and*
24 *technology necessary for any person selected,*

1 including the Secretary, to complete and op-
2 erate the project.

3 (3) *PAYMENT OF PRINCIPAL AND INTEREST BY*
4 *SECRETARY.*—With respect to any obligation guaran-
5 teed under this section, the Secretary may enter into
6 a contract to pay, and pay, holders of the obligation,
7 for and on behalf of the borrower, from funds appro-
8 priated for that purpose, the principal and interest
9 payments which become due and payable on the un-
10 paid balance of the obligation if the Secretary finds
11 that—

12 (A)(i) the borrower is unable to meet the
13 payments and is not in default;

14 (ii) it is in the public interest to permit the
15 borrower to continue to pursue the purposes of
16 the project; and

17 (iii) the probable net benefit to the Federal
18 Government in paying the principal and interest
19 will be greater than that which would result in
20 the event of a default;

21 (B) the amount of the payment that the
22 Secretary is authorized to pay shall be no great-
23 er than the amount of principal and interest
24 that the borrower is obligated to pay under the
25 agreement being guaranteed; and

1 (C) *the borrower agrees to reimburse the*
2 *Secretary for the payment (including interest)*
3 *on terms and conditions that are satisfactory to*
4 *the Secretary.*

5 (4) *ACTION BY ATTORNEY GENERAL.—*

6 (A) *NOTIFICATION.—If the borrower de-*
7 *faults on an obligation, the Secretary shall notify*
8 *the Attorney General of the default.*

9 (B) *RECOVERY.—On notification, the Attor-*
10 *ney General shall take such action as is appro-*
11 *priate to recover the unpaid principal and inter-*
12 *est due from—*

13 (i) *such assets of the defaulting bor-*
14 *rower as are associated with the obligation;*
15 *or*

16 (ii) *any other security pledged to se-*
17 *cure the obligation.*

18 (h) *FEES.—*

19 (1) *IN GENERAL.—The Secretary shall charge*
20 *and collect fees for guarantees in amounts the Sec-*
21 *retary determines are sufficient to cover applicable*
22 *administrative expenses.*

23 (2) *AVAILABILITY.—Fees collected under this*
24 *subsection shall—*

1 (A) be deposited by the Secretary into the
2 Treasury; and

3 (B) remain available until expended, subject
4 to such other conditions as are contained in an-
5 nual appropriations Acts.

6 (i) *RECORDS; AUDITS.*—

7 (1) *IN GENERAL.*—A recipient of a guarantee
8 shall keep such records and other pertinent documents
9 as the Secretary shall prescribe by regulation, includ-
10 ing such records as the Secretary may require to fa-
11 cilitate an effective audit.

12 (2) *ACCESS.*—The Secretary and the Comptroller
13 General of the United States, or their duly authorized
14 representatives, shall have access, for the purpose of
15 audit, to the records and other pertinent documents.

16 (j) *FULL FAITH AND CREDIT.*—The full faith and
17 credit of the United States is pledged to the payment of
18 all guarantees issued under this section with respect to
19 principal and interest.

20 **SEC. 1403. ELIGIBLE PROJECTS.**

21 (a) *IN GENERAL.*—The Secretary may make guaran-
22 tees under this section only for projects that—

23 (1) avoid, reduce, or sequester air pollutants or
24 anthropogenic emissions of greenhouse gases; and

1 (2) *employ new or significantly improved tech-*
2 *nologies as compared to commercial technologies in*
3 *service in the United States at the time the guarantee*
4 *is issued.*

5 (b) *CATEGORIES.—Projects from the following cat-*
6 *egories shall be eligible for a guarantee under this section:*

7 (1) *Renewable energy systems.*

8 (2) *Advanced fossil energy technology (including*
9 *coal gasification meeting the criteria in subsection*
10 *(d)).*

11 (3) *Hydrogen fuel cell technology for residential,*
12 *industrial or –transportation applications.*

13 (4) *Advanced nuclear energy facilities.*

14 (5) *Carbon capture and sequestration practices*
15 *and technologies, including agricultural and forestry*
16 *practices that store and sequester carbon.*

17 (6) *Efficient electrical generation, transmission,*
18 *and distribution –technologies.*

19 (7) *Efficient end-use energy technologies.*

20 (8) *Notwithstanding subsection (a)(2), produc-*
21 *tion facilities for fuel efficient vehicles.*

22 (c) *GASIFICATION PROJECTS.—The Secretary may*
23 *make guarantees for the following gasification projects:*

24 (1) *INTEGRATED GASIFICATION COMBINED CYCLE*
25 *PROJECTS.—Integrated gasification combined cycle*

1 *plants meeting the emission levels under subsection*
2 *(d), including—*

3 *(A) projects for the generation of*
4 *electricity—*

5 *(i) for which, during the term of the*
6 *guarantee—*

7 *(I) coal, biomass, petroleum coke,*
8 *or a combination of coal, biomass, and*
9 *petroleum coke will account for at least*
10 *65 percent of annual heat input; and*

11 *(II) electricity will account for at*
12 *least 65 percent of net useful annual*
13 *energy output;*

14 *(ii) that have a design that is deter-*
15 *mined by the Secretary to be capable of ac-*
16 *commodating the equipment likely to be*
17 *necessary to capture the carbon dioxide that*
18 *would otherwise be emitted in flue gas from*
19 *the plant;*

20 *(iii) that have an assured revenue*
21 *stream that covers project capital and oper-*
22 *ating costs (including servicing all debt ob-*
23 *ligations covered by the guarantee) that is*
24 *approved by the Secretary and the relevant*
25 *State public utility commission; and*

1 *(iv) on which construction commences*
2 *not later than the date that is 3 years after*
3 *the date of the issuance of the guarantee;*

4 *(B) a project to produce energy from coal*
5 *(of not more than 13,000 Btu/lb and mined in*
6 *the western United States) using appropriate ad-*
7 *vanced integrated gasification combined cycle*
8 *technology that minimizes and offers the poten-*
9 *tial to sequester carbon dioxide emissions and*
10 *that—*

11 *(i) may include repowering of existing*
12 *facilities;*

13 *(ii) may be built in stages;*

14 *(iii) shall have a combined output of*
15 *at least 100 megawatts;*

16 *(iv) shall be located in a western State*
17 *at an altitude greater than 4,000 feet; and*

18 *(v) shall demonstrate the ability to use*
19 *coal with an energy content of not more*
20 *than 9,000 Btu/lb;*

21 *(C) a project located in a taconite-pro-*
22 *ducing region of the United States that is enti-*
23 *tled under the law of the State in which the*
24 *plant is located to enter into a long-term con-*
25 *tract approved by a State public utility commis-*

1 *sion to sell at least 450 megawatts of output to*
2 *a utility; and*

3 *(D) facilities that—*

4 *(i) generate 1 or more hydrogen-rich*
5 *and carbon monoxide-rich product streams*
6 *from the gasification of coal or coal waste;*
7 *and*

8 *(ii) use those streams to facilitate the*
9 *production of ultra clean premium fuels*
10 *through the Fischer-Tropsch process.*

11 *(2) INDUSTRIAL GASIFICATION PROJECTS.—Fa-*
12 *cilities that gasify coal, biomass, or petroleum coke in*
13 *any combination to produce synthesis gas for use as*
14 *a fuel or feedstock and for which electricity accounts*
15 *for less than 65 percent of the useful energy output of*
16 *the facility.*

17 *(3) PETROLEUM COKE GASIFICATION*
18 *PROJECTS.—The Secretary is encouraged to make*
19 *loan guarantees under this title available for petro-*
20 *leum coke gasification projects.*

21 *(d) EMISSION LEVELS.—In addition to any other ap-*
22 *plicable Federal or State emission limitation requirements,*
23 *a project shall attain at least—*

24 *(1) total sulfur dioxide emissions in flue gas*
25 *from the project that do not exceed 0.05 lb/mmBTU;*

1 (2) a 90-percent removal rate (including any
2 fuel pretreatment) of mercury from the coal-derived
3 gas, and any other fuel, combusted by the project;

4 (3) total nitrogen oxide emissions in the flue gas
5 from the project that do not exceed 0.08 lb/mmBTU;
6 and

7 (4) total particulate emissions in the flue gas
8 from the project that do not exceed 0.01 lb/mmBTU.

9 (e) **QUALIFICATION OF FACILITIES RECEIVING TAX**
10 **CREDITS.**—A project that receives tax credits for clean coal
11 technology shall not be disqualified from receiving a guar-
12 antee under this title.

13 **SEC. 1404. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated such sums as
15 are necessary to provide the cost of guarantees under this
16 title.

17 **TITLE XV—ENERGY POLICY TAX**
18 **INCENTIVES**

19 **SEC. 1500. SHORT TITLE; AMENDMENT OF 1986 CODE.**

20 (a) **SHORT TITLE.**—This title may be cited as the
21 “Energy Policy Tax Incentives Act of 2005”.

22 (b) **AMENDMENT OF 1986 CODE.**—Except as otherwise
23 expressly provided, whenever in this title an amendment
24 or repeal is expressed in terms of an amendment to, or re-
25 peal of, a section or other provision, the reference shall be

1 *considered to be made to a section or other provision of the*
2 *Internal Revenue Code of 1986.*

3 ***Subtitle A—Electricity***
4 ***Infrastructure***

5 ***SEC. 1501. EXTENSION AND MODIFICATION OF RENEWABLE***
6 ***ELECTRICITY PRODUCTION CREDIT.***

7 *(a) 3-YEAR EXTENSION FOR CERTAIN FACILITIES.—*
8 *Section 45(d) (relating to qualified facilities) is amended—*

9 *(1) by striking “January 1, 2006” each place it*
10 *appears in paragraphs (1), (2), (3), (5), (6), and (7)*
11 *and inserting “January 1, 2009”, and*

12 *(2) by striking “January 1, 2006” in paragraph*
13 *(4) and inserting “January 1, 2009 (January 1,*
14 *2006, in the case of a facility using solar energy)”.*

15 *(b) INCREASE IN CREDIT PERIOD.—Section*
16 *45(b)(4)(B) (relating to credit period) is amended—*

17 *(1) by inserting “or clause (iii)” after “clause*
18 *(ii)” in clause (i), and*

19 *(2) by adding at the end the following:*

20 *“(iii) TERMINATION.—Clause (i) shall*
21 *not apply to any facility placed in service*
22 *after the date of the enactment of this*
23 *clause.”.*

24 *(c) EXPANSION OF QUALIFIED RESOURCES TO IN-*
25 *CLUDE FUEL CELLS.—*

1 (1) *IN GENERAL.*—Section 45(c)(1) (defining
2 *qualified energy resources*) is amended by striking
3 “and” at the end of subparagraph (F), by striking the
4 period at the end of subparagraph (G) and inserting
5 “, and”, and by adding at the end the following new
6 subparagraph:

7 “(H) fuel cells.”.

8 (2) *FUEL CELL FACILITY.*—Section 45(d) (relat-
9 *ing to qualified facilities*) is amended by adding at
10 the end the following new paragraph:

11 “(9) *FUEL CELL FACILITY.*—In the case of a fa-
12 *cility using an integrated system comprised of a fuel*
13 *cell stack assembly and associated balance of plant*
14 *components which converts a fuel into electricity*
15 *using electrochemical means, the term ‘qualified facil-*
16 *ity’ means any facility owned by the taxpayer*
17 *which—*

18 “(A) *is originally placed in service after*
19 *December 31, 2005, and before January 1, 2009,*

20 “(B) *has a nameplate capacity rating of at*
21 *least 0.5 megawatt of electricity, and*

22 “(C) *has an electricity-only generation effi-*
23 *ciency greater than 30 percent.*”.

24 (3) *CONFORMING AMENDMENTS RELATING TO CO-*
25 *ORDINATION WITH ENERGY CREDIT.*—

1 (A) *IN GENERAL.*—Section 45(e) (relating
2 to definitions and special rules) is amended by
3 adding at the end the following new paragraph:

4 “(10) *COORDINATION WITH ENERGY CREDIT.*—
5 The term ‘qualified facility’ shall not include any
6 property described in section 48(a)(3) the basis of
7 which is taken into account by the taxpayer for pur-
8 poses of determining the energy credit under section
9 48.”.

10 (B) *CONFORMING AMENDMENT.*—Section
11 45(d)(4) is amended by striking the last sentence.

12 (d) *EXPANSION OF QUALIFIED RESOURCES TO CER-*
13 *TAIN HYDROPOWER.*—

14 (1) *IN GENERAL.*—Section 45(c)(1) (defining
15 qualified energy resources), as amended by this Act,
16 is amended by striking “and” at the end of subpara-
17 graph (G), by striking the period at the end of sub-
18 paragraph (H) and inserting “, and”, and by adding
19 at the end the following new subparagraph:

20 “(I) qualified hydropower production.”.

21 (2) *CREDIT RATE.*—Section 45(b)(4)(A) (relating
22 to credit rate) is amended by striking “or (7)” and
23 inserting “(7), or (10)”.

24 (3) *DEFINITION OF RESOURCES.*—Section 45(c)
25 (relating to qualified energy resources and refined

1 coal) is amended by adding at the end the following
2 new paragraph:

3 “(8) *QUALIFIED HYDROPOWER PRODUCTION.*—

4 “(A) *IN GENERAL.*—The term ‘qualified hy-
5 dropower production’ means—

6 “(i) in the case of any hydroelectric
7 dam which was placed in service on or be-
8 fore the date of the enactment of this para-
9 graph, the incremental hydropower produc-
10 tion for the taxable year, and

11 “(ii) in the case of any nonhydro-
12 electric dam described in subparagraph (C),
13 the hydropower production from the facility
14 for the taxable year.

15 “(B) *DETERMINATION OF INCREMENTAL HY-*
16 *DROPOWER PRODUCTION.*—

17 “(i) *IN GENERAL.*—For purposes of
18 subparagraph (A), incremental hydropower
19 production for any taxable year shall be
20 equal to the percentage of average annual
21 hydropower production at the facility at-
22 tributable to the efficiency improvements or
23 additions of capacity placed in service after
24 the date of the enactment of this paragraph,
25 determined by using the same water flow

1 *information used to determine an historic*
2 *average annual hydropower production*
3 *baseline for such facility. Such percentage*
4 *and baseline shall be certified by the Fed-*
5 *eral Energy Regulatory Commission.*

6 *“(ii) OPERATIONAL CHANGES DIS-*
7 *REGARDED.—For purposes of clause (i), the*
8 *determination of incremental hydropower*
9 *production shall not be based on any oper-*
10 *ational changes at such facility not directly*
11 *associated with the efficiency improvements*
12 *or additions of capacity.*

13 *“(C) NONHYDROELECTRIC DAM.—For pur-*
14 *poses of subparagraph (A), a facility is described*
15 *in this subparagraph if—*

16 *“(i) the facility is licensed by the Fed-*
17 *eral Energy Regulatory Commission and*
18 *meets all other applicable environmental, li-*
19 *censing, and regulatory requirements,*

20 *“(ii) the facility was placed in service*
21 *before the date of the enactment of this*
22 *paragraph and did not produce hydro-*
23 *electric power on the date of the enactment*
24 *of this paragraph, and*

1 “(iii) turbines or other generating de-
2 vices are to be added to the facility after
3 such date to produce hydroelectric power,
4 but only if there is not any enlargement of
5 the diversion structure, or construction or
6 enlargement of a bypass channel, or the im-
7 poundment or any withholding of any addi-
8 tional water from the natural stream chan-
9 nel.

10 (4) *FACILITIES*.—Section 45(d) (relating to
11 qualified facilities), as amended by this Act, is
12 amended by adding at the end the following new
13 paragraph:

14 “(10) *QUALIFIED HYDROPOWER FACILITY*.—In
15 the case of a facility producing qualified hydroelectric
16 production described in subsection (c)(8), the term
17 ‘qualified facility’ means—

18 “(A) in the case of any facility producing
19 incremental hydropower production, such facility
20 but only to the extent of its incremental hydro-
21 power production attributable to efficiency im-
22 provements or additions to capacity described in
23 subsection (c)(8)(B) placed in service after the
24 date of the enactment of this paragraph and be-
25 fore January 1, 2009, and

1 “(B) any other facility placed in service
2 after the date of the enactment of this paragraph
3 and before January 1, 2009.

4 “(C) CREDIT PERIOD.—In the case of a
5 qualified facility described in subparagraph (A),
6 the 10-year period referred to in subsection (a)
7 shall be treated as beginning on the date the effi-
8 ciency improvements or additions to capacity
9 are placed in service.”.

10 (e) TECHNICAL AMENDMENT RELATED TO TRASH
11 COMBUSTION FACILITIES.—Section 45(d)(7) (relating to
12 trash combustion facilities) is amended by adding at the
13 end the following: “Such term shall include a new unit
14 placed in service in connection with a facility placed in
15 service on or before the date of the enactment of this para-
16 graph, but only to the extent of the increased amount of
17 electricity produced at the facility by reason of such new
18 unit.”.

19 (f) ADDITIONAL TECHNICAL AMENDMENTS RELATED
20 TO SECTION 710 OF THE AMERICAN JOBS CREATION ACT
21 OF 2004.—

22 (1) Clause (ii) of section 45(b)(4)(B) is amended
23 by striking “the date of the enactment of this Act”
24 and inserting “January 1, 2005,”.

1 (2) Clause (ii) of section 45(c)(3)(A) is amended
2 by inserting “or any nonhazardous lignin waste ma-
3 terial” after “cellulosic waste material”.

4 (3) Subsection (e) of section 45 is amended by
5 striking paragraph (6).

6 (4)(A) Paragraph (9) of section 45(e) is amended
7 to read as follows:

8 “(9) COORDINATION WITH CREDIT FOR PRO-
9 DUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

10 “(A) IN GENERAL.—The term ‘qualified fa-
11 cility’ shall not include any facility which pro-
12 duces electricity from gas derived from the bio-
13 degradation of municipal solid waste if such bio-
14 degradation occurred in a facility (within the
15 meaning of section 29) the production from
16 which is allowed as a credit under section 29 for
17 the taxable year or any prior taxable year.

18 “(B) REFINED COAL FACILITIES.—The term
19 ‘refined coal production facility’ shall not in-
20 clude any facility the production from which is
21 allowed as a credit under section 29 for the tax-
22 able year or any prior taxable year.”.

23 (B) Subparagraph (C) of section 45(e)(8) is
24 amended by striking “and (9)”.

1 (5) *Subclause (I) of section 168(e)(3)(B)(vi) is*
2 *amended to read as follows:*

3 “(I) *is described in subparagraph*
4 *(A) of section 48(a)(3) (or would be so*
5 *described if ‘solar and wind’ were sub-*
6 *stituted for ‘solar’ in clause (i) thereof*
7 *and the last sentence of such section*
8 *did not apply to such subparagraph),”.*

9 (6) *Paragraph (4) of section 710(g) of the Amer-*
10 *ican Jobs Creation Act of 2004 is amended by strik-*
11 *ing “January 1, 2004” and inserting “January 1,*
12 *2005”.*

13 (g) *EFFECTIVE DATES.—*

14 (1) *IN GENERAL.—Except as provided in para-*
15 *graph (2), the amendments made by this section shall*
16 *take effect of the date of the enactment of this Act.*

17 (2) *TECHNICAL AMENDMENTS.—The amendments*
18 *made by subsections (e) and (f) shall take effect as if*
19 *included in the amendments made by section 710 of*
20 *the American Jobs Creation Act of 2004.*

21 **SEC. 1502. APPLICATION OF SECTION 45 CREDIT TO AGRI-**
22 **CULTURAL COOPERATIVES.**

23 (a) *IN GENERAL.—Section 45(e) (relating to defini-*
24 *tions and special rules), as amended by this Act, is amended*
25 *by adding at the end the following:*

1 “(11) *ALLOCATION OF CREDIT TO PATRONS OF*
2 *AGRICULTURAL COOPERATIVE.—*

3 “(A) *ELECTION TO ALLOCATE.—*

4 “(i) *IN GENERAL.—In the case of an*
5 *eligible cooperative organization, any por-*
6 *tion of the credit determined under sub-*
7 *section (a) for the taxable year may, at the*
8 *election of the organization, be apportioned*
9 *among patrons of the organization on the*
10 *basis of the amount of business done by the*
11 *patrons during the taxable year.*

12 “(ii) *FORM AND EFFECT OF ELEC-*
13 *TION.—An election under clause (i) for any*
14 *taxable year shall be made on a timely filed*
15 *return for such year. Such election, once*
16 *made, shall be irrevocable for such taxable*
17 *year.*

18 “(B) *TREATMENT OF ORGANIZATIONS AND*
19 *PATRONS.—The amount of the credit apportioned*
20 *to any patrons under subparagraph (A)—*

21 “(i) *shall not be included in the*
22 *amount determined under subsection (a)*
23 *with respect to the organization for the tax-*
24 *able year, and*

1 “(ii) shall be included in the amount
2 determined under subsection (a) for the tax-
3 able year of the patrons with or within
4 which the taxable year of the organization
5 ends.

6 “(C) *SPECIAL RULES FOR DECREASE IN*
7 *CREDITS FOR TAXABLE YEAR.*—If the amount of
8 the credit of a cooperative organization deter-
9 mined under subsection (a) for a taxable year is
10 less than the amount of such credit shown on the
11 return of the cooperative organization for such
12 year, an amount equal to the excess of—

13 “(i) such reduction, over

14 “(ii) the amount not apportioned to
15 such patrons under subparagraph (A) for
16 the taxable year, shall be treated as an in-
17 crease in tax imposed by this chapter on the
18 organization. Such increase shall not be
19 treated as tax imposed by this chapter for
20 purposes of determining the amount of any
21 credit under this subpart or subpart A, B,
22 E, or G.

23 “(D) *ELIGIBLE COOPERATIVE DEFINED.*—
24 For purposes of this section the term ‘eligible co-
25 operative’ means a cooperative organization de-

1 scribed in section 1381(a) which is owned more
2 than 50 percent by agricultural producers or by
3 entities owned by agricultural producers. For
4 this purpose an entity owned by an agricultural
5 producer is one that is more than 50 percent
6 owned by agricultural producers.

7 “(E) WRITTEN NOTICE TO PATRONS.—If
8 any portion of the credit available under sub-
9 section (a) is allocated to patrons under sub-
10 paragraph (A), the eligible cooperative shall pro-
11 vide any patron receiving an allocation written
12 notice of the amount of the allocation. Such no-
13 tice shall be provided before the date on which
14 the return described in subparagraph (B)(ii) is
15 due.”.

16 **SEC. 1503. EXPANSION OF RESOURCES TO WAVE, CURRENT,**
17 **TIDAL, AND OCEAN THERMAL ENERGY.**

18 (a) *IN GENERAL.*—Section 45(c)(1) (defining qualified
19 energy resources), as amended by this Act, is amended by
20 striking “and” at the end of subparagraph (H), by striking
21 the period at the end of subparagraph (I) and inserting “,
22 and”, and by adding at the end the following new subpara-
23 graph:

24 “(J) wave, current, tidal, and ocean ther-
25 mal energy.”

1 (b) *DEFINITION OF RESOURCES.*—Section 45(c), as
2 amended by this Act, is amended by adding at the end the
3 following new paragraph:

4 “(9) *WAVE, CURRENT, TIDAL, AND OCEAN THER-*
5 *MAL ENERGY.*—The term ‘wave, current, tidal, and
6 ocean thermal energy’ means electricity produced
7 from any of the following:

8 “(A) *Free flowing ocean water derived from*
9 *tidal currents, ocean currents, waves, or estuary*
10 *currents.*

11 “(B) *Ocean thermal energy.*

12 “(C) *Free flowing water in rivers, lakes,*
13 *man made channels, or streams.”*

14 (c) *FACILITIES.*—Section 45(d), as amended by this
15 Act, is amended by adding at the end the following new
16 paragraph:

17 “(11) *WAVE, CURRENT, TIDAL, AND OCEAN*
18 *THERMAL FACILITY.*—In the case of a facility using
19 resources described in subparagraph (A), (B), or (C)
20 of subsection (c)(9) to produce electricity, the term
21 ‘qualified facility’ means any facility owned by the
22 taxpayer which is originally placed in service after
23 the date of the enactment of this paragraph and before
24 January 1, 2009, but such term shall not include a

1 *facility which includes impoundment structures or a*
2 *small irrigation power facility.”*

3 **(b) EFFECTIVE DATE.**—*The amendments made by this*
4 *section shall apply to taxable years ending after the date*
5 *of the enactment of this Act.*

6 **SEC. 1504. CLEAN RENEWABLE ENERGY BONDS.**

7 **(a) IN GENERAL.**—*Part IV of subchapter A of chapter*
8 *1 (relating to credits against tax) is amended by adding*
9 *at the end the following new subpart:*

10 **“Subpart H—Nonrefundable Credit to Holders of**
11 **Certain Bonds**

“Sec. 54. Credit to holders of clean renewable energy bonds.

12 **“SEC. 54. CREDIT TO HOLDERS OF CLEAN RENEWABLE EN-**
13 **ERGY BONDS.**

14 **“(a) ALLOWANCE OF CREDIT.**—*If a taxpayer holds a*
15 *clean renewable energy bond on 1 or more credit allowance*
16 *dates of the bond occurring during any taxable year, there*
17 *shall be allowed as a credit against the tax imposed by this*
18 *chapter for the taxable year an amount equal to the sum*
19 *of the credits determined under subsection (b) with respect*
20 *to such dates.*

21 **“(b) AMOUNT OF CREDIT.**—

22 **“(1) IN GENERAL.**—*The amount of the credit de-*
23 *termined under this subsection with respect to any*
24 *credit allowance date for a clean renewable energy*

1 *bond is 25 percent of the annual credit determined*
2 *with respect to such bond.*

3 “(2) *ANNUAL CREDIT.*—*The annual credit deter-*
4 *mined with respect to any clean renewable energy*
5 *bond is the product of—*

6 “(A) *the credit rate determined by the Sec-*
7 *retary under paragraph (3) for the day on which*
8 *such bond was sold, multiplied by*

9 “(B) *the outstanding face amount of the*
10 *bond.*

11 “(3) *DETERMINATION.*—*For purposes of para-*
12 *graph (2), with respect to any clean renewable energy*
13 *bond, the Secretary shall determine daily or cause to*
14 *be determined daily a credit rate which shall apply*
15 *to the first day on which there is a binding, written*
16 *contract for the sale or exchange of the bond. The*
17 *credit rate for any day is the credit rate which the*
18 *Secretary or the Secretary’s designee estimates will*
19 *permit the issuance of clean renewable energy bonds*
20 *with a specified maturity or redemption date without*
21 *discount and without interest cost to the qualified*
22 *issuer.*

23 “(4) *CREDIT ALLOWANCE DATE.*—*For purposes*
24 *of this section, the term ‘credit allowance date’*
25 *means—*

- 1 “(A) March 15,
2 “(B) June 15,
3 “(C) September 15, and
4 “(D) December 15.

5 *Such term also includes the last day on which the*
6 *bond is outstanding.*

7 “(5) *SPECIAL RULE FOR ISSUANCE AND REDEMP-*
8 *TION.—In the case of a bond which is issued during*
9 *the 3-month period ending on a credit allowance date,*
10 *the amount of the credit determined under this sub-*
11 *section with respect to such credit allowance date*
12 *shall be a ratable portion of the credit otherwise deter-*
13 *mined based on the portion of the 3-month period*
14 *during which the bond is outstanding. A similar rule*
15 *shall apply when the bond is redeemed or matures.*

16 “(c) *LIMITATION BASED ON AMOUNT OF TAX.—The*
17 *credit allowed under subsection (a) for any taxable year*
18 *shall not exceed the excess of—*

19 “(1) *the sum of the regular tax liability (as de-*
20 *finied in section 26(b)) plus the tax imposed by section*
21 *55, over*

22 “(2) *the sum of the credits allowable under this*
23 *part (other than subpart C thereof (relating to refund-*
24 *able credits) and this subpart) and section 1397E.*

1 “(d) *CLEAN RENEWABLE ENERGY BOND.*—For pur-
2 *poses of this section—*

3 “(1) *IN GENERAL.*—The term ‘clean renewable
4 *energy bond*’ means any bond issued as part of an
5 *issue if—*

6 “(A) *the bond is issued by a qualified issuer*
7 *pursuant to an allocation by the Secretary to*
8 *such issuer of a portion of the national clean re-*
9 *newable energy bond limitation under subsection*
10 *(f)(2),*

11 “(B) *95 percent or more of the proceeds*
12 *from the sale of such issue are to be used for cap-*
13 *ital expenditures incurred by qualified borrowers*
14 *for 1 or more qualified projects,*

15 “(C) *the qualified issuer designates such*
16 *bond for purposes of this section and the bond is*
17 *in registered form, and*

18 “(D) *the issue meets the requirements of*
19 *subsection (h).*

20 “(2) *QUALIFIED PROJECT; SPECIAL USE*
21 *RULES.*—

22 “(A) *IN GENERAL.*—The term ‘qualified
23 *project*’ means any qualified facility (as deter-
24 *mined under section 45(d) without regard to any*

1 placed in service date) owned by a qualified bor-
2 rower.

3 “(B) *REFINANCING RULES.*—For purposes
4 of paragraph (1)(B), a qualified project may be
5 refinanced with proceeds of a clean renewable en-
6 ergy bond only if the indebtedness being refi-
7 nanced (including any obligation directly or in-
8 directly refinanced by such indebtedness) was
9 originally incurred by a qualified borrower after
10 the date of the enactment of this section.

11 “(C) *REIMBURSEMENT.*—For purposes of
12 paragraph (1)(B), a clean renewable energy bond
13 may be issued to reimburse a qualified borrower
14 for amounts paid after the date of the enactment
15 of this section with respect to a qualified project,
16 but only if—

17 “(i) prior to the payment of the origi-
18 nal expenditure, the qualified borrower de-
19 clared its intent to reimburse such expendi-
20 ture with the proceeds of a clean renewable
21 energy bond,

22 “(ii) not later than 60 days after pay-
23 ment of the original expenditure, the quali-
24 fied issuer adopts an official intent to reim-

1 *burse the original expenditure with such*
2 *proceeds, and*

3 *“(iii) the reimbursement is made not*
4 *later than 18 months after the date the*
5 *original expenditure is paid.*

6 *“(D) TREATMENT OF CHANGES IN USE.—*
7 *For purposes of paragraph (1)(B), the proceeds*
8 *of an issue shall not be treated as used for a*
9 *qualified project to the extent that a qualified*
10 *borrower takes any action within its control*
11 *which causes such proceeds not to be used for a*
12 *qualified project. The Secretary shall prescribe*
13 *regulations specifying remedial actions that may*
14 *be taken (including conditions to taking such re-*
15 *medial actions) to prevent an action described in*
16 *the preceding sentence from causing a bond to*
17 *fail to be a clean renewable energy bond.*

18 *“(e) MATURITY LIMITATIONS.—*

19 *“(1) DURATION OF TERM.—A bond shall not be*
20 *treated as a clean renewable energy bond if the matu-*
21 *rity of such bond exceeds the maximum term deter-*
22 *mined by the Secretary under paragraph (2) with re-*
23 *spect to such bond.*

24 *“(2) MAXIMUM TERM.—During each calendar*
25 *month, the Secretary shall determine the maximum*

1 *term permitted under this paragraph for bonds issued*
2 *during the following calendar month. Such maximum*
3 *term shall be the term which the Secretary estimates*
4 *will result in the present value of the obligation to*
5 *repay the principal on the bond being equal to 50*
6 *percent of the face amount of such bond. Such present*
7 *value shall be determined using as a discount rate the*
8 *average annual interest rate of tax of tax-exempt obli-*
9 *gations having a term of 10 years or more which are*
10 *issued during the month. If the term as so determined*
11 *is not a multiple of a whole year, such term shall be*
12 *rounded to the next highest whole year.*

13 *“(3) RATABLE PRINCIPAL AMORTIZATION RE-*
14 *QUIRED.—A bond shall not be treated as a clean re-*
15 *newable energy bond unless it is part of an issue*
16 *which provides for an equal amount of principal to*
17 *be paid by the qualified issuer during each calendar*
18 *year that the issue is outstanding.*

19 *“(f) LIMITATION ON AMOUNT OF BONDS DES-*
20 *IGNATED.—*

21 *“(1) NATIONAL LIMITATION.—There is a na-*
22 *tional clean renewable energy bond limitation of*
23 *\$1,000,000,000.*

24 *“(2) ALLOCATION BY SECRETARY.—The Sec-*
25 *retary shall allocate the amount described in para-*

1 *graph (1) among qualified projects in such manner as*
2 *the Secretary determines appropriate.*

3 *“(g) CREDIT INCLUDED IN GROSS INCOME.—Gross in-*
4 *come includes the amount of the credit allowed to the tax-*
5 *payer under this section (determined without regard to sub-*
6 *section (c)) and the amount so included shall be treated as*
7 *interest income.*

8 *“(h) SPECIAL RULES RELATING TO EXPENDITURES.—*

9 *“(1) IN GENERAL.—An issue shall be treated as*
10 *meeting the requirements of this subsection if, as of*
11 *the date of issuance, the qualified issuer reasonably*
12 *expects—*

13 *“(A) at least 95 percent of the proceeds from*
14 *the sale of the issue are to be spent for 1 or more*
15 *qualified projects within the 5-year period begin-*
16 *ning on the date of issuance of the clean energy*
17 *bond,*

18 *“(B) a binding commitment with a third*
19 *party to spend at least 10 percent of the proceeds*
20 *from the sale of the issue will be incurred within*
21 *the 6-month period beginning on the date of*
22 *issuance of the clean energy bond or, in the case*
23 *of a clean energy bond the proceeds of which are*
24 *to be loaned to 2 or more qualified borrowers,*
25 *such binding commitment will be incurred with-*

1 *in the 6-month period beginning on the date of*
2 *the loan of such proceeds to a qualified borrower,*
3 *and*

4 “(C) *such projects will be completed with*
5 *due diligence and the proceeds from the sale of*
6 *the issue will be spent with due diligence.*

7 “(2) *EXTENSION OF PERIOD.*—*Upon submission*
8 *of a request prior to the expiration of the period de-*
9 *scribed in paragraph (1)(A), the Secretary may ex-*
10 *tend such period if the qualified issuer establishes that*
11 *the failure to satisfy the 5-year requirement is due to*
12 *reasonable cause and the related projects will continue*
13 *to proceed with due diligence.*

14 “(3) *FAILURE TO SPEND REQUIRED AMOUNT OF*
15 *BOND PROCEEDS WITHIN 5 YEARS.*—*To the extent that*
16 *less than 95 percent of the proceeds of such issue are*
17 *expended by the close of the 5-year period beginning*
18 *on the date of issuance (or if an extension has been*
19 *obtained under paragraph (2), by the close of the ex-*
20 *tended period), the qualified issuer shall redeem all of*
21 *the nonqualified bonds within 90 days after the end*
22 *of such period. For purposes of this paragraph, the*
23 *amount of the nonqualified bonds required to be re-*
24 *deemed shall be determined in the same manner as*
25 *under section 142.*

1 “(i) *SPECIAL RULES RELATING TO ARBITRAGE.*—A
2 *bond which is part of an issue shall not be treated as a*
3 *clean renewable energy bond unless, with respect to the issue*
4 *of which the bond is a part, the qualified issuer satisfies*
5 *the arbitrage requirements of section 148 with respect to*
6 *proceeds of the issue.*

7 “(j) *COOPERATIVE ELECTRIC COMPANY; QUALIFIED*
8 *ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL*
9 *BODY; QUALIFIED BORROWER.*—For purposes of this
10 *section—*

11 “(1) *COOPERATIVE ELECTRIC COMPANY.*—The
12 *term ‘cooperative electric company’ means a mutual*
13 *or cooperative electric company described in section*
14 *501(c)(12) or section 1381(a)(2)(C), or a not-for-prof-*
15 *it electric utility which has received a loan or loan*
16 *guarantee under the Rural Electrification Act.*

17 “(2) *CLEAN RENEWABLE ENERGY BOND LEND-*
18 *ER.*—The term ‘clean renewable energy bond lender’
19 *means a lender which is a cooperative which is owned*
20 *by, or has outstanding loans to, 100 or more coopera-*
21 *tive electric companies and is in existence on Feb-*
22 *ruary 1, 2002, and shall include any affiliated entity*
23 *which is controlled by such lender.*

24 “(3) *GOVERNMENTAL BODY.*—The term ‘govern-

25 *mental body’ means any State, territory, possession of*

1 *the United States, the District of Columbia, Indian*
2 *tribal government, and any political subdivision*
3 *thereof.*

4 “(4) *QUALIFIED ISSUER.*—*The term ‘qualified*
5 *issuer’ means—*

6 “(A) *a clean renewable energy bond lender,*

7 “(B) *a cooperative electric company,*

8 “(C) *a governmental body, or*

9 “(D) *the Tennessee Valley Authority.*

10 “(5) *QUALIFIED BORROWER.*—*The term ‘quali-*
11 *fied borrower’ means—*

12 “(A) *a mutual or cooperative electric com-*
13 *pany described in section 501(c)(12) or*
14 *1381(a)(2)(C),*

15 “(B) *a governmental body, or*

16 “(C) *the Tennessee Valley Authority.*

17 “(k) *SPECIAL RULES RELATING TO POOL BONDS.*—

18 *No portion of a pooled financing bond may be allocable to*
19 *any loan unless the borrower has entered into a written*
20 *loan commitment for such portion prior to the issue date*
21 *of such issue.*

22 “(l) *OTHER DEFINITIONS AND SPECIAL RULES.*—*For*
23 *purposes of this section—*

24 “(1) *BOND.*—*The term ‘bond’ includes any obli-*
25 *gation.*

1 “(2) *POOLED FINANCING BOND.*—*The term*
2 *‘pooled financing bond’ shall have the meaning given*
3 *such term by section 149(f)(4)(A).*

4 “(3) *PARTNERSHIP; S CORPORATION; AND OTHER*
5 *PASS-THRU ENTITIES.*—

6 “(A) *IN GENERAL.*—*Under regulations pre-*
7 *scribed by the Secretary, in the case of a part-*
8 *nership, trust, S corporation, or other pass-thru*
9 *entity, rules similar to the rules of section 41(g)*
10 *shall apply with respect to the credit allowable*
11 *under subsection (a).*

12 “(B) *NO BASIS ADJUSTMENT.*—*Rules simi-*
13 *lar to the rules under section 1397E(i)(2) shall*
14 *apply.*

15 “(4) *BONDS HELD BY REGULATED INVESTMENT*
16 *COMPANIES.*—*If any clean renewable energy bond is*
17 *held by a regulated investment company, the credit*
18 *determined under subsection (a) shall be allowed to*
19 *shareholders of such company under procedures pre-*
20 *scribed by the Secretary.*

21 “(5) *TREATMENT FOR ESTIMATED TAX PUR-*
22 *POSES.*—*Solely for purposes of sections 6654 and*
23 *6655, the credit allowed by this section to a taxpayer*
24 *by reason of holding a clean renewable energy bond*
25 *on a credit allowance date shall be treated as if it*

1 *were a payment of estimated tax made by the tax-*
2 *payer on such date.*

3 *“(6) REPORTING.—Issuers of clean renewable en-*
4 *ergy bonds shall submit reports similar to the reports*
5 *required under section 149(e).*

6 *“(m) TERMINATION.—This section shall not apply*
7 *with respect to any bond issued after December 31, 2008.”.*

8 *(b) REPORTING.—Subsection (d) of section 6049 (relat-*
9 *ing to returns regarding payments of interest) is amended*
10 *by adding at the end the following new paragraph:*

11 *“(8) REPORTING OF CREDIT ON CLEAN RENEW-*
12 *ABLE ENERGY BONDS.—*

13 *“(A) IN GENERAL.—For purposes of sub-*
14 *section (a), the term ‘interest’ includes amounts*
15 *includible in gross income under section 54(g)*
16 *and such amounts shall be treated as paid on the*
17 *credit allowance date (as defined in section*
18 *54(b)(4)).*

19 *“(B) REPORTING TO CORPORATIONS, ETC.—*
20 *Except as otherwise provided in regulations, in*
21 *the case of any interest described in subpara-*
22 *graph (A), subsection (b)(4) shall be applied*
23 *without regard to subparagraphs (A), (H), (I),*
24 *(J), (K), and (L)(i) of such subsection.*

1 “(C) *REGULATORY AUTHORITY.*—*The Sec-*
2 *retary may prescribe such regulations as are nec-*
3 *essary or appropriate to carry out the purposes*
4 *of this paragraph, including regulations which*
5 *require more frequent or more detailed report-*
6 *ing.”.*

7 (c) *CONFORMING AMENDMENTS.*—

8 (1) *The table of subparts for part IV of sub-*
9 *chapter A of chapter 1 is amended by adding at the*
10 *end the following new item:*

 “*SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CERTAIN BONDS.*”.

11 (2) *Section 1397E(c)(2) is amended by inserting*
12 *“, and subpart H thereof” after “refundable credits”.*

13 (3) *Section 6401(b)(1) is amended by striking*
14 *“and G” and inserting “G, and H”.*

15 (d) *ISSUANCE OF REGULATIONS.*—*The Secretary of*
16 *Treasury shall issue regulations required under section 54*
17 *of the Internal Revenue Code of 1986 (as added by this sec-*
18 *tion) not later than 120 days after the date of the enactment*
19 *of this Act.*

20 (e) *EFFECTIVE DATE.*—*The amendments made by this*
21 *section shall apply to bonds issued after December 31, 2005.*

22 **SEC. 1505. TREATMENT OF INCOME OF CERTAIN ELECTRIC**
23 **COOPERATIVES.**

24 (a) *ELIMINATION OF SUNSET ON TREATMENT OF IN-*
25 *COME FROM OPEN ACCESS AND NUCLEAR DECOMMISS-*

1 *SIONING TRANSACTIONS.—Section 501(c)(12)(C) is amend-*
2 *ed by striking the last sentence.*

3 (b) *ELIMINATION OF SUNSET ON TREATMENT OF IN-*
4 *COME FROM LOAD LOSS TRANSACTIONS.—Section*
5 *501(c)(12)(H) is amended by striking clause (x).*

6 (c) *EFFECTIVE DATE.—The amendments made by this*
7 *section shall take effect on the date of the enactment of this*
8 *Act.*

9 **SEC. 1506. DISPOSITIONS OF TRANSMISSION PROPERTY TO**
10 **IMPLEMENT FERC RESTRUCTURING POLICY.**

11 (a) *IN GENERAL.—Section 451(i)(3) (defining quali-*
12 *fying electric transmission transaction) is amended by*
13 *striking “2007” and inserting “2008”.*

14 (b) *TECHNICAL AMENDMENT RELATED TO SECTION*
15 *909 OF THE AMERICAN JOBS CREATION ACT OF 2004.—*
16 *Clause (ii) of section 451(i)(4)(B) is amended by striking*
17 *“the close of the period applicable under subsection*
18 *(a)(2)(B) as extended under paragraph (2)” and inserting*
19 *“December 31, 2007”.*

20 (c) *EFFECTIVE DATES.—*

21 (1) *IN GENERAL.—The amendment made by sub-*
22 *section (a) shall apply to transactions occurring after*
23 *the date of the enactment of this Act.*

24 (2) *TECHNICAL AMENDMENT.—The amendment*
25 *made by subsection (b) shall take effect as if included*

1 *in the amendments made by section 909 of the Amer-*
2 *ican Jobs Creation Act of 2004.*

3 **SEC. 1507. CREDIT FOR PRODUCTION FROM ADVANCED NU-**
4 **CLEAR POWER FACILITIES.**

5 *(a) IN GENERAL.—Subpart D of part IV of subchapter*
6 *A of chapter 1 (relating to business related credits) is*
7 *amended by adding after section 45I the following new sec-*
8 *tion:*

9 **“SEC. 45J. CREDIT FOR PRODUCTION FROM ADVANCED NU-**
10 **CLEAR POWER FACILITIES.**

11 *“(a) GENERAL RULE.—For purposes of section 38, the*
12 *advanced nuclear power facility production credit of any*
13 *taxpayer for any taxable year is equal to the product of—*

14 *“(1) 1.8 cents, multiplied by*

15 *“(2) the kilowatt hours of electricity—*

16 *“(A) produced by the taxpayer at an ad-*
17 *vanced nuclear power facility during the 8-year*
18 *period beginning on the date the facility was*
19 *originally placed in service, and*

20 *“(B) sold by the taxpayer to an unrelated*
21 *person during the taxable year.*

22 *“(b) NATIONAL LIMITATION.—*

23 *“(1) IN GENERAL.—The amount of credit which*
24 *would (but for this subsection and subsection (c)) be*
25 *allowed with respect to any facility for any taxable*

1 *year shall not exceed the amount which bears the*
2 *same ratio to such amount of credit as—*

3 *“(A) the national megawatt capacity limi-*
4 *tation allocated to the facility, bears to*

5 *“(B) the total megawatt nameplate capacity*
6 *of such facility.*

7 *“(2) AMOUNT OF NATIONAL LIMITATION.—The*
8 *national megawatt capacity limitation shall be 6,000*
9 *megawatts.*

10 *“(3) ALLOCATION OF LIMITATION.—The Sec-*
11 *retary shall allocate the national megawatt capacity*
12 *limitation in such manner as the Secretary may pre-*
13 *scribe.*

14 *“(4) REGULATIONS.—Not later than 6 months*
15 *after the date of the enactment of this section, the Sec-*
16 *retary shall prescribe such regulations as may be nec-*
17 *essary or appropriate to carry out the purposes of*
18 *this subsection. Such regulations shall provide a cer-*
19 *tification process under which the Secretary, after*
20 *consultation with the Secretary of Energy, shall ap-*
21 *prove and allocate the national megawatt capacity*
22 *limitation.*

23 *“(c) OTHER LIMITATIONS.—*

24 *“(1) ANNUAL LIMITATION.—The amount of the*
25 *credit allowable under subsection (a) (after the appli-*

1 *cation of subsection (b)) for any taxable year with re-*
2 *spect to any facility shall not exceed an amount*
3 *which bears the same ratio to \$125,000,000 as—*

4 *“(A) the national megawatt capacity limi-*
5 *tation allocated under subsection (b) to the facil-*
6 *ity, bears to*

7 *“(B) 1,000.*

8 *“(2) OTHER LIMITATIONS.—Rules similar to the*
9 *rules of section 45(b)(1) shall apply for purposes of*
10 *this section.*

11 *“(d) ADVANCED NUCLEAR POWER FACILITY.—For*
12 *purposes of this section—*

13 *“(1) IN GENERAL.—The term ‘advanced nuclear*
14 *power facility’ means any advanced nuclear*
15 *facility—*

16 *“(A) which is owned by the taxpayer and*
17 *which uses nuclear energy to produce electricity,*
18 *and*

19 *“(B) which is placed in service after the*
20 *date of the enactment of this paragraph and be-*
21 *fore January 1, 2021.*

22 *“(2) ADVANCED NUCLEAR FACILITY.—For pur-*
23 *poses of paragraph (1), the term ‘advanced nuclear*
24 *facility’ means any nuclear facility the reactor design*
25 *for which is approved after December 31, 1993, by the*

1 *Nuclear Regulatory Commission (and such design or*
 2 *a substantially similar design of comparable capacity*
 3 *was not approved on or before such date).*

4 *“(e) OTHER RULES TO APPLY.—Rules similar to the*
 5 *rules of paragraphs (1), (2), (3), (4), and (5) of section*
 6 *45(e) shall apply for purposes of this section.”*

7 *(b) CREDIT TREATED AS BUSINESS CREDIT.—Section*
 8 *38(b) is amended by striking “plus” at the end of para-*
 9 *graph (18), by striking the period at the end of paragraph*
 10 *(19) and inserting “, plus”, and by adding at the end the*
 11 *following:*

12 *“(20) the advanced nuclear power facility pro-*
 13 *duction credit determined under section 45J(a).”*

14 *(c) CLERICAL AMENDMENT.—The table of sections for*
 15 *subpart D of part IV of subchapter A of chapter 1 is amend-*
 16 *ed by adding at the end the following:*

“Sec. 45J. Credit for production from advanced nuclear power fa-
cilities.”

17 *(d) EFFECTIVE DATE.—The amendments made by this*
 18 *section shall apply to production in taxable years beginning*
 19 *after the date of the enactment of this Act.*

20 **SEC. 1508. CREDIT FOR INVESTMENT IN CLEAN COAL FA-**
 21 **CILITIES.**

22 *(a) IN GENERAL.—Section 46 (relating to amount of*
 23 *credit) is amended by striking “and” at the end of para-*

1 *graph (1), by striking the period at the end of paragraph*
2 *(2), and by adding at the end the following new paragraphs:*

3 “(3) *the qualifying advanced coal project credit,*

4 *and*

5 “(4) *the qualifying gasification project credit.*”.

6 **(b) AMOUNT OF CREDITS.**—*Subpart E of part IV of*
7 *subchapter A of chapter 1 (relating to rules for computing*
8 *investment credit) is amended by inserting after section 48*
9 *the following new sections:*

10 **“SEC. 48A. QUALIFYING ADVANCED COAL PROJECT CREDIT.**

11 “(a) *IN GENERAL.*—*For purposes of section 46, the*
12 *qualifying advanced coal project credit for any taxable year*
13 *is an amount equal to 20 percent of the qualified investment*
14 *for such taxable year.*

15 “(b) *QUALIFIED INVESTMENT.*—

16 “(1) *IN GENERAL.*—*For purposes of subsection*
17 *(a), the qualified investment for any taxable year is*
18 *the basis of property placed in service by the taxpayer*
19 *during such taxable year which is part of a quali-*
20 *fying advanced coal project—*

21 “(A)(i) *the construction, reconstruction, or*
22 *erection of which is completed by the taxpayer,*
23 *or*

1 “(ii) which is acquired by the taxpayer if
2 the original use of such property commences with
3 the taxpayer, and

4 “(B) with respect to which depreciation (or
5 amortization in lieu of depreciation) is allow-
6 able.

7 “(2) *APPLICABLE RULES.*—For purposes of this
8 section, rules similar to the rules of subsection (a)(4)
9 and (b) of section 48 shall apply.

10 “(c) *DEFINITIONS.*—For purposes of this section—

11 “(1) *QUALIFYING ADVANCED COAL PROJECT.*—
12 The term ‘qualifying advanced coal project’ means a
13 project which meets the requirements of subsection (e).

14 “(2) *ADVANCED COAL-BASED GENERATION TECH-*
15 *NOLOGY.*—The term ‘advanced coal-based generation
16 technology’ means a technology which meets the re-
17 quirements of subsection (g).

18 “(3) *COAL.*—The term ‘coal’ means any carbon-
19 ized or semicarbonized matter, including peat.

20 “(4) *GREENHOUSE GAS CAPTURE CAPABILITY.*—
21 The term ‘greenhouse gas capture capability’ means
22 an integrated gasification combined cycle technology
23 facility capable of adding components which can cap-
24 ture, separate on a long-term basis, isolate, remove,

1 *and sequester greenhouse gases which result from the*
2 *generation of electricity.*

3 “(5) *ELECTRIC GENERATION UNIT.*—*The term*
4 *‘electric generation unit’ means any facility at least*
5 *50 percent of the total annual net output of which is*
6 *electrical power, including an otherwise eligible facil-*
7 *ity which is used in an industrial application.*

8 “(6) *INTEGRATED GASIFICATION COMBINED*
9 *CYCLE.*—*The term ‘integrated gasification combined*
10 *cycle’ means an electric generation unit which pro-*
11 *duces electricity by converting coal to synthesis gas*
12 *which is used to fuel a combined-cycle plant which*
13 *produces electricity from both a combustion turbine*
14 *(including a combustion turbine/fuel cell hybrid) and*
15 *a steam turbine.*

16 “(d) *QUALIFYING ADVANCED COAL PROJECT PRO-*
17 *GRAM.*—

18 “(1) *ESTABLISHMENT.*—*Not later than 180 days*
19 *after the date of enactment of this section, the Sec-*
20 *retary, in consultation with the Secretary of Energy,*
21 *shall establish a qualifying advanced coal project pro-*
22 *gram for the deployment of advanced coal-based gen-*
23 *eration technologies.*

24 “(2) *CERTIFICATION.*—

1 “(A) *APPLICATION PERIOD.*—Each appli-
2 cant for certification under this paragraph shall
3 submit an application meeting the requirements
4 of subparagraph (B). An applicant may only
5 submit an application during the 3-year period
6 beginning on the date the Secretary establishes
7 the program under paragraph (1).

8 “(B) *REQUIREMENTS FOR APPLICATIONS*
9 *FOR CERTIFICATION.*—An application under sub-
10 paragraph (A) shall contain such information as
11 the Secretary may require in order to make a de-
12 termination to accept or reject an application
13 for certification as meeting the requirements
14 under subsection (e)(1). Any information con-
15 tained in the application shall be protected as
16 provided in section 552(b)(4) of title 5, United
17 States Code.

18 “(C) *TIME TO ACT UPON APPLICATIONS FOR*
19 *CERTIFICATION.*—The Secretary shall issue a de-
20 termination as to whether an applicant has met
21 the requirements under subsection (e)(1) within
22 60 days following the date of submittal of the ap-
23 plication for certification.

24 “(D) *TIME TO MEET CRITERIA FOR CER-*
25 *TIFICATION.*—Each applicant for certification

1 *shall have 2 years from the date of acceptance by*
2 *the Secretary of the application during which to*
3 *provide to the Secretary evidence that the cri-*
4 *teria set forth in subsection (e)(2) have been met.*

5 “(E) *PERIOD OF ISSUANCE.*—*An applicant*
6 *which receives a certification shall have 5 years*
7 *from the date of issuance of the certification in*
8 *order to place the project in service and if such*
9 *project is not placed in service by that time pe-*
10 *riod then the certification shall no longer be*
11 *valid.”.*

12 “(3) *AGGREGATE GENERATING CAPACITY.*—

13 “(A) *IN GENERAL.*—*The aggregate gener-*
14 *ating capacity of projects certified by the Sec-*
15 *retary under paragraph (2) may not exceed*
16 *7,500 megawatts.*

17 “(B) *PARTICULAR PROJECTS.*—*Of the total*
18 *megawatts of capacity which the Secretary is au-*
19 *thorized to certify—*

20 “(i) *4,125 megawatts shall be available*
21 *only for use for integrated gasification com-*
22 *bined cycle projects, and*

23 “(ii) *3,375 megawatts shall be avail-*
24 *able only for use for projects which use other*
25 *advanced coal-based generation technologies.*

1 “(C) *DETERMINATION OF CAPACITY.*—*In de-*
2 *termining capacity under this paragraph in the*
3 *case of a retrofitted or repowered plant, capacity*
4 *shall be determined based on total design capac-*
5 *ity after the retrofit or repowering of the existing*
6 *facility is accomplished.*

7 “(5) *REVIEW AND REDISTRIBUTION.*—

8 “(A) *REVIEW.*—*Not later than 6 years after*
9 *the date of enactment of this section, the Sec-*
10 *retary shall review the projects certified and*
11 *megawatts allocated under this section as of the*
12 *date which is 6 years after the date of enactment*
13 *of this section.*

14 “(B) *REDISTRIBUTION.*—*The Secretary*
15 *may reallocate the megawatts available under*
16 *clauses (i) and (ii) of paragraph (3)(B) if the*
17 *Secretary determines that—*

18 “(i) *capacity cannot be used because*
19 *there is an insufficient quantity of quali-*
20 *fying applications for certification pending*
21 *for any available capacity at the time of the*
22 *review, or*

23 “(ii) *any certification made pursuant*
24 *to subsection paragraph (2) has not been re-*
25 *voked pursuant to subsection paragraph*

1 (2)(D) because the project subject to the cer-
2 tification has been delayed as a result of
3 third party opposition or litigation to the
4 proposed project.

5 “(C) REALLOCATION.—If the Secretary de-
6 termines that megawatts under clause (i) or (ii)
7 of paragraph (3)(B) are available for realloca-
8 tion pursuant to the requirements set forth in
9 paragraph (2), the Secretary is authorized to
10 conduct an additional program for applications
11 for certification.”.

12 “(e) QUALIFYING ADVANCED COAL PROJECTS.—

13 “(1) REQUIREMENTS.—For purposes of sub-
14 section (c)(1), a project shall be considered a quali-
15 fying advanced coal project that the Secretary may
16 certify under subsection (d)(2) if the Secretary deter-
17 mines that, at a minimum—

18 “(A) the project uses an advanced coal-based
19 generation technology—

20 “(i) to power a new electric generation
21 unit, or

22 “(ii) to retrofit or repower an existing
23 electric generation unit (including an exist-
24 ing natural gas-fired combined cycle unit),

1 “(B) the fuel input for the project, when
2 completed, is at least 75 percent coal,

3 “(C) the project, consisting of one or more
4 electric generation units at one site, will have a
5 total nameplate generating capacity of at least
6 400 megawatts;

7 “(D) the applicant demonstrates that there
8 is a letter of intent signed by an officer of an en-
9 tity willing to purchase the majority of the out-
10 put of the project or signed by an officer of a
11 utility indicating that the electricity capacity
12 addition is consistent with that utility’s inte-
13 grated resource plan as approved by the regu-
14 latory or governing body that oversees electricity
15 capacity allocations of the utility;

16 “(E) there is evidence of ownership or con-
17 trol of a site of sufficient size to allow the pro-
18 posed project to be constructed and to operate on
19 a long-term basis; and

20 “(F) the project will be located in the
21 United States.

22 “(2) REQUIREMENTS FOR CERTIFICATION.—For
23 the purpose of subsection (d)(2)(D), a project shall be
24 eligible for certification only if the Secretary deter-
25 mines that—

1 “(A) the applicant for certification has re-
2 ceived all Federal and State environmental au-
3 thorizations or reviews necessary to commence
4 construction of the project; and

5 “(B) the applicant for certification, except
6 in the case of a retrofit or repower of an existing
7 electric generation unit, has purchased or entered
8 into a binding contract for the purchase of the
9 main steam turbine or turbines for the project,
10 except that such contract may be contingent
11 upon receipt of a certification under subsection
12 (d)(2).”.

13 “(3) *PRIORITY FOR INTEGRATED GASIFICATION*
14 *COMBINED CYCLE PROJECTS.*—In determining which
15 qualifying advanced coal projects to certify under
16 subsection (d)(2), the Secretary shall—

17 “(A) certify capacity, in accordance with
18 the procedures set forth in subsection (d), in rel-
19 atively equal amounts to—

20 “(i) projects using bituminous coal as
21 a primary feedstock,

22 “(ii) projects using subbituminous coal
23 as a primary feedstock, and

24 “(iii) projects using lignite as a pri-
25 mary feedstock, and

1 “(B) give high priority to projects which in-
 2 clude, as determined by the Secretary—

- 3 “(i) greenhouse gas capture capability,
 4 “(ii) increased by-product utilization,
 5 and
 6 “(iii) other benefits.

7 “(g) *ADVANCED COAL-BASED GENERATION TECH-*
 8 *NOLOGY.—*

9 “(1) *IN GENERAL.—For the purpose of this sec-*
 10 *tion, an electric generation unit uses advanced coal-*
 11 *based generation technology if—*

- 12 “(A) the unit—
 13 “(i) uses integrated gasification com-
 14 bined cycle technology, or
 15 “(ii) except as provided in paragraph
 16 (3), has a design net heat rate of 8530 Btu/
 17 kWh (40 percent efficiency), and

18 “(B) the unit is designed to meet the per-
 19 formance requirements in the following table:

Performance characteristic:	Design level for project:
SO ₂ (percent removal)	99 percent
NO _x (emissions)	0.07 lbs/MMBTU
PM* (emissions)	0.015 lbs/MMBTU
Hg (percent removal)	90 percent

20 “(2) *DESIGN NET HEAT RATE.—For purposes of*
 21 *this subsection, design net heat rate with respect to an*
 22 *electric generation unit shall—*

1 “(A) be measured in Btu per kilowatt hour
2 (higher heating value),

3 “(B) be based on the design annual heat
4 input to the unit and the rated net electrical
5 power, fuels, and chemicals output of the unit
6 (determined without regard to the cogeneration
7 of steam by the unit),

8 “(C) be adjusted for the heat content of the
9 design coal to be used by the unit—

10 “(i) if the heat content is less than
11 13,500 Btu per pound, but greater than
12 7,000 Btu per pound, according to the fol-
13 lowing formula: design net heat rate = unit
14 net heat rate $\times [1 - \{((13,500 - \text{design coal}$
15 heat content, Btu per pound)/1,000)*
16 0.013\}], and

17 “(ii) if the heat content is less than or
18 equal to 7,000 Btu per pound, according to
19 the following formula: design net heat rate
20 = unit net heat rate $\times [1 - \{((13,500 - \text{design}$
21 coal heat content, Btu per pound)/1,000)*
22 0.018\}], and

23 “(D) be corrected for the site reference con-
24 ditions of—

1 “(i) elevation above sea level of 500
2 feet,

3 “(ii) air pressure of 14.4 pounds per
4 square inch absolute,

5 “(iii) temperature, dry bulb of 63/o/F,

6 “(iv) temperature, wet bulb of 54/o/F,

7 and

8 “(v) relative humidity of 55 percent.

9 (3) *EXISTING UNITS.*—In the case of any electric
10 generation unit in existence on the date of the enact-
11 ment of this section, such unit uses advanced coal-
12 based generation technology if, in lieu of the require-
13 ments under paragraph (1)(A)(ii), such unit achieves
14 a minimum efficiency of 35 percent and an overall
15 thermal design efficiency improvement, compared to
16 the efficiency of the unit as operated, of not less
17 than—

18 (A) 7 percentage points for coal of more
19 than 9,000 Btu,

20 (B) 6 percentage points for coal of 7,000 to
21 9,000 Btu, or

22 (C) 4 percentage points for coal of less than
23 7,000 Btu.

24 “(h) *APPLICABILITY.*—No use of technology (or level of
25 emission reduction solely by reason of the use of the tech-

1 *nology), and no achievement of any emission reduction by*
2 *the demonstration of any technology or performance level,*
3 *by or at one or more facilities with respect to which a credit*
4 *is allowed under this section, shall be considered to indicate*
5 *that the technology or performance level is—*

6 “(1) *adequately demonstrated for purposes of sec-*
7 *tion 111 of the Clean Air Act (42 U.S. C. 7411);*

8 “(2) *achievable for purposes of section 169 of*
9 *that Act (42 U.S. C. 7479); or*

10 “(3) *achievable in practice for purposes of sec-*
11 *tion 171 of such Act (42 U.S.C. 7501).*

12 **“SEC. 48B. QUALIFYING GASIFICATION PROJECT CREDIT.**

13 “(a) *IN GENERAL.—For purposes of section 46, the*
14 *qualifying gasification project credit for any taxable year*
15 *is an amount equal to 20 percent of the qualified investment*
16 *for such taxable year.*

17 “(b) *QUALIFIED INVESTMENT.—*

18 “(1) *IN GENERAL.—For purposes of subsection*
19 *(a), the qualified investment for any taxable year is*
20 *the basis of property placed in service by the taxpayer*
21 *during such taxable year which is part of a quali-*
22 *fying gasification project—*

23 “(A)(i) *the construction, reconstruction, or*
24 *erection of which is completed by the taxpayer,*
25 *or*

1 “(i) which is acquired by the taxpayer if
2 the original use of such property commences with
3 the taxpayer, and

4 “(B) with respect to which depreciation (or
5 amortization in lieu of depreciation) is allow-
6 able.

7 “(2) *APPLICABLE RULES.*—For purposes of this
8 section, rules similar to the rules of subsection (a)(4)
9 and (b) of section 48 shall apply.

10 “(c) *DEFINITIONS.*—For purposes of this section—

11 “(1) *QUALIFYING GASIFICATION PROJECT.*—The
12 term ‘qualifying gasification project’ means any
13 project which—

14 “(A) employs gasification technology,

15 “(B) will be carried out by an eligible enti-
16 ty, and

17 “(C) any portion of the qualified investment
18 in which is certified under the qualifying gasifi-
19 cation program as eligible for credit under this
20 section in an amount (not to exceed
21 \$1,000,000,000) determined by the Secretary.

22 “(2) *GASIFICATION TECHNOLOGY.*—The term
23 ‘gasification technology’ means any process which
24 converts a solid or liquid product from coal, petro-
25 leum residue, biomass, or other materials which are

1 *recovered for their energy or feedstock value into a*
2 *synthesis gas composed primarily of carbon monoxide*
3 *and hydrogen for direct use or subsequent chemical or*
4 *physical conversion.*

5 “(3) *BIOMASS.*—

6 “(A) *IN GENERAL.*—*The term ‘biomass’*
7 *means any—*

8 “(i) *agricultural or plant waste,*

9 “(ii) *byproduct of wood or paper mill*
10 *operations, including lignin in spent*
11 *pulping liquors, and*

12 “(iii) *other products of forestry main-*
13 *tenance.*

14 “(B) *EXCLUSION.*—*The term ‘biomass’ does*
15 *not include paper which is commonly recycled.*

16 “(4) *CARBON CAPTURE CAPABILITY.*—*The term*
17 *‘carbon capture capability’ means a gasification*
18 *plant design which is determined by the Secretary to*
19 *reflect reasonable consideration for, and be capable of,*
20 *accommodating the equipment likely to be necessary*
21 *to capture carbon dioxide from the gaseous stream, for*
22 *later use or sequestration, which would otherwise be*
23 *emitted in the flue gas from a project which uses a*
24 *nonrenewable fuel.*

1 “(5) *COAL*.—The term ‘coal’ means any carbon-
2 ized or semicarbonized matter, including peat.

3 “(6) *ELIGIBLE ENTITY*.—The term ‘eligible enti-
4 ty’ means any person whose application for certifi-
5 cation is principally intended for use in a domestic
6 project which employs domestic gasification applica-
7 tions related to—

8 “(A) chemicals,

9 “(B) fertilizers,

10 “(C) glass,

11 “(D) steel,

12 “(E) petroleum residues,

13 “(F) forest products, and

14 “(G) agriculture, including feedlots and
15 dairy operations.

16 “(7) *PETROLEUM RESIDUE*.—The term ‘petro-
17 leum residue’ means the carbonized product of high-
18 boiling hydrocarbon fractions obtained in petroleum
19 processing.

20 “(d) *QUALIFYING GASIFICATION PROJECT PRO-*
21 *GRAM*.—

22 “(1) *IN GENERAL*.—The Secretary, in consulta-
23 tion with the Secretary of Energy, shall establish a
24 qualifying gasification project program to consider
25 and award certifications for qualified investment eli-

1 *gible for credits under this section to qualifying gas-*
2 *ification project sponsors under this section. The total*
3 *qualified investment which may be awarded eligi-*
4 *bility for credit under the program shall not exceed*
5 *\$4,000,000,000.*

6 *“(2) PERIOD OF ISSUANCE.—A certificate of eli-*
7 *gibility under paragraph (1) may be issued only dur-*
8 *ing the 10-fiscal year period beginning on October 1,*
9 *2005.*

10 *“(3) SELECTION CRITERIA.—The Secretary shall*
11 *not make a competitive certification award for quali-*
12 *fied investment for credit eligibility under this section*
13 *unless the recipient has documented to the satisfaction*
14 *of the Secretary that—*

15 *“(A) the award recipient is financially via-*
16 *ble without the receipt of additional Federal*
17 *funding associated with the proposed project,*

18 *“(B) the recipient will provide sufficient in-*
19 *formation to the Secretary for the Secretary to*
20 *ensure that the qualified investment is spent effi-*
21 *ciently and effectively,*

22 *“(C) a market exists for the products of the*
23 *proposed project as evidenced by contracts or*
24 *written statements of intent from potential cus-*
25 *tomers,*

1 “(D) the fuels identified with respect to the
2 gasification technology for such project will com-
3 prise at least 90 percent of the fuels required by
4 the project for the production of chemical feed-
5 stocks, liquid transportation fuels, or coproduc-
6 tion of electricity,

7 “(E) the award recipient’s project team is
8 competent in the construction and operation of
9 the gasification technology proposed, with pref-
10 erence given to those recipients with experience
11 which demonstrates successful and reliable oper-
12 ations of the technology on domestic fuels so
13 identified, and

14 “(F) the award recipient has met other cri-
15 teria established and published by the Sec-
16 retary.”.

17 (c) *CONFORMING AMENDMENTS.*—

18 (1) Section 49(a)(1)(C) is amended by striking
19 “and” at the end of clause (ii), by striking clause
20 (iii), and by adding after clause (ii) the following
21 new clauses:

22 “(iii) the basis of any property which
23 is part of a qualifying advanced coal
24 project under section 48A, and

1 “(iv) the basis of any property which
2 is part of a qualifying gasification project
3 under section 48B.”.

4 (2) *The table of sections for subpart E of part IV*
5 *of subchapter A of chapter 1 is amended by inserting*
6 *after the item relating to section 48 the following new*
7 *items:*

 “48A. *Qualifying advanced coal project credit.*

 “48B. *Qualifying gasification project credit.*”.

8 (e) **EFFECTIVE DATE.**—*The amendments made by this*
9 *section shall apply to periods after the date of the enactment*
10 *of this Act, under rules similar to the rules of section 48(m)*
11 *of the Internal Revenue Code of 1986 (as in effect on the*
12 *day before the date of the enactment of the Revenue Rec-*
13 *onciliation Act of 1990).*

14 **SEC. 1509. CLEAN ENERGY COAL BONDS.**

15 (a) **IN GENERAL.**—*Subpart H of part IV of subchapter*
16 *A of chapter 1 (relating to credits against tax), as added*
17 *by this Act, is amended by adding at the end the following*
18 *new section:*

19 **“SEC. 54A. CREDIT TO HOLDERS OF CLEAN ENERGY COAL**
20 **BONDS.**

21 “(a) **ALLOWANCE OF CREDIT.**—*If a taxpayer holds a*
22 *clean energy coal bond on 1 or more credit allowance dates*
23 *of the bond occurring during any taxable year, there shall*
24 *be allowed as a credit against the tax imposed by this chap-*

1 *ter for the taxable year an amount equal to the sum of the*
2 *credits determined under subsection (b) with respect to such*
3 *dates.*

4 “(b) *AMOUNT OF CREDIT.*—

5 “(1) *IN GENERAL.*—*The amount of the credit de-*
6 *termined under this subsection with respect to any*
7 *credit allowance date for a clean energy coal bond is*
8 *25 percent of the annual credit determined with re-*
9 *spect to such bond.*

10 “(2) *ANNUAL CREDIT.*—*The annual credit deter-*
11 *mined with respect to any clean energy coal bond is*
12 *the product of—*

13 “(A) *the credit rate determined by the Sec-*
14 *retary under paragraph (3) for the day on which*
15 *such bond was sold, multiplied by*

16 “(B) *the outstanding face amount of the*
17 *bond.*

18 “(3) *DETERMINATION.*—*For purposes of para-*
19 *graph (2), with respect to any clean energy coal bond,*
20 *the Secretary shall determine daily or cause to be de-*
21 *termined daily a credit rate which shall apply to the*
22 *first day on which there is a binding, written con-*
23 *tract for the sale or exchange of the bond. The credit*
24 *rate for any day is the credit rate which the Sec-*
25 *retary or the Secretary’s designee estimates will per-*

1 *mit the issuance of clean energy coal bonds with a*
2 *specified maturity or redemption date without dis-*
3 *count and without interest cost to the qualified issuer.*

4 “(4) *CREDIT ALLOWANCE DATE.*—*For purposes*
5 *of this section, the term ‘credit allowance date’*
6 *means—*

7 “(A) *March 15,*

8 “(B) *June 15,*

9 “(C) *September 15, and*

10 “(D) *December 15.*

11 *Such term also includes the last day on which the*
12 *bond is outstanding.*

13 “(5) *SPECIAL RULE FOR ISSUANCE AND REDEMP-*
14 *TION.*—*In the case of a bond which is issued during*
15 *the 3-month period ending on a credit allowance date,*
16 *the amount of the credit determined under this sub-*
17 *section with respect to such credit allowance date*
18 *shall be a ratable portion of the credit otherwise deter-*
19 *mined based on the portion of the 3-month period*
20 *during which the bond is outstanding. A similar rule*
21 *shall apply when the bond is redeemed or matures.*

22 “(c) *LIMITATION BASED ON AMOUNT OF TAX.*—*The*
23 *credit allowed under subsection (a) for any taxable year*
24 *shall not exceed the excess of—*

1 “(1) the sum of the regular tax liability (as de-
2 fined in section 26(b)) plus the tax imposed by section
3 55, over

4 “(2) the sum of the credits allowable under this
5 part (other than subpart C thereof (relating to refund-
6 able credits) and this section) and section 1397E.

7 “(d) *CLEAN ENERGY COAL BOND*.—For purposes of
8 this section—

9 “(1) *IN GENERAL*.—The term ‘clean energy coal
10 bond’ means any bond issued as part of an issue if—

11 “(A) the bond is issued by a qualified issuer
12 pursuant to an allocation by the Secretary to
13 such issuer of a portion of the national clean en-
14 ergy coal bond limitation under subsection (f)(2),

15 “(B) 95 percent or more of the proceeds
16 from the sale of such issue are to be used for cap-
17 ital expenditures incurred by qualified borrowers
18 for 1 or more qualified projects,

19 “(C) the qualified issuer designates such
20 bond for purposes of this section and the bond is
21 in registered form, and

22 “(D) the issue meets the requirements of
23 subsection (h).

24 “(2) *QUALIFIED PROJECT; SPECIAL USE*
25 *RULES*.—

1 “(A) *IN GENERAL.*—*The term ‘qualified*
2 *project’ means a qualifying advanced coal*
3 *project (as defined in section 48A(c)(1)) placed*
4 *in service by a qualified borrower.*

5 “(B) *REFINANCING RULES.*—*For purposes*
6 *of paragraph (1)(B), a qualified project may be*
7 *refinanced with proceeds of a clean energy coal*
8 *bond only if the indebtedness being refinanced*
9 *(including any obligation directly or indirectly*
10 *refinanced by such indebtedness) was originally*
11 *incurred by a qualified borrower after the date*
12 *of the enactment of this section.*

13 “(C) *REIMBURSEMENT.*—*For purposes of*
14 *paragraph (1)(B), a clean energy coal bond may*
15 *be issued to reimburse a qualified borrower for*
16 *amounts paid after the date of the enactment of*
17 *this section with respect to a qualified project,*
18 *but only if—*

19 “(i) *prior to the payment of the origi-*
20 *nal expenditure, the qualified borrower de-*
21 *clared its intent to reimburse such expendi-*
22 *ture with the proceeds of a clean energy coal*
23 *bond,*

24 “(ii) *not later than 60 days after pay-*
25 *ment of the original expenditure, the quali-*

1 *fied issuer adopts an official intent to reim-*
2 *burse the original expenditure with such*
3 *proceeds, and*

4 “(iii) *the reimbursement is made not*
5 *later than 18 months after the date the*
6 *original expenditure is paid.*

7 “(D) *TREATMENT OF CHANGES IN USE.—*
8 *For purposes of paragraph (1)(B), the proceeds*
9 *of an issue shall not be treated as used for a*
10 *qualified project to the extent that a qualified*
11 *borrower takes any action within its control*
12 *which causes such proceeds not to be used for a*
13 *qualified project. The Secretary shall prescribe*
14 *regulations specifying remedial actions that may*
15 *be taken (including conditions to taking such re-*
16 *medial actions) to prevent an action described in*
17 *the preceding sentence from causing a bond to*
18 *fail to be a clean energy coal bond.*

19 “(e) *MATURITY LIMITATIONS.—*

20 “(1) *DURATION OF TERM.—A bond shall not be*
21 *treated as a clean energy coal bond if the maturity*
22 *of such bond exceeds the maximum term determined*
23 *by the Secretary under paragraph (2) with respect to*
24 *such bond.*

1 “(2) *MAXIMUM TERM.*—During each calendar
2 month, the Secretary shall determine the maximum
3 term permitted under this paragraph for bonds issued
4 during the following calendar month. Such maximum
5 term shall be the term which the Secretary estimates
6 will result in the present value of the obligation to
7 repay the principal on the bond being equal to 50
8 percent of the face amount of such bond. Such present
9 value shall be determined using as a discount rate the
10 average annual interest rate of tax of tax-exempt obli-
11 gations having a term of 10 years or more which are
12 issued during the month. If the term as so determined
13 is not a multiple of a whole year, such term shall be
14 rounded to the next highest whole year.

15 “(3) *RATABLE PRINCIPAL AMORTIZATION RE-*
16 *QUIRED.*—A bond shall not be treated as a clean en-
17 ergy coal bond unless it is part of an issue which pro-
18 vides for an equal amount of principal to be paid by
19 the qualified issuer during each calendar year that
20 the issue is outstanding.

21 “(f) *LIMITATION ON AMOUNT OF BONDS DES-*
22 *IGNATED.*—

23 “(1) *NATIONAL LIMITATION.*—There is a na-
24 tional clean energy coal bond limitation of
25 \$1,000,000,000.

1 “(2) *ALLOCATION BY SECRETARY.*—*The Sec-*
2 *retary shall allocate the amount described in para-*
3 *graph (1) among qualified projects in such manner as*
4 *the Secretary determines appropriate.*

5 “(g) *CREDIT INCLUDED IN GROSS INCOME.*—*Gross in-*
6 *come includes the amount of the credit allowed to the tax-*
7 *payer under this section (determined without regard to sub-*
8 *section (c)) and the amount so included shall be treated as*
9 *interest income.*

10 “(h) *SPECIAL RULES RELATING TO EXPENDITURES.*—

11 “(1) *IN GENERAL.*—*An issue shall be treated as*
12 *meeting the requirements of this subsection if, as of*
13 *the date of issuance, the qualified issuer reasonably*
14 *expects—*

15 “(A) *at least 95 percent of the proceeds from*
16 *the sale of the issue are to be spent for 1 or more*
17 *qualified projects within the 5-year period begin-*
18 *ning on the date of issuance of the clean energy*
19 *bond,*

20 “(B) *a binding commitment with a third*
21 *party to spend at least 10 percent of the proceeds*
22 *from the sale of the issue will be incurred within*
23 *the 6-month period beginning on the date of*
24 *issuance of the clean energy bond or, in the case*
25 *of a clean energy bond the proceeds of which are*

1 to be loaned to 2 or more qualified borrowers,
2 such binding commitment will be incurred with-
3 in the 6-month period beginning on the date of
4 the loan of such proceeds to a qualified borrower,
5 and

6 “(C) such projects will be completed with
7 due diligence and the proceeds from the sale of
8 the issue will be spent with due diligence.

9 “(2) *EXTENSION OF PERIOD.*—Upon submission
10 of a request prior to the expiration of the period de-
11 scribed in paragraph (1)(A), the Secretary may ex-
12 tend such period if the qualified issuer establishes that
13 the failure to satisfy the 5-year requirement is due to
14 reasonable cause and the related projects will continue
15 to proceed with due diligence.

16 “(3) *FAILURE TO SPEND REQUIRED AMOUNT OF*
17 *BOND PROCEEDS WITHIN 5 YEARS.*—To the extent that
18 less than 95 percent of the proceeds of such issue are
19 expended by the close of the 5-year period beginning
20 on the date of issuance (or if an extension has been
21 obtained under paragraph (2), by the close of the ex-
22 tended period), the qualified issuer shall redeem all of
23 the nonqualified bonds within 90 days after the end
24 of such period. For purposes of this paragraph, the
25 amount of the nonqualified bonds required to be re-

1 *deemed shall be determined in the same manner as*
2 *under section 142.*

3 “(i) *SPECIAL RULES RELATING TO ARBITRAGE.—A*
4 *bond which is part of an issue shall not be treated as a*
5 *clean energy coal bond unless, with respect to the issue of*
6 *which the bond is a part, the qualified issuer satisfies the*
7 *arbitrage requirements of section 148 with respect to pro-*
8 *ceeds of the issue.*

9 “(j) *COOPERATIVE ELECTRIC COMPANY; QUALIFIED*
10 *ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL*
11 *BODY; QUALIFIED BORROWER.—For purposes of this*
12 *section—*

13 “(1) *COOPERATIVE ELECTRIC COMPANY.—The*
14 *term ‘cooperative electric company’ means a mutual*
15 *or cooperative electric company described in section*
16 *501(c)(12) or section 1381(a)(2)(C), or a not-for-prof-*
17 *it electric utility which has received a loan or loan*
18 *guarantee under the Rural Electrification Act.*

19 “(2) *CLEAN ENERGY BOND LENDER.—The term*
20 *‘clean energy bond lender’ means a lender which is a*
21 *cooperative which is owned by, or has outstanding*
22 *loans to, 100 or more cooperative electric companies*
23 *and is in existence on February 1, 2002, and shall in-*
24 *clude any affiliated entity which is controlled by such*
25 *lender.*

1 “(3) *GOVERNMENTAL BODY.*—*The term ‘govern-*
2 *mental body’ means any State, territory, possession of*
3 *the United States, the District of Columbia, Indian*
4 *tribal government, and any political subdivision*
5 *thereof.*

6 “(4) *QUALIFIED ISSUER.*—*The term ‘qualified*
7 *issuer’ means—*

8 “(A) *a clean energy bond lender,*

9 “(B) *a cooperative electric company,*

10 “(C) *a governmental body, or*

11 “(D) *the Tennessee Valley Authority.*

12 “(5) *QUALIFIED BORROWER.*—*The term ‘quali-*
13 *fied borrower’ means—*

14 “(A) *a mutual or cooperative electric com-*
15 *pany described in section 501(c)(12) or*
16 *1381(a)(2)(C),*

17 “(B) *a governmental body, or*

18 “(C) *the Tennessee Valley Authority.*

19 “(k) *SPECIAL RULES RELATING TO POOL BONDS.*—
20 *No portion of a pooled financing bond may be allocable to*
21 *any loan unless the borrower has entered into a written*
22 *loan commitment for such portion prior to the issue date*
23 *of such issue.*

24 “(l) *OTHER DEFINITIONS AND SPECIAL RULES.*—*For*
25 *purposes of this section—*

1 “(1) *BOND.*—*The term ‘bond’ includes any obli-*
2 *gation.*”

3 “(2) *POOLED FINANCING BOND.*—*The term*
4 *‘pooled financing bond’ shall have the meaning given*
5 *such term by section 149(f)(4)(A).*”

6 “(3) *PARTNERSHIP; S CORPORATION; AND OTHER*
7 *PASS-THRU ENTITIES.*—

8 “(A) *IN GENERAL.*—*Under regulations pre-*
9 *scribed by the Secretary, in the case of a part-*
10 *nership, trust, S corporation, or other pass-thru*
11 *entity, rules similar to the rules of section 41(g)*
12 *shall apply with respect to the credit allowable*
13 *under subsection (a).*”

14 “(B) *NO BASIS ADJUSTMENT.*—*Rules simi-*
15 *lar to the rules under section 1397E(i)(2) shall*
16 *apply.*”

17 “(4) *BONDS HELD BY REGULATED INVESTMENT*
18 *COMPANIES.*—*If any clean energy coal bond is held by*
19 *a regulated investment company, the credit deter-*
20 *mined under subsection (a) shall be allowed to share-*
21 *holders of such company under procedures prescribed*
22 *by the Secretary.*”

23 “(5) *TREATMENT FOR ESTIMATED TAX PUR-*
24 *POSES.*—*Solely for purposes of sections 6654 and*
25 *6655, the credit allowed by this section to a taxpayer*

1 *by reason of holding a clean energy coal bond on a*
2 *credit allowance date shall be treated as if it were a*
3 *payment of estimated tax made by the taxpayer on*
4 *such date.*

5 “(6) *REPORTING.*—*Issuers of clean energy coal*
6 *bonds shall submit reports similar to the reports re-*
7 *quired under section 149(e).*

8 “(m) *TERMINATION.*—*This section shall not apply*
9 *with respect to any bond issued after December 31, 2010.*”.

10 “(b) *REPORTING.*—*Subsection (d) of section 6049 (relat-*
11 *ing to returns regarding payments of interest), as amended*
12 *by this Act, is amended by adding at the end the following*
13 *new paragraph:*

14 “(9) *REPORTING OF CREDIT ON CLEAN ENERGY*
15 *COAL BONDS.*—

16 “(A) *IN GENERAL.*—*For purposes of sub-*
17 *section (a), the term ‘interest’ includes amounts*
18 *includible in gross income under section 54A(g)*
19 *and such amounts shall be treated as paid on the*
20 *credit allowance date (as defined in section*
21 *54A(b)(4)).*

22 “(B) *REPORTING TO CORPORATIONS, ETC.*—
23 *Except as otherwise provided in regulations, in*
24 *the case of any interest described in subpara-*
25 *graph (A), subsection (b)(4) shall be applied*

1 *without regard to subparagraphs (A), (H), (I),*
 2 *(J), (K), and (L)(i) of such subsection.*

3 “(C) *REGULATORY AUTHORITY.*—*The Sec-*
 4 *retary may prescribe such regulations as are nec-*
 5 *essary or appropriate to carry out the purposes*
 6 *of this paragraph, including regulations which*
 7 *require more frequent or more detailed report-*
 8 *ing.”.*

9 (c) *CLERICAL AMENDMENT.*—*The table of sections for*
 10 *subpart H of part IV of subchapter A of chapter 1, as added*
 11 *by this Act, is amended by adding at the end the following*
 12 *new item:*

 “*Sec. 54A. Credit to holders of clean energy coal bonds.*”.

13 (d) *ISSUANCE OF REGULATIONS.*—*The Secretary of*
 14 *Treasury shall issue regulations required under section 54A*
 15 *of the Internal Revenue Code of 1986 (as added by this sec-*
 16 *tion) not later than 120 days after the date of the enactment*
 17 *of this Act.*

18 (e) *EFFECTIVE DATE.*—*The amendments made by this*
 19 *section shall apply to bonds issued after December 31, 2005.*

20 ***Subtitle B—Domestic Fossil Fuel***
 21 ***Security***

22 ***SEC. 1511. CREDIT FOR INVESTMENT IN CLEAN COKE/CO-***
 23 ***GENERATION MANUFACTURING FACILITIES.***

24 (a) *ALLOWANCE OF CLEAN COKE/COGENERATION MAN-*
 25 *UFACTURING FACILITIES CREDIT.*—*Section 46 (relating to*

1 amount of credit), as amended by this Act, is amended by
 2 striking “and” at the end of paragraph (3), by striking the
 3 period at the end of paragraph (4), and inserting “, and”,
 4 and by adding at the end the following new paragraph:

5 “(5) the clean coke/cogeneration manufacturing
 6 facilities credit.”.

7 (b) *AMOUNT OF CLEAN COKE/COGENERATION MANU-*
 8 *FACTURING FACILITIES CREDIT.*—Subpart E of part IV of
 9 subchapter A of chapter 1 (relating to rules for computing
 10 investment credit), as amended by this Act, is amended by
 11 inserting after section 48B the following new section:

12 **“SEC. 48C. CLEAN COKE/COGENERATION MANUFACTURING**
 13 **FACILITIES CREDIT.**

14 “(a) *IN GENERAL.*—For purposes of section 46, the
 15 clean coke/cogeneration manufacturing facilities credit for
 16 any taxable year is an amount equal to 20 percent of the
 17 qualified investment for such taxable year.

18 “(b) *QUALIFIED INVESTMENT.*—

19 “(1) *IN GENERAL.*—For purposes of subsection
 20 (a), the qualified investment for any taxable year is
 21 the basis of each clean coke/cogeneration manufac-
 22 turing facilities property placed in service by the tax-
 23 payer during such taxable year.

24 “(2) *CLEAN COKE/COGENERATION MANUFAC-*
 25 *TURING FACILITIES PROPERTY.*—For purposes of this

1 section, the term ‘clean coke/cogeneration manufac-
2 turing facilities property’ means real and tangible
3 personal property which—

4 “(A) is depreciable under section 167,

5 “(B) is located in the United States,

6 “(C) is used for the manufacture of met-
7 allurgical coke or for the production of steam or
8 electricity from waste heat generated during the
9 production of metallurgical coke, and

10 “(D) does not exceed any of the following
11 emission limitations—

12 “(i) 0.0 percent leaking for any coke
13 oven doors unless the operation of ovens is
14 under negative pressure,

15 “(ii) 0.0 percent leaking for any top-
16 side port lids,

17 “(iii) 0.0 percent leaking for any
18 offtake system,

19 determined as provided for in section
20 63.303(b)(1)(ii) or 63.309(d)(1) of title 40, Code
21 of Federal Regulations.

22 “(c) *TERMINATION.*—This subsection shall not apply
23 to property for periods after December 31, 2009.”.

24 (c) *TECHNICAL AMENDMENT.*—Section 50(c) is
25 amended by adding at the end the following new paragraph:

1 “(6) *SPECIAL RULE FOR COKE/COGENERATION*
2 *FACILITIES.—Paragraphs (1) and (2) shall not apply*
3 *to any property with respect to the credit determined*
4 *under section 48C.”.*

5 *(d) CONFORMING AMENDMENTS.—*

6 (1) *Section 49(a)(1)(C), as amended by this Act,*
7 *is amended by striking “and” at the end of clause*
8 *(iii), by striking the period at the end of clause (iv)*
9 *and inserting “, and”, and by adding at the end the*
10 *following new clause:*

11 *“(v) the basis of any clean coke/cogen-*
12 *eration manufacturing facilities property.”*

13 (2) *The table of sections for subpart E of part IV*
14 *of subchapter A of chapter 1, as amended by this Act,*
15 *is amended by inserting after the item relating to sec-*
16 *tion 48B the following new item:*

“48C. Clean coke/cogeneration manufacturing facilities credit.”.

17 (i) *EFFECTIVE DATE.—The amendments made by this*
18 *section shall apply to periods after December 31, 2004,*
19 *under rules similar to the rules of section 48(m) of the In-*
20 *ternal Revenue Code of 1986 (as in effect on the day before*
21 *the date of the enactment of the Revenue Reconciliation Act*
22 *of 1990).*

1 **SEC. 1512. TEMPORARY EXPENSING FOR EQUIPMENT USED**
2 **IN REFINING OF LIQUID FUELS.**

3 (A) *IN GENERAL.*—Part VI of subchapter B of chapter
4 1 is amended by inserting after section 179B the following
5 new section:

6 **“SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.**

7 “(a) *TREATMENT AS EXPENSES.*—A taxpayer may
8 elect to treat the cost of any qualified refinery property as
9 an expense which is not chargeable to capital account. Any
10 cost so treated shall be allowed as a deduction for the taxable
11 year in which the qualified refinery is placed in service.

12 “(b) *ELECTION.*—

13 “(1) *IN GENERAL.*—An election under this sec-
14 tion for any taxable year shall be made on the tax-
15 payer’s return of the tax imposed by this chapter for
16 the taxable year. Such election shall be made in such
17 manner as the Secretary may by regulations pre-
18 scribe.

19 “(2) *ELECTION IRREVOCABLE.*—Any election
20 made under this section may not be revoked except
21 with the consent of the Secretary.

22 “(c) *QUALIFIED REFINERY PROPERTY.*—The term
23 ‘qualified refinery property’ means any refinery or portion
24 of a refinery—

25 “(1) the original use of which commences with
26 the taxpayer,

1 “(2) *the construction of which—*

2 “(A) *except as provided in subparagraph*
3 *(B), is subject to a binding construction contract*
4 *entered into after June 14, 2005, and before Jan-*
5 *uary 1, 2008, but only if there was no written*
6 *binding construction contract entered into on or*
7 *before June 14, 2005, or*

8 “(B) *in the case of self-constructed property,*
9 *began after June 14, 2005,*

10 “(3) *which is placed in service by the taxpayer*
11 *after the date of the enactment of this section and be-*
12 *fore January 1, 2012,*

13 “(4) *in the case of any portion of a refinery,*
14 *which meets the requirements of subsection (d), and*

15 “(5) *which meets all applicable environmental*
16 *laws in effect on the date such refinery or portion*
17 *thereof was placed in service.*

18 *A waiver under the Clean Air Act shall not be taken into*
19 *account in determining whether the requirements of para-*
20 *graph (5) are met.*

21 “(d) *PRODUCTION CAPACITY.—The requirements of*
22 *this subsection are met if the portion of the refinery—*

23 “(1) *increases the rated capacity of the existing*
24 *refinery by 5 percent or more over the capacity of*

1 *such refinery as reported by the Energy Information*
2 *Agency on January 1, 2005, or*

3 *“(2) enables the existing refinery to process*
4 *qualified fuels (as defined in section 29(c)) at a rate*
5 *which is equal to or greater than 25 percent of the*
6 *total throughput of such refinery on an average daily*
7 *basis.*

8 *“(e) ELECTION TO ALLOCATE DEDUCTION TO COOP-*
9 *ERATIVE OWNER.—If—*

10 *“(1) a taxpayer to which subsection (a) applies*
11 *is an organization to which part I of subchapter T*
12 *applies, and*

13 *“(2) one or more persons directly holding an*
14 *ownership interest in the taxpayer are organizations*
15 *to which part I of subchapter T apply,*

16 *the taxpayer may elect to allocate all or a portion of the*
17 *deduction allowable under subsection (a) to such persons.*

18 *Such allocation shall be equal to the person’s ratable share*
19 *of the total amount allocated, determined on the basis of*

20 *the person’s ownership interest in the taxpayer. The taxable*
21 *income of the taxpayer shall not be reduced under section*

22 *1382 by reason of any amount to which the preceding sen-*
23 *tence applies.*

1 “(f) *INELIGIBLE REFINERIES.*—No deduction shall be
2 allowed under subsection (a) for any qualified refinery
3 property—

4 “(1) the primary purpose of which is for use as
5 a topping plant, asphalt plant, lube oil facility, crude
6 or product terminal, or blending facility, or

7 “(2) which is built solely to comply with Feder-
8 ally mandated projects or consent decrees.

9 “(g) *REPORTING.*—No deduction shall be allowed
10 under subsection (a) to any taxpayer for any taxable year
11 unless such taxpayer files with the Secretary a report con-
12 taining such information with respect to the operation of
13 the refineries of the taxpayer as the Secretary shall re-
14 quire.”.

15 (b) *CONFORMING AMENDMENTS.*—

16 (1) Section 1245(a) is amended by inserting
17 “179C,” after “179B,” both places it appears in para-
18 graphs (2)(C) and (3)(C).

19 (2) Section 263(a)(1) is amended by striking
20 “or” at the end of subparagraph (H), by striking the
21 period at the end of subparagraph (I) and inserting
22 “, or”, and by inserting after subparagraph (I) the
23 following new subparagraph:

24 “(J) expenditures for which a deduction is
25 allowed under section 179C.”.

1 (3) *Section 312(k)(3)(B) is amended by striking*
 2 *“179 179A, or 179B” each place it appears in the*
 3 *heading and text and inserting “179, 179A, 179B, or*
 4 *179C”.*

5 (4) *The table of sections for part VI of sub-*
 6 *chapter B of chapter 1 is amended by inserting after*
 7 *the item relating to section 179B the following new*
 8 *item:*

“Sec. 179C. Election to expense certain refineries.”.

9 (c) *EFFECTIVE DATE.— The amendments made by*
 10 *this section shall apply to properties placed in service after*
 11 *the date of the enactment of this Act.*

12 **SEC. 1513. PASS THROUGH TO OWNERS OF DEDUCTION FOR**
 13 **CAPITAL COSTS INCURRED BY SMALL RE-**
 14 **FINER COOPERATIVES IN COMPLYING WITH**
 15 **ENVIRONMENTAL PROTECTION AGENCY SUL-**
 16 **FUR REGULATIONS.**

17 (a) *IN GENERAL.—Section 179B (relating to deduc-*
 18 *tion for capital costs incurred in complying with Environ-*
 19 *mental Protection Agency sulfur regulations) is amended*
 20 *by adding at the end the following new subsection:*

21 *“(e) ELECTION TO ALLOCATE DEDUCTION TO COOP-*
 22 *ERATIVE OWNER.—If—*

23 *“(1) a small business refiner to which subsection*
 24 *(a) applies is an organization to which part I of sub-*
 25 *chapter T applies, and*

1 “(2) one or more persons directly holding an
 2 ownership interest in the refiner are organizations to
 3 which part I of subchapter T apply,
 4 the refiner may elect to allocate all or a portion of the de-
 5 duction allowable under subsection (a) to such persons.
 6 Such allocation shall be equal to the person’s ratable share
 7 of the total amount allocated, determined on the basis of
 8 the person’s ownership interest in the taxpayer. The taxable
 9 income of the refiner shall not be reduced under section
 10 1382 by reason of any amount to which the preceding sen-
 11 tence applies.”.

12 (b) *EFFECTIVE DATE.*—The amendment made by this
 13 section shall take effect as if included in the amendment
 14 made by section 338(a) of the American Jobs Creation Act
 15 of 2004.

16 **SEC. 1514. MODIFICATIONS TO ENHANCED OIL RECOVERY**
 17 **CREDIT.**

18 (a) *ENHANCED CREDIT FOR CARBON DIOXIDE INJEC-*
 19 *TIONS.*—Section 43 is amended by adding at the end the
 20 following new subsection:

21 “(f) *ENHANCED CREDIT FOR PROJECTS USING QUALI-*
 22 *FIED CARBON DIOXIDE.*—

23 “(1) *IN GENERAL.*—In the case of any qualified
 24 enhanced oil recovery project described in paragraph

1 (2), subsection (a) shall be applied by substituting ‘20
2 percent’ for ‘15 percent’.

3 “(2) SPECIFIED QUALIFIED ENHANCED OIL RE-
4 COVERY PROJECT.—

5 “(A) IN GENERAL.—A qualified enhanced
6 oil recovery project is described in this para-
7 graph if—

8 “(i) the project begins or is substan-
9 tially expanded after December 31, 2005,
10 and

11 “(ii) the project uses qualified carbon
12 dioxide in an oil recovery method which in-
13 volves flooding or injection.

14 “(B) QUALIFIED CARBON DIOXIDE.—For
15 purposes of this subsection, the term ‘qualified
16 carbon dioxide’ means carbon dioxide that is—

17 “(i) from an industrial source, or

18 “(ii) separated from natural gas and
19 natural gas liquids at a natural gas proc-
20 essing plant.

21 “(3) TERMINATION.—This subsection shall not
22 apply to costs paid or incurred for any qualified en-
23 hanced oil recovery project after December 31, 2009.”.

24 (b) DEEP GAS WELL PROJECTS.—Section 43(c) is
25 amended by adding at the end the following new paragraph:

1 “(6) *APPLICATION OF SECTION TO QUALIFIED*
2 *DEEP GAS WELL PROJECTS.—*

3 “(A) *IN GENERAL.—For purposes of this*
4 *section, the taxpayer’s qualified deep gas well*
5 *project costs for any taxable year shall be treated*
6 *in the same manner as if they were qualified en-*
7 *hanced oil recovery costs.*

8 “(B) *QUALIFIED DEEP GAS WELL PROJECT*
9 *COSTS.—For purposes of this paragraph, the*
10 *term ‘qualified deep gas well project costs’ shall*
11 *be the costs determined under paragraph (1) by*
12 *substituting ‘qualified deep gas well project’ for*
13 *‘qualified enhanced oil recovery project’ each*
14 *place it appears.*

15 “(C) *QUALIFIED DEEP GAS WELL*
16 *PROJECT.—For purposes of this paragraph, the*
17 *term ‘qualified deep gas well project’ means any*
18 *project—*

19 “(i) *which involves the production of*
20 *natural gas from onshore formations deeper*
21 *than 20,000 feet, and*

22 “(ii) *which is located in the United*
23 *States.*

1 “(D) *TERMINATION.*—*This paragraph shall*
 2 *not apply to qualified deep gas well project costs*
 3 *paid or incurred after December 31, 2009.*”.

4 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall apply to costs paid or incurred in taxable*
 6 *years ending after December 31, 2005.*

7 **SEC. 1515. NATURAL GAS DISTRIBUTION LINES TREATED AS**
 8 **15-YEAR PROPERTY.**

9 (a) *IN GENERAL.*—*Section 168(e)(3)(E) (defining 15-*
 10 *year property) is amended by striking “and” at the end*
 11 *of clause (v), by striking the period at the end of clause*
 12 *(vi) and by inserting “, and”, and by adding at the end*
 13 *the following new clause:*

14 “(vii) *any natural gas distribution*
 15 *line the original use of which commences*
 16 *with the taxpayer and which is placed in*
 17 *service before January 1, 2008.*”.

18 (b) *ALTERNATIVE SYSTEM.*—*The table contained in*
 19 *section 168(g)(3)(B) (relating to special rule for certain*
 20 *property assigned to classes) is amended by adding after*
 21 *the item relating to subparagraph (E)(vi) the following new*
 22 *item:*

 “(E)(vii) 35”.

23 (c) *EFFECTIVE DATE.*—

1 (1) *IN GENERAL.*—*The amendments made by*
2 *this section shall apply to property placed in service*
3 *after the date of the enactment of this Act.*

4 (2) *EXCEPTION.*—*The amendments made by this*
5 *section shall not apply to any property with respect*
6 *to which the taxpayer or a related party has entered*
7 *into a binding contract for the construction thereof on*
8 *or before June 14, 2005, or, in the case of self-con-*
9 *structed property, has started construction on or be-*
10 *fore such date.*

11 ***Subtitle C—Conservation and***
12 ***Energy Efficiency Provisions***

13 ***SEC. 1521. ENERGY EFFICIENT COMMERCIAL BUILDINGS***
14 ***DEDUCTION.***

15 (a) *IN GENERAL.*—*Part VI of subchapter B of chapter*
16 *1 (relating to itemized deductions for individuals and cor-*
17 *porations), as amended by this Act, is amended by inserting*
18 *after section 179C the following new section:*

19 ***“SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDINGS***
20 ***DEDUCTION.***

21 “(a) *IN GENERAL.*—*There shall be allowed as a deduc-*
22 *tion an amount equal to the cost of energy efficient commer-*
23 *cial building property placed in service during the taxable*
24 *year.*”

1 “(b) *MAXIMUM AMOUNT OF DEDUCTION.*—*The deduc-*
2 *tion under subsection (a) with respect to any building for*
3 *any taxable year shall not exceed the excess (if any) of—*

4 “(1) *the product of—*

5 “(A) *\$2.25, and*

6 “(B) *the square footage of the building, over*

7 “(2) *the aggregate amount of the deductions*
8 *under subsection (a) with respect to the building for*
9 *all prior taxable years.*

10 “(c) *DEFINITIONS.*—*For purposes of this section—*

11 “(1) *ENERGY EFFICIENT COMMERCIAL BUILDING*
12 *PROPERTY.*—*The term ‘energy efficient commercial*
13 *building property’ means property—*

14 “(A) *with respect to which depreciation (or*
15 *amortization in lieu of depreciation) is allow-*
16 *able,*

17 “(B) *which is installed on or in any build-*
18 *ing which is—*

19 “(i) *located in the United States, and*

20 “(ii) *within the scope of Standard*
21 *90.1–2001,*

22 “(C) *which is installed as part of—*

23 “(i) *the interior lighting systems,*

24 “(ii) *the heating, cooling, ventilation,*
25 *and hot water systems, or*

1 “(iii) the building envelope, and
2 “(D) which is certified in accordance with
3 subsection (d)(6) as being installed as part of a
4 plan designed to reduce the total annual energy
5 and power costs with respect to the interior
6 lighting systems, heating, cooling, ventilation,
7 and hot water systems of the building by 50 per-
8 cent or more in comparison to a reference build-
9 ing which meets the minimum requirements of
10 Standard 90.1–2001 using methods of calcula-
11 tion under subsection (d)(2).

12 “(2) STANDARD 90.1–2001.—The term ‘Standard
13 90.1–2001’ means Standard 90.1–2001 of the Amer-
14 ican Society of Heating, Refrigerating, and Air Con-
15 ditioning Engineers and the Illuminating Engineer-
16 ing Society of North America (as in effect on April
17 2, 2003).

18 “(d) SPECIAL RULES.—

19 “(1) PARTIAL ALLOWANCE.—

20 “(A) IN GENERAL.—Except as provided in
21 subsection (f), if—

22 “(i) the requirement of subsection
23 (c)(1)(D) is not met, but

24 “(ii) there is a certification in accord-
25 ance with paragraph (6) that any system

1 referred to in subsection (c)(1)(C) satisfies
2 the energy-savings targets established by the
3 Secretary under subparagraph (B) with re-
4 spect to such system,
5 then the requirement of subsection (c)(1)(D) shall
6 be treated as met with respect to such system,
7 and the deduction under subsection (a) shall be
8 allowed with respect to energy efficient commer-
9 cial building property installed as part of such
10 system and as part of a plan to meet such tar-
11 gets, except that subsection (b) shall be applied
12 to such property by substituting ‘\$.75’ for
13 ‘\$2.25’.

14 “(B) *REGULATIONS.*—The Secretary, after
15 consultation with the Secretary of Energy, shall
16 establish a target for each system described in
17 subsection (c)(1)(C) which, if such targets were
18 met for all such systems, the building would meet
19 the requirements of subsection (c)(1)(D).

20 “(2) *METHODS OF CALCULATION.*—The Sec-
21 retary, after consultation with the Secretary of En-
22 ergy, shall promulgate regulations which describe in
23 detail methods for calculating and verifying energy
24 and power consumption and cost, based on the provi-

1 *sions of the 2005 California Nonresidential Alter-*
2 *native Calculation Method Approval Manual.*

3 *“(3) COMPUTER SOFTWARE.—*

4 *“(A) IN GENERAL.—Any calculation under*
5 *paragraph (2) shall be prepared by qualified*
6 *computer software.*

7 *“(B) QUALIFIED COMPUTER SOFTWARE.—*
8 *For purposes of this paragraph, the term ‘quali-*
9 *fied computer software’ means software—*

10 *“(i) for which the software designer has*
11 *certified that the software meets all proce-*
12 *dures and detailed methods for calculating*
13 *energy and power consumption and costs as*
14 *required by the Secretary,*

15 *“(ii) which provides such forms as re-*
16 *quired to be filed by the Secretary in con-*
17 *nection with energy efficiency of property*
18 *and the deduction allowed under this sec-*
19 *tion, and*

20 *“(iii) which provides a notice form*
21 *which documents the energy efficiency fea-*
22 *tures of the building and its projected an-*
23 *nual energy costs.*

24 *“(4) ALLOCATION OF DEDUCTION FOR PUBLIC*
25 *PROPERTY.—In the case of energy efficient commer-*

1 *cial building property installed on or in property*
2 *owned by a Federal, State, or local government or a*
3 *political subdivision thereof, the Secretary shall pro-*
4 *mulgate a regulation to allow the allocation of the de-*
5 *duction to the person primarily responsible for de-*
6 *signing the property in lieu of the owner of such*
7 *property. Such person shall be treated as the taxpayer*
8 *for purposes of this section.*

9 *“(5) NOTICE TO OWNER.—Each certification re-*
10 *quired under this section shall include an explanation*
11 *to the building owner regarding the energy efficiency*
12 *features of the building and its projected annual en-*
13 *ergy costs as provided in the notice under paragraph*
14 *(3)(B)(iii).*

15 *“(6) CERTIFICATION.—*

16 *“(A) IN GENERAL.—The Secretary shall*
17 *prescribe the manner and method for the making*
18 *of certifications under this section.*

19 *“(B) PROCEDURES.—The Secretary shall*
20 *include as part of the certification process proce-*
21 *dures for inspection and testing by qualified in-*
22 *dividuals described in subparagraph (C) to en-*
23 *sure compliance of buildings with energy-savings*
24 *plans and targets. Such procedures shall be com-*
25 *parable, given the difference between commercial*

1 *and residential buildings, to the requirements in*
2 *the Mortgage Industry National Accreditation*
3 *Procedures for Home Energy Rating Systems.*

4 “(C) *QUALIFIED INDIVIDUALS.*—*Individuals*
5 *qualified to determine compliance shall be only*
6 *those individuals who are recognized by an orga-*
7 *nization certified by the Secretary for such pur-*
8 *poses.*

9 “(e) *BASIS REDUCTION.*—*For purposes of this subtitle,*
10 *if a deduction is allowed under this section with respect*
11 *to any energy efficient commercial building property, the*
12 *basis of such property shall be reduced by the amount of*
13 *the deduction so allowed.*

14 “(f) *INTERIM RULES FOR LIGHTING SYSTEMS.*—*Until*
15 *such time as the Secretary issues final regulations under*
16 *subsection (d)(1)(B) with respect to property which is part*
17 *of a lighting system—*

18 “(1) *IN GENERAL.*—*The lighting system target*
19 *under subsection (d)(1)(A)(ii) shall be a reduction in*
20 *lighting power density of 25 percent (50 percent in*
21 *the case of a warehouse) of the minimum require-*
22 *ments in Table 9.3.1.1 or Table 9.3.1.2 (not including*
23 *additional interior lighting power allowances) of*
24 *Standard 90.1–2001.*

1 “(2) *REDUCTION IN DEDUCTION IF REDUCTION*
2 *LESS THAN 40 PERCENT.—*

3 “(A) *IN GENERAL.—If, with respect to the*
4 *lighting system of any building other than a*
5 *warehouse, the reduction in lighting power den-*
6 *sity of the lighting system is not at least 40 per-*
7 *cent, only the applicable percentage of the*
8 *amount of deduction otherwise allowable under*
9 *this section with respect to such property shall be*
10 *allowed.*

11 “(B) *APPLICABLE PERCENTAGE.—For pur-*
12 *poses of subparagraph (A), the applicable per-*
13 *centage is the number of percentage points (not*
14 *greater than 100) equal to the sum of—*

15 “(i) 50, and

16 “(ii) *the amount which bears the same*
17 *ratio to 50 as the excess of the reduction of*
18 *lighting power density of the lighting sys-*
19 *tem over 25 percentage points bears to 15.*

20 “(C) *EXCEPTIONS.—This subsection shall*
21 *not apply to any system—*

22 “(i) *the controls and circuiting of*
23 *which do not comply fully with the manda-*
24 *tory and prescriptive requirements of*
25 *Standard 90.1–2001 and which do not in-*

1 *clude provision for bilevel switching in all*
2 *occupancies except hotel and motel guest*
3 *rooms, store rooms, restrooms, and public*
4 *lobbies, or*

5 *“(ii) which does not meet the min-*
6 *imum requirements for calculated lighting*
7 *levels as set forth in the Illuminating Engi-*
8 *neering Society of North America Lighting*
9 *Handbook, Performance and Application,*
10 *Ninth Edition, 2000.*

11 *“(g) COORDINATION WITH OTHER TAX BENEFITS.—*
12 *In any case in which a deduction under section 200 or a*
13 *credit under section 25C has been allowed with respect to*
14 *property in connection with a building for which a deduc-*
15 *tion is allowable under subsection (a)—*

16 *“(1) the annual energy and power costs of the*
17 *reference building referred to in subsection (c)(1)(D)*
18 *shall be determined assuming such reference building*
19 *contains the property for which such deduction or*
20 *credit has been allowed, and*

21 *“(2) any cost of such property taken into ac-*
22 *count under such sections shall not be taken into ac-*
23 *count under this section.*

24 *“(h) REGULATIONS.—The Secretary shall promulgate*
25 *such regulations as necessary—*

1 “(1) to take into account new technologies re-
2 garding energy efficiency and renewable energy for
3 purposes of determining energy efficiency and savings
4 under this section, and

5 “(2) to provide for a recapture of the deduction
6 allowed under this section if the plan described in
7 subsection (c)(1)(D) or (d)(1)(A) is not fully imple-
8 mented.

9 “(i) *TERMINATION*.—This section shall not apply with
10 respect to property placed in service after December 31,
11 2009.”.

12 (b) *CONFORMING AMENDMENTS*.—

13 (1) Section 1016(a) is amended by striking
14 “and” at the end of paragraph (30), by striking the
15 period at the end of paragraph (31) and inserting “,
16 and”, and by adding at the end the following new
17 paragraph:

18 “(32) to the extent provided in section 179D(e).”.

19 (2) Section 1245(a), as amended by this Act, is
20 amended by inserting “179D,” after “179C,” both
21 places it appears in paragraphs (2)(C) and (3)(C).

22 (3) Section 1250(b)(3) is amended by inserting
23 before the period at the end of the first sentence “or
24 by section 179D”.

1 (4) *Section 263(a)(1), as amended by this Act, is*
2 *amended by striking “or” at the end of subparagraph*
3 *(I), by striking the period at the end of subparagraph*
4 *(J) and inserting “, or”, and by inserting after sub-*
5 *paragraph (J) the following new subparagraph:*

6 *“(K) expenditures for which a deduction is*
7 *allowed under section 179D.”.*

8 (5) *Section 312(k)(3)(B), as amended by this*
9 *Act, is amended by striking “179, 179A, 179B, or*
10 *179C” each place it appears in the heading and text*
11 *and inserting “179, 179A, 179B, 179C, or 179D”.*

12 (c) *CLERICAL AMENDMENT.—The table of sections for*
13 *part VI of subchapter B of chapter 1, as amended by this*
14 *Act, is amended by inserting after section 179C the fol-*
15 *lowing new item:*

“Sec. 179D. Energy efficient commercial buildings deduction.”.

16 (d) *EFFECTIVE DATE.—The amendments made by this*
17 *section shall apply to property placed in service after the*
18 *date of the enactment of this Act in taxable years ending*
19 *after such date.*

20 **SEC. 1522. CREDIT FOR CONSTRUCTION OF NEW ENERGY**
21 **EFFICIENT HOMES.**

22 (a) *IN GENERAL.—Subpart D of part IV of subchapter*
23 *A of chapter 1 (relating to business related credits), as*
24 *amended by this Act, is amended by adding at the end the*
25 *following new section:*

1 **“SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.**

2 “(a) *ALLOWANCE OF CREDIT.*—

3 “(1) *IN GENERAL.*—*For purposes of section 38,*
4 *in the case of an eligible contractor, the new energy*
5 *efficient home credit for the taxable year is the appli-*
6 *cable amount for each qualified new energy efficient*
7 *home which is—*

8 “(A) *constructed by the eligible contractor,*
9 *and*

10 “(B) *acquired by a person from such eligi-*
11 *ble contractor for use as a residence during the*
12 *taxable year.*

13 “(2) *APPLICABLE AMOUNT.*—*For purposes of*
14 *paragraph (1), the applicable amount is an amount*
15 *equal to—*

16 “(i) *in the case of a dwelling unit de-*
17 *scribed in paragraph (1) or (3) of sub-*
18 *section (c), \$1,000, and*

19 “(ii) *in the case of a dwelling unit de-*
20 *scribed in paragraph (2) or (4) of sub-*
21 *section (c), \$2,000.*

22 “(b) *DEFINITIONS.*—*For purposes of this section—*

23 “(1) *ELIGIBLE CONTRACTOR.*—*The term ‘eligible*
24 *contractor’ means—*

25 “(A) *the person who constructed the quali-*
26 *fied new energy efficient home, or*

1 “(B) in the case of a qualified new energy
2 efficient home which is a manufactured home,
3 the manufactured home producer of such home.

4 “(2) *QUALIFIED NEW ENERGY EFFICIENT*
5 *HOME.*—The term ‘qualified new energy efficient
6 home’ means a dwelling unit—

7 “(A) located in the United States,

8 “(B) the construction of which is substan-
9 tially completed after the date of the enactment
10 of this section, and

11 “(C) which meets the energy saving require-
12 ments of subsection (c).

13 “(3) *CONSTRUCTION.*—The term ‘construction’
14 includes substantial reconstruction and rehabilitation.

15 “(4) *ACQUIRE.*—The term ‘acquire’ includes pur-
16 chase.

17 “(c) *ENERGY SAVING REQUIREMENTS.*—A dwelling
18 unit meets the energy saving requirements of this subsection
19 if such unit is—

20 “(1) certified—

21 “(A) to have a level of annual heating and
22 cooling energy consumption which is at least 30
23 percent below the annual level of heating and
24 cooling energy consumption of a comparable
25 dwelling unit—

1 “(i) which is constructed in accordance
2 with the standards of chapter 4 of the 2003
3 International Energy Conservation Code, as
4 such Code (including supplements) is in ef-
5 fect on the date of the enactment of this sec-
6 tion, and

7 “(ii) for which the heating and cooling
8 equipment efficiencies correspond to the
9 minimum allowed under the regulations es-
10 tablished by the Department of Energy pur-
11 suant to the National Appliance Energy
12 Conservation Act of 1987 and in effect at
13 the time of construction, and

14 “(B) to have building envelope component
15 improvements account for at least $\frac{1}{3}$ of such 30
16 percent,

17 “(2) certified—

18 “(A) to have a level of annual heating and
19 cooling energy consumption which is at least 50
20 percent below such annual level, and

21 “(B) to have building envelope component
22 improvements account for at least $\frac{1}{5}$ of such 50
23 percent,

24 “(3) a manufactured home which conforms to
25 *Federal Manufactured Home Construction and Safety*

1 *Standards (section 3280 of title 24, Code of Federal*
2 *Regulations) and which—*

3 “(A) *meets the requirements of clause (i), or*

4 “(B) *meets the requirements established by*
5 *the Administrator of the Environmental Protec-*
6 *tion Agency under the Energy Star Labeled*
7 *Homes program, or*

8 “(4) *a manufactured home which conforms to*
9 *Federal Manufactured Home Construction and Safety*
10 *Standards (section 3280 of title 24, Code of Federal*
11 *Regulations) and which meets the requirements of*
12 *clause (ii).*

13 “(d) *CERTIFICATION.—*

14 “(1) *METHOD OF CERTIFICATION.—A certifi-*
15 *cation described in paragraphs (1) and (2) of sub-*
16 *section (c) shall be made in accordance with guidance*
17 *prescribed by the Secretary, after consultation with*
18 *the Secretary of Energy. Such guidance shall specify*
19 *procedures and methods for calculating energy and*
20 *cost savings.*

21 “(2) *FORM.—Any certification described in sub-*
22 *section (c) shall be made in writing in a manner*
23 *which specifies in readily verifiable fashion the energy*
24 *efficient building envelope components and energy ef-*

1 *efficient heating or cooling equipment installed and*
2 *their respective rated energy efficiency performance.*

3 “(e) *BASIS ADJUSTMENT.*—*For purposes of this sub-*
4 *title, if a credit is allowed under this section in connection*
5 *with any expenditure for any property, the increase in the*
6 *basis of such property which would (but for this subsection)*
7 *result from such expenditure shall be reduced by the amount*
8 *of the credit so determined.*

9 “(f) *COORDINATION WITH OTHER CREDITS AND DE-*
10 *DUCTIONS.*—

11 “(1) *SPECIAL RULE WITH RESPECT TO BUILD-*
12 *INGS WITH ENERGY EFFICIENT PROPERTY.*—*In the*
13 *case of property which is described in section 200*
14 *which is installed in connection with a dwelling unit,*
15 *the level of annual heating and cooling energy con-*
16 *sumption of the comparable dwelling unit referred to*
17 *in paragraphs (1) and (2) of subsection (c) shall be*
18 *determined assuming such comparable dwelling unit*
19 *contains the property for which such deduction or*
20 *credit has been allowed.*

21 “(2) *COORDINATION WITH INVESTMENT CRED-*
22 *IT.*—*For purposes of this section, expenditures taken*
23 *into account under section 47 or 48(a) shall not be*
24 *taken into account under this section.*

25 “(g) *APPLICATION OF SECTION.*—

1 “(1) 50 PERCENT HOMES.—In the case of any
2 dwelling unit described in paragraph (2) or (4) of
3 subsection (c), subsection (a) shall apply to qualified
4 new energy efficient homes acquired during the period
5 beginning on the date of the enactment of this section
6 and ending on December 31, 2009.

7 “(2) 30 PERCENT HOMES.—In the case of any
8 dwelling unit described in paragraph (1) or (3) of
9 subsection (c), subsection (a) shall apply to qualified
10 new energy efficient homes acquired during the period
11 beginning on the date of the enactment of this section
12 and ending on December 31, 2007.”.

13 (b) CREDIT MADE PART OF GENERAL BUSINESS
14 CREDIT.—Section 38(b) (relating to current year business
15 credit), as amended by this Act, is amended by striking
16 “plus” at the end of paragraph (19), by striking the period
17 at the end of paragraph (20) and inserting “, plus”, and
18 by adding at the end the following new paragraph:

19 “(21) the new energy efficient home credit deter-
20 mined under section 45K(a).”.

21 (c) BASIS ADJUSTMENT.—Subsection (a) of section
22 1016, as amended by this Act, is amended by striking
23 “and” at the end of paragraph (31), by striking the period
24 at the end of paragraph (32) and inserting “, and”, and
25 by adding at the end the following new paragraph:

1 “(33) to the extent provided in section 45K(e), in
2 the case of amounts with respect to which a credit has
3 been allowed under section 45K.”.

4 (d) *DEDUCTION FOR CERTAIN UNUSED BUSINESS*
5 *CREDITS.*—Section 196(c) (defining qualified business cred-
6 its) is amended by striking “and” at the end of paragraph
7 (11), by striking the period at the end of paragraph (12)
8 and inserting “, and”, and by adding after paragraph (12)
9 the following new paragraph:

10 “(13) the new energy efficient home credit deter-
11 mined under section 45K(a).”.

12 (e) *CLERICAL AMENDMENT.*—The table of sections for
13 subpart D of part IV of subchapter A of chapter 1, as
14 amended by this Act, is amended by adding at the end the
15 following new item:

 “Sec. 45K. New energy efficient home credit.”.

16 (f) *EFFECTIVE DATE.*—The amendments made by this
17 section shall apply to taxable years ending after the date
18 of the enactment of this Act.

19 **SEC. 1523. DEDUCTION FOR BUSINESS ENERGY PROPERTY.**

20 (a) *IN GENERAL.*—Part VI of subchapter B of chapter
21 1 is amended by adding at the end the following new sec-
22 tion:

1 **“SEC. 200. ENERGY PROPERTY DEDUCTION.**

2 “(a) *IN GENERAL.*—*There shall be allowed as a deduc-*
3 *tion for the taxable year an amount equal to the greater*
4 *of—*

5 “(1) *the amount determined under subsection (b)*
6 *for each energy property of the taxpayer placed in*
7 *service during such taxable year, or*

8 “(2) *the energy efficient residential rental build-*
9 *ing property deduction determined under subsection*
10 *(e).*

11 “(b) *AMOUNT FOR ENERGY PROPERTY.*—*The amount*
12 *determined under this subsection for the taxable year shall*
13 *be—*

14 “(1) *\$150 for any advanced main air circulating*
15 *fan,*

16 “(2) *\$450 for any qualified natural gas, pro-*
17 *pane, or oil furnace or hot water boiler, and*

18 “(2) *\$900 for any energy efficient building prop-*
19 *erty.*

20 “(c) *ENERGY PROPERTY DEFINED.*—

21 “(1) *IN GENERAL.*—*For purposes of this part,*
22 *the term ‘energy property’ means any property—*

23 “(A) *which is—*

24 “(i) *energy-efficient building property,*

25 “(ii) *a qualified natural gas, propane,*
26 *or oil furnace or hot water boiler, or*

1 “(iii) an advanced main air circu-
2 lating fan,

3 “(B)(i) the construction, reconstruction, or
4 erection of which is completed by the taxpayer,
5 or

6 “(ii) which is acquired by the taxpayer if
7 the original use of such property commences with
8 the taxpayer,

9 “(C) with respect to which depreciation (or
10 amortization in lieu of depreciation) is allow-
11 able, and

12 “(D) which meets the performance and
13 quality standards, and the certification require-
14 ments (if any), which—

15 “(i) have been prescribed by the Sec-
16 retary by regulations (after consultation
17 with the Secretary of Energy or the Admin-
18 istrator of the Environmental Protection
19 Agency, as appropriate),

20 “(ii) in the case of the energy efficiency
21 ratio (EER) for central air conditioners
22 and electric heat pumps—

23 “(I) require measurements to be
24 based on published data which is tested

1 *by manufacturers at 95 degrees Fahr-*
2 *enheit, and*

3 *“(II) may be based on the cer-*
4 *tified data of the Air Conditioning and*
5 *Refrigeration Institute that are pre-*
6 *pared in partnership with the Consor-*
7 *tium for Energy Efficiency,*

8 *“(iii) in the case of geothermal heat*
9 *pumps—*

10 *“(I) shall be based on testing*
11 *under the conditions of ARI/ISO*
12 *Standard 13256–1 for Water Source*
13 *Heat Pumps or ARI 870 for Direct*
14 *Expansion GeoExchange Heat Pumps*
15 *(DX), as appropriate, and*

16 *“(II) shall include evidence that*
17 *water heating services have been pro-*
18 *vided through a desuperheater or inte-*
19 *grated water heating system connected*
20 *to the storage water heater tank, and*

21 *“(iv) are in effect at the time of the ac-*
22 *quisition of the property, or at the time of*
23 *the completion of the construction, recon-*
24 *struction, or erection of the property, as the*
25 *case may be.*

1 “(2) *EXCEPTION.*—Such term shall not include
2 any property which is public utility property (as de-
3 fined in section 46(f)(5) as in effect on the day before
4 the date of the enactment of the Revenue Reconcili-
5 ation Act of 1990).

6 “(d) *DEFINITIONS RELATING TO TYPES OF ENERGY*
7 *PROPERTY.*—For purposes of this section—

8 “(1) *ENERGY-EFFICIENT BUILDING PROPERTY.*—
9 The term ‘energy-efficient building property’ means—

10 “(A) an electric heat pump water heater
11 which yields an energy factor of at least 2.0 in
12 the standard Department of Energy test proce-
13 dure,

14 “(B) an electric heat pump which has a
15 heating seasonal performance factor (*HSPF*) of
16 at least 9, a seasonal energy efficiency ratio
17 (*SEER*) of at least 15, and an energy efficiency
18 ratio (*EER*) of at least 13,

19 “(C) a geothermal heat pump which—

20 “(i) in the case of a closed loop prod-
21 uct, has an energy efficiency ratio (*EER*) of
22 at least 14.1 and a heating coefficient of
23 performance (*COP*) of at least 3.3,

24 “(ii) in the case of an open loop prod-
25 uct, has an energy efficiency ratio (*EER*) of

1 at least 16.2 and a heating coefficient of
2 performance (COP) of at least 3.6, and

3 “(iii) in the case of a direct expansion
4 (DX) product, has an energy efficiency ratio
5 (EER) of at least 15 and a heating coeffi-
6 cient of performance (COP) of at least 3.5,

7 “(D) a central air conditioner which has a
8 seasonal energy efficiency ratio (SEER) of at
9 least 15 and an energy efficiency ratio (EER) of
10 at least 13, and

11 “(E) a natural gas, propane, or oil water
12 heater which has an energy factor of at least
13 0.80.

14 “(2) QUALIFIED NATURAL GAS, PROPANE, OR OIL
15 FURNACE OR HOT WATER BOILER.—The term ‘quali-
16 fied natural gas, propane, or oil furnace or hot water
17 boiler’ means a natural gas, propane, or oil furnace
18 or hot water boiler which achieves an annual fuel uti-
19 lization efficiency rate of not less than 95.

20 “(3) ADVANCED MAIN AIR CIRCULATING FAN.—
21 The term ‘advanced main air circulating fan’ means
22 a fan used in a natural gas, propane, or oil furnace
23 originally placed in service by the taxpayer during
24 the taxable year and which has an annual electricity
25 use of no more than 2 percent of the total annual en-

1 *ergy use of the furnace (as determined in the stand-*
2 *ard Department of Energy test procedures).*

3 “(e) *ENERGY EFFICIENT RESIDENTIAL RENTAL*
4 *BUILDING PROPERTY DEDUCTION.*—

5 “(1) *DEDUCTION ALLOWED.*—*For purposes of*
6 *subsection (a)*—

7 “(A) *IN GENERAL.*—*The energy efficient*
8 *residential rental building property deduction*
9 *determined under this subsection is an amount*
10 *equal to energy efficient residential rental build-*
11 *ing property expenditures made by a taxpayer*
12 *for the taxable year.*

13 “(B) *MAXIMUM AMOUNT OF DEDUCTION.*—
14 *The amount of energy efficient residential rental*
15 *building property expenditures taken into ac-*
16 *count under subparagraph (A) with respect to*
17 *each dwelling unit shall not exceed*—

18 “(i) *\$6,000 in the case of a percentage*
19 *reduction of 50 percent or more as deter-*
20 *mined under paragraph (2)(B)(ii), and*

21 “(ii) *\$12,000 times the percentage re-*
22 *duction in the case of a percentage reduc-*
23 *tion which is less than 50 percent as deter-*
24 *mined under paragraph (2)(B)(ii).*

1 “(C) *YEAR DEDUCTION ALLOWED.*—*The de-*
2 *duction under subparagraph (A) shall be allowed*
3 *in the taxable year in which the construction, re-*
4 *construction, erection, or rehabilitation of the*
5 *property is completed.*

6 “(2) *ENERGY EFFICIENT RESIDENTIAL RENTAL*
7 *BUILDING PROPERTY EXPENDITURES.*—*For purposes*
8 *of this subsection—*

9 “(A) *IN GENERAL.*—*The term ‘energy effi-*
10 *cient residential rental building property ex-*
11 *penditures’ means an amount paid or incurred*
12 *for energy efficient residential rental building*
13 *property—*

14 “(i) *in connection with construction,*
15 *reconstruction, erection, or rehabilitation of*
16 *residential rental property (as defined in*
17 *section 168(e)(2)(A)) other than property*
18 *for which a deduction is allowable under*
19 *section 179D,*

20 “(ii) *for which depreciation is allow-*
21 *able under section 167,*

22 “(iii) *which is located in the United*
23 *States, and*

1 “(iv) the construction, reconstruction,
2 erection, or rehabilitation of which is com-
3 pleted by the taxpayer.

4 *Such term includes expenditures for labor costs*
5 *properly allocable to the onsite preparation, as-*
6 *sembly, or original installation of the property.*

7 “(B) *ENERGY EFFICIENT RESIDENTIAL*
8 *RENTAL BUILDING PROPERTY.—*

9 “(i) *IN GENERAL.—The term ‘energy*
10 *efficient residential rental building prop-*
11 *erty’ means any property which, individ-*
12 *ually or in combination with other prop-*
13 *erty, reduces total annual energy and power*
14 *costs with respect to heating and cooling of*
15 *the building by 20 percent or more when*
16 *compared to—*

17 “(I) *in the case of an existing*
18 *building, the original condition of the*
19 *building, and*

20 “(II) *in the case of a new build-*
21 *ing, the standards for residential build-*
22 *ings of the same type which are built*
23 *in compliance with the applicable*
24 *building construction codes.*

25 “(ii) *PROCEDURES.—*

1 “(I) *IN GENERAL.*—*For purposes*
2 *of clause (i), energy usage and costs*
3 *shall be demonstrated by performance-*
4 *based compliance in accordance with*
5 *the requirements of clause (iv).*

6 “(II) *COMPUTER SOFTWARE.*—
7 *Computer software shall be used in*
8 *support of performance-based compli-*
9 *ance under subclause (I) and such soft-*
10 *ware shall meet all of the procedures*
11 *and methods for calculating energy*
12 *savings reductions which are promul-*
13 *gated by the Secretary of Energy. Such*
14 *regulations on the specifications for*
15 *software and verification protocols*
16 *shall be based on the 2005 California*
17 *Residential Alternative Calculation*
18 *Method Approval Manual.*

19 “(III) *CALCULATION REQUIRE-*
20 *MENTS.*—*In calculating tradeoffs and*
21 *energy performance, the regulations*
22 *prescribed under this clause shall pre-*
23 *scribe for the taxable year the costs per*
24 *unit of energy and power, such as kilo-*
25 *watt hour, kilowatt, gallon of fuel oil,*

1 *and cubic foot or Btu of natural gas,*
2 *which may be dependent on time of*
3 *usage. If a State has developed annual*
4 *energy usage and cost calculation pro-*
5 *cedures based on time of usage costs for*
6 *use in the performance standards of the*
7 *State’s building energy code prior to*
8 *the effective date of this section, the*
9 *State may use those annual energy*
10 *usage and cost calculation procedures*
11 *in lieu of those adopted by the Sec-*
12 *retary.*

13 “(IV) *APPROVAL OF SOFTWARE*
14 *SUBMISSIONS.—The Secretary shall*
15 *approve software submissions which*
16 *comply with the requirements of sub-*
17 *clause (II).*

18 “(V) *PROCEDURES FOR INSPEC-*
19 *TION AND TESTING OF HOMES.—The*
20 *Secretary shall ensure that procedures*
21 *for the inspection and testing for com-*
22 *pliance comply with the calculation re-*
23 *quirements under subclause (III) of*
24 *this clause and clause (iv).*

1 “(iii) *DETERMINATIONS OF COMPLI-*
2 *ANCE.—A determination of compliance with*
3 *respect to energy efficient residential rental*
4 *building property made for the purposes of*
5 *this subparagraph shall be filed with the*
6 *Secretary not later than 1 year after the*
7 *date of such determination and shall in-*
8 *clude the TIN of the certifier, the address of*
9 *the building in compliance, and the identity*
10 *of the person for whom such determination*
11 *was performed. Determinations of compli-*
12 *ance filed with the Secretary shall be avail-*
13 *able for inspection by the Secretary of En-*
14 *ergy.*

15 “(iv) *COMPLIANCE.—*

16 “(I) *IN GENERAL.—The Secretary,*
17 *after consultation with the Secretary of*
18 *Energy, shall establish requirements*
19 *for certification and compliance proce-*
20 *dures after examining the requirements*
21 *for energy consultants and home en-*
22 *ergy ratings providers specified by the*
23 *Mortgage Industry National Home En-*
24 *ergy Rating Standards.*

1 “(II) *INDIVIDUALS QUALIFIED TO*
2 *DETERMINE COMPLIANCE.*—*The deter-*
3 *mination of compliance may be pro-*
4 *vided by a local building regulatory*
5 *authority, a utility, a manufactured*
6 *home production inspection primary*
7 *inspection agency (IPIA), a home in-*
8 *pector certified by the Secretary of*
9 *Energy as trained to perform an en-*
10 *ergy inspection for purposes of this sec-*
11 *tion, or an accredited home energy rat-*
12 *ing system provider. All providers shall*
13 *be accredited, or otherwise authorized*
14 *to use approved energy performance*
15 *measurement methods, by the Residen-*
16 *tial Energy Services Network*
17 *(RESNET).*

18 “(C) *ALLOCATION OF DEDUCTION FOR PUB-*
19 *LIC PROPERTY.*—*In the case of energy efficient*
20 *residential rental building property which is*
21 *property owned by a Federal, State, or local gov-*
22 *ernment or a political subdivision thereof, the*
23 *Secretary shall promulgate a regulation to allow*
24 *the allocation of the deduction to the person pri-*
25 *marily responsible for designing the improve-*

1 *ments to the property in lieu of the owner of*
2 *such property. Such person shall be treated as*
3 *the taxpayer for purposes of this subsection.*

4 “(f) *BASIS REDUCTION.*—*For purposes of this subtitle,*
5 *if a deduction is allowed under this section with respect*
6 *to any property, the basis of such property shall be reduced*
7 *by the amount of the deduction so allowed.*

8 “(g) *REGULATIONS.*—*The Secretary shall promulgate*
9 *such regulations as necessary to take into account new tech-*
10 *nologies regarding energy efficiency and renewable energy*
11 *for purposes of determining energy efficiency and savings*
12 *under this section.*

13 “(h) *TERMINATION.*—*This section shall not apply with*
14 *respect to any property placed in service after December*
15 *31, 2008.”.*

16 “(b) *CONFORMING AMENDMENT.*—*Section 1016(a), as*
17 *amended by this Act, is amended by striking “and” at the*
18 *end of paragraph (32), by striking the period at the end*
19 *of paragraph (33) and inserting “, and”, and by inserting*
20 *the following new paragraph:*

21 “(34) *for amounts allowed as a deduction under*
22 *section 200(a).”.*

23 “(c) *CLERICAL AMENDMENT.*—*The table of sections for*
24 *part VI of subchapter B of chapter 1 is amended by adding*
25 *at the end the following new item:*

 “*Sec. 200. Energy property deduction.*”.

1 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to property placed in service after the*
 3 *date of the enactment of this Act.*

4 **SEC. 1524. CREDIT FOR CERTAIN NONBUSINESS ENERGY**
 5 **PROPERTY.**

6 (a) *IN GENERAL.*—*Subpart A of part IV of subchapter*
 7 *A of chapter 1 (relating to nonrefundable personal credits)*
 8 *is amended by inserting after section 25B the following new*
 9 *section:*

10 **“SEC. 25C. NONBUSINESS ENERGY PROPERTY.**

11 “(a) *ALLOWANCE OF CREDIT.*—

12 “(1) *IN GENERAL.*—*In the case of an individual,*
 13 *there shall be allowed as a credit against the tax im-*
 14 *posed by this chapter for the taxable year an amount*
 15 *equal to the greater of—*

16 “(A) *the amount of residential energy prop-*
 17 *erty expenditures made by the taxpayer during*
 18 *such taxable year, or*

19 “(B) *the amount specified in paragraph (2)*
 20 *for any building owned by the taxpayer which is*
 21 *certified as a highly energy-efficient principal*
 22 *residence during such taxable year.*

23 “(2) *CREDIT AMOUNT.*—*For purposes of para-*
 24 *graph (1)(B), the credit amount with respect to a*
 25 *highly energy-efficient principal residence is—*

1 “(A) \$2,000 in the case of a percentage re-
2 duction of 50 percent or more as determined
3 under subsection (c)(4)(C), and

4 “(B) \$4,000 times the percentage reduction
5 in the case of a percentage reduction which is 20
6 percent or more but less than 50 percent as de-
7 termined under subsection (c)(4)(C).

8 “(b) *LIMITATION.*—The amount of the credit allowed
9 under this section by reason of subsection (a)(1)(A) shall
10 not exceed—

11 “(1) \$50 for any advanced main air circulating
12 fan,

13 “(2) \$150 for any qualified natural gas, pro-
14 pane, or oil furnace or hot water boiler, and

15 “(3) \$300 for any item of energy efficient prop-
16 erty.

17 “(c) *DEFINITIONS AND SPECIAL RULES.*—For pur-
18 poses of this section—

19 “(1) *RESIDENTIAL ENERGY PROPERTY EXPENDI-*
20 *TURES.*—The term ‘residential energy property ex-
21 penditures’ means expenditures made by the taxpayer
22 for qualified energy property installed on or in con-
23 nection with a dwelling unit which—

24 “(A) is located in the United States, and

25 “(B) is used as a principal residence.

1 *Such term includes expenditures for labor costs prop-*
2 *erly allocable to the onsite preparation, assembly, or*
3 *original installation of the property.*

4 “(2) *QUALIFIED ENERGY PROPERTY.*—

5 “(A) *IN GENERAL.*—*The term ‘qualified en-*
6 *ergy property’ means—*

7 “(i) *energy-efficient building property,*

8 “(ii) *a qualified natural gas, propane,*
9 *or oil furnace or hot water boiler, or*

10 “(iii) *an advanced main air circu-*
11 *lating fan.*

12 “(B) *REQUIRED STANDARDS.*—*Property de-*
13 *scribed under subparagraph (A) shall meet the*
14 *performance and quality standards and certifi-*
15 *cation standards of section 200(c)(1)(D).*

16 “(3) *ENERGY-EFFICIENT BUILDING PROPERTY;*
17 *QUALIFIED NATURAL GAS, PROPANE, OR OIL FURNACE*
18 *OR HOT WATER BOILER; ADVANCED MAIN AIR CIRCU-*
19 *LATING FAN.*—*The terms ‘energy-efficient building*
20 *property’, ‘qualified natural gas, propane, or oil fur-*
21 *nace or hot water boiler’, and ‘advanced main air cir-*
22 *culating fan’ have the meanings given such terms in*
23 *section 200.*

24 “(4) *HIGHLY ENERGY-EFFICIENT PRINCIPAL*
25 *RESIDENCE.*—

1 “(A) *IN GENERAL.*—A building is a highly
2 energy-efficient principal residence if—

3 “(i) such building is located in the
4 United States,

5 “(ii) the building is used as a prin-
6 cipal residence,

7 “(iii) in the case of a new building, the
8 building is not acquired from an eligible
9 contractor (within the meaning of section
10 45K(b)(1)), and

11 “(iv) the building is certified in ac-
12 cordance with subparagraph (D) as meeting
13 the requirements of subparagraph (C).

14 “(B) *PRINCIPAL RESIDENCE.*—

15 “(i) *IN GENERAL.*—The term ‘prin-
16 cipal residence’ has the same meaning as
17 when used in section 121, except that—

18 “(I) no ownership requirement
19 shall be imposed, and

20 “(II) the period for which a build-
21 ing is treated as used as a principal
22 residence shall also include the 60-day
23 period ending on the 1st day on which
24 it would (but for this subparagraph)

1 *first be treated as used as a principal*
2 *residence.*

3 “(ii) *MANUFACTURED HOUSING.—The*
4 *term ‘residence’ shall include a dwelling*
5 *unit which is a manufactured home con-*
6 *forming to Federal Manufactured Home*
7 *Construction and Safety Standards (24*
8 *C.F.R. 3280).*

9 “(C) *REQUIREMENTS.—The requirements of*
10 *this subparagraph are met if the projected heat-*
11 *ing and cooling energy usage of the building,*
12 *measured in terms of average annual energy cost*
13 *to taxpayer, is reduced by 20 percent or more in*
14 *comparison to—*

15 “(i) *in the case of an existing building,*
16 *the original condition of the building, and*

17 “(ii) *in the case of a new building, a*
18 *comparable building—*

19 “(I) *which is constructed in ac-*
20 *cordance with the standards of chapter*
21 *4 of the 2003 International Energy*
22 *Conservation Code, as such Code (in-*
23 *cluding supplements) is in effect on the*
24 *date of the enactment of this section,*
25 *and*

1 “(II) for which the heating and
2 cooling equipment efficiencies cor-
3 respond to the minimum allowed under
4 the regulations established by the De-
5 partment of Energy pursuant to the
6 National Appliance Energy Conserva-
7 tion Act of 1987 and in effect at the
8 time of construction.

9 “(D) CERTIFICATION PROCEDURES.—

10 “(i) IN GENERAL.—For purposes of
11 subparagraph (A)(iv), energy usage shall be
12 demonstrated by performance-based compli-
13 ance in accordance with the requirements of
14 subsection (d)(2).

15 “(ii) COMPUTER SOFTWARE.—Com-
16 puter software shall be used in support of
17 performance-based compliance under clause
18 (i) and such software shall meet all of the
19 procedures and methods for calculating en-
20 ergy savings reductions which are promul-
21 gated by the Secretary of Energy. Such reg-
22 ulations on the specifications for software
23 and verification protocols shall be based on
24 the 2005 California Residential Alternative
25 Calculation Method Approval Manual.

1 “(iii) *CALCULATION REQUIREMENTS.—*
2 *In calculating tradeoffs and energy per-*
3 *formance, the regulations shall prescribe the*
4 *costs per unit of energy and power, such as*
5 *kilowatt hour, kilowatt, gallon of fuel oil,*
6 *and cubic foot or Btu of natural gas, which*
7 *may be dependent on time of usage. If a*
8 *State has developed annual energy usage*
9 *and cost calculation procedures based on*
10 *time of usage costs for use in the perform-*
11 *ance standards of the State’s building en-*
12 *ergy code before the effective date of this sec-*
13 *tion, the State may use those annual energy*
14 *usage and cost calculation procedures in*
15 *lieu of those adopted by the Secretary.*

16 “(iv) *APPROVAL OF SOFTWARE SUB-*
17 *MISSIONS.—The Secretary shall approve*
18 *software submissions which comply with the*
19 *calculation requirements of clause (ii).*

20 “(v) *PROCEDURES FOR INSPECTION*
21 *AND TESTING OF DWELLING UNITS.—The*
22 *Secretary shall ensure that procedures for*
23 *the inspection and testing for compliance*
24 *comply with the calculation requirements*
25 *under clause (iii) and subsection (d)(2).*

1 “(d) *SPECIAL RULES.*—*For purposes of this section—*

2 “(1) *DETERMINATIONS OF COMPLIANCE.*—*A de-*
3 *termination of compliance made for the purposes of*
4 *this section shall be filed with the Secretary within 1*
5 *year of the date of such determination and shall in-*
6 *clude the TIN of the certifier, the address of the build-*
7 *ing in compliance, and the identity of the person for*
8 *whom such determination was performed. Determina-*
9 *tions of compliance filed with the Secretary shall be*
10 *available for inspection by the Secretary of Energy.*

11 “(2) *COMPLIANCE.*—

12 “(A) *IN GENERAL.*—*The Secretary, after*
13 *consultation with the Secretary of Energy, shall*
14 *establish requirements for certification and com-*
15 *pliance procedures after examining the require-*
16 *ments for energy consultants and home energy*
17 *ratings providers specified by the Mortgage In-*
18 *dustry National Home Energy Rating Stand-*
19 *ards.*

20 “(B) *INDIVIDUALS QUALIFIED TO DETER-*
21 *MINE COMPLIANCE.*—*The determination of com-*
22 *pliance may be provided by a local building reg-*
23 *ulatory authority, a utility, a manufactured*
24 *home production inspection primary inspection*
25 *agency (IPIA), or an accredited home energy*

1 *rating system provider. All providers shall be ac-*
2 *credited, or otherwise authorized to use approved*
3 *energy performance measurement methods, by*
4 *the Residential Energy Services Network*
5 *(RESNET).*

6 “(3) *DOLLAR AMOUNTS IN CASE OF JOINT OCCU-*
7 *PANCY.—In the case of any dwelling unit which is*
8 *jointly occupied and used during any calendar year*
9 *as a principal residence by 2 or more individuals, the*
10 *following rules shall apply:*

11 “(A) *The amount of the credit allowable*
12 *under subsection (a) by reason of expenditures*
13 *made during such calendar year by any of such*
14 *individuals with respect to such dwelling unit*
15 *shall be determined by treating all of such indi-*
16 *viduals as 1 taxpayer whose taxable year is such*
17 *calendar year.*

18 “(B) *There shall be allowable with respect to*
19 *such expenditures to each of such individuals, a*
20 *credit under subsection (a) for the taxable year*
21 *in which such calendar year ends in an amount*
22 *which bears the same ratio to the amount deter-*
23 *mined under subparagraph (A) as the amount of*
24 *such expenditures made by such individual dur-*
25 *ing such calendar year bears to the aggregate of*

1 *such expenditures made by all of such individ-*
2 *uals during such calendar year.*

3 “(4) *TENANT-STOCKHOLDER IN COOPERATIVE*
4 *HOUSING CORPORATION.—In the case of an indi-*
5 *vidual who is a tenant-stockholder (as defined in sec-*
6 *tion 216) in a cooperative housing corporation (as de-*
7 *fined in such section), such individual shall be treated*
8 *as having made his tenant-stockholder’s proportionate*
9 *share (as defined in section 216(b)(3)) of any expend-*
10 *itures of such corporation and such credit shall be al-*
11 *located pro rata to such individual.*

12 “(5) *CONDOMINIUMS.—*

13 “(A) *IN GENERAL.—In the case of an indi-*
14 *vidual who is a member of a condominium man-*
15 *agement association with respect to a condo-*
16 *minium which he owns, such individual shall be*
17 *treated as having made his proportionate share*
18 *of any expenditures of such association and any*
19 *credit shall be allocated appropriately.*

20 “(B) *CONDOMINIUM MANAGEMENT ASSOCIA-*
21 *TION.—For purposes of this paragraph, the term*
22 *‘condominium management association’ means*
23 *an organization which meets the requirements of*
24 *paragraph (1) of section 528(c) (other than sub-*
25 *paragraph (E) thereof) with respect to a condo-*

1 *minium project substantially all of the units of*
2 *which are used as principal residences.*

3 “(6) *JOINT OWNERSHIP OF ENERGY ITEMS.*—

4 “(A) *IN GENERAL.*—*Any expenditure other-*
5 *wise qualifying as an expenditure under this sec-*
6 *tion shall not be treated as failing to so qualify*
7 *merely because such expenditure was made with*
8 *respect to 2 or more dwelling units.*

9 “(B) *LIMITS APPLIED SEPARATELY.*—*In the*
10 *case of any expenditure described in subpara-*
11 *graph (A), the amount of the credit allowable*
12 *under subsection (a) shall (subject to paragraph*
13 *(1)) be computed separately with respect to the*
14 *amount of the expenditure made for each dwell-*
15 *ing unit.*

16 “(7) *ALLOCATION IN CERTAIN CASES.*—*If less*
17 *than 80 percent of the use of an item is for nonbusi-*
18 *ness purposes, only that portion of the expenditures*
19 *for such item which is properly allocable to use for*
20 *nonbusiness purposes shall be taken into account.*

21 “(8) *YEAR CREDIT ALLOWED.*—*The credit under*
22 *subsection (a)(2) shall be allowed in the taxable year*
23 *in which the percentage reduction with respect to the*
24 *principal residence is certified.*

1 “(9) *WHEN EXPENDITURE MADE; AMOUNT OF*
2 *EXPENDITURE.—*

3 “(A) *IN GENERAL.—Except as provided in*
4 *subparagraph (B), an expenditure with respect*
5 *to an item shall be treated as made when the*
6 *original installation of the item is completed.*

7 “(B) *EXPENDITURES PART OF BUILDING*
8 *CONSTRUCTION.—In the case of an expenditure*
9 *in connection with the construction of a struc-*
10 *ture, such expenditure shall be treated as made*
11 *when the original use of the constructed structure*
12 *by the taxpayer begins.*

13 “(10) *PROPERTY FINANCED BY SUBSIDIZED EN-*
14 *ERGY FINANCING.—*

15 “(A) *REDUCTION OF EXPENDITURES.—*

16 “(i) *IN GENERAL.—Except as provided*
17 *in subparagraph (C), for purposes of deter-*
18 *mining the amount of expenditures made by*
19 *any individual with respect to any dwelling*
20 *unit, there shall not be taken into account*
21 *expenditures which are made from sub-*
22 *sidized energy financing.*

23 “(ii) *SUBSIDIZED ENERGY FINANC-*
24 *ING.—For purposes of clause (i), the term*
25 *‘subsidized energy financing’ has the same*

1 *meaning given such term in section*
2 *48(a)(4)(C).*

3 “(B) *DOLLAR LIMITS REDUCED.*—*The dol-*
4 *lar amounts in subsection (b)(3) with respect to*
5 *each property purchased for such dwelling unit*
6 *for any taxable year of such taxpayer shall be re-*
7 *duced proportionately by an amount equal to the*
8 *sum of—*

9 “(i) *the amount of the expenditures*
10 *made by the taxpayer during such taxable*
11 *year with respect to such dwelling unit and*
12 *not taken into account by reason of sub-*
13 *paragraph (A), and*

14 “(ii) *the amount of any Federal, State,*
15 *or local grant received by the taxpayer dur-*
16 *ing such taxable year which is used to make*
17 *residential energy property expenditures*
18 *with respect to the dwelling unit and is not*
19 *included in the gross income of such tax-*
20 *payer.*

21 “(C) *EXCEPTION FOR STATE PROGRAMS.*—
22 *Subparagraphs (A) and (B) shall not apply to*
23 *expenditures made with respect to property for*
24 *which the taxpayer has received a loan, State tax*

1 *credit, or grant under any State energy pro-*
2 *gram.*

3 “(11) *COORDINATION WITH SECTION 25D.—In*
4 *any case in which a credit under section 25D has*
5 *been allowed with respect to property in connection*
6 *with a building for which a credit is allowable under*
7 *this section by reason of subsection (a)(1)(B)—*

8 “(A) *for purposes of subsection (c)(4)(C),*
9 *the average annual energy cost with respect to*
10 *heating and cooling of—*

11 “(i) *for purposes of subsection*
12 *(c)(4)(C)(i), the original condition of the*
13 *building, and*

14 “(ii) *for purposes of subsection*
15 *(c)(4)(C)(ii), the comparable building,*
16 *shall be determined assuming such building con-*
17 *tains the property for which such credit has been*
18 *allowed, and*

19 “(B) *any cost of such property taken into*
20 *account under such section shall not be taken*
21 *into account under this section.*

22 “(e) *BASIS ADJUSTMENTS.—For purposes of this sub-*
23 *title, if a credit is allowed under this section for any ex-*
24 *penditure with respect to any property, the increase in the*
25 *basis of such property which would (but for this subsection)*

1 *result from such expenditure shall be reduced by the amount*
2 *of the credit so allowed.*

3 “(f) *REGULATIONS.*—*The Secretary shall promulgate*
4 *such regulations as necessary to take into account new tech-*
5 *nologies regarding energy efficiency and renewable energy*
6 *for purposes of determining energy efficiency and savings*
7 *under this section.*

8 “(g) *TERMINATION.*—*This section shall not apply with*
9 *respect to any property placed in service after December*
10 *31, 2008.”*

11 (b) *CONFORMING AMENDMENTS.*—

12 (1) *Subsection (a) of section 1016, as amended*
13 *by this Act, is amended by striking “and” at the end*
14 *of paragraph (33), by striking the period at the end*
15 *of paragraph (34) and inserting “, and”, and by add-*
16 *ing at the end the following new paragraph:*

17 “(35) *to the extent provided in section 25C(e), in*
18 *the case of amounts with respect to which a credit has*
19 *been allowed under section 25C.”*

20 (2) *The table of sections for subpart A of part IV*
21 *of subchapter A of chapter 1 is amended by inserting*
22 *after the item relating to section 25B the following*
23 *new item:*

 “*Sec. 25C. Nonbusiness energy property.*”

1 (c) *EFFECTIVE DATES.*—*The amendments made by*
 2 *this section shall apply to property placed in service after*
 3 *December 31, 2005.*

4 **SEC. 1525. ENERGY CREDIT FOR COMBINED HEAT AND**
 5 **POWER SYSTEM PROPERTY.**

6 (a) *IN GENERAL.*—*Section 48(a)(3)(A) (defining en-*
 7 *ergy property) is by striking “or” at the end of clause (i),*
 8 *by inserting “or” at the end of clause (ii), and by adding*
 9 *at the end the following new clause:*

10 *“(iii) combined heat and power system*
 11 *property.”*

12 (b) *COMBINED HEAT AND POWER SYSTEM PROP-*
 13 *ERTY.*—*Section 48 (relating to energy credit; reforestation*
 14 *credit) is amended by adding at the end the following new*
 15 *subsection:*

16 “(c) *COMBINED HEAT AND POWER SYSTEM PROP-*
 17 *ERTY.*—*For purposes of subsection (a)(3)(A)(iii)—*

18 “(1) *COMBINED HEAT AND POWER SYSTEM PROP-*
 19 *ERTY.*—*The term ‘combined heat and power system*
 20 *property’ means property comprising a system—*

21 “(A) *which uses the same energy source for*
 22 *the simultaneous or sequential generation of elec-*
 23 *trical power, mechanical shaft power, or both, in*
 24 *combination with the generation of steam or*

1 *other forms of useful thermal energy (including*
2 *heating and cooling applications),*

3 “(B) *which has an electrical capacity of not*
4 *more than 15 megawatts or a mechanical energy*
5 *capacity of not more than 2,000 horsepower or*
6 *an equivalent combination of electrical and me-*
7 *chanical energy capacities,*

8 “(C) *which produces—*

9 “(i) *at least 20 percent of its total use-*
10 *ful energy in the form of thermal energy*
11 *which is not used to produce electrical or*
12 *mechanical power (or combination thereof),*
13 *and*

14 “(ii) *at least 20 percent of its total*
15 *useful energy in the form of electrical or me-*
16 *chanical power (or combination thereof),*

17 “(D) *the energy efficiency percentage of*
18 *which exceeds 60 percent, and*

19 “(E) *which is placed in service before Janu-*
20 *ary 1, 2008.*

21 “(2) *SPECIAL RULES.—*

22 “(A) *ENERGY EFFICIENCY PERCENTAGE.—*
23 *For purposes of this subsection, the energy effi-*
24 *ciency percentage of a system is the fraction—*

1 “(i) the numerator of which is the total
2 useful electrical, thermal, and mechanical
3 power produced by the system at normal
4 operating rates, and expected to be con-
5 sumed in its normal application, and

6 “(ii) the denominator of which is the
7 lower heating value of the fuel sources for
8 the system.

9 “(B) DETERMINATIONS MADE ON BTU
10 BASIS.—The energy efficiency percentage and the
11 percentages under paragraph (1)(C) shall be de-
12 termined on a Btu basis.

13 “(C) INPUT AND OUTPUT PROPERTY NOT IN-
14 CLUDED.—The term ‘combined heat and power
15 system property’ does not include property used
16 to transport the energy source to the facility or
17 to distribute energy produced by the facility.

18 “(D) CERTAIN EXCEPTION NOT TO APPLY.—
19 The first sentence of the matter in subsection
20 (a)(3) which follows subparagraph (D) thereof
21 shall not apply to combined heat and power sys-
22 tem property.

23 “(3) SYSTEMS USING BAGASSE.—If a system is
24 designed to use bagasse for at least 90 percent of the
25 energy source—

1 “(A) paragraph (1)(D) shall not apply, but

2 “(B) the amount of credit determined under
3 subsection (a) with respect to such system shall
4 not exceed the amount which bears the same
5 ratio to such amount of credit (determined with-
6 out regard to this paragraph) as the energy effi-
7 ciency percentage of such system bears to 60 per-
8 cent.”.

9 (c) *EFFECTIVE DATE.*—The amendments made by this
10 section shall apply to periods after the date of the enactment
11 of this Act, in taxable years ending after such date, under
12 rules similar to the rules of section 48(m) of the Internal
13 Revenue Code of 1986 (as in effect on the day before the
14 date of the enactment of the Revenue Reconciliation Act of
15 1990).

16 **SEC. 1526. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

17 (a) *IN GENERAL.*—Subpart D of part IV of subchapter
18 A of chapter 1 (relating to business-related credits), as
19 amended by this Act, is amended by adding at the end the
20 following new section:

21 **“SEC. 45L. ENERGY EFFICIENT APPLIANCE CREDIT.**

22 “(a) *GENERAL RULE.*—

23 “(1) *IN GENERAL.*—For purposes of section 38,
24 the energy efficient appliance credit determined under
25 this section for any taxable year is an amount equal

1 to the sum of the credit amounts determined under
2 paragraph (2) for each type of qualified energy effi-
3 cient appliance produced by the taxpayer during the
4 calendar year ending with or within the taxable year.

5 “(2) CREDIT AMOUNTS.—The credit amount de-
6 termined for any type of qualified energy efficient ap-
7 pliance is—

8 “(A) the applicable amount determined
9 under subsection (b) with respect to such type,
10 multiplied by

11 “(B) the eligible production for such type.

12 “(b) APPLICABLE AMOUNT.—

13 “(1) IN GENERAL.—For purposes of subsection
14 (a)—

15 “(A) DISHWASHERS.—The applicable
16 amount is the energy savings amount in the case
17 of a dishwasher which—

18 “(i) is manufactured in calendar year
19 2006 or 2007, and

20 “(ii) meets the requirements of the En-
21 ergy Star program which are in effect for
22 dishwashers in 2007.

23 “(B) CLOTHES WASHERS.—The applicable
24 amount is—

1 “(i) \$50, in the case of a clothes washer
2 which—

3 “(I) is manufactured in calendar
4 year 2005, and

5 “(II) has an MEF of at least 1.42,

6 “(ii) \$100, in the case of a clothes
7 washer which—

8 “(I) is manufactured in calendar
9 year 2005, 2006, or 2007, and

10 “(II) meets the requirements of the
11 Energy Star program which are in ef-
12 fect for clothes washers in 2007, and

13 “(iii) the energy and water savings
14 amount, in the case of a clothes washer
15 which—

16 “(I) is manufactured in calendar
17 year 2008, 2009, or 2010, and

18 “(II) meets the requirements of the
19 Energy Star program which are in ef-
20 fect for clothes washers in 2010.

21 “(C) REFRIGERATORS.—

22 “(i) 15 PERCENT SAVINGS.—The appli-
23 cable amount is \$75 in the case of a refrig-
24 erator which—

1 “(I) is manufactured in calendar
2 year 2005 or 2006, and

3 “(II) consumes at least 15 percent
4 but not more than 20 percent less kilo-
5 watt hours per year than the 2001 en-
6 ergy conservation standard.

7 “(ii) 20 PERCENT SAVINGS.—In the
8 case of a refrigerator which consumes at
9 least 20 percent but not more than 25 per-
10 cent less kilowatt hours per year than the
11 2001 energy conservation standards, the ap-
12 plicable amount is—

13 “(I) \$125 for a refrigerator which
14 is manufactured in calendar year
15 2005, 2006, or 2007, and

16 “(II) \$100 for a refrigerator
17 which is manufactured in calendar
18 year 2008.

19 “(iii) 25 PERCENT SAVINGS.—In the
20 case of a refrigerator which consumes at
21 least 25 percent less kilowatt hours per year
22 than the 2001 energy conservation stand-
23 ards, the applicable amount is—

1 “(I) \$175 for a refrigerator which
2 is manufactured in calendar year
3 2005, 2006, or 2007, and

4 “(II) \$150 for a refrigerator
5 which is manufactured in calendar
6 year 2008, 2009, or 2010.

7 “(2) *ENERGY SAVINGS AMOUNT.*—For purposes
8 of paragraph (1)(A)—

9 “(A) *IN GENERAL.*—The energy savings
10 amount is the lesser of—

11 “(i) the product of—

12 “(I) \$3, and

13 “(II) 100 multiplied by the energy
14 savings percentage, or

15 “(ii) \$100.

16 “(B) *ENERGY SAVINGS PERCENTAGE.*—For
17 purposes of subparagraph (A), the energy savings
18 percentage is the ratio of—

19 “(i) the *EF* required by the Energy
20 Star program for dishwashers in 2007
21 minus the *EF* required by the Energy Star
22 program for dishwashers in 2005, to

23 “(ii) the *EF* required by the Energy
24 Star program for dishwashers in 2007.

1 “(3) *ENERGY AND WATER SAVINGS AMOUNT.*—

2 *For purposes of paragraph (1)(B)(iii)—*

3 “(A) *IN GENERAL.*—*The energy and water*
4 *savings amount is the lesser of—*

5 “(i) *the product of—*

6 “(I) *\$10, and*

7 “(II) *100 multiplied by the energy*
8 *and water savings percentage, or*

9 “(ii) *\$200.*

10 “(B) *ENERGY AND WATER SAVINGS PER-*
11 *CENTAGE.*—*For purposes of subparagraph (A),*
12 *the energy and water savings percentage is the*
13 *average of the MEF savings percentage and the*
14 *WF savings percentage.*

15 “(C) *MEF SAVINGS PERCENTAGE.*—*For*
16 *purposes of this paragraph, the MEF savings*
17 *percentage is the ratio of—*

18 “(i) *the MEF required by the Energy*
19 *Star program for clothes washers in 2010*
20 *minus the MEF required by the Energy*
21 *Star program for clothes washers in 2007,*
22 *to*

23 “(ii) *the MEF required by the Energy*
24 *Star program for clothes washers in 2010.*

1 “(D) *WF SAVINGS PERCENTAGE.*—For pur-
2 poses of this paragraph, the *WF savings percent-*
3 *age is the ratio of—*

4 “(i) *the WF required by the Energy*
5 *Star program for clothes washers in 2007*
6 *minus the WF required by the Energy Star*
7 *program for clothes washers in 2010, to*

8 “(ii) *the WF required by the Energy*
9 *Star program for clothes washers in 2007.*

10 “(c) *ELIGIBLE PRODUCTION.*—

11 “(1) *IN GENERAL.*—Except as provided in para-
12 graphs (2) and (3), the eligible production in a cal-
13 endar year with respect to each type of energy effi-
14 cient appliance is the excess of—

15 “(A) *the number of appliances of such type*
16 *which are produced by the taxpayer in the*
17 *United States during such calendar year, over*

18 “(B) *the average number of appliances of*
19 *such type which were produced by the taxpayer*
20 *(or any predecessor) in the United States during*
21 *the preceding 3-calendar year period.*

22 “(2) *SPECIAL RULE FOR REFRIGERATORS.*—The
23 eligible production in a calendar year with respect to
24 each type of refrigerator described in subsection
25 (b)(1)(C) is the excess of—

1 “(A) *the number of appliances of such type*
2 *which are produced by the taxpayer in the*
3 *United States during such calendar year, over*

4 “(B) *110 percent of the average number of*
5 *appliances of such type which were produced by*
6 *the taxpayer (or any predecessor) in the United*
7 *States during the preceding 3-calendar year pe-*
8 *riod.*

9 “(3) *SPECIAL RULE FOR 2005 PRODUCTION.—For*
10 *purposes of determining eligible production for cal-*
11 *endar year 2005—*

12 “(A) *only production after the date of en-*
13 *actment of this section shall be taken into ac-*
14 *count under paragraphs (1)(A) and (2)(A), and*

15 “(B) *the amount taken into account under*
16 *paragraphs (1)(B) and (2)(B) shall be an*
17 *amount which bears the same ratio to the*
18 *amount which would (but for this paragraph) be*
19 *taken into account under such paragraph as—*

20 “(i) *the number of days in calendar*
21 *year 2005 after the date of enactment of this*
22 *section, bears to*

23 “(ii) *365.*

1 “(d) *TYPES OF ENERGY EFFICIENT APPLIANCE.*—For
2 *purposes of this section, the types of energy efficient appli-*
3 *ances are—*

4 “(1) *dishwashers described in subsection*
5 *(b)(1)(A),*

6 “(2) *clothes washers described in subsection*
7 *(b)(1)(B)(i),*

8 “(3) *clothes washers described in subsection*
9 *(b)(1)(B)(ii),*

10 “(4) *clothes washers described in subsection*
11 *(b)(1)(B)(iii),*

12 “(5) *refrigerators described in subsection*
13 *(b)(1)(C)(i),*

14 “(6) *refrigerators described in subsection*
15 *(b)(1)(C)(ii)(I),*

16 “(7) *refrigerators described in subsection*
17 *(b)(1)(C)(ii)(II),*

18 “(8) *refrigerators described in subsection*
19 *(b)(1)(C)(iii)(I), and*

20 “(9) *refrigerators described in subsection*
21 *(b)(1)(C)(iii)(II).*

22 “(e) *LIMITATIONS.*—

23 “(1) *AGGREGATE CREDIT AMOUNT ALLOWED.*—
24 *The aggregate amount of credit allowed under sub-*
25 *section (a) with respect to a taxpayer for any taxable*

1 year shall not exceed \$75,000,000 reduced by the
2 amount of the credit allowed under subsection (a) to
3 the taxpayer (or any predecessor) for all prior taxable
4 years.

5 “(2) AMOUNT ALLOWED FOR CERTAIN APPLI-
6 ANCES.—

7 “(A) IN GENERAL.—In the case of appli-
8 ances described in subparagraph (C), the aggre-
9 gate amount of the credit allowed under sub-
10 section (a) with respect to a taxpayer for any
11 taxable year shall not exceed \$20,000,000 re-
12 duced by the amount of the credit allowed under
13 subsection (a) to the taxpayer (or any prede-
14 cessor) for all prior taxable years with respect to
15 such appliances.

16 “(B) ELECTION TO INCREASE ALLOWABLE
17 CREDIT.—In the case of any taxpayer who makes
18 an election under this subparagraph—

19 “(i) subparagraph (A) shall be applied
20 by substituting ‘\$25,000,000’ for
21 ‘\$20,000,000’, and

22 “(ii) the aggregate amount of the credit
23 allowed under subsection (a) with respect to
24 such taxpayer for any taxable year for ap-
25 pliances described in subparagraph (C) and

1 *the additional appliances described in sub-*
2 *paragraph (D) shall not exceed \$50,000,000*
3 *reduced by the amount of the credit allowed*
4 *under subsection (a) to the taxpayer (or any*
5 *predecessor) for all prior taxable years with*
6 *respect to such appliances.*

7 “(C) *APPLIANCES DESCRIBED.*—*The appli-*
8 *ances described in this subparagraph are—*

9 “(i) *clothes washers described in sub-*
10 *section (b)(1)(B)(i), and*

11 “(ii) *refrigerators described in sub-*
12 *section (b)(1)(C)(i).*

13 “(D) *ADDITIONAL APPLIANCES.*—*The addi-*
14 *tional appliances described in this subparagraph*
15 *are—*

16 “(i) *refrigerators described in sub-*
17 *section (b)(1)(C)(ii)(I), and*

18 “(ii) *refrigerators described in sub-*
19 *section (b)(1)(C)(ii)(II).*

20 “(3) *LIMITATION BASED ON GROSS RECEIPTS.*—
21 *The credit allowed under subsection (a) with respect*
22 *to a taxpayer for the taxable year shall not exceed an*
23 *amount equal to 2 percent of the average annual gross*
24 *receipts of the taxpayer for the 3 taxable years pre-*

1 ceding the taxable year in which the credit is deter-
2 mined.

3 “(4) GROSS RECEIPTS.—For purposes of this
4 subsection, the rules of paragraphs (2) and (3) of sec-
5 tion 448(c) shall apply.

6 “(f) DEFINITIONS.—For purposes of this section—

7 “(1) QUALIFIED ENERGY EFFICIENT APPLI-
8 ANCE.—The term ‘qualified energy efficient appliance’
9 means—

10 “(A) any dishwasher described in subsection
11 (b)(1)(A),

12 “(B) any clothes washer described in sub-
13 section (b)(1)(B), and

14 “(C) any refrigerator described in sub-
15 section (b)(1)(C).

16 “(2) DISHWASHER.—The term ‘dishwasher’
17 means a residential dishwasher subject to the energy
18 conservation standards established by the Department
19 of Energy.

20 “(3) CLOTHES WASHER.—The term ‘clothes
21 washer’ means a residential model clothes washer, in-
22 cluding a residential style coin operated washer.

23 “(4) REFRIGERATOR.—The term ‘refrigerator’
24 means a residential model automatic defrost refrig-

1 *erator-freezer which has an internal volume of at least*
2 *16.5 cubic feet.*

3 “(5) *MEF*.—*The term ‘MEF’ means the modi-*
4 *fied energy factor established by the Department of*
5 *Energy for compliance with the Federal energy con-*
6 *servation standards.*

7 “(6) *EF*.—*The term ‘EF’ means the energy fac-*
8 *tor established by the Department of Energy for com-*
9 *pliance with the Federal energy conservation stand-*
10 *ards.*

11 “(7) *WF*.—*The term ‘WF’ means Water Factor*
12 *(as determined by the Secretary of Energy).*

13 “(8) *PRODUCED*.—*The term ‘produced’ includes*
14 *manufactured.*

15 “(9) *2001 ENERGY CONSERVATION STANDARD*.—
16 *The term ‘2001 energy conservation standard’ means*
17 *the energy conservation standards promulgated by the*
18 *Department of Energy and effective July 1, 2001.*

19 “(g) *SPECIAL RULES*.—*For purposes of this section—*

20 “(1) *IN GENERAL*.—*Rules similar to the rules of*
21 *subsections (c), (d), and (e) of section 52 shall apply.*

22 “(2) *CONTROLLED GROUP*.—

23 “(A) *IN GENERAL*.—*All persons treated as a*
24 *single employer under subsection (a) or (b) of*

1 *section 52 or subsection (m) or (o) of section 414*
2 *shall be treated as a single producer.*

3 “(B) *INCLUSION OF FOREIGN CORPORA-*
4 *TIONS.—For purposes of subparagraph (A), in*
5 *applying subsections (a) and (b) of section 52 to*
6 *this section, section 1563 shall be applied with-*
7 *out regard to subsection (b)(2)(C) thereof.*

8 “(3) *VERIFICATION.—No amount shall be al-*
9 *lowed as a credit under subsection (a) with respect to*
10 *which the taxpayer has not submitted such informa-*
11 *tion or certification as the Secretary, in consultation*
12 *with the Secretary of Energy, determines necessary.”.*

13 (b) *CONFORMING AMENDMENT.—Section 38(b) (relat-*
14 *ing to general business credit), as amended by this Act, is*
15 *amended by striking “plus” at the end of paragraph (20),*
16 *by striking the period at the end of paragraph (21) and*
17 *inserting “, plus”, and by adding at the end the following*
18 *new paragraph:*

19 “(22) *the energy efficient appliance credit deter-*
20 *mined under section 45L(a).”.*

21 (c) *CLERICAL AMENDMENT.—The table of sections for*
22 *subpart D of part IV of subchapter A of chapter 1, as*
23 *amended by this Act, is amended by adding at the end the*
24 *following new item:*

 “Sec. 45L. Energy efficient appliance credit”.

1 (d) *EFFECTIVE DATE.*—The amendments made by this
2 section shall apply to appliances produced after the date
3 of the enactment of this Act, in taxable years ending after
4 such date.

5 **SEC. 1527. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
6 **PROPERTY.**

7 (a) *IN GENERAL.*—Subpart A of part IV of subchapter
8 A of chapter 1 (relating to nonrefundable personal credits),
9 as amended by this Act, is amended by inserting after sec-
10 tion 25C the following new section:

11 **“SEC. 25D. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

12 “(a) *ALLOWANCE OF CREDIT.*—In the case of an indi-
13 vidual, there shall be allowed as a credit against the tax
14 imposed by this chapter for the taxable year an amount
15 equal to the sum of—

16 “(1) 30 percent of the qualified photovoltaic
17 property expenditures made by the taxpayer during
18 such year,

19 “(2) 30 percent of the qualified solar water heat-
20 ing property expenditures made by the taxpayer dur-
21 ing such year,

22 “(3) 30 percent of the qualified fuel cell property
23 expenditures made by the taxpayer during such year,

24 “(b) *LIMITATIONS.*—

1 “(1) *MAXIMUM CREDIT.*—*The credit allowed*
2 *under subsection (a) for any taxable year shall not*
3 *exceed—*

4 “(A) *\$2,000 with respect to any qualified*
5 *solar water heating property expenditures,*

6 “(B) *\$2,000 with respect to any qualified*
7 *photovoltaic property expenditures, and*

8 “(C) *\$500 with respect to each half kilowatt*
9 *of capacity of qualified fuel cell property (as de-*
10 *defined in section 48(d)(1)) for which qualified fuel*
11 *cell property expenditures are made,*

12 “(2) *CERTIFICATIONS.*—*No credit shall be al-*
13 *lowed under this section for an item of property*
14 *unless—*

15 “(A) *in the case of solar water heating*
16 *property, such property is certified for perform-*
17 *ance by the non-profit Solar Rating Certifi-*
18 *cation Corporation or a comparable entity en-*
19 *dorsed by the government of the State in which*
20 *such property is installed, and*

21 “(B) *in the case of a photovoltaic property*
22 *or a fuel cell property such property meets ap-*
23 *propriate fire and electric code requirements.*

24 “(c) *CARRYFORWARD OF UNUSED CREDIT.*—*If the*
25 *credit allowable under subsection (a) exceeds the limitation*

1 *imposed by section 26(a) for such taxable year reduced by*
2 *the sum of the credits allowable under this subpart (other*
3 *than this section), such excess shall be carried to the suc-*
4 *ceeding taxable year and added to the credit allowable*
5 *under subsection (a) for such succeeding taxable year.*

6 “(d) *DEFINITIONS.—For purposes of this section—*

7 “(1) *QUALIFIED SOLAR WATER HEATING PROP-*
8 *ERTY EXPENDITURE.—The term ‘qualified solar water*
9 *heating property expenditure’ means an expenditure*
10 *for property to heat water for use in a dwelling unit*
11 *located in the United States and used as a residence*
12 *by the taxpayer if at least half of the energy used by*
13 *such property for such purpose is derived from the*
14 *sun.*

15 “(2) *QUALIFIED PHOTOVOLTAIC PROPERTY EX-*
16 *PENDITURE.—The term ‘qualified photovoltaic prop-*
17 *erty expenditure’ means an expenditure for property*
18 *which uses solar energy to generate electricity for use*
19 *in a dwelling unit located in the United States and*
20 *used as a residence by the taxpayer.*

21 “(3) *SOLAR PANELS.—No expenditure relating to*
22 *a solar panel or other property installed as a roof (or*
23 *portion thereof) shall fail to be treated as property de-*
24 *scribed in paragraph (1) or (2) solely because it con-*

1 *stitutes a structural component of the structure on*
2 *which it is installed.*

3 “(4) *QUALIFIED FUEL CELL PROPERTY EXPENDI-*
4 *TURE.—The term ‘qualified fuel cell property expend-*
5 *iture’ means an expenditure for qualified fuel cell*
6 *property (as defined in section 48(d)(1)) installed on*
7 *or in connection with a dwelling unit located in the*
8 *United States and used as a principal residence*
9 *(within the meaning of section 121) by the taxpayer.*

10 “(5) *LABOR COSTS.—Expenditures for labor*
11 *costs properly allocable to the onsite preparation, as-*
12 *sembly, or original installation of the property de-*
13 *scribed in paragraph (1), (2), (4), (5), or (6) and for*
14 *pipng or wiring to interconnect such property to the*
15 *dwelling unit shall be taken into account for purposes*
16 *of this section.*

17 “(6) *SWIMMING POOLS, ETC., USED AS STORAGE*
18 *MEDIUM.—Expenditures which are properly allocable*
19 *to a swimming pool, hot tub, or any other energy*
20 *storage medium which has a function other than the*
21 *function of such storage shall not be taken into ac-*
22 *count for purposes of this section.*

23 “(e) *SPECIAL RULES.—For purposes of this section—*

24 “(1) *DOLLAR AMOUNTS IN CASE OF JOINT OCCU-*
25 *PANCY.—In the case of any dwelling unit which is*

1 *jointly occupied and used during any calendar year*
2 *as a residence by 2 or more individuals the following*
3 *rules shall apply:*

4 *“(A) The amount of the credit allowable,*
5 *under subsection (a) by reason of expenditures*
6 *(as the case may be) made during such calendar*
7 *year by any of such individuals with respect to*
8 *such dwelling unit shall be determined by treat-*
9 *ing all of such individuals as 1 taxpayer whose*
10 *taxable year is such calendar year.*

11 *“(B) There shall be allowable, with respect*
12 *to such expenditures to each of such individuals,*
13 *a credit under subsection (a) for the taxable year*
14 *in which such calendar year ends in an amount*
15 *which bears the same ratio to the amount deter-*
16 *mined under subparagraph (A) as the amount of*
17 *such expenditures made by such individual dur-*
18 *ing such calendar year bears to the aggregate of*
19 *such expenditures made by all of such individ-*
20 *uals during such calendar year.*

21 *“(2) TENANT-STOCKHOLDER IN COOPERATIVE*
22 *HOUSING CORPORATION.—In the case of an indi-*
23 *vidual who is a tenant-stockholder (as defined in sec-*
24 *tion 216) in a cooperative housing corporation (as de-*
25 *fin ed in such section), such individual shall be treated*

1 *as having made his tenant-stockholder's proportionate*
2 *share (as defined in section 216(b)(3)) of any expend-*
3 *itures of such corporation.*

4 “(3) CONDOMINIUMS.—

5 “(A) IN GENERAL.—*In the case of an indi-*
6 *vidual who is a member of a condominium man-*
7 *agement association with respect to a condo-*
8 *minium which the individual owns, such indi-*
9 *vidual shall be treated as having made the indi-*
10 *vidual's proportionate share of any expenditures*
11 *of such association.*

12 “(B) CONDOMINIUM MANAGEMENT ASSOCIA-

13 *TION.—For purposes of this paragraph, the term*
14 *‘condominium management association’ means*
15 *an organization which meets the requirements of*
16 *paragraph (1) of section 528(c) (other than sub-*
17 *paragraph (E) thereof) with respect to a condo-*
18 *minium project substantially all of the units of*
19 *which are used as residences.*

20 “(4) ALLOCATION IN CERTAIN CASES.—*If less*
21 *than 80 percent of the use of an item is for nonbusi-*
22 *ness purposes, only that portion of the expenditures*
23 *for such item which is properly allocable to use for*
24 *nonbusiness purposes shall be taken into account.*

1 “(5) *WHEN EXPENDITURE MADE; AMOUNT OF*
2 *EXPENDITURE.*—

3 “(A) *IN GENERAL.*—*Except as provided in*
4 *subparagraph (B), an expenditure with respect*
5 *to an item shall be treated as made when the*
6 *original installation of the item is completed.*

7 “(B) *EXPENDITURES PART OF BUILDING*
8 *CONSTRUCTION.*—*In the case of an expenditure*
9 *in connection with the construction or recon-*
10 *struction of a structure, such expenditure shall be*
11 *treated as made when the original use of the con-*
12 *structed or reconstructed structure by the tax-*
13 *payer begins.*

14 “(C) *AMOUNT.*—*The amount of any expend-*
15 *iture shall be the cost thereof.*

16 “(6) *PROPERTY FINANCED BY SUBSIDIZED EN-*
17 *ERGY FINANCING.*—*For purposes of determining the*
18 *amount of expenditures made by any individual with*
19 *respect to any dwelling unit, there shall not be taken*
20 *into account expenditures which are made from sub-*
21 *sidized energy financing (as defined in section*
22 *48(a)(4)(C)).*

23 “(f) *BASIS ADJUSTMENTS.*—*For purposes of this sub-*
24 *title, if a credit is allowed under this section for any ex-*
25 *penditure with respect to any property, the increase in the*

1 *basis of such property which would (but for this subsection)*
2 *result from such expenditure shall be reduced by the amount*
3 *of the credit so allowed.*

4 “(g) *TERMINATION.*—*The credit allowed under this*
5 *section shall not apply to property placed in service after*
6 *December 31, 2009.*”.

7 (b) *CONFORMING AMENDMENTS.*—

8 (1) *Section 23(c) is amended by striking “this*
9 *section and section 1400C” and inserting “this sec-*
10 *tion, section 25D, and section 1400C”.*

11 (2) *Section 25(e)(1)(C) is amended by striking*
12 *“this section and sections 23 and 1400C” and insert-*
13 *ing “other than this section, section 23, section 25D,*
14 *and section 1400C”.*

15 (3) *Section 1400C(d) is amended by striking*
16 *“this section” and inserting “this section and section*
17 *25D”.*

18 (4) *Section 1016(a), as amended by this Act, is*
19 *amended by striking “and” at the end of paragraph*
20 *(34), by striking the period at the end of paragraph*
21 *(35) and inserting “, and”, and by adding at the end*
22 *the following new paragraph:*

23 “(36) *to the extent provided in section 25D(f), in*
24 *the case of amounts with respect to which a credit has*
25 *been allowed under section 25D.*”.

1 (5) *The table of sections for subpart A of part IV*
 2 *of subchapter A of chapter 1, as amended by this Act,*
 3 *is amended by inserting after the item relating to sec-*
 4 *tion 25C the following new item:*

“Sec. 25D. Residential energy efficient property.”.

5 (c) *EFFECTIVE DATES.*—*The amendments made by*
 6 *this section shall apply to property placed in service after*
 7 *December 31, 2005, in taxable years ending after such date.*

8 **SEC. 1528. CREDIT FOR BUSINESS INSTALLATION OF QUALI-**
 9 **FIED FUEL CELLS AND STATIONARY MICRO-**
 10 **TURBINE POWER PLANTS.**

11 (a) *IN GENERAL.*—*Section 48(a)(3)(A) (defining en-*
 12 *ergy property), as amended by this Act, is amended by*
 13 *striking “or” at the end of clause (ii), by adding “or” at*
 14 *the end of clause (iii), and by inserting after clause (iii)*
 15 *the following new clause:*

16 *“(iv) qualified fuel cell property or*
 17 *qualified microturbine property.”.*

18 (b) *QUALIFIED FUEL CELL PROPERTY; QUALIFIED*
 19 *MICROTURBINE PROPERTY.*—*Section 48 (relating to energy*
 20 *credit) is amended by adding at the end the following new*
 21 *subsection:*

22 *“(d) QUALIFIED FUEL CELL PROPERTY; QUALIFIED*
 23 *MICROTURBINE PROPERTY.—For purposes of this*
 24 *subsection—*

25 *“(1) QUALIFIED FUEL CELL PROPERTY.—*

1 “(A) *IN GENERAL.*—*The term ‘qualified fuel*
2 *cell property’ means a fuel cell power plant*
3 *which—*

4 “(i) *has a nameplate capacity of at*
5 *least 0.5 kilowatt of electricity using an*
6 *electrochemical process, and*

7 “(ii) *has an electricity-only generation*
8 *efficiency greater than 30 percent.*

9 “(B) *LIMITATION.*—*In the case of qualified*
10 *fuel cell property placed in service during the*
11 *taxable year, the credit otherwise determined*
12 *under paragraph (1) for such year with respect*
13 *to such property shall not exceed an amount*
14 *equal to \$500 for each 0.5 kilowatt of capacity*
15 *of such property.*

16 “(C) *FUEL CELL POWER PLANT.*—*The term*
17 *‘fuel cell power plant’ means an integrated sys-*
18 *tem comprised of a fuel cell stack assembly and*
19 *associated balance of plant components which*
20 *converts a fuel into electricity using electro-*
21 *chemical means.*

22 “(D) *SPECIAL RULE.*—*The first sentence of*
23 *the matter in subsection (a)(3) which follows*
24 *subparagraph (D) thereof shall not apply to*
25 *qualified fuel cell property which is used pre-*

1 *dominantly in the trade or business of the fur-*
2 *nishing or sale of telephone service, telegraph*
3 *service by means of domestic telegraph oper-*
4 *ations, or other telegraph services (other than*
5 *international telegraph services).*

6 “(E) *TERMINATION.*—*The term ‘qualified*
7 *fuel cell property’ shall not include any property*
8 *for any period after December 31, 2009.*

9 “(2) *QUALIFIED MICROTURBINE PROPERTY.*—

10 “(A) *IN GENERAL.*—*The term ‘qualified*
11 *microturbine property’ means a stationary*
12 *microturbine power plant which—*

13 “(i) *has a nameplate capacity of less*
14 *than 2,000 kilowatts, and*

15 “(ii) *has an electricity-only generation*
16 *efficiency of not less than 26 percent at*
17 *International Standard Organization con-*
18 *ditions.*

19 “(B) *LIMITATION.*—*In the case of qualified*
20 *microturbine property placed in service during*
21 *the taxable year, the credit otherwise determined*
22 *under paragraph (1) for such year with respect*
23 *to such property shall not exceed an amount*
24 *equal \$200 for each kilowatt of capacity of such*
25 *property.*

1 “(C) *STATIONARY MICROTURBINE POWER*
2 *PLANT.*—*The term ‘stationary microturbine*
3 *power plant’ means an integrated system com-*
4 *prised of a gas turbine engine, a combustor, a*
5 *recuperator or regenerator, a generator or alter-*
6 *nator, and associated balance of plant compo-*
7 *nents which converts a fuel into electricity and*
8 *thermal energy. Such term also includes all sec-*
9 *ondary components located between the existing*
10 *infrastructure for fuel delivery and the existing*
11 *infrastructure for power distribution, including*
12 *equipment and controls for meeting relevant*
13 *power standards, such as voltage, frequency, and*
14 *power factors.*

15 “(D) *SPECIAL RULE.*—*The first sentence of*
16 *the matter in subsection (a)(3) which follows*
17 *subparagraph (D) thereof shall not apply to*
18 *qualified microturbine property which is used*
19 *predominantly in the trade or business of the*
20 *furnishing or sale of telephone service, telegraph*
21 *service by means of domestic telegraph oper-*
22 *ations, or other telegraph services (other than*
23 *international telegraph services).*

24 “(E) *TERMINATION.*—*The term ‘qualified*
25 *microturbine property’ shall not include any*

1 *property for any period after December 31,*
2 *2008.”.*

3 (c) *ENERGY PERCENTAGE.*—Section 48(a)(2)(A) (*re-*
4 *lating to energy percentage*) is amended to read as follows:

5 “(A) *IN GENERAL.*—*The energy percentage*
6 *is—*

7 “(i) *in the case of qualified fuel cell*
8 *property, 30 percent, and*

9 “(ii) *in the case of any other energy*
10 *property, 10 percent.”.*

11 (d) *CONFORMING AMENDMENT.*—Section 48(a)(1) is
12 *amended by inserting “except as provided in paragraph*
13 *(1)(B) or (2)(B) of subsection (d),” before “the energy”.*

14 (e) *EFFECTIVE DATE.*—*The amendments made by this*
15 *section shall apply to periods after December 31, 2005, in*
16 *taxable years ending after such date, under rules similar*
17 *to the rules of section 48(m) of the Internal Revenue Code*
18 *of 1986 (as in effect on the day before the date of the enact-*
19 *ment of the Revenue Reconciliation Act of 1990).*

20 **SEC. 1529. BUSINESS SOLAR INVESTMENT TAX CREDIT.**

21 (a) *INCREASE IN ENERGY PERCENTAGE.*—Section
22 *48(a)(2)(A) (relating to energy percentage), as amended by*
23 *this Act, is amended to read as follows:*

24 “(A) *IN GENERAL.*—*The energy percentage*
25 *is—*

1 “(i) in the case of energy property de-
2 scribed in paragraph (3)(A)(i) and quali-
3 fied fuel cell property, 30 percent, and

4 “(ii) in the case of any other energy
5 property, 10 percent.”.

6 (b) *HYBRID SOLAR LIGHTING SYSTEMS.*—Clause (i)
7 of section 48(a)(3)(A) is amended to read as follows:

8 “(i) equipment which uses solar energy
9 to generate electricity, to heat or cool (or
10 provide hot water for use in) a structure, to
11 illuminate the inside of a structure using
12 fiber-optic distributed sunlight or to provide
13 solar process heat, excepting property used
14 to generate energy for the purposes of heat-
15 ing a swimming pool,”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
17 section shall apply to periods after December 31, 2005, in
18 taxable years ending after such date, and periods before
19 January 1, 2012, under rules similar to the rules of section
20 48(m) of the Internal Revenue Code of 1986 (as in effect
21 on the day before the date of the enactment of the Revenue
22 Reconciliation Act of 1990).

1 ***Subtitle D—Alternative Motor***
2 ***Vehicles and Fuels Incentives***

3 **SEC. 1531. ALTERNATIVE MOTOR VEHICLE CREDIT.**

4 (a) *IN GENERAL.*—Subpart B of part IV of subchapter
5 A of chapter 1 (relating to foreign tax credit, etc.) is amend-
6 ed by adding at the end the following new section:

7 **“SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

8 “(a) *ALLOWANCE OF CREDIT.*—There shall be allowed
9 as a credit against the tax imposed by this chapter for the
10 taxable year an amount equal to the sum of—

11 “(1) the new qualified fuel cell motor vehicle
12 credit determined under subsection (b),

13 “(2) the new qualified hybrid motor vehicle cred-
14 it determined under subsection (c), and

15 “(3) the new qualified alternative fuel motor ve-
16 hicle credit determined under subsection (d).

17 “(b) *NEW QUALIFIED FUEL CELL MOTOR VEHICLE*
18 *CREDIT.*—

19 “(1) *IN GENERAL.*—For purposes of subsection
20 (a), the new qualified fuel cell motor vehicle credit de-
21 termined under this subsection with respect to a new
22 qualified fuel cell motor vehicle placed in service by
23 the taxpayer during the taxable year is—

24 “(A) \$8,000 (\$4,000 in the case of a vehicle
25 placed in service after December 31, 2009), if

1 *such vehicle has a gross vehicle weight rating of*
2 *not more than 8,500 pounds,*

3 “(B) \$10,000, if such vehicle has a gross ve-
4 *hicle weight rating of more than 8,500 pounds*
5 *but not more than 14,000 pounds,*

6 “(C) \$20,000, if such vehicle has a gross ve-
7 *hicle weight rating of more than 14,000 pounds*
8 *but not more than 26,000 pounds, and*

9 “(D) \$40,000, if such vehicle has a gross ve-
10 *hicle weight rating of more than 26,000 pounds.*

11 “(2) *INCREASE FOR FUEL EFFICIENCY.—*

12 “(A) *IN GENERAL.—The amount determined*
13 *under paragraph (1)(A) with respect to a new*
14 *qualified fuel cell motor vehicle which is a pas-*
15 *senger automobile or light truck shall be in-*
16 *creased by—*

17 “(i) \$1,000, if such vehicle achieves at
18 *least 150 percent but less than 175 percent*
19 *of the 2002 model year city fuel economy,*

20 “(ii) \$1,500, if such vehicle achieves at
21 *least 175 percent but less than 200 percent*
22 *of the 2002 model year city fuel economy,*

23 “(iii) \$2,000, if such vehicle achieves
24 *at least 200 percent but less than 225 per-*

1 cent of the 2002 model year city fuel econ-
 2 omy,

3 “(iv) \$2,500, if such vehicle achieves at
 4 least 225 percent but less than 250 percent
 5 of the 2002 model year city fuel economy,

6 “(v) \$3,000, if such vehicle achieves at
 7 least 250 percent but less than 275 percent
 8 of the 2002 model year city fuel economy,

9 “(vi) \$3,500, if such vehicle achieves at
 10 least 275 percent but less than 300 percent
 11 of the 2002 model year city fuel economy,
 12 and

13 “(vii) \$4,000, if such vehicle achieves
 14 at least 300 percent of the 2002 model year
 15 city fuel economy.

16 “(B) 2002 MODEL YEAR CITY FUEL ECON-
 17 OMY.—For purposes of subparagraph (A), the
 18 2002 model year city fuel economy with respect
 19 to a vehicle shall be determined in accordance
 20 with the following tables:

21 “(i) In the case of a passenger auto-
 22 mobile:

“If vehicle inertia weight class is:	The 2002 model year city fuel economy is:
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg

<i>"If vehicle inertia weight class is:</i>	<i>The 2002 model year city fuel economy is:</i>
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

1

"(ii) In the case of a light truck:

<i>"If vehicle inertia weight class is:</i>	<i>The 2002 model year city fuel economy is:</i>
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

2

"(C) VEHICLE INERTIA WEIGHT CLASS.—

3

For purposes of subparagraph (B), the term ‘ve-

4

hicle inertia weight class’ has the same meaning

5

as when defined in regulations prescribed by the

6

Administrator of the Environmental Protection

7

Agency for purposes of the administration of title

8

II of the Clean Air Act (42 U.S.C. 7521 et seq.).

9

"(3) NEW QUALIFIED FUEL CELL MOTOR VEHI-

10

CLE.—For purposes of this subsection, the term ‘new

11

qualified fuel cell motor vehicle’ means a motor

12

vehicle—

1 “(A) which is propelled by power derived
2 from 1 or more cells which convert chemical en-
3 ergy directly into electricity by combining oxy-
4 gen with hydrogen fuel which is stored on board
5 the vehicle in any form and may or may not re-
6 quire reformation prior to use,

7 “(B) which, in the case of a passenger auto-
8 mobile or light truck, has received on or after the
9 date of the enactment of this section a certificate
10 that such vehicle meets or exceeds the Bin 5 Tier
11 II emission level established in regulations pre-
12 scribed by the Administrator of the Environ-
13 mental Protection Agency under section 202(i) of
14 the Clean Air Act for that make and model year
15 vehicle,

16 “(C) the original use of which commences
17 with the taxpayer,

18 “(D) which is acquired for use or lease by
19 the taxpayer and not for resale, and

20 “(E) which is made by a manufacturer.

21 “(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CRED-

22 IT.—

23 “(1) IN GENERAL.—For purposes of subsection
24 (a), the new qualified hybrid motor vehicle credit de-
25 termined under this subsection with respect to a new

1 *qualified hybrid motor vehicle placed in service by the*
2 *taxpayer during the taxable year is the credit amount*
3 *determined under paragraph (2) or (3).*

4 “(2) *CREDIT AMOUNT FOR LIGHTER VEHI-*
5 *CLES.—*

6 “(A) *IN GENERAL.—In the case of a new*
7 *qualified hybrid motor vehicle which is a pas-*
8 *senger automobile, medium duty passenger vehi-*
9 *cle, or light truck, the credit amount determined*
10 *under this paragraph shall be—*

11 “(i) *\$400, if such vehicle achieves at*
12 *least 125 percent but less than 150 percent*
13 *of the 2002 model year city fuel economy,*

14 “(ii) *\$800, if such vehicle achieves at*
15 *least 150 percent but less than 175 percent*
16 *of the 2002 model year city fuel economy,*

17 “(iii) *\$1,200, if such vehicle achieves*
18 *at least 175 percent but less than 200 per-*
19 *cent of the 2002 model year city fuel econ-*
20 *omy,*

21 “(iv) *\$1,600, if such vehicle achieves at*
22 *least 200 percent but less than 225 percent*
23 *of the 2002 model year city fuel economy,*

24 “(v) *\$2,000, if such vehicle achieves at*
25 *least 225 percent but less than 250 percent*

1 *of the 2002 model year city fuel economy,*
2 *and*

3 *“(vi) \$2,400, if such vehicle achieves at*
4 *least 250 percent of the 2002 model year*
5 *city fuel economy.*

6 *“(B) 2002 MODEL YEAR CITY FUEL ECON-*
7 *OMY.—For purposes of subparagraph (A), the*
8 *2002 model year city fuel economy with respect*
9 *to a vehicle shall be determined on a gasoline*
10 *gallon equivalent basis as determined by the Ad-*
11 *ministrator of the Environmental Protection*
12 *Agency using the tables provided in subsection*
13 *(b)(2)(B) with respect to such vehicle.*

14 *“(3) CREDIT AMOUNT FOR HEAVIER VEHI-*
15 *CLES.—*

16 *“(A) IN GENERAL.—In the case of a new*
17 *qualified hybrid motor vehicle which is a heavy*
18 *duty hybrid motor vehicle, the credit amount de-*
19 *termined under this paragraph is an amount*
20 *equal to the applicable percentage of the incre-*
21 *mental cost of such vehicle placed in service by*
22 *the taxpayer during the taxable year.*

23 *“(B) INCREMENTAL COST.—For purposes of*
24 *this paragraph, the incremental cost of any*
25 *heavy duty hybrid motor vehicle is equal to the*

1 amount of the excess of the manufacturer’s sug-
 2 gested retail price for such vehicle over such price
 3 for a comparable gasoline or diesel fuel motor ve-
 4 hicle of the same model, to the extent such
 5 amount does not exceed—

6 “(i) \$7,500, if such vehicle has a gross
 7 vehicle weight rating of more than 8,500
 8 pounds but not more than 14,000 pounds,

9 “(ii) \$15,000, if such vehicle has a
 10 gross vehicle weight rating of more than
 11 14,000 pounds but not more than 26,000
 12 pounds, and

13 “(iii) \$30,000, if such vehicle has a
 14 gross vehicle weight rating of more than
 15 26,000 pounds.

16 “(C) *APPLICABLE PERCENTAGE.*—For pur-
 17 poses of subparagraph (A), the applicable per-
 18 centage shall be determined in accordance with
 19 the following table:

“If percent increase in fuel economy of hybrid over comparable vehicle is:	The applicable percentage is:
At least 30 but less than 40 percent	20 percent.
At least 40 but less than 50 percent	30 percent.
At least 50 percent	40 percent.

20 “(4) *NEW QUALIFIED HYBRID MOTOR VEHI-*
 21 *CLE.*—For purposes of this subsection—

22 “(A) *IN GENERAL.*—The term ‘new qualified
 23 hybrid motor vehicle’ means a motor vehicle—

1 “(i) which draws propulsion energy
2 from onboard sources of stored energy which
3 are both—

4 “(I) an internal combustion or
5 heat engine using consumable fuel, and

6 “(II) a rechargeable energy stor-
7 age system,

8 “(ii) which, in the case of a passenger
9 automobile, medium duty passenger vehicle,
10 or light truck—

11 “(I) has received a certificate that
12 such vehicle meets or exceeds the Bin 5
13 Tier II emission level established in
14 regulations prescribed by the Adminis-
15 trator of the Environmental Protection
16 Agency under section 202(i) of the
17 Clean Air Act for that make and model
18 year vehicle, and

19 “(II) has a maximum available
20 power of at least 5 percent,

21 “(iii) which, in the case of a heavy
22 duty hybrid motor vehicle—

23 “(I) which has a gross vehicle
24 weight rating of more than 8,500 but
25 not more than 14,000 pounds, has a

1 *maximum available power of at least*
2 *10 percent, and*

3 “(II) *which has a gross vehicle*
4 *weight rating of more than 14,000*
5 *pounds, has a maximum available*
6 *power of at least 15 percent,*

7 “(iv) *the original use of which com-*
8 *mences with the taxpayer,*

9 “(v) *which is acquired for use or lease*
10 *by the taxpayer and not for resale, and*

11 “(vi) *which is made by a manufac-*
12 *turer.*

13 “(B) *CONSUMABLE FUEL.—For purposes of*
14 *subparagraph (A)(i)(I), the term ‘consumable*
15 *fuel’ means any solid, liquid, or gaseous matter*
16 *which releases energy when consumed by an aux-*
17 *iliary power unit.*

18 “(C) *MAXIMUM AVAILABLE POWER.—*

19 “(i) *PASSENGER AUTOMOBILE, MEDIUM*
20 *DUTY PASSENGER VEHICLE, OR LIGHT*
21 *TRUCK.—For purposes of subparagraph*
22 *(A)(ii)(II), the term ‘maximum available*
23 *power’ means the maximum power avail-*
24 *able from the rechargeable energy storage*
25 *system, during a standard 10 second pulse*

1 *power or equivalent test, divided by such*
2 *maximum power and the SAE net power of*
3 *the heat engine.*

4 “(ii) *HEAVY DUTY HYBRID MOTOR VE-*
5 *HICLE.—For purposes of subparagraph*
6 *(A)(iii), the term ‘maximum available*
7 *power’ means the maximum power avail-*
8 *able from the rechargeable energy storage*
9 *system, during a standard 10 second pulse*
10 *power or equivalent test, divided by the ve-*
11 *hicle’s total traction power. The term ‘total*
12 *traction power’ means the sum of the peak*
13 *power from the rechargeable energy storage*
14 *system and the heat engine peak power of*
15 *the vehicle, except that if such storage sys-*
16 *tem is the sole means by which the vehicle*
17 *can be driven, the total traction power is*
18 *the peak power of such storage system.*

19 “(4) *HEAVY DUTY HYBRID MOTOR VEHICLE.—*
20 *For purposes of this subsection, the term ‘heavy duty*
21 *hybrid motor vehicle’ means a new qualified hybrid*
22 *motor vehicle which has a gross vehicle weight rating*
23 *of more than 8,500 pounds. Such term does not in-*
24 *clude a medium duty passenger vehicle.*

1 “(d) *NEW QUALIFIED ALTERNATIVE FUEL MOTOR VE-*
2 *HICLE CREDIT.*—

3 “(1) *ALLOWANCE OF CREDIT.*—*Except as pro-*
4 *vided in paragraph (5), the new qualified alternative*
5 *fuel motor vehicle credit determined under this sub-*
6 *section is an amount equal to the applicable percent-*
7 *age of the incremental cost of any new qualified alter-*
8 *native fuel motor vehicle placed in service by the tax-*
9 *payer during the taxable year.*

10 “(2) *APPLICABLE PERCENTAGE.*—*For purposes*
11 *of paragraph (1), the applicable percentage with re-*
12 *spect to any new qualified alternative fuel motor vehi-*
13 *cle is—*

14 “(A) *50 percent, plus*

15 “(B) *30 percent, if such vehicle—*

16 “(i) *has received a certificate of con-*
17 *formity under the Clean Air Act and meets*
18 *or exceeds the most stringent standard*
19 *available for certification under the Clean*
20 *Air Act for that make and model year vehi-*
21 *cle (other than a zero emission standard), or*

22 “(ii) *has received an order certifying*
23 *the vehicle as meeting the same require-*
24 *ments as vehicles which may be sold or*
25 *leased in California and meets or exceeds*

1 *the most stringent standard available for*
2 *certification under the State laws of Cali-*
3 *fornia (enacted in accordance with a waiver*
4 *granted under section 209(b) of the Clean*
5 *Air Act) for that make and model year vehi-*
6 *cle (other than a zero emission standard).*

7 *For purposes of the preceding sentence, in the case of*
8 *any new qualified alternative fuel motor vehicle*
9 *which weighs more than 14,000 pounds gross vehicle*
10 *weight rating, the most stringent standard available*
11 *shall be such standard available for certification on*
12 *the date of the enactment of the Energy Tax Incen-*
13 *tives Act.*

14 “(3) *INCREMENTAL COST.*—*For purposes of this*
15 *subsection, the incremental cost of any new qualified*
16 *alternative fuel motor vehicle is equal to the amount*
17 *of the excess of the manufacturer’s suggested retail*
18 *price for such vehicle over such price for a gasoline*
19 *or diesel fuel motor vehicle of the same model, to the*
20 *extent such amount does not exceed—*

21 “(A) *\$5,000, if such vehicle has a gross ve-*
22 *hicle weight rating of not more than 8,500*
23 *pounds,*

1 “(B) \$10,000, if such vehicle has a gross ve-
2 hicle weight rating of more than 8,500 pounds
3 but not more than 14,000 pounds,

4 “(C) \$25,000, if such vehicle has a gross ve-
5 hicle weight rating of more than 14,000 pounds
6 but not more than 26,000 pounds, and

7 “(D) \$40,000, if such vehicle has a gross ve-
8 hicle weight rating of more than 26,000 pounds.

9 “(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR
10 VEHICLE.—For purposes of this subsection—

11 “(A) IN GENERAL.—The term ‘new qualified
12 alternative fuel motor vehicle’ means any motor
13 vehicle—

14 “(i) which is only capable of operating
15 on an alternative fuel,

16 “(ii) the original use of which com-
17 mences with the taxpayer,

18 “(iii) which is acquired by the tax-
19 payer for use or lease, but not for resale,
20 and

21 “(iv) which is made by a manufac-
22 turer.

23 “(B) ALTERNATIVE FUEL.—The term ‘alter-
24 native fuel’ means compressed natural gas, lique-
25 fied natural gas, liquefied petroleum gas, hydro-

1 *gen, and any liquid at least 85 percent of the*
2 *volume of which consists of methanol.*

3 “(5) *CREDIT FOR MIXED-FUEL VEHICLES.*—

4 “(A) *IN GENERAL.*—*In the case of a mixed-*
5 *fuel vehicle placed in service by the taxpayer*
6 *during the taxable year, the credit determined*
7 *under this subsection is an amount equal to—*

8 “(i) *in the case of a 75/25 mixed-fuel*
9 *vehicle, 70 percent of the credit which would*
10 *have been allowed under this subsection if*
11 *such vehicle was a qualified alternative fuel*
12 *motor vehicle, and*

13 “(ii) *in the case of a 90/10 mixed-fuel*
14 *vehicle, 90 percent of the credit which would*
15 *have been allowed under this subsection if*
16 *such vehicle was a qualified alternative fuel*
17 *motor vehicle.*

18 “(B) *MIXED-FUEL VEHICLE.*—*For purposes*
19 *of this subsection, the term ‘mixed-fuel vehicle’*
20 *means any motor vehicle described in subpara-*
21 *graph (C) or (D) of paragraph (3), which—*

22 “(i) *is certified by the manufacturer as*
23 *being able to perform efficiently in normal*
24 *operation on a combination of an alter-*
25 *native fuel and a petroleum-based fuel,*

1 “(ii) either—

2 “(I) has received a certificate of
3 conformity under the Clean Air Act, or

4 “(II) has received an order certi-
5 fying the vehicle as meeting the same
6 requirements as vehicles which may be
7 sold or leased in California and meets
8 or exceeds the low emission vehicle
9 standard under section 88.105–94 of
10 title 40, Code of Federal Regulations,
11 for that make and model year vehicle,

12 “(iii) the original use of which com-
13 mences with the taxpayer,

14 “(iv) which is acquired by the tax-
15 payer for use or lease, but not for resale,
16 and

17 “(v) which is made by a manufacturer.

18 “(C) 75/25 MIXED-FUEL VEHICLE.—For
19 purposes of this subsection, the term ‘75/25
20 mixed-fuel vehicle’ means a mixed-fuel vehicle
21 which operates using at least 75 percent alter-
22 native fuel and not more than 25 percent petro-
23 leum-based fuel.

24 “(D) 90/10 MIXED-FUEL VEHICLE.—For
25 purposes of this subsection, the term ‘90/10

1 *mixed-fuel vehicle*’ means a *mixed-fuel vehicle*
2 *which operates using at least 90 percent alter-*
3 *native fuel and not more than 10 percent petro-*
4 *leum-based fuel.*

5 “(e) *APPLICATION WITH OTHER CREDITS.*—*The credit*
6 *allowed under subsection (a) for any taxable year shall not*
7 *exceed the excess (if any) of—*

8 “(1) *the regular tax for the taxable year reduced*
9 *by the sum of the credits allowable under subpart A*
10 *and sections 27, 29, and 30, over*

11 “(2) *the tentative minimum tax for the taxable*
12 *year.*

13 “(f) *OTHER DEFINITIONS AND SPECIAL RULES.*—*For*
14 *purposes of this section—*

15 “(1) *MOTOR VEHICLE.*—*The term ‘motor vehicle’*
16 *has the meaning given such term by section 30(c)(2).*

17 “(2) *CITY FUEL ECONOMY.*—*The city fuel econ-*
18 *omy with respect to any vehicle shall be measured in*
19 *a manner which is substantially similar to the man-*
20 *ner city fuel economy is measured in accordance with*
21 *procedures under part 600 of subchapter Q of chapter*
22 *I of title 40, Code of Federal Regulations, as in effect*
23 *on the date of the enactment of this section.*

24 “(3) *OTHER TERMS.*—*The terms ‘automobile’,*
25 *‘passenger automobile’, ‘medium duty passenger vehi-*

1 *cle*, *light truck*, and *manufacturer* have the mean-
2 *ings* given such terms in regulations prescribed by the
3 *Administrator of the Environmental Protection Agen-*
4 *cy for purposes of the administration of title II of the*
5 *Clean Air Act (42 U.S.C. 7521 et seq.).*

6 “(4) *REDUCTION IN BASIS.*—*For purposes of this*
7 *subtitle, the basis of any property for which a credit*
8 *is allowable under subsection (a) shall be reduced by*
9 *the amount of such credit so allowed (determined*
10 *without regard to subsection (e)).*

11 “(5) *NO DOUBLE BENEFIT.*—*The amount of any*
12 *deduction or other credit allowable under this*
13 *chapter—*

14 “(A) *for any incremental cost taken into ac-*
15 *count in computing the amount of the credit de-*
16 *termined under subsection (d) shall be reduced*
17 *by the amount of such credit attributable to such*
18 *cost, and*

19 “(B) *with respect to a vehicle described*
20 *under subsection (b) or (c), shall be reduced by*
21 *the amount of credit allowed under subsection*
22 *(a) for such vehicle for the taxable year.*

23 “(6) *PROPERTY USED BY TAX-EXEMPT ENTITY.*—
24 *In the case of a vehicle whose use is described in*
25 *paragraph (3) or (4) of section 50(b) and which is*

1 *not subject to a lease, the person who sold such vehicle*
2 *to the person or entity using such vehicle shall be*
3 *treated as the taxpayer that placed such vehicle in*
4 *service, but only if such person clearly discloses to*
5 *such person or entity in a document the amount of*
6 *any credit allowable under subsection (a) with respect*
7 *to such vehicle (determined without regard to sub-*
8 *section (e)).*

9 “(7) *PROPERTY USED OUTSIDE UNITED STATES,*
10 *ETC., NOT QUALIFIED.*—*No credit shall be allowable*
11 *under subsection (a) with respect to any property re-*
12 *ferred to in section 50(b)(1) or with respect to the*
13 *portion of the cost of any property taken into account*
14 *under section 179.*

15 “(8) *RECAPTURE.*—*The Secretary shall, by regu-*
16 *lations, provide for recapturing the benefit of any*
17 *credit allowable under subsection (a) with respect to*
18 *any property which ceases to be property eligible for*
19 *such credit (including recapture in the case of a lease*
20 *period of less than the economic life of a vehicle).*

21 “(9) *ELECTION TO NOT TAKE CREDIT.*—*No credit*
22 *shall be allowed under subsection (a) for any vehicle*
23 *if the taxpayer elects to not have this section apply*
24 *to such vehicle.*

1 “(10) *CARRYBACK AND CARRYFORWARD AL-*
2 *LOWED.*—

3 “(A) *IN GENERAL.*—*If the credit allowable*
4 *under subsection (a) for a taxable year exceeds*
5 *the amount of the limitation under subsection (e)*
6 *for such taxable year (in this paragraph referred*
7 *to as the ‘unused credit year’), such excess shall*
8 *be a credit carryback to each of the 3 taxable*
9 *years preceding the unused credit year and a*
10 *credit carryforward to each of the 20 taxable*
11 *years following the unused credit year, except*
12 *that no excess may be carried to a taxable year*
13 *beginning before the date of the enactment of this*
14 *section. The preceding sentence shall not apply to*
15 *any credit carryback if such credit carryback is*
16 *attributable to property for which a deduction*
17 *for depreciation is not allowable.*

18 “(B) *RULES.*—*Rules similar to the rules of*
19 *section 39 shall apply with respect to the credit*
20 *carryback and credit carryforward under sub-*
21 *paragraph (A).*

22 “(11) *INTERACTION WITH AIR QUALITY AND*
23 *MOTOR VEHICLE SAFETY STANDARDS.*—*Unless other-*
24 *wise provided in this section, a motor vehicle shall*

1 *not be considered eligible for a credit under this sec-*
2 *tion unless such vehicle is in compliance with—*

3 *“(A) the applicable provisions of the Clean*
4 *Air Act for the applicable make and model year*
5 *of the vehicle (or applicable air quality provi-*
6 *sions of State law in the case of a State which*
7 *has adopted such provision under a waiver*
8 *under section 209(b) of the Clean Air Act), and*

9 *“(B) the motor vehicle safety provisions of*
10 *sections 30101 through 30169 of title 49, United*
11 *States Code.*

12 *“(g) REGULATIONS.—*

13 *“(1) IN GENERAL.—Except as provided in para-*
14 *graph (2), the Secretary shall promulgate such regula-*
15 *tions as necessary to carry out the provisions of this*
16 *section.*

17 *“(2) COORDINATION IN PRESCRIPTION OF CER-*
18 *TAIN REGULATIONS.—The Secretary of the Treasury,*
19 *in coordination with the Secretary of Transportation*
20 *and the Administrator of the Environmental Protec-*
21 *tion Agency, shall prescribe such regulations as nec-*
22 *essary to determine whether a motor vehicle meets the*
23 *requirements to be eligible for a credit under this sec-*
24 *tion.*

1 “(h) *TERMINATION.*—*This section shall not apply to*
2 *any property purchased after—*

3 “(1) *in the case of a new qualified fuel cell motor*
4 *vehicle (as described in subsection (b)), December 31,*
5 *2014,*

6 “(2) *in the case of a new qualified hybrid motor*
7 *vehicle (as described in subsection (c)), December 31,*
8 *2009, and*

9 “(3) *in the case of a new qualified alternative*
10 *fuel vehicle (as described in subsection (d)), December*
11 *31, 2010.”.*

12 (b) *CONFORMING AMENDMENTS.*—

13 (1) *Section 1016(a), as amended by this Act, is*
14 *amended by striking “and” at the end of paragraph*
15 *(35), by striking the period at the end of paragraph*
16 *(36) and inserting “, and”, and by adding at the end*
17 *the following new paragraph:*

18 “(37) *to the extent provided in section*
19 *30B(f)(4).”.*

20 (2) *Section 55(c)(2), as amended by this Act, is*
21 *amended by inserting “30B(e),” after “30(b)(2),”.*

22 (3) *Section 6501(m) is amended by inserting*
23 *“30B(f)(9),” after “30(d)(4),”.*

24 (4) *The table of sections for subpart B of part IV*
25 *of subchapter A of chapter 1 is amended by inserting*

1 *after the item relating to section 30A the following*
 2 *new item:*

 “*Sec. 30B. Alternative motor vehicle credit.*”.

3 *(c) EFFECTIVE DATE.—The amendments made by this*
 4 *section shall apply to property placed in service after the*
 5 *date of the enactment of this Act, in taxable years ending*
 6 *after such date.*

7 **SEC. 1532. MODIFICATION OF CREDIT FOR QUALIFIED**
 8 **ELECTRIC VEHICLES.**

9 *(a) AMOUNT OF CREDIT.—*

10 (1) *IN GENERAL.—Section 30(a) (relating to al-*
 11 *lowance of credit) is amended by striking “10 percent*
 12 *of”.*

13 (2) *LIMITATION OF CREDIT ACCORDING TO TYPE*
 14 *OF VEHICLE.—Paragraph (1) of section 30(b) (relat-*
 15 *ing to limitations) is amended to read as follows:*

16 “(1) *LIMITATION ACCORDING TO TYPE OF VEHI-*
 17 *CLE.—The amount of the credit allowed under sub-*
 18 *section (a) for any vehicle shall not exceed the greatest*
 19 *of the following amounts applicable to such vehicle:*

20 “(A) *In the case of a vehicle with a gross*
 21 *vehicle weight rating not exceeding 8,500*
 22 *pounds—*

23 “(i) *except as provided in clause (ii) or*
 24 *(iii), \$4,000,*

25 “(ii) *\$6,000, if such vehicle is—*

1 “(I) capable of a driving range of
2 at least 100 miles on a single charge of
3 the vehicle’s rechargeable batteries as
4 measured pursuant to the urban dyna-
5 mometer schedules under appendix I to
6 part 86 of title 40, Code of Federal
7 Regulations, or

8 “(II) capable of a payload capac-
9 ity of at least 1,000 pounds, and

10 “(iii) if such vehicle is a low-speed ve-
11 hicle which conforms to Standard 500 pre-
12 scribed by the Secretary of Transportation
13 (49 C.F.R. 571.500), as in effect on the date
14 of the enactment of the Energy Tax Incen-
15 tives Act, the lesser of—

16 “(I) 10 percent of the manufactur-
17 er’s suggested retail price of the vehicle,
18 or

19 “(II) \$1,500.

20 “(B) In the case of a vehicle with a gross
21 vehicle weight rating exceeding 8,500 but not ex-
22 ceeding 14,000 pounds, \$10,000.

23 “(C) In the case of a vehicle with a gross
24 vehicle weight rating exceeding 14,000 but not
25 exceeding 26,000 pounds, \$20,000.

1 “(D) *In the case of a vehicle with a gross*
2 *vehicle weight rating exceeding 26,000 pounds,*
3 *\$40,000.”.*

4 **(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—**

5 **(1) IN GENERAL.—***Section 30(c)(1)(A) (defining*
6 *qualified electric vehicle) is amended to read as fol-*
7 *lows:*

8 “(A) *which is—*

9 “(i) *operated solely by use of a battery*
10 *or battery pack, or*

11 “(ii) *powered primarily through the*
12 *use of an electric battery or battery pack*
13 *using a flywheel or capacitor which stores*
14 *energy produced by an electric motor*
15 *through regenerative braking to assist in ve-*
16 *hicle operation,”.*

17 **(2) LEASED VEHICLES.—***Section 30(c)(1)(C) is*
18 *amended by inserting “or lease” after “use”.*

19 **(3) CONFORMING AMENDMENTS.—**

20 (A) *Subsections (a), (b)(2), and (c) of sec-*
21 *tion 30 are each amended by inserting “battery”*
22 *after “qualified” each place it appears.*

23 (B) *The heading of subsection (c) of section*
24 *30 is amended by inserting “BATTERY” after*
25 *“QUALIFIED”.*

1 (C) *The heading of section 30 is amended*
2 *by inserting “**BATTERY**” after “**QUALIFIED**”.*

3 (D) *The item relating to section 30 in the*
4 *table of sections for subpart B of part IV of sub-*
5 *chapter A of chapter 1 is amended by inserting*
6 *“battery” after “qualified”.*

7 (E) *Section 179A(c)(3) is amended by in-*
8 *serting “battery” before “electric”.*

9 (F) *The heading of paragraph (3) of section*
10 *179A(c) is amended by inserting “BATTERY” be-*
11 *fore “ELECTRIC”.*

12 (c) *ADDITIONAL SPECIAL RULES.—*

13 (1) *IN GENERAL.—Section 30(d) (relating to spe-*
14 *cial rules) is amended by adding at the end the fol-*
15 *lowing new paragraphs:*

16 “(5) *NO DOUBLE BENEFIT.—The amount of any*
17 *deduction or other credit allowable under this chapter*
18 *for any cost taken into account in computing the*
19 *amount of the credit determined under subsection (a)*
20 *shall be reduced by the amount of such credit attrib-*
21 *utable to such cost.*

22 “(6) *PROPERTY USED BY TAX-EXEMPT ENTITY.—*
23 *In the case of a vehicle whose use is described in*
24 *paragraph (3) or (4) of section 50(b) and which is*
25 *not subject to a lease, the person who sold such vehicle*

1 *to the person or entity using such vehicle shall be*
2 *treated as the taxpayer that placed such vehicle in*
3 *service, but only if such person clearly discloses to*
4 *such person or entity in a document the amount of*
5 *any credit allowable under subsection (a) with respect*
6 *to such vehicle (determined without regard to sub-*
7 *section (b)(3)).*

8 “(7) CARRYBACK AND CARRYFORWARD AL-
9 LOWED.—

10 “(A) IN GENERAL.—*If the credit allowable*
11 *under subsection (a) for a taxable year exceeds*
12 *the amount of the limitation under subsection*
13 *(b)(2) for such taxable year (in this paragraph*
14 *referred to as the ‘unused credit year’), such ex-*
15 *cess shall be a credit carryback to each of the 3*
16 *taxable years preceding the unused credit year*
17 *and a credit carryforward to each of the 20 tax-*
18 *able years following the unused credit year, ex-*
19 *cept that no excess may be carried to a taxable*
20 *year beginning before the date of the enactment*
21 *of this paragraph. The preceding sentence shall*
22 *not apply to any credit carryback if such credit*
23 *carryback is attributable to property for which a*
24 *deduction for depreciation is not allowable.*

1 “(B) *RULES.*—*Rules similar to the rules of*
2 *section 39 shall apply with respect to the credit*
3 *carryback and credit carryforward under sub-*
4 *paragraph (A).”.*

5 (2) *CONFORMING AMENDMENTS.*—*Section*
6 *30(d)(3) is amended—*

7 (A) *by striking “section 50(b)” and insert-*
8 *ing “section 50(b)(1)”, and*

9 (B) *by striking “, ETC.,” in the heading*
10 *thereof.*

11 (d) *TERMINATION.*—*Section 30(e) (relating to termi-*
12 *nation) is amended by striking “2006” and inserting*
13 *“2009”.*

14 (d) *EFFECTIVE DATE.*—*The amendments made by this*
15 *section shall apply to property placed in service after the*
16 *date of the enactment of this Act, in taxable years ending*
17 *after such date.*

18 **SEC. 1533. CREDIT FOR INSTALLATION OF ALTERNATIVE**
19 **FUELING STATIONS.**

20 (a) *IN GENERAL.*—*Subpart B of part IV of subchapter*
21 *A of chapter 1 (relating to other credits), as amended by*
22 *this Act, is amended by adding at the end the following*
23 *new section:*

1 **“SEC. 30C. ALTERNATIVE FUEL VEHICLE REFUELING PROP-**
2 **ERTY CREDIT.**

3 “(a) *CREDIT ALLOWED.*—*There shall be allowed as a*
4 *credit against the tax imposed by this chapter for the tax-*
5 *able year an amount equal to 50 percent of the cost of any*
6 *qualified alternative fuel vehicle refueling property placed*
7 *in service by the taxpayer during the taxable year.*

8 “(b) *LIMITATION.*—*The credit allowed under sub-*
9 *section (a) with respect to any alternative fuel vehicle re-*
10 *fueling property shall not exceed—*

11 “(1) *\$30,000 in the case of a property of a char-*
12 *acter subject to an allowance for depreciation, and*

13 “(2) *\$1,000 in any other case.*

14 “(c) *QUALIFIED ALTERNATIVE FUEL VEHICLE RE-*
15 *FUELING PROPERTY.*—

16 “(1) *IN GENERAL.*—*Except as provided in para-*
17 *graph (2), the term ‘qualified alternative fuel vehicle*
18 *refueling property’ has the meaning given to such*
19 *term by section 179A(d), but only with respect to any*
20 *fuel at least 85 percent of the volume of which consists*
21 *of ethanol, natural gas, compressed natural gas, lique-*
22 *fied natural gas, liquefied petroleum gas, and hydro-*
23 *gen or any mixture of biodiesel (as defined in section*
24 *40A(d)(1)) and diesel fuel (as defined in section*
25 *4083(a)(3)), determined without regard to any use of*
26 *kerosene and containing at least 20 percent biodiesel.*

1 “(2) *RESIDENTIAL PROPERTY.*—*In the case of*
2 *any property installed on property which is used as*
3 *the principal residence (within the meaning of section*
4 *121) of the taxpayer, paragraph (1) of section*
5 *179A(d) shall not apply.*

6 “(d) *APPLICATION WITH OTHER CREDITS.*—*The cred-*
7 *it allowed under subsection (a) for any taxable year shall*
8 *not exceed the excess (if any) of—*

9 “(1) *the regular tax for the taxable year reduced*
10 *by the sum of the credits allowable under subpart A*
11 *and sections 27, 29, 30, and 30B, over*

12 “(2) *the tentative minimum tax for the taxable*
13 *year.*

14 “(e) *CARRYFORWARD ALLOWED.*—

15 “(1) *IN GENERAL.*—*If the credit amount allow-*
16 *able under subsection (a) for a taxable year exceeds*
17 *the amount of the limitation under subsection (d) for*
18 *such taxable year, such excess shall be allowed as a*
19 *credit carryforward for each of the 20 taxable years*
20 *following the unused credit year.*

21 “(2) *RULES.*—*Rules similar to the rules of sec-*
22 *tion 39 shall apply with respect to the credit*
23 *carryforward under paragraph (1).*

24 “(f) *SPECIAL RULES.*—*For purposes of this section—*

1 “(1) *BASIS REDUCTION.*—*The basis of any prop-*
2 *erty shall be reduced by the portion of the cost of such*
3 *property taken into account under subsection (a).*

4 “(2) *NO DOUBLE BENEFIT.*—*No deduction shall*
5 *be allowed under section 179A with respect to any*
6 *property with respect to which a credit is allowed*
7 *under subsection (a).*

8 “(3) *PROPERTY USED BY TAX-EXEMPT ENTITY.*—
9 *In the case of any qualified alternative fuel vehicle re-*
10 *fueling property the use of which is described in para-*
11 *graph (3) or (4) of section 50(b) and which is not*
12 *subject to a lease, the person who sold such property*
13 *to the person or entity using such property shall be*
14 *treated as the taxpayer that placed such property in*
15 *service, but only if such person clearly discloses to*
16 *such person or entity in a document the amount of*
17 *any credit allowable under subsection (a) with respect*
18 *to such property (determined without regard to sub-*
19 *section (d)).*

20 “(4) *PROPERTY USED OUTSIDE UNITED STATES*
21 *NOT QUALIFIED.*—*No credit shall be allowable under*
22 *subsection (a) with respect to any property referred to*
23 *in section 50(b)(1) or with respect to the portion of*
24 *the cost of any property taken into account under sec-*
25 *tion 179.*

1 “(5) *ELECTION NOT TO TAKE CREDIT.*—No credit
2 shall be allowed under subsection (a) for any property
3 if the taxpayer elects not to have this section apply
4 to such property.

5 “(6) *RECAPTURE RULES.*—Rules similar to the
6 rules of section 179A(e)(4) shall apply.

7 “(g) *REGULATIONS.*—The Secretary shall prescribe
8 such regulations as necessary to carry out the provisions
9 of this section.

10 “(h) *TERMINATION.*—This section shall not apply to
11 any property placed in service—

12 “(1) in the case of property relating to hydrogen,
13 after December 31, 2014, and

14 “(2) in the case of any other property, after De-
15 cember 31, 2009.”.

16 (b) *CONFORMING AMENDMENTS.*—

17 (1) Section 1016(a), as amended by this Act, is
18 amended by striking “and” at the end of paragraph
19 (36), by striking the period at the end of paragraph
20 (37) and inserting “, and”, and by adding at the end
21 the following new paragraph:

22 “(38) to the extent provided in section 30C(f).”.

23 (2) Section 55(c)(2), as amended by this Act, is
24 amended by inserting “30C(e),” after “30B(e),”.

1 (3) *Section 6501(m) is amended by inserting*
 2 “30C(f)(5),” after “30B(f)(9),”.

3 (4) *The table of sections for subpart B of part IV*
 4 *of subchapter A of chapter 1, as amended by this Act,*
 5 *is amended by inserting after the item relating to sec-*
 6 *tion 30B the following new item:*

“Sec. 30C. Clean-fuel vehicle refueling property credit.”.

7 (e) *EFFECTIVE DATE.*—*The amendments made by this*
 8 *section shall apply to property placed in service after De-*
 9 *cember 31, 2005, in taxable years ending after such date.*

10 **SEC. 1534. VOLUMETRIC EXCISE TAX CREDIT FOR ALTER-**

11 **NATIVE FUELS.**

12 (a) *IMPOSITION OF TAX.*—

13 (1) *IN GENERAL.*—*Section 4041(a)(2)(B) (relat-*
 14 *ing to rate of tax) is amended—*

15 (A) *by adding “and” at the end of clause*

16 (i),

17 (B) *by striking clauses (ii) and (iii),*

18 (C) *by striking the last sentence, and*

19 (D) *by adding after clause (i) the following*
 20 *new clause:*

21 “(ii) *in the case of liquefied natural*
 22 *gas, any liquid fuel (other than ethanol and*
 23 *methanol) derived from coal (including*
 24 *peat), and liquid hydrocarbons derived from*

1 biomass (as defined in section 29(c)(3)),
2 24.3 cents per gallon.”.

3 (2) *TREATMENT OF COMPRESSED NATURAL*
4 *GAS.*—Section 4041(a)(3) (relating to compressed nat-
5 ural gas) is amended—

6 (A) by striking “48.54 cents per MCF (de-
7 termined at standard temperature and pres-
8 sure)” in subparagraph (A) and inserting “18.3
9 cents per energy equivalent of a gallon of gaso-
10 line”, and

11 (B) by striking “MCF” in subparagraph
12 (C) and inserting “energy equivalent of a gallon
13 of gasoline”.

14 (3) *ZERO RATE FOR HYDROGEN.*—Section
15 4041(a)(2)(A) is amended by inserting “liquefied hy-
16 drogen,” after “fuel oil,”.

17 (4) *NEW REFERENCE.*—The heading for para-
18 graph (2) of section 4041(a) is amended by striking
19 “SPECIAL MOTOR FUELS” and inserting “ALTER-
20 NATIVE FUELS”.

21 (b) *CREDIT FOR ALTERNATIVE FUEL AND ALTER-*
22 *NATIVE FUEL MIXTURES.*—

23 (1) *IN GENERAL.*—Section 6426(a) (relating to
24 allowance of credits) is amended to read as follows:

1 “(a) *ALLOWANCE OF CREDITS.*—*There shall be allowed*
2 *as a credit—*

3 “(1) *against the tax imposed by section 4081 an*
4 *amount equal to the sum of the credits described in*
5 *subsections (b), (c), and (e), and*

6 “(2) *against the tax imposed by section 4041 an*
7 *amount equal to the sum of the credits described in*
8 *subsection (d).*

9 *No credit shall be allowed in the case of the credits described*
10 *in subsections (d) and (e) unless the taxpayer is registered*
11 *under section 4101.*

12 (2) *ALTERNATIVE FUEL AND ALTERNATIVE FUEL*
13 *MIXTURE CREDIT.*—*Section 6426 (relating to credit*
14 *for alcohol fuel and biodiesel mixtures) is amended by*
15 *redesignating subsections (d) and (e) as subsections*
16 *(f) and (g) and by inserting after subsection (c) the*
17 *following new subsections:*

18 “(d) *ALTERNATIVE FUEL CREDIT.*—

19 “(1) *IN GENERAL.*—*For purposes of this section,*
20 *the alternative fuel credit is the product of 50 cents*
21 *and the number of gallons of an alternative fuel or*
22 *gasoline gallon equivalents of a nonliquid alternative*
23 *fuel sold by the taxpayer for use as a fuel in a motor*
24 *vehicle or motorboat, or so used by the taxpayer.*

1 “(2) *ALTERNATIVE FUEL.*—For purposes of this
2 section, the term ‘alternative fuel’ means—

3 “(A) liquefied petroleum gas,

4 “(B) *P Series Fuels* (as defined by the Sec-
5 retary of Energy under section 13211(2) of title
6 42, United States Code),

7 “(C) compressed or liquefied natural gas,

8 “(D) hydrogen,

9 “(E) any liquid fuel derived from coal (in-
10 cluding peat) through the Fischer-Tropsch proc-
11 ess,

12 “(F) liquid hydrocarbons derived from bio-
13 mass (as defined in section 29(c)(3)).

14 Such term does not include ethanol, methanol, or bio-
15 diesel.

16 “(3) *GASOLINE GALLON EQUIVALENT.*—For pur-
17 poses of this subsection, the term ‘gasoline gallon
18 equivalent’ means, with respect to any nonliquid al-
19 ternative fuel, the amount of such fuel having a Btu
20 content of 124,800 (higher heating value).

21 “(4) *TERMINATION.*—This subsection shall not
22 apply to any sale, use, or removal for any period
23 after September 30, 2009.

24 “(e) *ALTERNATIVE FUEL MIXTURE CREDIT.*—

1 “(1) *IN GENERAL.*—For purposes of this section,
2 the alternative fuel mixture credit is the product of 50
3 cents and the number of gallons of alternative fuel
4 used by the taxpayer in producing any alternative
5 fuel mixture for sale or use in a trade or business of
6 the taxpayer.

7 “(2) *ALTERNATIVE FUEL MIXTURE.*—For pur-
8 poses of this section, the term ‘alternative fuel mix-
9 ture’ means a mixture of alternative fuel and taxable
10 fuel (as defined in subparagraph (A), (B), or (C) of
11 section 4083(a)(1)) which—

12 “(A) is sold by the taxpayer producing such
13 mixture to any person for use as fuel, or

14 “(B) is used as a fuel by the taxpayer pro-
15 ducing such mixture.

16 “(3) *TERMINATION.*—This subsection shall not
17 apply to any sale, use, or removal for any period
18 after September 30, 2009.”.

19 (3) *CONFORMING AMENDMENTS.*—

20 (A) The section heading for section 6426 is
21 amended by striking “**ALCOHOL FUEL AND**
22 **BIODIESEL**” and inserting “**ALCOHOL FUEL,**
23 **BIODIESEL, AND ALTERNATIVE FUEL**”.

24 (B) The table of sections for subchapter B of
25 chapter 65 is amended by striking “alcohol fuel

1 *and biodiesel” in the item relating to section*
2 *6426 and inserting “alcohol fuel, biodiesel, and*
3 *alternative fuel”.*

4 *(C) Section 6427(e) is amended—*

5 *(i) by inserting “or the alternative fuel*
6 *mixture credit” after “biodiesel mixture*
7 *credit” in paragraph (1),*

8 *(ii) by redesignating paragraph (2) as*
9 *paragraph (3) and paragraph (4) as para-*
10 *graph (5),*

11 *(iii) by inserting after paragraph (1)*
12 *the following new paragraph:*

13 *“(2) ALTERNATIVE FUEL.—If any person sells or*
14 *uses an alternative fuel (as defined in section*
15 *6426(d)(2)) for a purpose described in section*
16 *6426(d)(1) in such person’s trade or business, the Sec-*
17 *retary shall pay (without interest) to such person an*
18 *amount equal to the alternative fuel credit with re-*
19 *spect to such fuel.”,*

20 *(iv) by striking “under paragraph (1)*
21 *with respect to any mixture” in paragraph*
22 *(3) (as redesignated by clause (ii)) and in-*
23 *serting “under paragraph (1) or (2) with*
24 *respect to any mixture or alternative fuel”,*

1 (v) by inserting after paragraph (3)
2 (as so redesignated) the following new para-
3 graph:

4 “(4) *REGISTRATION REQUIREMENT FOR ALTER-*
5 *NATIVE FUELS.—The Secretary shall not make any*
6 *payment under this subsection to any person with re-*
7 *spect to any alternative fuel credit or alternative fuel*
8 *mixture credit unless the person is registered under*
9 *section 4101.”,*

10 (vi) by striking “and” at the end of
11 paragraph (5)(A) (as redesignated by clause
12 (ii)),

13 (vii) by striking the period at the end
14 of paragraph (5)(B) (as so redesignated)
15 and inserting a comma,

16 (viii) by adding at the end of para-
17 graph (4) (as so redesignated) the following
18 new subparagraphs:

19 “(C) except as provided in subparagraph
20 (D), any alternative fuel or alternative fuel mix-
21 ture (as defined in section 6426 (d)(2) or (e)(3))
22 sold or used after September 30, 2009, and

23 “(D) any alternative fuel or alternative fuel
24 mixture (as so defined) involving hydrogen sold
25 or used after December 31, 2014.”, and

1 *(ix) by striking “OR BIODIESEL USED*
2 *TO PRODUCE ALCOHOL FUEL AND BIO-*
3 *DIESEL MIXTURES” in the heading and in-*
4 *serting “, BIODIESEL, OR ALTERNATIVE*
5 *FUEL”.*

6 *(c) ADDITIONAL REGISTRATION REQUIREMENTS.—*
7 *Section 4101(a)(1) (relating to registration) is amended—*
8 *(1) by striking “4041(a)(1)” and inserting*
9 *“4041(a)”, and*
10 *(2) by inserting “or hydrogen” before “shall reg-*
11 *ister”.*

12 *(d) EFFECTIVE DATE.—The amendments made by this*
13 *section shall apply to any sale, use, or removal for any pe-*
14 *riod after September 30, 2006.*

15 **SEC. 1535. EXTENSION OF EXCISE TAX PROVISIONS AND IN-**
16 **COME TAX CREDIT FOR BIODIESEL.**

17 *(a) IN GENERAL.—Sections 40A(e), 6426(c)(6), and*
18 *6427(e)(4)(B) are each amended by striking “2006” and in-*
19 *serting “2010”.*

20 *(b) EFFECTIVE DATE.—The amendments made by this*
21 *section shall take effect on the date of the enactment of this*
22 *Act.*

1 ***Subtitle E—Additional Energy Tax***
2 ***Incentives***

3 ***SEC. 1541. 10-YEAR RECOVERY PERIOD FOR UNDERGROUND***
4 ***NATURAL GAS STORAGE FACILITY PROPERTY.***

5 (a) *IN GENERAL.*—Subparagraph (D) of section
6 168(e)(3) (relating to 10-year property) is amended by
7 striking “and” at the end of clause (i), by striking the pe-
8 riod at the end of clause (ii) and inserting “, and”, and
9 by adding at the end the following new clause:

10 “(iii) any qualified underground nat-
11 ural gas storage facility property.”.

12 (b) *DEFINITION.*—Section 168(i) (relating to defini-
13 tions and special rules) is amended by adding at the end
14 the following new paragraph:

15 “(17) *QUALIFIED UNDERGROUND NATURAL GAS*
16 *STORAGE FACILITY PROPERTY.*—

17 “(A) *IN GENERAL.*—The term ‘qualified un-
18 nderground natural gas storage facility property’
19 means any underground natural gas storage fa-
20 cility and any equipment related to such facility,
21 including any nonrecoverable cushion gas, the
22 original use of which commences with the tax-
23 payer.

24 “(B) *CUSHION GAS.*—The term ‘cushion
25 gas’ means the minimum volume of natural gas

1 *necessary to provide the pressure to facilitate the*
2 *flow of natural gas from a storage reservoir, aqu-*
3 *ifer, or cavern to a pipeline.”.*

4 *(c) EFFECTIVE DATE.—The amendments made by this*
5 *section shall apply to property placed in service after the*
6 *date of the enactment of this Act.*

7 **SEC. 1542. EXPANSION OF RESEARCH CREDIT.**

8 *(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CER-*
9 *TAIN COLLABORATIVE ENERGY RESEARCH CONSORTIA.—*

10 *(1) IN GENERAL.—Section 41(a) (relating to*
11 *credit for increasing research activities) is amended*
12 *by striking “and” at the end of paragraph (1), by*
13 *striking the period at the end of paragraph (2) and*
14 *inserting “, and”, and by adding at the end the fol-*
15 *lowing new paragraph:*

16 *“(3) 20 percent of the amounts paid or incurred*
17 *by the taxpayer in carrying on any trade or business*
18 *of the taxpayer during the taxable year (including as*
19 *contributions) to an energy research consortium.”.*

20 *(2) ENERGY RESEARCH CONSORTIUM DE-*
21 *FINED.—Section 41(f) (relating to special rules) is*
22 *amended by adding at the end the following new*
23 *paragraph:*

24 *“(6) ENERGY RESEARCH CONSORTIUM.—*

1 “(A) *IN GENERAL.*—*The term ‘energy re-*
2 *search consortium’ means any organization—*

3 “(i) *which is—*

4 “(I) *described in section 501(c)(3)*
5 *and is exempt from tax under section*
6 *501(a) and is organized and operated*
7 *primarily to conduct energy research,*
8 *or*

9 “(II) *organized and operated pri-*
10 *marily to conduct energy research in*
11 *the public interest (within the meaning*
12 *of section 501(c)(3)),*

13 “(ii) *which is not a private founda-*
14 *tion,*

15 “(iii) *to which at least 5 unrelated*
16 *persons paid or incurred during the cal-*
17 *endar year in which the taxable year of the*
18 *organization begins amounts (including as*
19 *contributions) to such organization for en-*
20 *ergy research, and*

21 “(iv) *to which no single person paid or*
22 *incurred (including as contributions) dur-*
23 *ing such calendar year an amount equal to*
24 *more than 50 percent of the total amounts*

1 *received by such organization during such*
 2 *calendar year for energy research.*

3 “(B) *TREATMENT OF PERSONS.*—*All per-*
 4 *sons treated as a single employer under sub-*
 5 *section (a) or (b) of section 52 shall be treated*
 6 *as related persons for purposes of subparagraph*
 7 *(A)(iii) and as a single person for purposes of*
 8 *subparagraph (A)(iv).”.*

9 (3) *CONFORMING AMENDMENT.*—*Section*
 10 *41(b)(3)(C) is amended by inserting “(other than an*
 11 *energy research consortium)” after “organization”.*

12 (b) *REPEAL OF LIMITATION ON CONTRACT RESEARCH*
 13 *EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES,*
 14 *AND FEDERAL LABORATORIES.*—*Section 41(b)(3) (relating*
 15 *to contract research expenses) is amended by adding at the*
 16 *end the following new subparagraph:*

17 “(D) *AMOUNTS PAID TO ELIGIBLE SMALL*
 18 *BUSINESSES, UNIVERSITIES, AND FEDERAL LAB-*
 19 *ORATORIES.*—

20 “(i) *IN GENERAL.*—*In the case of*
 21 *amounts paid by the taxpayer to—*

22 “(I) *an eligible small business,*

23 “(II) *an institution of higher edu-*
 24 *cation (as defined in section 3304(f)),*

25 *or*

1 “(III) *an organization which is a*
2 *Federal laboratory,*
3 *for qualified research which is energy re-*
4 *search, subparagraph (A) shall be applied*
5 *by substituting ‘100 percent’ for ‘65 per-*
6 *cent’.*

7 “(ii) *ELIGIBLE SMALL BUSINESS.—For*
8 *purposes of this subparagraph, the term ‘eli-*
9 *gible small business’ means a small business*
10 *with respect to which the taxpayer does not*
11 *own (within the meaning of section 318) 50*
12 *percent or more of—*

13 “(I) *in the case of a corporation,*
14 *the outstanding stock of the corpora-*
15 *tion (either by vote or value), and*

16 “(II) *in the case of a small busi-*
17 *ness which is not a corporation, the*
18 *capital and profits interests of the*
19 *small business.*

20 “(iii) *SMALL BUSINESS.—For purposes*
21 *of this subparagraph—*

22 “(I) *IN GENERAL.—The term*
23 *‘small business’ means, with respect to*
24 *any calendar year, any person if the*
25 *annual average number of employees*

1 employed by such person during either
2 of the 2 preceding calendar years was
3 500 or fewer. For purposes of the pre-
4 ceding sentence, a preceding calendar
5 year may be taken into account only if
6 the person was in existence throughout
7 the year.

8 “(II) *STARTUPS, CONTROLLED*
9 *GROUPS, AND PREDECESSORS.*—Rules
10 similar to the rules of subparagraphs
11 (B) and (D) of section 220(c)(4) shall
12 apply for purposes of this clause.

13 “(iv) *FEDERAL LABORATORY.*—For
14 purposes of this subparagraph, the term
15 ‘Federal laboratory’ has the meaning given
16 such term by section 4(6) of the Stevenson-
17 Wydler Technology Innovation Act of 1980
18 (15 U.S.C. 3703(6)), as in effect on the date
19 of the enactment of the Energy Tax Incen-
20 tives Act.”.

21 (c) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to amounts paid or incurred after the
23 date of the enactment of this Act, in taxable years ending
24 after such date.

1 **SEC. 1543. SMALL AGRI-BIODIESEL PRODUCER CREDIT.**

2 (a) *IN GENERAL.*—Subsection (a) of section 40A (re-
3 *lating to biodiesel used as a fuel*) is amended to read as
4 *follows:*

5 “(a) *GENERAL RULE.*—For purposes of section 38, the
6 *biodiesel fuels credit determined under this section for the*
7 *taxable year is an amount equal to the sum of—*

8 “(1) *the biodiesel mixture credit, plus*

9 “(2) *the biodiesel credit, plus*

10 “(3) *in the case of an eligible small agri-biodiesel*
11 *producer, the small agri-biodiesel producer credit.”.*

12 (b) *SMALL AGRI-BIODIESEL PRODUCER CREDIT DE-*
13 *FINED.*—Section 40A(b) (*relating to definition of biodiesel*
14 *mixture credit and biodiesel credit*) is amended by adding
15 *at the end the following new paragraph:*

16 “(5) *SMALL AGRI-BIODIESEL PRODUCER CRED-*
17 *IT.*—

18 “(A) *IN GENERAL.*—The small agri-biodiesel
19 *producer credit of any eligible small agri-bio-*
20 *diesel producer for any taxable year is 10 cents*
21 *for each gallon of qualified agri-biodiesel produc-*
22 *tion of such producer.*

23 “(B) *QUALIFIED AGRI-BIODIESEL PRODUC-*
24 *TION.*—For purposes of this paragraph, the term
25 *‘qualified agri-biodiesel production’ means any*
26 *agri-biodiesel which is produced by an eligible*

1 *small agri-biodiesel producer, and which during*
2 *the taxable year—*

3 “(i) *is sold by such producer to another*
4 *person—*

5 “(I) *for use by such other person*
6 *in the production of a qualified bio-*
7 *diesel mixture in such other person’s*
8 *trade or business (other than casual*
9 *off-farm production),*

10 “(II) *for use by such other person*
11 *as a fuel in a trade or business, or*

12 “(III) *who sells such agri-biodiesel*
13 *at retail to another person and places*
14 *such agri-biodiesel in the fuel tank of*
15 *such other person, or*

16 “(ii) *is used or sold by such producer*
17 *for any purpose described in clause (i).*

18 “(C) *LIMITATION.—The qualified agri-bio-*
19 *diesel production of any producer for any tax-*
20 *able year shall not exceed 15,000,000 gallons.”.*

21 (c) *DEFINITIONS AND SPECIAL RULES.—Section 40A*
22 *is amended by redesignating subsection (e) as subsection (f)*
23 *and by inserting after subsection (d) the following new sub-*
24 *section:*

1 “(e) *DEFINITIONS AND SPECIAL RULES FOR SMALL*
2 *AGRI-BIODIESEL PRODUCER CREDIT.*—For purposes of this
3 *section*—

4 “(1) *ELIGIBLE SMALL AGRI-BIODIESEL PRO-*
5 *DUCER.*—The term ‘eligible small agri-biodiesel pro-
6 *ducer*’ means a person who, at all times during the
7 *taxable year, has a productive capacity for agri-bio-*
8 *diesel not in excess of 60,000,000 gallons.*

9 “(2) *AGGREGATION RULE.*—For purposes of the
10 *15,000,000 gallon limitation under subsection*
11 *(b)(5)(C) and the 60,000,000 gallon limitation under*
12 *paragraph (1), all members of the same controlled*
13 *group of corporations (within the meaning of section*
14 *267(f)) and all persons under common control (within*
15 *the meaning of section 52(b) but determined by treat-*
16 *ing an interest of more than 50 percent as a control-*
17 *ling interest) shall be treated as 1 person.*

18 “(3) *PARTNERSHIP, S CORPORATION, AND OTHER*
19 *PASS-THRU ENTITIES.*—In the case of a partnership,
20 *trust, S corporation, or other pass-thru entity, the*
21 *limitations contained in subsection (b)(5)(C) and*
22 *paragraph (1) shall be applied at the entity level and*
23 *at the partner or similar level.*

24 “(4) *ALLOCATION.*—For purposes of this sub-
25 *section, in the case of a facility in which more than*

1 *1 person has an interest, productive capacity shall be*
2 *allocated among such persons in such manner as the*
3 *Secretary may prescribe.*

4 “(5) *REGULATIONS.—The Secretary may pre-*
5 *scribe such regulations as may be necessary—*

6 “(A) *to prevent the credit provided for in*
7 *subsection (a)(3) from directly or indirectly ben-*
8 *efiting any person with a direct or indirect pro-*
9 *ductive capacity of more than 60,000,000 gallons*
10 *of agri-biodiesel during the taxable year, or*

11 “(B) *to prevent any person from directly or*
12 *indirectly benefiting with respect to more than*
13 *15,000,000 gallons during the taxable year.*

14 “(6) *ALLOCATION OF SMALL AGRIBIODIESEL*
15 *CREDIT TO PATRONS OF COOPERATIVE.—*

16 “(A) *ELECTION TO ALLOCATE.—*

17 “(i) *IN GENERAL.—In the case of a co-*
18 *operative organization described in section*
19 *1381(a), any portion of the credit deter-*
20 *mined under subsection (a)(3) for the tax-*
21 *able year may, at the election of the organi-*
22 *zation, be apportioned pro rata among pa-*
23 *trons of the organization on the basis of the*
24 *quantity or value of business done with or*
25 *for such patrons for the taxable year.*

1 “(i) *FORM AND EFFECT OF ELEC-*
2 *TION.—An election under clause (i) for any*
3 *taxable year shall be made on a timely filed*
4 *return for such year. Such election, once*
5 *made, shall be irrevocable for such taxable*
6 *year. Such election shall not take effect un-*
7 *less the organization designates the appor-*
8 *tionment as such in a written notice mailed*
9 *to its patrons during the payment period*
10 *described in section 1382(d).*

11 “(B) *TREATMENT OF ORGANIZATIONS AND*
12 *PATRONS.—*

13 “(i) *ORGANIZATIONS.—The amount of*
14 *the credit not apportioned to patrons pursu-*
15 *ant to subparagraph (A) shall be included*
16 *in the amount determined under subsection*
17 *(a)(3) for the taxable year of the organiza-*
18 *tion.*

19 “(ii) *PATRONS.—The amount of the*
20 *credit apportioned to patrons pursuant to*
21 *subparagraph (A) shall be included in the*
22 *amount determined under such subsection*
23 *for the first taxable year of each patron end-*
24 *ing on or after the last day of the payment*
25 *period (as defined in section 1382(d)) for*

1 *the taxable year of the organization or, if*
2 *earlier, for the taxable year of each patron*
3 *ending on or after the date on which the pa-*
4 *tron receives notice from the cooperative of*
5 *the apportionment.*

6 “(iii) *SPECIAL RULES FOR DECREASE*
7 *IN CREDITS FOR TAXABLE YEAR.—If the*
8 *amount of the credit of the organization de-*
9 *termined under such subsection for a tax-*
10 *able year is less than the amount of such*
11 *credit shown on the return of the organiza-*
12 *tion for such year, an amount equal to the*
13 *excess of—*

14 “(I) *such reduction, over*

15 “(II) *the amount not apportioned*
16 *to such patrons under subparagraph*
17 *(A) for the taxable year,*

18 *shall be treated as an increase in tax im-*
19 *posed by this chapter on the organization.*
20 *Such increase shall not be treated as tax*
21 *imposed by this chapter for purposes of de-*
22 *termining the amount of any credit under*
23 *this chapter or for purposes of section 55.”.*

24 *(d) CONFORMING AMENDMENTS.—*

1 (1) Paragraph (4) of section 40A(b) is amended
2 by striking “this section” and inserting “paragraph
3 (1) or (2) of subsection (a)”.

4 (2) The heading of subsection (b) of section 40A
5 is amended by striking “AND BIODIESEL CREDIT”
6 and inserting “; BIODIESEL CREDIT, AND SMALL
7 AGRI-BIODIESEL PRODUCER CREDIT”.

8 (3) Paragraph (3) of section 40A(d) is amended
9 by redesignating subparagraph (C) as subparagraph
10 (D) and by inserting after subparagraph (B) the fol-
11 lowing new subparagraph:

12 “(C) PRODUCER CREDIT.—If—

13 “(i) any credit was determined under
14 subsection (a)(3), and

15 “(ii) any person does not use such fuel
16 for a purpose described in subsection
17 (b)(5)(B),

18 then there is hereby imposed on such person a
19 tax equal to 10 cents a gallon for each gallon of
20 such agri-biodiesel.”.

21 (e) *EFFECTIVE DATE.*—The amendments made by this
22 section shall apply to taxable years ending after the date
23 of the enactment of this Act.

1 **SEC. 1544. IMPROVEMENTS TO SMALL ETHANOL PRODUCER**
2 **CREDIT.**

3 (a) *DEFINITION OF SMALL ETHANOL PRODUCER.*—
4 *Section 40(g) (relating to definitions and special rules for*
5 *eligible small ethanol producer credit) is amended by strik-*
6 *ing “30,000,000” each place it appears and inserting*
7 *“60,000,000”.*

8 (b) *WRITTEN NOTICE OF ELECTION TO ALLOCATE*
9 *CREDIT TO PATRONS.*—*Section 40(g)(6)(A)(ii) (relating to*
10 *form and effect of election) is amended by adding at the*
11 *end the following new sentence: “Such election shall not take*
12 *effect unless the organization designates the apportionment*
13 *as such in a written notice mailed to its patrons during*
14 *the payment period described in section 1382(d).”.*

15 (c) *EFFECTIVE DATE.*—*The amendments made by this*
16 *section shall apply to taxable years ending after the date*
17 *of the enactment of this Act.*

18 **SEC. 1545. CREDIT FOR EQUIPMENT FOR PROCESSING OR**
19 **SORTING MATERIALS GATHERED THROUGH**
20 **RECYCLING.**

21 (a) *IN GENERAL.*—*Subpart D of part IV of subchapter*
22 *A of chapter 1 (relating to business-related credits), as*
23 *amended by this Act, is amended by adding at the end the*
24 *following new section:*

1 **“SEC. 45M. CREDIT FOR QUALIFIED RECYCLING EQUIP-**
2 **MENT.**

3 *“(a) ALLOWANCE OF CREDIT.—For purposes of section*
4 *38, the qualified recycling equipment credit determined*
5 *under this section for the taxable year is an amount equal*
6 *to the amount paid or incurred during the taxable year for*
7 *the cost of qualified recycling equipment placed in service*
8 *or leased by the taxpayer.*

9 *“(b) LIMITATION.—The amount allowable as a credit*
10 *under subsection (a) with respect to any qualified recycling*
11 *equipment shall not exceed—*

12 *“(1) in the case of such equipment described in*
13 *subsection (c)(1)(A)(i), 15 percent of the cost of such*
14 *equipment, and*

15 *“(2) in the case of such equipment described in*
16 *subsection (c)(1)(A)(ii), 15 percent of so much of the*
17 *cost of each piece of equipment as exceeds \$400,000.*

18 *“(c) DEFINITIONS.—For purposes of this section—*

19 *“(1) QUALIFIED RECYCLING EQUIPMENT.—*

20 *“(A) IN GENERAL.—The term ‘qualified re-*
21 *cycling equipment’ means equipment, including*
22 *connecting piping—*

23 *“(i) employed in sorting or processing*
24 *residential and commercial qualified recy-*
25 *clable materials described in paragraph*
26 *(2)(A) for the purpose of converting such*

1 *materials for use in manufacturing tangible*
2 *consumer products, including packaging, or*
3 *“(ii) the primary purpose of which is*
4 *the shredding and processing of qualified re-*
5 *cyclable materials described in paragraph*
6 *(2)(B).*

7 *“(B) EQUIPMENT AT COMMERCIAL OR PUB-*
8 *LIC VENUES INCLUDED.—For purposes of sub-*
9 *paragraph (A)(i), such term includes equipment*
10 *which is utilized at commercial or public venues,*
11 *including recycling collection centers, where the*
12 *equipment is utilized to sort or process qualified*
13 *recyclable materials for such purpose.*

14 *“(C) EXCLUSION.—Such term does not in-*
15 *clude rolling stock or other equipment used to*
16 *transport recyclable materials.*

17 *“(2) QUALIFIED RECYCLABLE MATERIALS.—The*
18 *term ‘qualified recyclable materials’ means—*

19 *“(A) any packaging or printed material*
20 *which is glass, paper, plastic, steel, or alu-*
21 *minum, and*

22 *“(B) any electronic waste (including any*
23 *cathode ray tube, flat panel screen, or similar*
24 *video display device with a screen size greater*

1 *than 4 inches measured diagonally, or a central*
2 *processing unit),*
3 *generated by an individual or business and which has*
4 *been separated from solid waste for the purposes of*
5 *collection and recycling.*

6 “(3) *PROCESSING.*—*The term ‘processing’ means*
7 *the preparation of qualified recyclable materials into*
8 *feedstock for use in manufacturing tangible consumer*
9 *products.*

10 “(d) *AMOUNT PAID OR INCURRED.*—*For purposes of*
11 *this section—*

12 “(1) *IN GENERAL.*—*The term ‘amount paid or*
13 *incurred’ includes installation costs.*

14 “(2) *LEASE PAYMENTS.*—*In the case of the leas-*
15 *ing of qualified recycling equipment by the taxpayer,*
16 *the term ‘amount paid or incurred’ means the*
17 *amount of the lease payments due to be paid during*
18 *the term of the lease occurring during the taxable year*
19 *other than such portion of such lease payments attrib-*
20 *utable to interest, insurance, and taxes.*

21 “(3) *GRANTS, ETC. EXCLUDED.*—*The term*
22 *‘amount paid or incurred’ shall not include any*
23 *amount to the extent such amount is funded by any*
24 *grant, contract, or otherwise by another person (or*
25 *any governmental entity).*

1 “(e) *OTHER TAX DEDUCTIONS AND CREDITS AVAIL-*
2 *ABLE FOR PORTION OF COST NOT TAKEN INTO ACCOUNT*
3 *FOR CREDIT UNDER THIS SECTION.*—No deduction or
4 other credit under this chapter shall be allowed with respect
5 to the amount of the credit determined under this section.

6 “(f) *BASIS ADJUSTMENTS.*—For purposes of this sub-
7 title, if a credit is allowed under this section for any
8 amount paid or incurred with respect to any property, the
9 increase in the basis of such property which would (but for
10 this subsection) result from such expenditure shall be re-
11 duced by the amount of the credit so allowed.”.

12 (b) *CONFORMING AMENDMENTS.*—

13 (1) *CREDIT MADE PART OF GENERAL BUSINESS*
14 *CREDIT.*—Subsection (b) of section 38, as amended by
15 this Act, is amended by striking “plus” at the end of
16 paragraph (21), by striking the period at the end of
17 paragraph (22) and inserting “, plus”, and by add-
18 ing at the end the following new paragraph:

19 “(23) the qualified recycling equipment credit
20 determined under section 45M(a).”.

21 (2) Subsection (a) of section 1016, as amended
22 by this Act, is amended by striking “and” at the end
23 of paragraph (37), by striking the period at the end
24 of paragraph (38) and inserting “; and”, and by add-
25 ing at the end the following new paragraph:

1 “(39) to the extent provided in section 45M(f), in
2 the case of amounts with respect to which a credit has
3 been allowed under section 45M.”.

4 (3) The table of sections for subpart D of part
5 IV of subchapter A of chapter 1, as amended by this
6 Act, is amended by inserting after the item relating
7 to section 45L the following new item:

 “Sec. 45M. Credit for qualified recycling equipment.”.

8 (c) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to taxable years beginning after Decem-
10 ber 31, 2005.

11 **SEC. 1546. 5-YEAR NET OPERATING LOSS CARRYOVER IF**
12 **ANY RESULTING REFUND IS USED FOR ELEC-**
13 **TRIC TRANSMISSION EQUIPMENT.**

14 (a) *IN GENERAL.*—Paragraph (1) of section 172(b)
15 (relating to net operating loss carrybacks and carryovers)
16 is amended by adding at the end the following new subpara-
17 graph:

18 “(I) *TRANSMISSION PROPERTY INVEST-*
19 *MENT.*—

20 “(i) *IN GENERAL.*—In the case of a net
21 operating loss in a taxable year ending
22 after December 31, 2002, and before Janu-
23 ary 1, 2006, there shall be a net operating
24 loss carryback to each of the 5 years pre-
25 ceding the taxable year of such loss to the

1 *extent that any refund resulting from such*
2 *carryback is used for electric transmission*
3 *property capital expenditures or pollution*
4 *control facility capital expenditures.*

5 “(ii) *REFUND CLAIM.*—*Any refund re-*
6 *sulting from the application of clause (i)*
7 *may be claimed by the taxpayer during any*
8 *taxable year ending after December 31,*
9 *2005, and before January 1, 2009, except*
10 *that the portion of such refund which may*
11 *be claimed during any taxable year shall*
12 *not exceed the sum of the taxpayer’s electric*
13 *transmission property capital expenditures*
14 *and pollution control facility capital ex-*
15 *penditures made in the preceding taxable*
16 *year.*

17 “(iii) *CARRYOVER OF EXCESS RE-*
18 *FUNDS.*—*Any portion of such refund that*
19 *exceeds the sum of the taxpayer’s electric*
20 *transmission property capital expenditures*
21 *and pollution control facility capital ex-*
22 *penditures made during the preceding tax-*
23 *able year shall, subject to clause (ii), be con-*
24 *sidered a refund due to the taxpayer and*
25 *claimed in the succeeding taxable year if*

1 *such taxable year begins before January 1,*
2 *2009.*

3 “(iv) *DEFINITIONS.—For purposes of*
4 *this subparagraph—*

5 “(I) *ELECTRIC TRANSMISSION*
6 *PROPERTY CAPITAL EXPENDITURES.—*

7 *The term ‘electric transmission prop-*
8 *erty capital expenditures’ means any*
9 *expenditure, chargeable to capital ac-*
10 *count, made by the taxpayer which is*
11 *attributable to electric transmission*
12 *property used in the transmission at*
13 *69 or more kilovolts of electricity for*
14 *sale.*

15 “(II) *POLLUTION CONTROL FACIL-*
16 *ITY CAPITAL EXPENDITURES.—The*

17 *term ‘pollution control facility capital*
18 *expenditures’ means any expenditure,*
19 *chargeable to capital account, made by*
20 *an electric utility company (as defined*
21 *in section 2(3) of the Public Utility*
22 *Holding Company Act (15 U.S.C.*
23 *79b(3)) which is attributable to a facil-*
24 *ity which will qualify as a certified*
25 *pollution control facility as determined*

1 *under section 169(d)(1) by striking ‘be-*
2 *fore January 1, 1976,’ and by sub-*
3 *stituting ‘an identifiable’ for ‘a new*
4 *identifiable.’”*

5 *(b) ELECTION TO DISREGARD CARRYBACK.—Section*
6 *172(j) (relating to disregard 5-year carryback for certain*
7 *net operating losses) is amended by inserting “or (b)(1)(I)”*
8 *after “(b)(1)(H)” both places it appears.*

9 *(c) APPLICATION.—In the case of a net operating loss*
10 *described in section 172(b)(1)(I) of the Internal Revenue*
11 *Code of 1986 (as added by subsection (a)) for a taxable year*
12 *ending in 2003, 2004, or 2005, any election made under*
13 *section 172(j) of such Code (as amended by subsection (b))*
14 *shall be treated as timely made if made before January 1,*
15 *2009.*

16 **SEC. 1547. CREDIT FOR QUALIFYING POLLUTION CONTROL**
17 **EQUIPMENT.**

18 *(a) ALLOWANCE OF QUALIFYING POLLUTION CONTROL*
19 *EQUIPMENT CREDIT.—Section 46 (relating to amount of*
20 *credit), as amended by this Act, is amended by striking*
21 *“and” at the end of paragraph (4), by striking the period*
22 *at the end of paragraph (5) and inserting “, and”, and*
23 *by adding at the end the following new paragraph:*

24 *“(6) the qualifying pollution control equipment*
25 *credit.”.*

1 (b) *AMOUNT OF QUALIFYING POLLUTION CONTROL*
 2 *EQUIPMENT CREDIT.*—Subpart E of part IV of subchapter
 3 A of chapter 1 (relating to rules for computing investment
 4 credit), as amended by this Act, is amended by inserting
 5 after section 48C the following new section:

6 **“SEC. 48D. QUALIFYING POLLUTION CONTROL EQUIPMENT**
 7 **CREDIT.**

8 “(a) *IN GENERAL.*—For purposes of section 46, the
 9 qualifying pollution control equipment credit for any tax-
 10 able year is an amount equal to 15 percent of the basis
 11 of the qualifying pollution control equipment placed in
 12 service at a qualifying facility during such taxable year.

13 “(b) *QUALIFYING POLLUTION CONTROL EQUIP-*
 14 *MENT.*—For purposes of this section, the term ‘qualifying
 15 pollution control equipment’ means any technology in-
 16 stalled in or on a qualifying facility to reduce air emissions
 17 of any pollutant regulated by the Environmental Protection
 18 Agency under the Clean Air Act, including thermal
 19 oxidizers, regenerative thermal oxidizers, scrubber systems,
 20 evaporative control systems, vapor recovery systems, flair
 21 systems, bag houses, cyclones, continuous emissions moni-
 22 toring systems, and low nitric oxide burners.

23 “(c) *QUALIFYING FACILITY.*—For purposes of this sec-
 24 tion, the term ‘qualifying facility’ means any facility which

1 produces not less than 1,000,000 gallons of ethanol during
2 the taxable year.

3 “(d) *SPECIAL RULE FOR CERTAIN SUBSIDIZED PROP-*
4 *ERTY.*—Rules similar to section 48(a)(4) shall apply for
5 purposes of this section.

6 “(e) *CERTAIN QUALIFIED PROGRESS EXPENDITURES*
7 *RULES MADE APPLICABLE.*—Rules similar to the rules of
8 subsections (c)(4) and (d) of section 46 (as in effect on the
9 day before the enactment of the Revenue Reconciliation Act
10 of 1990) shall apply for purposes of this subsection.”.

11 (c) *RECAPTURE OF CREDIT WHERE EMISSIONS RE-*
12 *DUCTION OFFSET IS SOLD.*—Paragraph (1) of section 50(a)
13 is amended by redesignating subparagraph (B) as subpara-
14 graph (C) and by inserting after subparagraph (A) the fol-
15 lowing new subparagraph:

16 “(B) *SPECIAL RULE FOR QUALIFYING POL-*
17 *LUTION CONTROL EQUIPMENT.*—For purposes of
18 subparagraph (A), any investment property
19 which is qualifying pollution control equipment
20 (as defined in section 48D(b)) shall cease to be
21 investment credit property with respect to a tax-
22 payer if such taxpayer receives a payment in ex-
23 change for a credit for emission reductions at-
24 tributable to such qualifying pollution control

1 *equipment for purposes of an offset requirement*
2 *under part D of title I of the Clean Air Act.”.*

3 (d) *SPECIAL RULE FOR BASIS REDUCTION; RECAP-*
4 *TURE OF CREDIT.—Paragraph (3) of section 50(c) (relating*
5 *to basis adjustment to investment credit property), as*
6 *amended by this Act, is amended by inserting “or quali-*
7 *fying pollution control equipment credit” after “energy*
8 *credit”.*

9 (e) *CONFORMING AMENDMENTS.—*

10 (1) *Section 49(a)(1)(C), as amended by this Act,*
11 *is amended by striking “and” at the end of clause*
12 *(iv), by striking the period at the end of clause (v)*
13 *and inserting “, and”, and by adding at the end the*
14 *following new clause:*

15 *“(vi) the basis of any qualifying pollu-*
16 *tion control equipment.”*

17 (2) *The table of sections for subpart E of part IV*
18 *of subchapter A of chapter 1, as amended by this Act,*
19 *is amended by inserting after the item relating to sec-*
20 *tion 48C the following new item:*

“48D. Qualifying pollution control equipment.”.

21 (f) *EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to periods after the date of the enactment*
23 *of this Act, in taxable years ending after such date, under*
24 *rules similar to the rules of section 48(m) of the Internal*
25 *Revenue Code of 1986 (as in effect on the day before the*

1 *date of the enactment of the Revenue Reconciliation Act of*
 2 *1990).*

3 **SEC. 1548. CREDIT FOR PRODUCTION OF COAL OWNED BY**
 4 **INDIAN TRIBES.**

5 *(a) IN GENERAL.—Subpart D of part IV of subchapter*
 6 *A of chapter 1 (relating to business-related credits), as*
 7 *amended by this Act, is amended by adding at the end the*
 8 *following new section:*

9 **“SEC. 45N. CREDIT FOR PRODUCTION OF COAL OWNED BY**
 10 **INDIAN TRIBES.**

11 *“(a) ALLOWANCE OF CREDIT.—For purposes of section*
 12 *38, the Indian coal production credit determined under this*
 13 *section for the taxable year is an amount equal to the prod-*
 14 *uct of—*

15 *“(1) the applicable dollar amount for the cal-*
 16 *endar year in which the taxable year begins, and*

17 *“(2) the number of tons of Indian coal—*

18 *“(A) the production of which is attributable*
 19 *to the taxpayer (determined under rules similar*
 20 *to the rules under section 29(d)(3)), and*

21 *“(B) which is sold by the taxpayer to an*
 22 *unrelated person during the taxable year.*

23 *“(b) INDIAN COAL.—For purposes of this section—*

1 “(1) *IN GENERAL.*—*The term ‘Indian coal’*
2 *means coal which is produced from coal reserves*
3 *which, on June 14, 2005—*

4 “(A) *were owned by an Indian tribe, or*

5 “(B) *were held in trust by the United States*
6 *for the benefit of an Indian tribe or its members.*

7 “(2) *INDIAN TRIBE.*—*For purposes of this sub-*
8 *section, the term ‘Indian tribe’ has the meaning given*
9 *such term by section 7871(c)(3)(E)(ii).*

10 “(c) *OTHER TERMS.*—*For purposes of this section—*

11 “(1) *APPLICABLE DOLLAR AMOUNT.*—

12 “(A) *IN GENERAL.*—*The term ‘applicable*
13 *dollar amount’ means—*

14 “(i) *\$1.50 in the case of calendar years*
15 *2006 through 2009, and*

16 “(ii) *\$2.00 in the case of calendar*
17 *years beginning after 2009.*

18 “(B) *INFLATION ADJUSTMENT.*—*In the case*
19 *of any calendar year after 2006, each of the dol-*
20 *lar amounts under subparagraph (A) shall be*
21 *equal to the product of such dollar amount and*
22 *the inflation adjustment factor determined under*
23 *section 45(e)(2)(B) for the calendar year, except*
24 *that such section shall be applied by substituting*
25 *‘2005’ for ‘1992’.*

1 “(2) *UNRELATED PERSON*.—The term ‘unrelated
2 person’ has the same meaning as when such term is
3 used in section 45.

4 “(d) *TERMINATION*.—This section shall not apply to
5 sales after December 31, 2012.”

6 (b) *CREDIT MADE PART OF GENERAL BUSINESS*
7 *CREDIT*.—Subsection (b) of section 38, as amended by this
8 Act, is amended by striking “plus” at the end of paragraph
9 (22), by striking the period at the end of paragraph (23)
10 and inserting “, plus”, and by adding at the end the fol-
11 lowing new paragraph:

12 “(24) the Indian coal production credit deter-
13 mined under section 45N(a).”.

14 (c) *ALLOWANCE AGAINST MINIMUM TAX*.—Section
15 38(c)(4) (relating to specified credits) is amended by strik-
16 ing the period at the end of clause (ii) and inserting “,
17 or” and by adding at the end the following:

18 “(iii) the credit determined under sec-
19 tion 45N.”.

20 (d) *EFFECTIVE DATE*.—The amendments made by this
21 section shall apply to sales after December 31, 2005.

1 **SEC. 1549. CREDIT FOR REPLACEMENT STOVES MEETING**
2 **ENVIRONMENTAL STANDARDS IN NON-AT-**
3 **TAINMENT AREAS.**

4 (a) *IN GENERAL.*—Subpart A of part IV of subchapter
5 A of chapter 1 (relating to nonrefundable personal credits),
6 as amended by this Act, is amended by inserting after sec-
7 tion 25D the following new section:

8 **“SEC. 25E. REPLACEMENT STOVES IN AREAS WITH POOR**
9 **AIR QUALITY.**

10 “(a) *ALLOWANCE OF CREDIT.*—In the case of an indi-
11 vidual, there shall be allowed as a credit against the tax
12 imposed by this chapter for the taxable year an amount
13 equal to the lesser—

14 “(1) the qualified stove replacement expenditures
15 of the taxpayer for the taxable year, or

16 “(2) \$500 multiplied by the number of non-
17 compliant wood stoves replaced by the taxpayer dur-
18 ing the taxable year.

19 “(b) *QUALIFIED STOVE REPLACEMENT EXPENDI-*
20 *TURES.*—For purposes of this section—

21 “(1) *IN GENERAL.*—The term ‘qualified stove re-
22 placement expenditures’ means expenditures made by
23 the taxpayer for the installation of a compliant stove
24 which—

25 “(A) is installed in a dwelling unit which—

1 “(i) is located in the United States in
2 an area which, at the time of the installa-
3 tion, is designated by the Environmental
4 Protection Agency as a non-attainment
5 area for particulate matter less than 2.5
6 micrometers in diameter or a non-attain-
7 ment area for particulate matter less than
8 10 micrometers in diameter, and

9 “(ii) is used as a residence, and

10 “(B) replaces a noncompliant wood stove
11 used in the dwelling unit.

12 Such term includes expenditures for labor costs prop-
13 erly allocable to the onsite preparation, assembly, or
14 original installation of the compliant stove.

15 “(2) COMPLIANT STOVE.—The term ‘compliant
16 stove’ means a solid fuel burning stove which meets
17 the requirements set forth in the ‘Standards of Per-
18 formance for Residential Wood Heaters’ issued by the
19 Environmental Protection Agency.

20 “(3) NONCOMPLIANT WOOD STOVE.—The term
21 ‘noncompliant wood stove’ means any wood stove
22 other than a compliant stove.

23 “(c) OTHER RULES.—Rules similar to the rules of
24 paragraphs (3) and (4) of section 25C(d) shall apply for
25 purposes of this section.

1 “(d) *BASIS ADJUSTMENT.*—If an expenditure to which
2 this section applies results in an increase in basis in any
3 property, the increase shall be reduced by the amount of
4 the credit allowed under this section with respect to the ex-
5 penditure.

6 “(e) *TERMINATION.*—This section shall not apply to
7 expenditures made after December 31, 2008.”

8 (b) *CONFORMING AMENDMENTS.*—

9 (1) Subsection (a) of section 1016, as amended
10 by this Act, is amended by striking “and” at the end
11 of paragraph (38), by striking the period at the end
12 of paragraph (39) and inserting “, and”, and by add-
13 ing at the end the following new paragraph:

14 “(40) to the extent provided in section 25E(e), in
15 the case of amounts with respect to which a credit has
16 been allowed under section 25E.”.

17 (2) The table of sections for subpart A of part IV
18 of subchapter A of chapter 1, as amended by this Act,
19 is amended by inserting after the item relating to sec-
20 tion 25D the following new item:

 “Sec. 25E. Replacement stoves in areas with poor air quality.”.

21 (c) *EFFECTIVE DATES.*—The amendments made by
22 this section shall apply to expenditures for stoves purchased
23 after the date of the enactment of this Act.

1 **SEC. 1550. EXEMPTION FOR EQUIPMENT FOR TRANS-**
 2 **PORTING BULK BEDS OF FARM CROPS FROM**
 3 **EXCISE TAX ON RETAIL SALE OF HEAVY**
 4 **TRUCKS AND TRAILERS.**

5 (a) *IN GENERAL.*—Section 4053 of the Internal Rev-
 6 enue Code of 1986 (relating to exemptions) is amended by
 7 adding at the end the following new paragraph:

8 “(9) *BULK BEDS FOR TRANSPORTING FARM*
 9 *CROPS.*—Any box, container, receptacle, bin, or other
 10 similar article the length of which does not exceed 26
 11 feet, which is mounted or placed on an automobile
 12 truck, and which is sold to a person who certifies to
 13 the seller that—

14 “(A) such person is actively engaged in the
 15 trade or business of farming, and

16 “(B) the primary use of the article is to
 17 haul to farms (and on farms) farm crops grown
 18 in connection with such trade or business.”.

19 (b) *RECAPTURE OF TAX UPON RESALE OR NON-*
 20 *EXEMPT USE.*—Section 4052 (relating to definitions and
 21 special rules) is amended by redesignating subsection (g)
 22 as subsection (h) and by inserting after subsection (f) the
 23 following new subsection:

24 “(g) *IMPOSITION OF TAX ON SALES, ETC., WITHIN 2*
 25 *YEARS OF BULK BEDS FOR TRANSPORTING FARM CROPS*
 26 *PURCHASED TAX-FREE.*—

1 “(1) *IN GENERAL.*—If—

2 “(A) *no tax was imposed under section*
3 *4051 on the first retail sale of any article de-*
4 *scribed in section 4053(9) by reason of its ex-*
5 *empt use, and*

6 “(B) *within 2 years after the date of such*
7 *first retail sale, such article is resold by the pur-*
8 *chaser or such purchaser makes a substantial*
9 *nonexempt use of such article,*

10 *then such sale or use of such article by such purchaser*
11 *shall be treated as the first retail sale of such article*
12 *for a price equal to its fair market value at the time*
13 *of such sale or use.*

14 “(2) *EXEMPT USE.*—*For purposes of this sub-*
15 *section, the term ‘exempt use’ means any use of an*
16 *article described in section 4053(9) if the first retail*
17 *sale of such article is not taxable under section 4051*
18 *by reason of such use.”.*

19 “(c) *EFFECTIVE DATE.*—*The amendments made by this*
20 *section shall apply to sales after September 30, 2005.*

21 **SEC. 1551. NATIONAL ACADEMY OF SCIENCES STUDY AND**
22 **REPORT.**

23 “(a) *STUDY.*—*Not later than 60 days after the date of*
24 *the enactment of this Act, the Secretary of the Treasury*
25 *shall enter into an agreement with the National Academy*

1 *of Sciences under which the National Academy of Sciences*
2 *shall conduct a study to define and evaluate the health, en-*
3 *vironmental, security, and infrastructure external costs and*
4 *benefits associated with the production and consumption of*
5 *energy that are not or may not be fully incorporated into*
6 *the market price of such energy, or into the Federal tax*
7 *or fee or other applicable revenue measure related to such*
8 *production or consumption.*

9 **(b) REPORT.**—*Not later than 2 years after the date*
10 *on which the agreement under subsection (a) is entered into,*
11 *the National Academy of Sciences shall submit to Congress*
12 *a report on the study conducted under subsection (a).*

13 **SEC. 1552. INCOME TAX EXCLUSION FOR CERTAIN FUEL**
14 **COSTS OF RURAL CARPOOLS.**

15 **(a) IN GENERAL.**—*Section 132(f)(1) of the Internal*
16 *Revenue Code of 1986 (defining qualified transportation*
17 *fringe) is amended by adding at the end the following new*
18 *subparagraph:*

19 **“(D) Fuel expenses for a highway vehicle of**
20 *any employee who meets the rural carpool re-*
21 *quirements of paragraph (8).”.*

22 **(b) LIMITATION ON EXCLUSION.**—*Section 132(f)(2) of*
23 *such Code (relating to limitation on exclusion) is amended*
24 *by striking “and” at the end of subparagraph (A), by strik-*
25 *ing the period at the end of subparagraph (B) and inserting*

1 “, and”, and by adding at the end the following new sub-
2 paragraph:

3 “(C) \$50 per month in the case of the ben-
4 efit described in subparagraph (D).”.

5 (c) *RURAL CARPOOL REQUIREMENTS.*—Section 132(f)
6 of such Code is amended by adding at the end the following
7 new paragraph:

8 “(8) *REQUIREMENTS FOR EMPLOYEES PARTICI-
9 PATING IN RURAL CARPOOLS.*—

10 “(A) *IN GENERAL.*—The requirements of
11 this paragraph are met if an employee—

12 “(i) is an employee of an employer de-
13 scribed in subparagraph (B),

14 “(ii) certifies to such employer that—

15 “(I) such employee resides in a
16 rural area (as defined by the Bureau of
17 the Census),

18 “(II) such employee is not eligible
19 to claim any qualified transportation
20 fringe described in subparagraph (A)
21 or (B) of paragraph (1) if provided by
22 such employer,

23 “(III) such employee uses the em-
24 ployee’s highway vehicle when trav-

1 *eling between the employee’s residence*
2 *and place of employment, and*

3 *“(IV) for at least 75 percent of the*
4 *total mileage of such travel, the em-*
5 *ployee is accompanied by 1 or more*
6 *employees of such employer, and*

7 *“(iii) agrees to notify such employer*
8 *when any subclause of clause (ii) no longer*
9 *applies.*

10 *“(B) EMPLOYER DESCRIBED.—An employer*
11 *is described in this subparagraph if the business*
12 *premises of such employer which serve as the*
13 *place of employment of the employee are located*
14 *in an area which is not accessible by a transit*
15 *system designed primarily to provide daily work*
16 *trips within a local commuting area.”.*

17 *(d) NO EXCLUSION FOR EMPLOYMENT TAXES.—Sec-*
18 *tion 3121(a)(20) of such Code (defining wages) is amended*
19 *by inserting “(except by reason of subsection (f)(1)(D) there-*
20 *of)” after “or 132”.*

21 *(e) EFFECTIVE DATE.—The amendments made by this*
22 *section shall apply to expenses incurred on and after the*
23 *date of the enactment of this Act and before January 1,*
24 *2007.*

1 **SEC. 1553. 3-YEAR APPLICABLE RECOVERY PERIOD FOR DE-**
2 **PRECIATION OF QUALIFIED ENERGY MAN-**
3 **AGEMENT DEVICES.**

4 (a) *IN GENERAL.*—Section 168(e)(3)(A) (defining 3-
5 year property) is amended by striking “and” at the end
6 of clause (ii), by striking the period at the end of clause
7 (iii) and inserting “, and”, and by adding at the end the
8 following new clause:

9 “(iv) any qualified energy manage-
10 ment device.”

11 (b) *DEFINITION OF QUALIFIED ENERGY MANAGEMENT*
12 *DEVICE.*—Section 168(i) (relating to definitions and spe-
13 cial rules), as amended by this Act, is amended by inserting
14 at the end the following new paragraph:

15 “(18) *QUALIFIED ENERGY MANAGEMENT DE-*
16 *VICE.*—

17 “(A) *IN GENERAL.*—The term ‘qualified en-
18 ergy management device’ means any energy
19 management device—

20 “(1) which is placed in service before January 1,
21 2008, by a taxpayer who is a supplier of electric en-
22 ergy or a provider of electric energy services,

23 “(2) the original use of which commences with
24 the taxpayer, and

25 “(3) the purchase of which is subject to a bind-
26 ing contract entered into after June 23, 2005, but

1 *only if there was no written binding contract entered*
 2 *into on or before such date.*

3 “(B) *ENERGY MANAGEMENT DEVICE.*—*For*
 4 *purposes of subparagraph (A), the term ‘energy*
 5 *management device’ means any meter or meter-*
 6 *ing device which is used by the taxpayer—*

7 “(i) *to measure and record electricity*
 8 *usage data on a time-differentiated basis in*
 9 *at least 4 separate time segments per day,*
 10 *and*

11 “(ii) *to provide such data on at least*
 12 *a monthly basis to both consumers and the*
 13 *taxpayer.”.*

14 (c) *ALTERNATIVE SYSTEM.*—*The table contained in*
 15 *section 168(g)(3)(B) is amended by inserting after the item*
 16 *relating to subparagraph (A)(iii) the following:*

 “(A)(iv) 20”.

17 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 18 *section shall apply to property placed in service after De-*
 19 *cember 31, 2005, in taxable years ending after such date.*

20 **SEC. 1554. EXCEPTION FROM VOLUME CAP FOR CERTAIN**
 21 **COOLING FACILITIES.**

22 (a) *IN GENERAL.*—*Section 146 (relating to volume*
 23 *cap) is amended by redesignating subsections (i) through*
 24 *(n) as subsections (j) through (o), respectively, and by in-*
 25 *serting after subsection (h) the following:*

1 “(i) *EXCEPTION FOR FACILITIES USED TO COOL*
2 *STRUCTURES WITH OCEAN WATER, ETC.*—

3 “(1) *IN GENERAL.*—*Only for purposes of this sec-*
4 *tion, the term ‘private activity bond’ shall not include*
5 *any exempt facility bond described in section*
6 *142(a)(9) which is issued as part of an issue to fi-*
7 *nance any project which is designed to access deep*
8 *water renewable thermal energy for district cooling to*
9 *provide building air conditioning (including any dis-*
10 *tribution piping, pumping, and chiller facilities).*

11 “(2) *LIMITATION.*—*Paragraph (1) shall apply*
12 *only to bonds issued as part of an issue the aggregate*
13 *authorized face amount of which is not more than*
14 *\$75,000,000 with respect to any project described in*
15 *such paragraph.”.*

16 “(b) *EFFECTIVE DATE.*—*The amendments made by this*
17 *section shall apply to projects placed in service after the*
18 *date of enactment of this Act and before July 1, 2008.*

19 ***Subtitle F—Revenue Raising***
20 ***Provisions***

21 ***SEC. 1561. TREATMENT OF KEROSENE FOR USE IN AVIA-***
22 ***TION.***

23 “(a) *ALL KEROSENE TAXED AT HIGHEST RATE.*—

24 “(1) *IN GENERAL.*—*Section 4081(a)(2)(A) (relat-*
25 *ing to rates of tax) is amended by adding “and” at*

1 *the end of clause (ii), by striking “, and” at the end*
2 *of clause (iii) and inserting a period, and by striking*
3 *clause (iv).*

4 (2) *EXCEPTION FOR USE IN AVIATION.—Sub-*
5 *paragraph (C) of section 4081(a)(2) is amended to*
6 *read as follows:*

7 “(C) *TAXES IMPOSED ON FUEL USED IN*
8 *AVIATION.—In the case of kerosene which is re-*
9 *moved from any refinery or terminal directly*
10 *into the fuel tank of an aircraft for use in avia-*
11 *tion, the rate of tax under subparagraph (A)(iii)*
12 *shall be—*

13 “(i) *in the case of use for commercial*
14 *aviation by a person registered for such use*
15 *under section 4101, 4.3 cents per gallon,*
16 *and*

17 “(ii) *in the case of use for aviation not*
18 *described in clause (i), 21.8 cents per gal-*
19 *lon.”.*

20 (3) *APPLICABLE RATE IN CASE OF CERTAIN RE-*
21 *FUELER TRUCKS, TANKERS, AND TANK WAGONS.—Sec-*
22 *tion 4081(a)(3) (relating to certain refueler trucks,*
23 *tankers, and tank wagons treated as terminals) is*
24 *amended—*

1 (A) by striking “a secured area of” in sub-
2 paragraph (A)(i), and

3 (B) by adding at the end the following new
4 subparagraph:

5 “(D) *APPLICABLE RATE.*—For purposes of
6 paragraph (2)(C), in the case of any kerosene
7 treated as removed from a terminal by reason of
8 this paragraph—

9 “(i) the rate of tax specified in para-
10 graph (2)(C)(i) in the case of use described
11 in such paragraph shall apply if such ter-
12 minal is located within a secured area of an
13 airport, and

14 “(ii) the rate of tax specified in para-
15 graph (2)(C)(ii) shall apply in all other
16 cases.”.

17 (4) *CONFORMING AMENDMENTS.*—

18 (A) Sections 4081(a)(3)(A) and 4082(b) are
19 amended by striking “aviation-grade” each place
20 it appears.

21 (B) Section 4081(a)(4) is amended by strik-
22 ing “paragraph (2)(C)” and inserting “para-
23 graph (2)(C)(i)”.

1 (C) *The heading for paragraph (4) of sec-*
2 *tion 4081(a) is amended by striking “AVIATION-*
3 *GRADE”.*

4 (D) *Section 4081(d)(2) is amended by strik-*
5 *ing so much as precedes subparagraph (A) and*
6 *inserting the following:*

7 “(2) *AVIATION FUELS.—The rates of tax speci-*
8 *fied in subsections (a)(2)(A)(ii) and (a)(2)(C)(ii)*
9 *shall be 4.3 cents per gallon—”.*

10 (E) *Subsection (e) of section 4082 is*
11 *amended—*

12 (i) *by striking “aviation-grade”,*

13 (ii) *by striking “section*
14 *4081(a)(2)(A)(iv)” and inserting “section*
15 *4081(a)(2)(A)(iii)”,*

16 (iii) *by adding at the end the following*
17 *new sentence: “For purposes of this sub-*
18 *section, any removal described in section*
19 *4081(a)(3)(A) shall be treated as a removal*
20 *from a terminal but only if such terminal*
21 *is located within a secured area of an air-*
22 *port.”, and*

23 (iv) *by striking “Aviation-Grade Ker-*
24 *osene” in the heading thereof and inserting*
25 *“Kerosene Removed Into an Aircraft”.*

1 **(b) REDUCED RATE FOR USE OF CERTAIN LIQUIDS**
2 *IN AVIATION.*—

3 **(1) IN GENERAL.**—*Subsection (c) of section 4041*
4 *(relating to imposition of tax) is amended—*

5 **(A)** *by striking “aviation-grade kerosene” in*
6 *paragraph (1) and inserting “any liquid for use*
7 *as a fuel other than aviation gasoline”,*

8 **(B)** *by striking “aviation-grade kerosene”*
9 *in paragraph (2) and inserting “liquid for use*
10 *as a fuel other than aviation gasoline”,*

11 **(C)** *by striking paragraph (3) and inserting*
12 *the following new paragraph:*

13 **“(3) RATE OF TAX.**—*The rate of tax imposed by*
14 *this subsection shall be 21.8 cents per gallon (4.3*
15 *cents per gallon with respect to any sale or use for*
16 *commercial aviation).”, and*

17 **(D)** *by striking “Aviation-Grade Kerosene”*
18 *in the heading thereof and inserting “Certain*
19 *Liquids Used as a Fuel in Aviation”.*

20 **(2) PARTIAL REFUND OF FULL RATE.**—

21 **(A) IN GENERAL.**—*Paragraph (2) of section*
22 *6427(l) (relating to nontaxable uses of diesel fuel,*
23 *kerosene and aviation fuel) is amended to read*
24 *as follows:*

1 “(2) *NONTAXABLE USE.*—*For purposes of this*
2 *subsection, the term ‘nontaxable use’ means any use*
3 *which is exempt from the tax imposed by section*
4 *4041(a)(1) other than by reason of a prior imposition*
5 *of tax.’”.*

6 (B) *REFUNDS FOR NONCOMMERCIAL AVIA-*
7 *ATION.*—*Section 6427(l) (relating to nontaxable*
8 *uses of diesel fuel, kerosene and aviation fuel) is*
9 *amended by redesignating paragraph (5) as*
10 *paragraph (6) and by inserting after paragraph*
11 *(4) the following new paragraph:*

12 “(5) *REFUNDS FOR KEROSENE USED IN NON-*
13 *COMMERCIAL AVIATION.*—

14 “(A) *IN GENERAL.*—*In the case of kerosene*
15 *used in aviation not described in paragraph*
16 *(4)(A) (other than any use which is exempt from*
17 *the tax imposed by section 4041(c) other than by*
18 *reason of a prior imposition of tax), paragraph*
19 *(1) shall not apply to so much of the tax imposed*
20 *by section 4081 as is attributable to—*

21 “(i) *the Leaking Underground Storage*
22 *Tank Trust Fund financing rate imposed*
23 *by such section, and*

24 “(ii) *so much of the rate of tax speci-*
25 *fied in section 4081(a)(2)(A)(iii) as does*

1 not exceed the rate specified in section
2 4081(a)(2)(C)(ii).

3 “(B) *PAYMENT TO ULTIMATE, REGISTERED*
4 *VENDOR.*—The amount which would be paid
5 under paragraph (1) with respect to any ker-
6 osene shall be paid only to the ultimate vendor
7 of such kerosene. A payment shall be made to
8 such vendor if such vendor—

9 “(i) is registered under section 4101,
10 and

11 “(ii) meets the requirements of sub-
12 paragraph (A), (B), or (D) of section
13 6416(a)(1).”.

14 (3) *CONFORMING AMENDMENTS.*—

15 (A) Section 4041(a)(1)(B) is amended by
16 striking the last sentence.

17 (B) The heading for subsection (l) of section
18 6427 is amended by striking “, Kerosene and
19 Aviation Fuel” and inserting “and Kerosene”.

20 (C) Section 4082(d)(2)(B) is amended by
21 striking “section 6427(l)(5)(B)” and inserting
22 “section 6427(l)(6)(B)”.

23 (D) Section 6427(i)(4)(A) is amended—

1 (i) by striking “paragraph (4)(B) or
2 (5)” both places it appears and inserting
3 “paragraph (4)(B), (5), or (6)”, and

4 (ii) by striking “subsection (b)(4) and
5 subsection (l)(5)” in the last sentence and
6 inserting “subsections (b)(4), (l)(5), and
7 (l)(6)”.

8 (E) Paragraph (4) of section 6427(l) is
9 amended—

10 (i) by striking “aviation-grade” in
11 subparagraph (A),

12 (ii) by striking “section
13 4081(a)(2)(A)(iv)” and inserting “section
14 4081(a)(2)(iii)”,

15 (iii) by striking “aviation-grade ker-
16 osene” in subparagraph (B) and inserting
17 “kerosene used in commercial aviation as
18 described in subparagraph (A)”, and

19 (iv) by striking “AVIATION-GRADE KER-
20 ROSENE” in the heading thereof and insert-
21 ing “KEROSENE USED IN COMMERCIAL
22 AVIATION”.

23 (F) Section 6427(l)(6)(B), as redesignated
24 by paragraph (2)(B), is amended by striking

1 “aviation-grade kerosene” and inserting “ker-
2 osene used in aviation”.

3 (c) *TRANSFERS FROM HIGHWAY TRUST FUND OF*
4 *TAXES ON FUELS USED IN AVIATION TO AIRPORT AND AIR-*
5 *WAY TRUST FUND.—*

6 (1) *IN GENERAL.—Section 9503(c) (relating to*
7 *expenditures from Highway Trust Fund) is amended*
8 *by adding at the end the following new paragraph:*

9 “(7) *TRANSFERS FROM THE TRUST FUND FOR*
10 *CERTAIN AVIATION FUEL TAXES.—The Secretary shall*
11 *pay at least monthly from the Highway Trust Fund*
12 *into the Airport and Airway Trust Fund amounts (as*
13 *determined by the Secretary) equivalent to the taxes*
14 *received on or after October 1, 2005, and before Octo-*
15 *ber 1, 2011, under section 4081 with respect to so*
16 *much of the rate of tax as does not exceed—*

17 “(A) *4.3 cents per gallon of kerosene with*
18 *respect to which a payment has been made by*
19 *the Secretary under section 6427(l)(4), and*

20 “(B) *21.8 cents per gallon of kerosene with*
21 *respect to which a payment has been made by*
22 *the Secretary under section 6427(l)(5).*

23 *Transfers under the preceding sentence shall be made*
24 *on the basis of estimates by the Secretary, and proper*
25 *adjustments shall be made in the amounts subse-*

1 *quently transferred to the extent prior estimates were*
2 *in excess of or less than the amounts required to be*
3 *transferred.”.*

4 (2) *CONFORMING AMENDMENTS.—*

5 (A) *Section 9502(a) is amended by striking*
6 *“appropriated or credited to the Airport and*
7 *Airway Trust Fund as provided in this section*
8 *or section 9602(b)” and inserting “appropriated,*
9 *credited, or paid into the Airport and Airway*
10 *Trust Fund as provided in this section, section*
11 *9503(c)(7), or section 9602(b)”.*

12 (B) *Section 9502(b)(1) is amended—*

13 (i) *by striking “subsections (c) and (e)*
14 *of section 4041” in subparagraph (A) and*
15 *inserting “section 4041(c)”, and*

16 (ii) *by striking “and aviation-grade*
17 *kerosene” in subparagraph (C) and insert-*
18 *ing “and kerosene to the extent attributable*
19 *to the rate specified in section*
20 *4081(a)(2)(C)”.*

21 (C) *Section 9503(b) is amended by striking*
22 *paragraph (3).*

23 (d) *CERTAIN REFUNDS NOT TRANSFERRED FROM*
24 *AIRPORT AND AIRWAY TRUST FUND.—Section 9502(d)(2)*
25 *(relating to transfers from Airport and Airway Trust Fund*

1 on account of certain refunds) is amended by inserting
2 “(other than subsections (l)(4) and (l)(5) thereof)” after “or
3 6427 (relating to fuels not used for taxable purposes)”.

4 (e) *EFFECTIVE DATE.*—The amendments made by this
5 section shall apply to fuels or liquids removed, entered, or
6 sold after September 30, 2005.

7 **SEC. 1562. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS**
8 **WITH RESPECT TO FARMING.**

9 (a) *IN GENERAL.*—Subparagraph (A) of section
10 6427(l)(6) (relating to registered vendors to administer
11 claims for refund of diesel fuel or kerosene sold to farmers
12 and State and local governments), as redesignated by sec-
13 tion 1561, is amended to read as follows:

14 “(A) *IN GENERAL.*—Paragraph (1) shall
15 not apply to diesel fuel or kerosene used by a
16 State or local government.”.

17 (b) *CONFORMING AMENDMENT.*—The heading of para-
18 graph (6) of section 6427(l), as so redesignated, is amended
19 by striking “FARMERS AND”.

20 (c) *EFFECTIVE DATE.*—The amendments made by this
21 section shall apply to sales after September 30, 2005.

22 **SEC. 1563. REFUNDS OF EXCISE TAXES ON EXEMPT SALES**
23 **OF FUEL BY CREDIT CARD.**

24 (a) *REGISTRATION OF PERSON EXTENDING CREDIT ON*
25 *CERTAIN EXEMPT SALES OF FUEL.*—Section 4101(a) (re-

1 *lating to registration) is amended by adding at the end the*
2 *following new paragraph:*

3 “(4) *REGISTRATION OF PERSONS EXTENDING*
4 *CREDIT ON CERTAIN EXEMPT SALES OF FUEL.—The*
5 *Secretary shall require registration by any person*
6 *which—*

7 “(A) *extends credit by credit card to any ul-*
8 *timite purchaser described in subparagraph (C)*
9 *or (D) of section 6416(b)(2) for the purchase of*
10 *taxable fuel upon which tax has been imposed*
11 *under section 4041 or 4081, and*

12 “(B) *does not collect the amount of such tax*
13 *from such ultimate purchaser.”.*

14 “(b) *REFUNDS OF TAX ON GASOLINE.—*

15 “(1) *IN GENERAL.—Paragraph (4) of section*
16 *6416(a) (relating to condition to allowance) is*
17 *amended—*

18 “(A) *by inserting “except as provided in sub-*
19 *paragraph (B),” after “For purposes of this sub-*
20 *section,” in subparagraph (A),*

21 “(B) *by redesignating subparagraph (B) as*
22 *subparagraph (C) and by inserting after sub-*
23 *paragraph (A) the following new subparagraph:*

24 “(B) *CREDIT CARD ISSUER.—For purposes*
25 *of this subsection, if the purchase of gasoline de-*

1 *scribed in subparagraph (A) (determined without*
2 *regard to the registration status of the ultimate*
3 *vendor) is made by means of a credit card issued*
4 *to the ultimate purchaser, paragraph (1) shall*
5 *not apply and the person extending the credit to*
6 *the ultimate purchaser shall be treated as the*
7 *person (and the only person) who paid the tax,*
8 *but only if such person—*

9 *“(i) is registered under section*
10 *4101(a)(4), and*

11 *“(ii) has established, under regulations*
12 *prescribed by the Secretary, that such*
13 *person—*

14 *“(I) has not collected the amount*
15 *of the tax from the person who pur-*
16 *chased such article, or*

17 *“(II) has obtained the written*
18 *consent from the ultimate purchaser to*
19 *the allowance of the credit or refund,*
20 *and*

21 *“(iii) has so established that such*
22 *person—*

23 *“(I) has repaid or agreed to repay*
24 *the amount of the tax to the ultimate*
25 *vendor,*

1 “(II) has obtained the written
2 consent of the ultimate vendor to the
3 allowance of the credit or refund, or

4 “(III) has otherwise made ar-
5 rangements which directly or indi-
6 rectly assure the ultimate vendor of re-
7 imbursement of such tax.

8 If clause (i), (ii), or (iii) is not met by such per-
9 son extending the credit to the ultimate pur-
10 chaser, then such person shall collect an amount
11 equal to the tax from the ultimate purchaser and
12 only such ultimate purchaser may claim such
13 credit or refund.”,

14 (C) by striking “subparagraph (A)” in sub-
15 paragraph (C), as redesignated by paragraph
16 (2), and inserting “subparagraph (A) or (B)”,

17 (D) by inserting “or credit card issuer”
18 after “vendor” in subparagraph (C), as so reded-
19 ignated, and

20 (E) by inserting “OR CREDIT CARD ISSUER”
21 after “VENDOR” in the heading thereof.

22 (2) CONFORMING AMENDMENT.—Section
23 6416(b)(2) is amended by adding at the end the fol-
24 lowing new sentence: “Subparagraphs (C) and (D)
25 shall not apply in the case of any tax imposed on

1 *gasoline under section 4081 if the requirements of*
2 *subsection (a)(4) are not met.”*

3 (c) *DIESEL FUEL OR KEROSENE.*—*Paragraph (6) of*
4 *section 6427(l) (relating to nontaxable uses of diesel fuel*
5 *and kerosene), as redesignated by section 1561, is*
6 *amended—*

7 (1) *by striking “The amount” in subparagraph*
8 *(C) and inserting “Except as provided in subpara-*
9 *graph (D), the amount”, and*

10 (2) *by adding at the end the following new sub-*
11 *paragraph:*

12 “(D) *CREDIT CARD ISSUER.*—*For purposes*
13 *of this paragraph, if the purchase of any fuel de-*
14 *scribed in subparagraph (A) (determined without*
15 *regard to the registration status of the ultimate*
16 *vendor) is made by means of a credit card issued*
17 *to the ultimate purchaser, the Secretary shall*
18 *pay to the person extending the credit to the ulti-*
19 *mate purchaser the amount which would have*
20 *been paid under paragraph (1) (but for subpara-*
21 *graph (A)), but only if such person meets the re-*
22 *quirements of clauses (i), (ii), and (iii) of section*
23 *6416(a)(4)(B). If such clause (i), (ii), or (iii) is*
24 *not met by such person extending the credit to*
25 *the ultimate purchaser, then such person shall*

1 *collect an amount equal to the tax from the ulti-*
2 *mate purchaser and only such ultimate pur-*
3 *chaser may claim such amount.”.*

4 *(d) CONFORMING PENALTY AMENDMENTS.—*

5 *(1) Section 6206 (relating to special rules appli-*
6 *cable to excessive claims under sections 6420, 6421,*
7 *and 6427) is amended—*

8 *(A) by striking “Any portion” in the first*
9 *sentence and inserting “Any portion of a refund*
10 *made under section 6416(a)(4) and any por-*
11 *tion”;*

12 *(B) by striking “payments under sections*
13 *6420” in the first sentence and inserting “re-*
14 *funds under section 6416(a)(4) and payments*
15 *under sections 6420”;*

16 *(C) by striking “section 6420” in the second*
17 *sentence and inserting “section 6416(a)(4),*
18 *6420”, and*

19 *(D) by striking “**SECTIONS 6420, 6421,***
20 ***AND 6427”** in the heading thereof and inserting*
21 ***“CERTAIN SECTIONS”**.*

22 *(2) Section 6675(a) is amended by inserting*
23 *“section 6416(a)(4) (relating to certain sales of gaso-*
24 *line),” after “made under”.*

1 (3) Section 6675(b)(1) is amended by inserting
2 “6416(a)(4),” after “under section”.

3 (4) The item relating to section 6206 in the table
4 of sections for subchapter A of chapter 63 is amended
5 by striking “sections 6420, 6421, and 6427” and in-
6 serting “certain sections”.

7 (e) *EFFECTIVE DATE.*—The amendments made by this
8 section shall apply to sales after December 31, 2005.

9 **SEC. 1564. ADDITIONAL REQUIREMENT FOR EXEMPT PUR-**
10 **CHASES.**

11 (a) *STATE AND LOCAL GOVERNMENTS.*—

12 (1) Subparagraph (C) of section 6416(b)(2) (re-
13 lating to specified uses and resales) is amended to
14 read as follows:

15 “(C) sold to a State or local government for
16 the exclusive use of a State or local government
17 (as defined in section 4221(d)(4) and certified as
18 such by the State) or sold to a qualified volun-
19 teer fire department (as defined in section
20 150(e)(2) and certified as such by the State) for
21 its exclusive use;”.

22 (2) Section 4041(g)(2) (relating to other exemp-
23 tions) is amended by striking “or the District of Co-
24 lumbia” and inserting “the District of Columbia, or
25 a qualified volunteer fire department (as defined in

1 *section 150(e)(2)) (and certified as such by the State*
2 *or the District of Columbia)”.*

3 *(b) NONPROFIT EDUCATIONAL ORGANIZATIONS.—*

4 *(1) Section 6416(b)(2)(D) is amended by insert-*
5 *ing “(as defined in section 4221(d)(5) and certified to*
6 *be in good standing by the State in which such orga-*
7 *nization is providing educational services)” after “or-*
8 *ganization”.*

9 *(2) Section 4041(g)(4) is amended—*

10 *(A) by inserting “(certified to be in good*
11 *standing by the State in which such organiza-*
12 *tion is providing educational services)” after*
13 *“organization” the first place it appears, and*

14 *(B) by striking “use by a” and inserting*
15 *“use by such a”.*

16 *(c) NONAPPLICATION OF CERTIFICATION REQUIRE-*
17 *MENTS FOR THE REFUND OF CERTAIN TAXES.—Section*
18 *6416(b)(2) is amended by adding at the end the following*
19 *new sentence: “With respect to any tax paid under sub-*
20 *chapter D of chapter 32, the certification requirements*
21 *under subparagraphs (C) and (D) shall not apply.”.*

22 *(d) EFFECTIVE DATE.—The amendments made by this*
23 *section shall apply to sales after December 31, 2005.*

1 **SEC. 1565. REREGISTRATION IN EVENT OF CHANGE IN OWN-**
2 **ERSHIP.**

3 (a) *IN GENERAL.*—Section 4101(a) (relating to reg-
4 istration) is amended by adding at the end the following
5 new paragraph:

6 “(4) *REREGISTRATION IN EVENT OF CHANGE IN*
7 *OWNERSHIP.*—Under regulations prescribed by the
8 Secretary, a person (other than a corporation the
9 stock of which is regularly traded on an established
10 securities market) shall be required to reregister under
11 this section if after a transaction (or series of related
12 transactions) more than 50 percent of ownership in-
13 terests in, or assets of, such person are held by persons
14 other than persons (or persons related thereto) who
15 held more than 50 percent of such interests or assets
16 before the transaction (or series of related trans-
17 actions).”.

18 (b) *CONFORMING AMENDMENTS.*—

19 (1) *CIVIL PENALTY.*—Section 6719 (relating to
20 failure to register) is amended—

21 (A) by inserting “or reregister” after “reg-
22 ister” each place it appears,

23 (B) by inserting “OR REREGISTER” after
24 “REGISTER” in the heading for subsection (a),
25 and

1 (C) by inserting “**OR REREGISTER**” after
2 “**REGISTER**” in the heading thereof.

3 (2) *CRIMINAL PENALTY.*—Section 7232 (relating
4 to failure to register under section 4101, false rep-
5 resentations of registration status, etc.) is amended—

6 (A) by inserting “or reregister” after “reg-
7 ister”,

8 (B) by inserting “or reregistration” after
9 “registration”, and

10 (C) by inserting “**OR REREGISTER**” after
11 “**REGISTER**” in the heading thereof.

12 (3) *ADDITIONAL CIVIL PENALTY.*—Section 7272
13 (relating to penalty for failure to register) is
14 amended—

15 (A) by inserting “or reregister” after “fail-
16 ure to register” in subsection (a),

17 (B) by inserting “**OR REREGISTER**” after
18 “**REGISTER**” in the heading thereof.

19 (3) *CLERICAL AMENDMENTS.*—The item relating
20 to section 6719 in the table of sections for part I of
21 subchapter B of chapter 68, the item relating to sec-
22 tion 7232 in the table of sections for part II of sub-
23 chapter A of chapter 75, and the item relating to sec-
24 tion 7272 in the table of sections for subchapter B of

1 chapter 75 are each amended by inserting “or rereg-
2 ister” after “register”.

3 (c) *EFFECTIVE DATE.*—*The amendments made by this*
4 *section shall apply to actions, or failures to act, after the*
5 *date of the enactment of this Act.*

6 **SEC. 1566. TREATMENT OF DEEP-DRAFT VESSELS.**

7 (a) *IN GENERAL.*—*On and after the date of the enact-*
8 *ment of this Act, the Secretary of the Treasury shall require*
9 *that a vessel described in section 4042(c)(1) of the Internal*
10 *Revenue Code of 1986 be considered a vessel for purposes*
11 *of the registration of the operator of such vessel under sec-*
12 *tion 4101 of such Code, unless such operator uses such vessel*
13 *exclusively for purposes of the entry of taxable fuel.*

14 (b) *EXEMPTION FOR DOMESTIC BULK TRANSFERS BY*
15 *DEEP-DRAFT VESSELS.*—

16 (1) *IN GENERAL.*—*Subparagraph (B) of section*
17 *4081(a)(1) (relating to tax on removal, entry, or sale)*
18 *is amended to read as follows:*

19 “(B) *EXEMPTION FOR BULK TRANSFERS TO*
20 *REGISTERED TERMINALS OR REFINERIES.*—

21 “(i) *IN GENERAL.*—*The tax imposed by*
22 *this paragraph shall not apply to any re-*
23 *moval or entry of a taxable fuel transferred*
24 *in bulk by pipeline or vessel to a terminal*
25 *or refinery if the person removing or enter-*

1 *ing the taxable fuel, the operator of such*
2 *pipeline or vessel (except as provided in*
3 *clause (ii)), and the operator of such ter-*
4 *terminal or refinery are registered under sec-*
5 *tion 4101.*

6 *“(ii) NONAPPLICATION OF REGISTRA-*
7 *TION TO VESSEL OPERATORS ENTERING BY*
8 *DEEP-DRAFT VESSEL.—For purposes of*
9 *clause (i), a vessel operator is not required*
10 *to be registered with respect to the entry of*
11 *a taxable fuel transferred in bulk by a vessel*
12 *described in section 4042(c)(1).”.*

13 *(2) EFFECTIVE DATE.—The amendment made by*
14 *this subsection shall take effect on the date of the en-*
15 *actment of this Act.*

16 **SEC. 1567. RECONCILIATION OF ON-LOADED CARGO TO EN-**
17 **TERED CARGO.**

18 *(a) IN GENERAL.—Subsection (a) of section 343 of the*
19 *Trade Act of 2002 is amended by inserting at the end the*
20 *following new paragraph:*

21 *“(4) TRANSMISSION OF DATA.—Pursuant to*
22 *paragraph (2), not later than 1 year after the date*
23 *of enactment of this paragraph, the Secretary of*
24 *Homeland Security, after consultation with the Sec-*
25 *retary of the Treasury, shall establish an electronic*

1 *data interchange system through which the United*
2 *States Customs and Border Protection shall transmit*
3 *to the Internal Revenue Service information per-*
4 *taining to cargoes of any taxable fuel (as defined in*
5 *section 4083 of the Internal Revenue Code of 1986)*
6 *that the United States Customs and Border Protec-*
7 *tion has obtained electronically under its regulations*
8 *adopted in accordance with paragraph (1). For this*
9 *purpose, not later than 1 year after the date of enact-*
10 *ment of this paragraph, all filers of required cargo in-*
11 *formation for such taxable fuels (as so defined) must*
12 *provide such information to the United States Cus-*
13 *toms and Border Protection through such electronic*
14 *data interchange system.”.*

15 (b) *EFFECTIVE DATE.*—*The amendment made by this*
16 *section shall take effect on the date of the enactment of this*
17 *Act.*

18 **SEC. 1568. TAXATION OF GASOLINE BLENDSTOCKS AND**
19 **KEROSENE.**

20 *With respect to fuel entered or removed after September*
21 *30, 2005, the Secretary of the Treasury shall, in applying*
22 *section 4083 of the Internal Revenue Code of 1986—*

23 (1) *prohibit the nonbulk entry or removal of any*
24 *gasoline blend stock without the imposition of tax*
25 *under section 4081 of such Code, and*

1 (2) shall not exclude mineral spirits from the
2 definition of kerosene.

3 **SEC. 1569. NONAPPLICATION OF EXPORT EXEMPTION TO**
4 **DELIVERY OF FUEL TO MOTOR VEHICLES RE-**
5 **MOVED FROM UNITED STATES.**

6 (a) *IN GENERAL.*—Section 4221(d)(2) (defining ex-
7 port) is amended by adding at the end the following new
8 sentence: “Such term does not include the delivery of a tax-
9 able fuel (as defined in section 4083(a)(1)) into a fuel tank
10 of a motor vehicle which is shipped or driven out of the
11 United States.”.

12 (b) *CONFORMING AMENDMENTS.*—

13 (1) Section 4041(g) (relating to other exemp-
14 tions) is amended by adding at the end the following
15 new sentence: “Paragraph (3) shall not apply to the
16 sale of a liquid for delivery into a fuel tank of a
17 motor vehicle which is shipped or driven out of the
18 United States.”.

19 (2) Clause (iv) of section 4081(a)(1)(A) (relating
20 to tax on removal, entry, or sale) is amended by in-
21 sserting “or at a duty-free sales enterprise (as defined
22 in section 555(b)(8) of the Tariff Act of 1930)” after
23 “section 4101”.

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall apply to sales or deliveries made after the date*
3 *of the enactment of this Act.*

4 **SEC. 1570. PENALTY WITH RESPECT TO CERTAIN ADULTER-**
5 **ATED FUELS.**

6 (a) *IN GENERAL.*—*Part I of subchapter B of chapter*
7 *68 (relating to assessable penalties) is amended by adding*
8 *at the end the following new section:*

9 **“SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADUL-**
10 **TERATED FUELS.**

11 “(a) *IN GENERAL.*—*Any person who knowingly trans-*
12 *fers for resale, sells for resale, or holds out for resale any*
13 *liquid for use in a diesel-powered highway vehicle or a die-*
14 *sel-powered train which does not meet applicable EPA regu-*
15 *lations (as defined in section 45H(c)(3)), shall pay a pen-*
16 *alty of \$10,000 for each such transfer, sale, or holding out*
17 *for resale, in addition to the tax on such liquid (if any).*

18 “(b) *PENALTY IN THE CASE OF RETAILERS.*—*Any per-*
19 *son who knowingly holds out for sale (other than for resale)*
20 *any liquid described in subsection (a), shall pay a penalty*
21 *of \$10,000 for each such holding out for sale, in addition*
22 *to the tax on such liquid (if any).”.*

23 (b) *DEDICATION OF REVENUE.*—*Paragraph (5) of sec-*
24 *tion 9503(b) (relating to certain penalties) is amended by*
25 *inserting “6720A,” after “6719.”.*

1 (c) *CLERICAL AMENDMENT.*—*The table of sections for*
 2 *part I of subchapter B of chapter 68 is amended by adding*
 3 *at the end the following new item:*

“Sec. 6720A. Penalty with respect to certain adulterated fuels.”.

4 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 5 *section shall apply to any transfer, sale, or holding out for*
 6 *sale or resale occurring after the date of the enactment of*
 7 *this Act.*

8 **SEC. 1571. OIL SPILL LIABILITY TRUST FUND FINANCING**
 9 **RATE.**

10 Section 4611(f) (relating to application of oil spill li-
 11 ability trust fund financing rate) is amended to read as
 12 follows:

13 “(f) *APPLICATION OF OIL SPILL LIABILITY TRUST*
 14 *FUND FINANCING RATE.*—

15 “(1) *IN GENERAL.*—*Except as provided in para-*
 16 *graphs (2) and (3), the Oil Spill Liability Trust*
 17 *Fund financing rate under subsection (c) shall apply*
 18 *on and after April 1, 2006, or if later, the date which*
 19 *is 30 days after the last day of any calendar quarter*
 20 *for which the Secretary estimates that, as of the close*
 21 *of that quarter, the unobligated balance in the Oil*
 22 *Spill Liability Trust Fund is less than*
 23 *\$2,000,000,000.*

24 “(2) *FUND BALANCE.*—*The Oil Spill Liability*
 25 *Trust Fund financing rate shall not apply during a*

1 *calendar quarter if the Secretary estimates that, as of*
2 *the close of the preceding calendar quarter, the unobli-*
3 *gated balance in the Oil Spill Liability Trust Fund*
4 *exceeds \$3,000,000,000.*

5 “(3) *TERMINATION.*—*The Oil Spill Liability*
6 *Trust Fund financing rate shall not apply after De-*
7 *cember 31, 2014.*”.

8 **SEC. 1572. EXTENSION OF LEAKING UNDERGROUND STOR-**
9 **AGE TANK TRUST FUND FINANCING RATE.**

10 (a) *IN GENERAL.*—*Paragraph (3) of section 4081(d)*
11 *(relating to Leaking Underground Storage Tank Trust*
12 *Fund financing rate) is amended by striking “2005” and*
13 *inserting “2011”.*

14 (b) *NO EXEMPTIONS FROM TAX EXCEPT FOR EX-*
15 *PORTS.*—

16 (1) *IN GENERAL.*—*Section 4082(a) (relating to*
17 *exemptions for diesel fuel and kerosene) is amended*
18 *by inserting “(other than such tax at the Leaking Un-*
19 *derground Storage Tank Trust Fund financing rate*
20 *imposed in all cases other than for export)” after*
21 *“section 4081”.*

22 (2) *AMENDMENTS RELATING TO SECTION 4041.*—

23 (A) *Subsections (a)(1)(B), (a)(2)(A), and*
24 *(c)(2) of section 4041 are each amended by in-*
25 *serting “(other than such tax at the Leaking Un-*

1 *derground Storage Tank Trust Fund financing*
2 *rate)” after “section 4081”.*

3 *(B) Section 4041(b)(1)(A) is amended by*
4 *striking “or (d)(1)”.*

5 *(C) Section 4041(d) is amended by adding*
6 *at the end the following new paragraph:*

7 *“(5) NONAPPLICATION OF EXEMPTIONS OTHER*
8 *THAN FOR EXPORTS.—For purposes of this section,*
9 *the tax imposed under this subsection shall be deter-*
10 *mined without regard to subsections (f), (g) (other*
11 *than with respect to any sale for export under para-*
12 *graph (3) thereof), (h), and (l).”.*

13 *(3) NO REFUND.—*

14 *(A) IN GENERAL.—Subchapter B of chapter*
15 *65 is amended by adding at the end the fol-*
16 *lowing new section:*

17 **“SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UN-**
18 **DERGROUND STORAGE TANK TRUST FUND FI-**
19 **NANCING RATE.**

20 *“No refunds, credits, or payments shall be made under*
21 *this subchapter for any tax imposed at the Leaking Under-*
22 *ground Storage Tank Trust Fund financing rate, except in*
23 *the case of fuels destined for export.”.*

24 *(B) CLERICAL AMENDMENT.—The table of*
25 *sections for subchapter B of chapter 65 is*

1 *amended by adding at the end the following new*
2 *item:*

“Sec. 6430. Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate.

3 *(c) CERTAIN REFUNDS AND CREDITS NOT CHARGED*
4 *TO LUST TRUST FUND.—Subsection (c) of section 9508*
5 *(relating to Leaking Underground Storage Tank Trust*
6 *Fund) is amended to read as follows:*

7 *“(c) EXPENDITURES.—Amounts in the Leaking Un-*
8 *derground Storage Tank Trust Fund shall be available, as*
9 *provided in appropriation Acts, only for purposes of mak-*
10 *ing expenditures to carry out section 9003(h) of the Solid*
11 *Waste Disposal Act as in effect on the date of the enactment*
12 *of the Superfund Amendments and Reauthorization Act of*
13 *1986.”.*

14 *(d) EFFECTIVE DATES.—*

15 *(1) IN GENERAL.—Except as provided in para-*
16 *graph (2), the amendments made by this section shall*
17 *take effect on October 1, 2005.*

18 *(2) NO EXEMPTION.—The amendments made by*
19 *subsection (b) shall apply to fuel entered, removed, or*
20 *sold after September 30, 2005.*

21 **SEC. 1573. TIRE EXCISE TAX MODIFICATION.**

22 *(a) IN GENERAL.—Section 4071(a) (relating to im-*
23 *position and rate of tax) is amended by inserting “8.0 cents*
24 *in the case of a” before “super single tire”.*

1 (b) *DEFINITION OF SUPER SINGLE TIRE.*—Section
 2 4072(e) (defining super single tire) is amended by striking
 3 “13 inches” and inserting “17.5 inches”.

4 (c) *EFFECTIVE DATE.*—The amendments made by this
 5 section shall apply to sales after September 30, 2005.

6 ***TITLE XVI—CLIMATE CHANGE***
 7 ***Subtitle A—National Climate***
 8 ***Change Technology Deployment***

9 ***SEC. 1601. GREENHOUSE GAS INTENSITY REDUCING TECH-***
 10 ***NOLOGY STRATEGIES.***

11 *Title XVI of the Energy Policy Act of 1992 (42 U.S.C.*
 12 *13381 et seq.) is amended by adding at the end the fol-*
 13 *lowing:*

14 ***“SEC. 1610. GREENHOUSE GAS INTENSITY REDUCING***
 15 ***STRATEGIES.***

16 “(a) *DEFINITIONS.*—In this section:

17 “(1) *CARBON SEQUESTRATION.*—The term ‘car-
 18 *bon sequestration’ means the capture of carbon diox-*
 19 *ide through terrestrial, geological, biological, or other*
 20 *means, which prevents the release of carbon dioxide*
 21 *into the atmosphere.*

22 “(2) *COMMITTEE.*—The term ‘Committee’ means
 23 *the Interagency Coordinating Committee on Climate*
 24 *Change Technology established under subsection*
 25 *(c)(1).*

1 “(3) *DEVELOPING COUNTRY*.—The term ‘*devel-*
2 *oping country*’ has the meaning given the term in *sec-*
3 *tion 1608(m)*.

4 “(4) *GREENHOUSE GAS*.—The term ‘*greenhouse*
5 *gas*’ means—

6 “(A) *carbon dioxide*;

7 “(B) *methane*;

8 “(C) *nitrous oxide*;

9 “(D) *hydrofluorocarbons*;

10 “(E) *perfluorocarbons*; and

11 “(F) *sulfur hexafluoride*.

12 “(5) *GREENHOUSE GAS INTENSITY*.—The term
13 ‘*greenhouse gas intensity*’ means the ratio of *green-*
14 *house gas emissions to economic output*.

15 “(6) *NATIONAL LABORATORY*.—The term ‘*Na-*
16 *tional Laboratory*’ means a laboratory owned by the
17 *Department of Energy*.

18 “(7) *WORKING GROUP*.—The term ‘*Working*
19 *Group*’ means the *Climate Change Technology Work-*
20 *ing Group established under subsection (f)(1)*.

21 “(b) *OFFICE OF SCIENCE AND TECHNOLOGY POLICY*
22 *STRATEGY*.—

23 “(1) *IN GENERAL*.—Not later than 18 months
24 after the date of enactment of this section, the *Direc-*
25 *tor of the Office of Science and Technology Policy*

1 *shall, based on applicable Federal climate reports,*
2 *submit to the Secretary and the President a national*
3 *strategy to promote the deployment and commer-*
4 *cialization of greenhouse gas intensity reducing tech-*
5 *nologies and practices developed through research and*
6 *development programs conducted by the National*
7 *Laboratories, other Federal research facilities, univer-*
8 *sities, and the private sector.*

9 “(2) *AVAILABILITY OF STRATEGY; UPDATES.—*

10 *The President shall—*

11 “(A) *on submission of the strategy to the*
12 *President under paragraph (1), make the strat-*
13 *egy available to the public; and*

14 “(B) *update the strategy as the President*
15 *determines to be necessary.*

16 “(c) *INTERAGENCY COORDINATING COMMITTEE ON*
17 *CLIMATE CHANGE TECHNOLOGY.—*

18 “(1) *IN GENERAL.—Not later than 180 days*
19 *after the date of enactment of this section, the Sec-*
20 *retary shall establish an Interagency Coordinating*
21 *Committee on Climate Change Technology to—*

22 “(A) *integrate current Federal climate re-*
23 *ports; and*

1 “(B) coordinate Federal climate change ac-
2 tivities and programs carried out in furtherance
3 of the strategy developed under subsection (b)(1).

4 “(2) MEMBERSHIP.—The Committee shall be
5 composed of at least 6 members, including—

6 “(A) the Secretary;

7 “(B) the Secretary of Commerce;

8 “(C) the Chairman of the Council on Envi-
9 ronmental Quality;

10 “(D) the Secretary of Agriculture;

11 “(E) the Administrator of the Environ-
12 mental Protection Agency; and

13 “(F) the Secretary of Transportation.

14 “(3) STAFF.—The Secretary shall provide such
15 personnel as are necessary to enable the Committee to
16 perform the duties of the Committee.

17 “(d) CLIMATE CHANGE SCIENCE PROGRAM AND CLI-
18 MATE CHANGE TECHNOLOGY PROGRAM.—

19 “(1) CLIMATE CHANGE SCIENCE PROGRAM.—Not
20 later than 180 days after the date on which the strat-
21 egy is submitted under subsection (b)(1), the Sec-
22 retary of Commerce, in cooperation with the Com-
23 mittee, shall permanently establish within the Depart-
24 ment of Commerce the Climate Change Science Pro-
25 gram to assist the Committee in the interagency co-

1 *ordination of climate change science research and re-*
2 *lated activities, including—*

3 *“(A) assessments of the state of knowledge*
4 *on climate change; and*

5 *“(B) carrying out supporting studies, plan-*
6 *ning, and analyses of the science of climate*
7 *change.*

8 *“(2) CLIMATE CHANGE TECHNOLOGY PRO-*
9 *GRAM.—Not later than 180 days after the date on*
10 *which the strategy is submitted under subsection*
11 *(b)(1), the Secretary, in cooperation with the Com-*
12 *mittee, shall permanently establish within the Depart-*
13 *ment of Energy, the Climate Change Technology Pro-*
14 *gram to assist the Committee in the interagency co-*
15 *ordination of climate change technology research, de-*
16 *velopment, demonstration, and deployment to reduce*
17 *greenhouse gas intensity.*

18 *“(e) TECHNOLOGY INVENTORY.—*

19 *“(1) IN GENERAL.—The Secretary shall conduct*
20 *an inventory and evaluation of greenhouse gas inten-*
21 *sity reducing technologies that have been developed, or*
22 *are under development, by the National Laboratories,*
23 *other Federal research facilities, universities, and the*
24 *private sector to determine which technologies are*
25 *suitable for commercialization and deployment.*

1 “(2) *REPORT.*—Not later than 180 days after the
2 *completion of the inventory under paragraph (1), the*
3 *Secretary shall submit to the Secretary of Commerce*
4 *and Congress a report that includes the results of the*
5 *completed inventory and any recommendations of the*
6 *Secretary.*

7 “(3) *USE.*—The Secretary, in consultation with
8 *the Secretary of Commerce, shall use the results of the*
9 *inventory as guidance in the commercialization and*
10 *deployment of greenhouse gas intensity reducing tech-*
11 *nologies.*

12 “(4) *UPDATED INVENTORY.*—The Secretary
13 *shall—*

14 “(A) *periodically update the inventory*
15 *under paragraph (1); and*

16 “(B) *make the updated inventory available*
17 *to the public.*

18 “(f) *CLIMATE CHANGE TECHNOLOGY WORKING*
19 *GROUP.*—

20 “(1) *IN GENERAL.*—The Secretary, in consulta-
21 *tion with the Committee, shall establish within the*
22 *Department of Energy a Climate Change Technology*
23 *Working Group to identify statutory, regulatory, eco-*
24 *nomie, and other barriers to the commercialization*

1 *and deployment of greenhouse gas intensity reducing*
2 *technologies and practices in the United States.*

3 “(2) *COMPOSITION.*—*The Working Group shall*
4 *be composed of the following members, to be appointed*
5 *by the Secretary, in consultation with the Committee:*

6 “(A) *1 representative shall be appointed*
7 *from each National Laboratory.*

8 “(B) *3 members shall be representatives of*
9 *energy-producing trade organizations.*

10 “(C) *3 members shall represent energy-in-*
11 *tensive trade organizations.*

12 “(D) *3 members shall represent groups that*
13 *represent end-use energy and other consumers.*

14 “(E) *3 members shall be employees of the*
15 *Federal Government who are experts in energy*
16 *technology, intellectual property, and tax.*

17 “(F) *3 members shall be representatives of*
18 *universities with expertise in energy technology*
19 *development that are recommended by the Na-*
20 *tional Academy of Engineering.*

21 “(3) *REPORT.*—*Not later than 1 year after the*
22 *date of enactment of this section and annually there-*
23 *after, the Working Group shall submit to the Com-*
24 *mittee a report that describes—*

1 “(A) *the findings of the Working Group;*
2 *and*

3 “(B) *any recommendations of the Working*
4 *Group for the removal or reduction of barriers to*
5 *commercialization, deployment, and increasing*
6 *the use of greenhouse gas intensity reducing tech-*
7 *nologies and practices.*

8 “(4) *COMPENSATION OF MEMBERS.—*

9 “(A) *NON-FEDERAL EMPLOYEES.—A mem-*
10 *ber of the Working Group who is not an officer*
11 *or employee of the Federal Government shall be*
12 *compensated at a rate equal to the daily equiva-*
13 *lent of the annual rate of basic pay prescribed*
14 *for level IV of the Executive Schedule under sec-*
15 *tion 5315 of title 5, United States Code, for each*
16 *day (including travel time) during which the*
17 *member is engaged in the performance of the du-*
18 *ties of the Working Group.*

19 “(B) *FEDERAL EMPLOYEES.—A member of*
20 *the Working Group who is an officer or employee*
21 *of the Federal Government shall serve without*
22 *compensation in addition to the compensation*
23 *received for the services of the member as an offi-*
24 *cer or employee of the Federal Government.*

1 “(C) *TRAVEL EXPENSES.*—A member of the
2 *Working Group shall be allowed travel expenses,*
3 *including per diem in lieu of subsistence, at*
4 *rates authorized for an employee of an agency*
5 *under subchapter I of chapter 57 of title 5,*
6 *United States Code, while away from the home*
7 *or regular place of business of the member in the*
8 *performance of the duties of the Commission.*

9 “(g) *GREENHOUSE GAS INTENSITY REDUCING TECH-*
10 *NOLOGY DEPLOYMENT.*—

11 “(1) *IN GENERAL.*—Based on the strategy devel-
12 *oped under subsection (b)(1), the technology inventory*
13 *conducted under subsection (e)(1), and the greenhouse*
14 *gas intensity reducing technology study report sub-*
15 *mitted under subsection (e)(2), the Committee shall*
16 *develop a program for implementation by the Climate*
17 *Credit Board established under section 1611(b)(2)(A)*
18 *that would provide for the removal of domestic bar-*
19 *riers to the commercialization and deployment of*
20 *greenhouse gas intensity reducing technologies and*
21 *practices.*

22 “(2) *REQUIREMENTS.*—In developing the pro-
23 *gram under paragraph (1), the Committee shall con-*
24 *sider in the aggregate—*

25 “(A) *the cost-effectiveness of the technology;*

1 “(B) fiscal and regulatory barriers;

2 “(C) statutory and other barriers; and

3 “(D) intellectual property issues.

4 “(3) REPORT.—Not later than 18 months after
5 the date of enactment of this section, the Committee
6 shall submit to the President and Congress a report
7 that—

8 “(A) identifies, based on the report sub-
9 mitted under subsection (f)(3), any barriers to,
10 and commercial risks associated with, the de-
11 ployment of greenhouse gas intensity reducing
12 technologies; and

13 “(B) includes a plan for carrying out eligi-
14 ble projects with Federal financial assistance
15 under section 1611.

16 “(h) PROCEDURES FOR CALCULATING, MONITORING,
17 AND ANALYZING GREENHOUSE GAS INTENSITY.—

18 “(1) IN GENERAL.—The Committee, in collabora-
19 tion with the Administrator of the Energy Informa-
20 tion Administration and the National Institute of
21 Standards and Technology, shall develop and propose
22 standards and best practices for calculating, moni-
23 toring, and analyzing greenhouse gas intensity.

1 “(2) *CONTENT.*—*The standards and best prac-*
2 *tices shall address measurement of greenhouse gas in-*
3 *tensity by industry sector.*

4 “(3) *PUBLICATION.*—*To provide the public with*
5 *an opportunity to comment on the standards and best*
6 *practices proposed under paragraph (1), the stand-*
7 *ards and best practices shall be published in the Fed-*
8 *eral Register.*

9 “(4) *APPLICABLE LAW.*—*To ensure that high*
10 *quality information is produced, the standards and*
11 *best practices developed under paragraph (1) shall*
12 *conform to the guidelines established under section*
13 *515 of the Treasury and General Government Appro-*
14 *propriations Act, 2001 (commonly known as the ‘Data*
15 *Quality Act’) (44 U.S.C. 3516 note; 114 Stat. 2763A–*
16 *1543), as enacted into law by section 1(a)(3) of Pub-*
17 *lic Law 106–554.*

18 “(i) *DEMONSTRATION PROJECTS.*—

19 “(1) *IN GENERAL.*—*The Secretary shall, subject*
20 *to availability of appropriations, conduct and par-*
21 *ticipate in demonstration projects recommended for*
22 *approval by the Committee, including demonstration*
23 *projects relating to—*

24 “(A) *coal gasification and coal liquefaction;*

25 “(B) *carbon sequestration;*

1 “(C) cogeneration technology initiatives;

2 “(D) advanced nuclear power projects;

3 “(E) lower emission transportation;

4 “(F) renewable energy; and

5 “(G) transmission upgrades.

6 “(2) *CRITERIA.*—*The Committee shall rec-*
7 *ommend a demonstration project under paragraph*
8 *(1) if the proposed demonstration project would—*

9 “(A) *increase the reduction of the green-*
10 *house gas intensity to levels below that which*
11 *would be achieved by technologies being used in*
12 *the United States as of the date of enactment of*
13 *this section;*

14 “(B) *maximize the potential return on Fed-*
15 *eral investment;*

16 “(C) *demonstrate distinct roles in public-*
17 *private partnerships;*

18 “(D) *produce a large-scale reduction of*
19 *greenhouse gas intensity if commercialization oc-*
20 *curred; and*

21 “(E) *support a diversified portfolio to miti-*
22 *gate the uncertainty associated with a single*
23 *technology.*

24 “(j) *COOPERATIVE RESEARCH AND DEVELOPMENT*
25 *AGREEMENTS.*—*In carrying out greenhouse gas intensity*

1 *reduction research and technology deployment, the Sec-*
2 *retary may enter into cooperative research and development*
3 *agreements under section 12 of the Stevenson-Wydler Tech-*
4 *nology Innovation Act of 1980 (15 U.S.C. 3710a).*

5 “(k) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
6 *are authorized to be appropriated such sums as are nec-*
7 *essary to carry out this section.*”.

8 **SEC. 1602. CLIMATE INFRASTRUCTURE CREDIT.**

9 *Title XVI of the Energy Policy Act of 1992 (42 (U.S.C.*
10 *13381 et seq.) (as amended by section 1601) is amended*
11 *by adding at the end the following:*

12 **“SEC. 1611. CLIMATE INFRASTRUCTURE CREDIT.**

13 “(a) *DEFINITIONS.*—*In this section:*

14 “(1) *ADVANCED CLIMATE TECHNOLOGY OR SYS-*
15 *TEM.*—*The term ‘advanced climate technology or sys-*
16 *tem’ means a climate technology or system that is not*
17 *in general usage as of the date of enactment of this*
18 *section.*

19 “(2) *BOARD.*—*The term ‘Board’ means the Cli-*
20 *mate Credit Board established under subsection*
21 *(b)(2)(A).*

22 “(3) *DIRECT LOAN.*—*The term ‘direct loan’ has*
23 *the meaning given the term in section 502 of the Fed-*
24 *eral Credit Reform Act of 1990 (2 U.S.C. 661a).*

1 “(4) *ELIGIBLE PROJECT.*—*The term ‘eligible*
2 *project’ means a demonstration project that is rec-*
3 *ommended for approval under section 1610(i)(1).*

4 “(5) *ELIGIBLE PROJECT COST.*—*The term ‘eligi-*
5 *ble project cost’ means any amount incurred for an*
6 *eligible project that is paid by, or on behalf of, an ob-*
7 *ligor, including the costs of—*

8 “(A) *construction activities, including—*

9 “(i) *the acquisition of capital equip-*
10 *ment; and*

11 “(ii) *construction management;*

12 “(B) *acquiring land (including any im-*
13 *provements to the land) relating to the eligible*
14 *project; and*

15 “(C) *financing the eligible project,*
16 *including—*

17 “(i) *providing capitalized interest nec-*
18 *essary to meet market requirements;*

19 “(ii) *capital issuance expenses; and*

20 “(iii) *other carrying costs during con-*
21 *struction.*

22 “(6) *FEDERAL FINANCIAL ASSISTANCE.*—*The*
23 *term ‘Federal financial assistance’ means any credit-*
24 *based financial assistance, including a direct loan,*
25 *loan guarantee, a line of credit (which serves as*

1 *standby default coverage or standby interest cov-*
2 *erage), production incentive payment under sub-*
3 *section (g)(1)(B), or other credit-based financial as-*
4 *sistance mechanism for an eligible project that is—*

5 *“(A) authorized to be made available by the*
6 *Secretary for an eligible project under this sec-*
7 *tion; and*

8 *“(B) provided in accordance with the Fed-*
9 *eral Credit Reform Act of 1990 (2 U.S.C. 661 et*
10 *seq.).*

11 *“(7) INVESTMENT-GRADE RATING.—The term*
12 *‘investment-grade rating’ means a rating category of*
13 *BBB minus, Baa3, or higher assigned by a rating*
14 *agency for eligible project obligations offered into the*
15 *capital markets.*

16 *“(8) LENDER.—The term ‘lender’ means any*
17 *non-Federal qualified institutional buyer (as defined*
18 *in section 230.144A(a) of title 17, Code of Federal*
19 *Regulations (or any successor regulation), known as*
20 *Rule 144A(a) of the Securities and Exchange Com-*
21 *mission and issued under the Securities Act of 1933*
22 *(15 U.S.C. 77a et seq.)), including—*

23 *“(A) a qualified retirement plan (as defined*
24 *in section 4974(c) of the Internal Revenue Code*

1 *of 1986) that is a qualified institutional buyer;*
2 *and*

3 “(B) *a governmental plan (as defined in*
4 *section 414(d) of the Internal Revenue Code of*
5 *1986) that is a qualified institutional buyer.*

6 “(9) *LOAN GUARANTEE.—The term ‘loan guar-*
7 *antee’ means any guarantee or other pledge by the*
8 *Secretary to pay all or part of the principal of and*
9 *interest on a loan or other debt obligation that is*
10 *issued by an obligor and funded by a lender.*

11 “(10) *OBLIGOR.—The term ‘obligor’ means a*
12 *person or entity (including a corporation, partner-*
13 *ship, joint venture, trust, or governmental entity,*
14 *agency, or instrumentality) that is primarily liable*
15 *for payment of the principal of, or interest on, a Fed-*
16 *eral credit instrument.*

17 “(11) *PROJECT OBLIGATION.—The term ‘project*
18 *obligation’ means any note, bond, debenture, or other*
19 *debt obligation issued by an obligor in connection*
20 *with the financing of an eligible project, other than*
21 *a Federal credit instrument.*

22 “(12) *RATING AGENCY.—The term ‘rating agen-*
23 *cy’ means a bond rating agency identified by the Se-*
24 *curities and Exchange Commission as a Nationally*
25 *Recognized Statistical Rating Organization.*

1 “(13) *REGULATORY FAILURE.*—*The term ‘regu-*
2 *latory failure’ means a situation in which the Sec-*
3 *retary determines that, because of a breakdown in a*
4 *regulatory process or an indefinite delay caused by a*
5 *judicial challenge to the regulatory consideration of a*
6 *specific eligible project, the Federal or State regu-*
7 *latory or licensing process governing the siting, con-*
8 *struction, or commissioning of an eligible project does*
9 *not produce a definitive determination that the eligi-*
10 *ble project may go forward or stop within a predeter-*
11 *mined and prescribed time period.*

12 “(14) *SECURED LOAN.*—*The term ‘secured loan’*
13 *means a loan or other secured debt obligation issued*
14 *by an obligor and funded by the Secretary in connec-*
15 *tion with the financing of an eligible project.*

16 “(15) *STANDBY DEFAULT COVERAGE.*—*The term*
17 *‘standby default coverage’ means a pledge by the Sec-*
18 *retary to pay all or part of the debt obligation issued*
19 *by an obligor and funded by a lender, plus all or part*
20 *of obligor equity, if an eligible project fails to receive*
21 *an operating license in a period of time established*
22 *by the Secretary because of a regulatory failure or*
23 *other specific issue identified by the Secretary.*

24 “(16) *STANDBY INTEREST COVERAGE.*—*The term*
25 *‘standby interest coverage’ means a pledge by the Sec-*

1 *retary to provide to an obligor, at a future date and*
2 *on the occurrence of 1 or more events, a direct loan,*
3 *the proceeds of which shall be used by the obligor to*
4 *maintain the current status of the obligor on interest*
5 *payments due on 1 or more loans or other project ob-*
6 *ligations issued by an obligor and funded by a lender*
7 *for an eligible project.*

8 *“(17) SUBSIDY AMOUNT.—The term ‘subsidy*
9 *amount’ means the amount of budget authority suffi-*
10 *cient to cover the estimated long-term cost to the Fed-*
11 *eral Government of a Federal credit instrument*
12 *issued by the Secretary to an eligible project, cal-*
13 *culated on a net present value basis, excluding ad-*
14 *ministrative costs and any incidental effects on gov-*
15 *ernmental receipts or outlays in accordance with the*
16 *Federal Credit Reform Act of 1990 (2 U.S.C. 661 et*
17 *seq.).*

18 *“(18) SUBSTANTIAL COMPLETION.—The term*
19 *‘substantial completion’ means that an eligible project*
20 *has been determined by the Board to be in, or capable*
21 *of, commercial operation.*

22 *“(b) DUTIES OF THE SECRETARY.—*

23 *“(1) IN GENERAL.—The Secretary shall make*
24 *available to eligible project developers and eligible*
25 *project owners, in accordance with this section, such*

1 *financial assistance as is necessary to supplement*
2 *private sector financing for eligible projects.*

3 “(2) *CLIMATE CREDIT BOARD.*—

4 “(A) *IN GENERAL.*—Not later than 180
5 *days after the date of enactment of this section,*
6 *the Secretary shall establish within the Depart-*
7 *ment of Energy a Climate Credit Board com-*
8 *posed of—*

9 “(i) *the Under Secretary of Energy,*
10 *who shall serve as Chairperson;*

11 “(ii) *the Chief Financial Officer of the*
12 *Department of Energy;*

13 “(iii) *the Assistant Secretary of En-*
14 *ergy for Policy and International Affairs;*

15 “(iv) *the Assistant Secretary of Energy*
16 *for Energy Efficiency and Renewable En-*
17 *ergy; and*

18 “(v) *such other individuals as the Sec-*
19 *retary determines to have the experience*
20 *and expertise (including expertise in cor-*
21 *porate and project finance and the energy*
22 *sector) necessary to carry out the duties of*
23 *the Board.*

24 “(B) *DUTIES.*—*The Board shall—*

1 “(i) implement the program developed
2 under section 1610(g)(1) in accordance with
3 paragraph (3);

4 “(ii) issue regulations and criteria in
5 accordance with paragraph (4);

6 “(iii) conduct negotiations with indi-
7 viduals and entities interested in obtaining
8 assistance under this section;

9 “(iv) recommend to the Secretary po-
10 tential recipients and amounts of grants of
11 assistance under this section; and

12 “(v) establish metrics to indicate the
13 progress of the greenhouse gas intensity re-
14 ducing technology deployment program and
15 individual projects carried out under the
16 program toward meeting the criteria estab-
17 lished by section 1610(i)(2).

18 “(3) *GREENHOUSE GAS INTENSITY REDUCING*
19 *TECHNOLOGY DEPLOYMENT PROGRAM.*—Not later
20 than 1 year after the date of enactment of this section,
21 the Board, with the approval of the Secretary, shall
22 implement the greenhouse gas intensity reducing tech-
23 nology deployment program developed under section
24 1610(g)(1).

25 “(4) *REGULATIONS AND CRITERIA.*—

1 “(A) *IN GENERAL.*—Not later than 1 year
2 after the date of enactment of this section, the
3 Board, in coordination with the Secretary and
4 after an opportunity for public comment, shall
5 issue such regulations and criteria as are nec-
6 essary to implement this section.

7 “(B) *REQUIREMENTS.*—The regulations and
8 criteria shall provide for, at a minimum—

9 “(i) a competitive process and the gen-
10 eral terms and conditions for the provision
11 of assistance under this section;

12 “(ii) the procedures by which eligible
13 project owners and eligible project devel-
14 opers may request financial assistance
15 under this section; and

16 “(iii) the collection of any other infor-
17 mation necessary for the Secretary to carry
18 out this section, including a process for ne-
19 gotiating the terms and conditions of assist-
20 ance provided under this section.

21 “(C) *ELIGIBILITY AND CRITERIA.*—The de-
22 termination of eligibility of, and criteria for se-
23 lecting, eligible projects to receive assistance
24 under this section shall be carried out in accord-

1 *ance with subsection (c) and the regulations*
2 *issued under subparagraph (A).*

3 “(D) *CONDITIONS FOR PROVISION OF AS-*
4 *SISTANCE.—The Board shall not provide assist-*
5 *ance under this section unless the Board deter-*
6 *mines, in accordance with the regulations issued*
7 *under subparagraph (A), that the terms, condi-*
8 *tions, maturity, security, schedule, and amounts*
9 *of repayments of the assistance are reasonable*
10 *and appropriate to protect the financial interests*
11 *of the United States.*

12 “(5) *CONFIDENTIALITY.—In accordance with sec-*
13 *tion 552 of title 5, United States Code, and any re-*
14 *lated regulations applicable to the Department of En-*
15 *ergy, the Board shall protect the confidentiality of*
16 *any information provided by an applicant for assist-*
17 *ance under this section that the applicant certifies to*
18 *be commercially sensitive or that is protected intellec-*
19 *tual property.*

20 “(c) *DETERMINATION OF ELIGIBILITY; PROJECT SE-*
21 *LECTION.—*

22 “(1) *ELIGIBILITY.—To be eligible to receive as-*
23 *istance under this section, an eligible project shall, as*
24 *determined by the Board—*

1 “(A) be supported by an application that
2 contains all information required to be included
3 by, and is submitted to and approved by the
4 Board in accordance with, the regulations and
5 criteria issued by the Board under subsection
6 (b)(4);

7 “(B) be nationally or regionally significant
8 by—

9 “(i) reducing greenhouse gas intensity;

10 “(ii) contributing to energy security;

11 and

12 “(iii) contributing to energy and tech-
13 nology diversity in the energy economy of
14 the United States;

15 “(C) contain an advanced climate tech-
16 nology or system that could—

17 “(i) significantly improve the effi-
18 ciency, security, reliability, and environ-
19 mental performance of the energy economy
20 of the United States; and

21 “(ii) reduce greenhouse gas emissions;

22 “(D) have revenue sources dedicated to re-
23 payment of credit support-based project financ-
24 ing, such as revenue—

25 “(i) from the sale of sequestered carbon;

1 “(ii) from the sale of energy, elec-
2 tricity, or other products from eligible
3 projects that employ advanced climate tech-
4 nologies and systems;

5 “(iii) from the sale of electricity or
6 generating capacity, in the case of elec-
7 tricity infrastructure; or

8 “(iv) associated with energy efficiency
9 gains, in the case of other energy projects;

10 “(E) include a project proposal and agree-
11 ment for project financing repayment that dem-
12 onstrates to the satisfaction of the Board that the
13 dedicated revenue sources described in subpara-
14 graph (D) will be adequate to repay project fi-
15 nancing provided under this section; and

16 “(F) reduce greenhouse gas intensity on a
17 national, regional, or company basis.

18 “(2) LIMITATIONS.—Except as otherwise pro-
19 vided in this section—

20 “(A) the total cost of an eligible project pro-
21 vided Federal financial assistance under this sec-
22 tion shall be at least \$40,000,000;

23 “(B) the Federal share of an eligible project
24 provided Federal financial assistance under this

1 *section shall be not more than 25 percent of eli-*
2 *gible project costs;*

3 *“(C) not more than \$200,000,000 in Federal*
4 *financial assistance shall be provided to any in-*
5 *dividual eligible project; and*

6 *“(D) an eligible project shall not be eligible*
7 *for financial assistance from any other Federal*
8 *grant program during any period that Federal*
9 *financial assistance (other than a Federal loan*
10 *or loan guarantee) is provided to the eligible*
11 *project under this section.*

12 *“(3) SELECTION AMONG ELIGIBLE PROJECTS.—*

13 *“(A) ESTABLISHMENT OF SELECTION CRI-*
14 *TERIA.—The Board, in consultation with the*
15 *Secretary and [the Interagency Coordinating*
16 *Committee on Climate Change Technology estab-*
17 *lished under section 1610(c)(1)], shall, in ac-*
18 *cordance with the regulations issued under sub-*
19 *section (b)(4)(A), establish criteria for selecting*
20 *which eligible projects will receive assistance*
21 *under this section.*

22 *“(B) REQUIREMENTS.—The selection cri-*
23 *teria shall include a determination by the Board*
24 *of the extent to which—*

1 “(i) *the eligible project reduces green-*
2 *house gas intensity beyond reductions*
3 *achieved by technology available as of Octo-*
4 *ber 15, 1992;*

5 “(ii) *financing for the eligible project*
6 *has appropriate security features, such as a*
7 *rate covenant, to ensure repayment;*

8 “(iii) *assistance under this section for*
9 *the eligible project would foster innovative*
10 *public-private partnerships and attract pri-*
11 *vate debt or equity investment;*

12 “(iv) *assistance under this section for*
13 *an eligible project would enable the eligible*
14 *project to proceed at an earlier date than*
15 *would otherwise be practicable; and*

16 “(v) *the eligible project uses new tech-*
17 *nologies that enhance the efficiency, reduce*
18 *greenhouse gas intensity, improve the reli-*
19 *ability, or improve the safety, of the eligible*
20 *project.*

21 “(C) *FINANCIAL INFORMATION.—An appli-*
22 *cation for assistance for an eligible project under*
23 *this section shall include such information as the*
24 *Secretary determines to be necessary*
25 *concerning—*

1 “(i) the amount of budget authority re-
2 quired to fund the Federal credit instru-
3 ment requested for the eligible project;

4 “(ii) the estimated construction costs of
5 the proposed eligible project;

6 “(iii) estimates of construction and op-
7 erating costs of the eligible project;

8 “(iv) projected revenues from the eligi-
9 ble project; and

10 “(v) any other financial aspects of the
11 eligible project, including assurances, that
12 the Board determines to be appropriate.

13 “(D) *PRELIMINARY RATING OPINION LET-*
14 *TER.*—The Board shall require each applicant
15 seeking assistance for an eligible project under
16 this section to provide a preliminary rating
17 opinion letter from at least 1 credit rating agen-
18 cy indicating that the senior obligations of the
19 eligible project have the potential to achieve an
20 investment-grade rating.

21 “(E) *RISK ASSESSMENT.*—Before entering
22 into any agreement to provide assistance for an
23 eligible project under this section, the Board, in
24 consultation with the Secretary, the Director of
25 the Office of Management and Budget, and each

1 *credit rating agency providing a preliminary*
2 *rating opinion letter under subparagraph (D),*
3 *shall determine and maintain an appropriate*
4 *capital reserve subsidy amount for each line of*
5 *credit established for the eligible project, taking*
6 *into account the information contained in the*
7 *preliminary rating opinion letter.*

8 “(F) *INVESTMENT-GRADE RATING REQUIRE-*
9 *MENT.—*

10 “(i) *IN GENERAL.—The funding of any*
11 *assistance under this section shall be contin-*
12 *gent on the senior obligations of the eligible*
13 *project receiving an investment-grade rating*
14 *from at least 1 credit rating agency.*

15 “(ii) *CONSIDERATIONS.—In deter-*
16 *mining whether an investment-grade rating*
17 *is appropriate under clause (i), the credit*
18 *rating agency shall take into account the*
19 *availability of Federal financial assistance*
20 *under this section.*

21 “(4) *MAXIMUM AVAILABLE CLIMATE CREDIT SUP-*
22 *PORT.—Notwithstanding any assistance limitation*
23 *under any other provision of this section, the Sec-*
24 *retary shall not provide energy credit support to any*
25 *eligible project in the form of a secured loan or loan*

1 *guarantee under subsection (f), production incentive*
2 *payments under subsection (g), or other credit-based*
3 *financial assistance under subsection (h), the com-*
4 *bined total of which exceeds 25 percent of eligible*
5 *project costs, excluding the value of standby default*
6 *coverage under subsection (d) and standby interest*
7 *coverage under subsection (e), as determined by the*
8 *Secretary.*

9 “(d) *STANDBY DEFAULT COVERAGE.*—

10 “(1) *AGREEMENTS; USE OF PROCEEDS.*—

11 “(A) *AGREEMENTS.*—

12 “(i) *IN GENERAL.*—*Subject to subpara-*
13 *graph (B), the Board, in consultation with*
14 *the Secretary, may enter into agreements to*
15 *provide standby default coverage for ad-*
16 *vanced climate technologies or systems of an*
17 *eligible project.*

18 “(ii) *RECIPIENTS.*—*Coverage under*
19 *clause (i) may be provided to 1 or more ob-*
20 *ligors and debt holders to be triggered at fu-*
21 *ture dates on the occurrence of certain*
22 *events for any eligible project selected under*
23 *subsection (c).*

24 “(B) *USE OF PROCEEDS.*—*The proceeds of*
25 *standby default coverage made available under*

1 *this subsection shall be available to reimburse all*
2 *or part of the debt obligation for an eligible*
3 *project issued by an obligor and funded by a*
4 *lender, plus all or part of obligor equity, in the*
5 *event that, because of a regulatory failure or*
6 *other event specified by the Secretary pursuant*
7 *to this section, an eligible advanced climate tech-*
8 *nology or system for an eligible project fails to*
9 *receive an operating license in a period of time*
10 *specified by the Board in accordance with this*
11 *subsection.*

12 “(2) *TERMS AND LIMITATIONS.*—

13 “(A) *IN GENERAL.*—*Standby default cov-*
14 *erage under this subsection with respect to an el-*
15 *igible project shall be on such terms and condi-*
16 *tions and contain such covenants, representa-*
17 *tions, warranties, and requirements (including*
18 *requirements for audits) as the Board determines*
19 *to be appropriate.*

20 “(B) *MAXIMUM AMOUNTS.*—*The total*
21 *amount of standby default coverage provided for*
22 *an eligible project shall not exceed 25 percent of*
23 *the reasonably anticipated eligible project costs,*
24 *including debt and equity.*

1 “(C) *EXERCISE.*—Any exercise on the
2 standby default coverage shall be made only if a
3 facility involved with the eligible project fails,
4 because of regulatory failure or other specific
5 issues specified by the Secretary, to receive an
6 operating license by such deadline as the Sec-
7 retary shall establish.

8 “(D) *COST OF COVERAGE.*—The cost of
9 standby default coverage shall be assumed by the
10 Secretary subject to the risk assessment calcula-
11 tion required under subsection (c)(4)(E) and the
12 availability of funds for that purpose.

13 “(E) *FEEES.*—In carrying out this section,
14 the Secretary may—

15 “(i) establish fees at a level sufficient
16 to cover all or a portion of the administra-
17 tive costs incurred by the Federal Govern-
18 ment in providing standby default coverage
19 under this subsection; and

20 “(ii) require that the fees be paid upon
21 application for a standby default coverage
22 agreement under this subsection.

23 “(F) *PERIOD OF AVAILABILITY.*—In the
24 event that regulatory approval to operate a facil-
25 ity is suspended as a result of regulatory failure

1 *or other circumstances specified by the Secretary,*
2 *standby default coverage shall be available begin-*
3 *ning on the date of substantial completion and*
4 *ending not later than 5 years after the date on*
5 *which operation of the facility is scheduled to*
6 *commence.*

7 “(G) *RIGHTS OF THIRD-PARTY CREDI-*
8 *TORS.—*

9 “(i) *AGAINST FEDERAL GOVERN-*
10 *MENT.—A third-party creditor of an obligor*
11 *shall not have any right against the Federal*
12 *Government with respect to any amounts*
13 *other than those specified in clause (ii).*

14 “(ii) *ASSIGNMENT.—An obligor may*
15 *assign all or part of the standby default*
16 *coverage for an eligible project to 1 or more*
17 *lenders or to a trustee on behalf of the lend-*
18 *ers.*

19 “(H) *RESULT OF EXERCISE OF STANDBY*
20 *DEFAULT COVERAGE.—If standby default cov-*
21 *erage is exercised by the obligor of an eligible*
22 *project—*

23 “(i) *the Federal Government shall be-*
24 *come the sole owner of the eligible project,*

1 *with all rights and appurtenances to the eli-*
2 *gible project; and*

3 “(ii) *in accordance with applicable*
4 *provisions of law, the Board shall dispose of*
5 *the assets of the eligible project on terms*
6 *that are most favorable to the Federal Gov-*
7 *ernment, which may include continuing to*
8 *licensing and commercial operation or re-*
9 *sale of the eligible project, in whole or in*
10 *part, if that is the best course of action in*
11 *the judgment of the Board.*

12 “(I) *ESTIMATE OF ASSETS AT TIME OF TER-*
13 *MINATION.—If standby default coverage is exer-*
14 *cised and an eligible project is terminated, the*
15 *Board, in making a determination of whether to*
16 *dispose of the assets of the eligible project or con-*
17 *tinue the eligible project to licensing and com-*
18 *mercial operation, shall obtain a fair and im-*
19 *partial estimate of the eligible project assets at*
20 *the time of termination.*

21 “(J) *RELATIONSHIP TO OTHER CREDIT IN-*
22 *STRUMENTS.—An eligible project that receives*
23 *standby default coverage under this subsection*
24 *may receive a secured loan or loan guarantee*
25 *under subsection (f), production incentive pay-*

1 *ments under subsection (g), or assistance through*
2 *a credit-based financial assistance mechanism*
3 *under subsection (h).*

4 “(K) *OTHER CONDITIONS AND REQUIRE-*
5 *MENTS.—The Secretary may impose such other*
6 *conditions and requirements in connection with*
7 *any insurance provided under this subsection*
8 *(including requirements for audits) as the Sec-*
9 *retary determines to be appropriate.*

10 “(e) *STANDBY INTEREST COVERAGE.—*

11 “(1) *IN GENERAL.—*

12 “(A) *AGREEMENTS.—Subject to subpara-*
13 *graph (B), the Board, in consultation with the*
14 *Secretary, may enter into agreements to make*
15 *standby interest coverage available to 1 or more*
16 *obligors in the form of loans for advanced cli-*
17 *mate or energy technologies or systems to be*
18 *made by the Board at future dates on the occur-*
19 *rence of certain events for any eligible project se-*
20 *lected under subsection (c)(4).*

21 “(B) *USE OF PROCEEDS.—Subject to sub-*
22 *section (c)(3), the proceeds of standby interest*
23 *coverage made available under this subsection*
24 *shall be available to pay the debt service on*
25 *project obligations issued to finance eligible*

1 *project costs of an eligible project if a delay in*
2 *commercial operations occurs due to a regulatory*
3 *failure or other condition determined by the Sec-*
4 *retary.*

5 “(2) *TERMS AND LIMITATIONS.—*

6 “(A) *IN GENERAL.—Standby interest cov-*
7 *erage under this subsection with respect to an el-*
8 *igible project shall be made on such terms and*
9 *conditions (including a requirement for an*
10 *audit) as the Secretary determines appropriate.*

11 “(B) *MAXIMUM AMOUNTS.—*

12 “(i) *TOTAL AMOUNT.—The total*
13 *amount of standby interest coverage for an*
14 *eligible project under this subsection shall*
15 *not exceed 25 percent of the reasonably an-*
16 *ticipated eligible project costs of the eligible*
17 *project.*

18 “(ii) *1-YEAR DRAWS.—The amount*
19 *drawn in any 1 year for an eligible project*
20 *under this subsection shall not exceed 25*
21 *percent of the total amount of the standby*
22 *interest coverage for the eligible project.*

23 “(C) *PERIOD OF AVAILABILITY.—The stand-*
24 *by interest coverage for an eligible project shall*
25 *be available during the period—*

1 “(i) beginning on a date following sub-
2 stantial completion of the eligible project
3 that regulatory approval to operate a facil-
4 ity under the eligible project is suspended as
5 a result of regulatory failure or other condi-
6 tion determined by the Secretary; and

7 “(ii) ending on a date that is not later
8 than 5 years after the eligible project is
9 scheduled to commence commercial oper-
10 ations.

11 “(D) COST OF COVERAGE.—Subject to sub-
12 section (c)(4)(E), the cost of standby interest cov-
13 erage for an eligible project under this subsection
14 shall be borne by the Secretary.

15 “(E) DRAWS.—Any draw on the standby
16 interest coverage for an eligible project shall—

17 “(i) represent a loan;

18 “(ii) be made only if there is a delay
19 in commercial operations after the substan-
20 tial completion of the eligible project; and

21 “(iii) be subject to the overall credit
22 support limitations established under sub-
23 section (c)(5).

24 “(F) INTEREST RATE.—

1 “(i) *IN GENERAL.*—*Subject to clause*
2 *(ii), the interest rate on a loan resulting*
3 *from a draw on standby interest coverage*
4 *under this subsection shall be established by*
5 *the Secretary.*

6 “(ii) *MINIMUM RATE.*—*The interest*
7 *rate on a loan resulting from a draw on*
8 *standby interest coverage under this sub-*
9 *section shall not be less than the current av-*
10 *erage market yield on outstanding market-*
11 *able obligations of the United States with a*
12 *maturity of 10 years, as of the date on*
13 *which the standby interest coverage is obli-*
14 *gated.*

15 “(G) *SECURITY.*—*The standby interest cov-*
16 *erage for an eligible project—*

17 “(i) *shall be payable, in whole or in*
18 *part, from dedicated revenue sources gen-*
19 *erated by the eligible project;*

20 “(ii) *shall require security for the*
21 *project obligations; and*

22 “(iii) *may have a lien on revenues de-*
23 *scribed in clause (i), subject to any lien se-*
24 *curing project obligations.*

1 “(H) *RIGHTS OF THIRD-PARTY CREDI-*
2 *TORS.—*

3 “(i) *AGAINST FEDERAL GOVERN-*
4 *MENT.—A third-party creditor of the obligor*
5 *shall not have any right against the Federal*
6 *Government with respect to any draw on*
7 *standby interest coverage under this sub-*
8 *section.*

9 “(ii) *ASSIGNMENT.—An obligor may*
10 *assign the standby interest coverage to 1 or*
11 *more lenders or to a trustee on behalf of the*
12 *lenders.*

13 “(I) *SUBORDINATION.—A secured loan for*
14 *an eligible project made under this subsection*
15 *shall be subordinate to senior private debt issued*
16 *by a lender for the eligible project.*

17 “(J) *NONRECOURSE STATUS.—A secured*
18 *loan for an eligible project under this subsection*
19 *shall be nonrecourse to the obligor in the event*
20 *of bankruptcy, insolvency, or liquidation of the*
21 *eligible project.*

22 “(K) *FEEES.—The Board may impose fees at*
23 *a level sufficient to cover all or part of the costs*
24 *to the Federal Government of providing standby*

1 *interest coverage for an eligible project under*
2 *this subsection.*

3 “(3) *REPAYMENT.*—

4 “(A) *TERMS AND CONDITIONS.*—*The Sec-*
5 *retary shall establish a repayment schedule and*
6 *terms and conditions for each loan for an eligible*
7 *project under this subsection based on the pro-*
8 *jected cash flow from revenues for the eligible*
9 *project.*

10 “(B) *REPAYMENT SCHEDULE.*—*Scheduled*
11 *repayments of principal or interest on a loan*
12 *under this subsection shall—*

13 “(i) *commence not later than 5 years*
14 *after the end of the period of availability*
15 *specified in paragraph (2)(C); and*

16 “(ii) *be completed, with interest, not*
17 *later than 10 years after the end of the pe-*
18 *riod of availability.*

19 “(C) *SOURCES OF REPAYMENT FUNDS.*—
20 *The sources of funds for scheduled loan repay-*
21 *ments under this subsection shall include—*

22 “(i) *the sale of electricity or generating*
23 *capacity;*

24 “(ii) *the sale or transmission of energy;*

1 “(iii) revenues associated with energy
2 efficiency gains; or

3 “(iv) other dedicated revenue sources,
4 such as carbon use.

5 “(D) PREPAYMENT.—

6 “(i) USE OF EXCESS REVENUES.—At
7 the discretion of the obligor, any excess reve-
8 nues that remain after satisfying scheduled
9 debt service requirements on the project obli-
10 gations and secured loan, and all deposit
11 requirements under the terms of any trust
12 agreement, bond resolution, or similar
13 agreement securing project obligations, may
14 be applied annually to prepay the secured
15 loan without penalty.

16 “(ii) USE OF PROCEEDS OF REFI-
17 NANCING.—The secured loan may be pre-
18 paid at any time without penalty from the
19 proceeds of refinancing from non-Federal
20 funding sources.

21 “(f) SECURED LOANS AND LOAN GUARANTEES.—

22 “(1) IN GENERAL.—

23 “(A) AGREEMENTS.—Subject to subpara-
24 graph (B), the Board, in consultation with the
25 Secretary, may enter into agreements with 1 or

1 *more obligors to make secured loans for eligible*
2 *projects involving advanced climate technologies*
3 *or systems.*

4 “(B) *USE OF PROCEEDS.*—Subject to para-
5 *graph (2), the proceeds of a secured loan for an*
6 *eligible project made available under this sub-*
7 *section shall be available, in conjunction with*
8 *the equity of the obligor and senior debt financ-*
9 *ing for the eligible project, to pay for eligible*
10 *project costs.*

11 “(2) *TERMS AND LIMITATIONS.*—

12 “(A) *IN GENERAL.*—A secured loan under
13 *this subsection with respect to an eligible project*
14 *shall be made on such terms and conditions (in-*
15 *cluding requirements for an audit) as the Board,*
16 *in consultation with the Secretary, determines*
17 *appropriate.*

18 “(B) *MAXIMUM AMOUNT.*—Subject to sub-
19 *section (c)(5), the total amount of the secured*
20 *loan for an eligible project under this subsection*
21 *shall not exceed 25 percent of the reasonably an-*
22 *ticipated eligible project costs of the eligible*
23 *project.*

24 “(C) *PERIOD OF AVAILABILITY.*—The Board
25 *may enter into a contract with the owner or op-*

1 erator of an eligible project to provide a secured
2 loan during the period—

3 “(i) beginning on the date that the fi-
4 nancial structure of the eligible project is es-
5 tablished; and

6 “(ii) ending on the date of the start of
7 construction of the eligible project.

8 “(D) *COST OF COVERAGE.*—Subject to sub-
9 section (c)(4)(E), the cost of a secured loan for
10 an eligible project under this subsection shall be
11 borne by the Secretary.

12 “(E) *INTEREST RATE.*—

13 “(i) *IN GENERAL.*—Subject to clause
14 (ii), the interest rate on a secured loan
15 under this subsection shall be established by
16 the Secretary.

17 “(ii) *MINIMUM RATE.*—The interest
18 rate on a loan resulting from a secured loan
19 under this subsection shall not be less than
20 the current average market yield on out-
21 standing marketable obligations of the
22 United States of comparable maturity, as of
23 the date of the execution of the loan agree-
24 ment.

25 “(F) *SECURITY.*—The secured loan—

1 “(i) shall be payable, in whole or in
2 part, from dedicated revenue sources gen-
3 erated by the eligible project;

4 “(ii) shall include a rate covenant, cov-
5 erage requirement, or similar security fea-
6 ture supporting the project obligations; and

7 “(iii) may have a lien on revenues de-
8 scribed in clause (i), subject to any lien se-
9 curing project obligations.

10 “(G) *RIGHTS OF THIRD-PARTY CREDI-*
11 *TORS.—*

12 “(i) *AGAINST FEDERAL GOVERN-*
13 *MENT.—A third-party creditor of the obligor*
14 *shall not have any right against the Federal*
15 *Government with respect to any payments*
16 *due to the Federal Government under this*
17 *subsection.*

18 “(ii) *ASSIGNMENT.—An obligor may*
19 *assign the secured loan to 1 or more lenders*
20 *or to a trustee on behalf of the lenders.*

21 “(H) *SUBORDINATION.—A secured loan for*
22 *an eligible project made under this subsection*
23 *shall be subordinate to senior private debt issued*
24 *by a lender for the eligible project.*

1 “(I) *NONRECOURSE STATUS.*—A secured
2 loan for an eligible project under this subsection
3 shall be non-recourse to the obligor in the event
4 of bankruptcy, insolvency, or liquidation of the
5 eligible project.

6 “(J) *FEEES.*—The Board may establish fees
7 at a level sufficient to cover all or a portion of
8 the costs to the Federal Government of making
9 secured loans for an eligible project under this
10 subsection.

11 “(3) *REPAYMENT.*—

12 “(A) *SCHEDULE AND TERMS.*—The Board
13 shall establish a repayment schedule and terms
14 and conditions for each secured loan for an eligi-
15 ble project under this subsection based on the
16 projected cash flow from revenues for the eligible
17 project.

18 “(B) *REPAYMENT SCHEDULE.*—Scheduled
19 repayments on a secured loan for an eligible
20 project under this subsection shall—

21 “(i) commence not later than 5 years
22 after the scheduled start of commercial oper-
23 ations of the eligible project; and

24 “(ii) be completed, with interest, not
25 later than 35 years after the scheduled date

1 *of the start of commercial operations of the*
2 *eligible project.*

3 “(C) *SOURCES OF REPAYMENT FUNDS.—*

4 *The sources of funds for scheduled loan repay-*
5 *ments under this subsection shall include—*

6 “(i) *the sale of carbon or carbon com-*
7 *pounds;*

8 “(ii) *the sale of electricity or gener-*
9 *ating capacity;*

10 “(iii) *the sale of sequestration services;*

11 “(iv) *the sale or transmission of en-*
12 *ergy;*

13 “(v) *revenues associated with energy ef-*
14 *iciency gains; or*

15 “(vi) *other dedicated revenue sources.*

16 “(D) *DEFERRED PAYMENTS.—*

17 “(i) *AUTHORIZATION.—If, at any time*
18 *during the 10-year period beginning on the*
19 *date of the scheduled start of commercial*
20 *operation of an eligible project, the eligible*
21 *project is unable to generate sufficient reve-*
22 *nues to pay the scheduled loan repayments*
23 *of principal or interest on the secured loan,*
24 *the Secretary may, subject to clause (iii),*
25 *allow the obligor to add unpaid principal*

1 or interest to the outstanding balance of the
2 secured loan.

3 “(ii) *INTEREST.*—Any payment de-
4 ferred under clause (i) shall—

5 “(I) continue to accrue interest in
6 accordance with paragraph (2)(E)
7 until fully repaid; and

8 “(II) be scheduled to be amortized
9 over the number of years remaining in
10 the term of the loan in accordance with
11 subparagraph (B).

12 “(iii) *CRITERIA.*—

13 “(I) *IN GENERAL.*—Any payment
14 deferral under clause (i) shall be con-
15 tingent on the eligible project meeting
16 criteria established by the Secretary.

17 “(II) *REPAYMENT STANDARDS.*—
18 The criteria established under sub-
19 clause (I) shall include standards for
20 reasonable assurance of repayment.

21 “(E) *PREPAYMENT.*—

22 “(i) *USE OF EXCESS REVENUES.*—At
23 the discretion of the obligor, any excess reve-
24 nues that remain after satisfying scheduled
25 debt service requirements on the project obli-

1 gations and secured loan, and all deposit
2 requirements under the terms of any trust
3 agreement, bond resolution, or similar
4 agreement securing project obligations, may
5 be applied annually to prepay the secured
6 loan without penalty.

7 “(ii) *USE OF PROCEEDS OF REFI-*
8 *NANCING.*—The secured loan may be pre-
9 paid at any time without penalty from the
10 proceeds of refinancing from non-Federal
11 funding sources.

12 “(4) *SALE OF SECURED LOANS.*—

13 “(A) *IN GENERAL.*—Subject to subpara-
14 graph (B), as soon as practicable after substan-
15 tial completion of an eligible project and after
16 notifying the obligor, the Board may sell to an-
17 other entity or reoffer into the capital markets a
18 secured loan for the eligible project if the Board
19 determines that the sale or reoffering can be
20 made on favorable terms.

21 “(B) *CONSENT OF OBLIGOR.*—In making a
22 sale or reoffering under subparagraph (A), the
23 Board may not change the original terms and
24 conditions of the secured loan without the writ-
25 ten consent of the obligor.

1 “(5) *LOAN GUARANTEES.*—

2 “(A) *IN GENERAL.*—*The Board may pro-*
3 *vide a loan guarantee to a lender, in lieu of*
4 *making a secured loan, under this subsection if*
5 *the Board determines that the budgetary cost of*
6 *the loan guarantee is substantially the same as*
7 *that of a secured loan.*

8 “(B) *TERMS.*—

9 “(i) *IN GENERAL.*—*Except as provided*
10 *in clause (ii), the terms of a guaranteed*
11 *loan shall be consistent with the terms for*
12 *a secured loan under this subsection.*

13 “(ii) *INTEREST RATE; PREPAYMENT.*—
14 *The interest rate on the guaranteed loan*
15 *and any prepayment features shall be estab-*
16 *lished by negotiations between the obligor*
17 *and the lender, with the consent of the*
18 *Board.*

19 “(g) *PRODUCTION INCENTIVE PAYMENTS.*—

20 “(1) *SECURED LOAN.*—

21 “(A) *IN GENERAL.*—*The Secretary may*
22 *enter into an agreement with 1 or more obligors*
23 *to make a secured loan for an eligible project se-*
24 *lected under subsection (c)(4) that employs 1 or*
25 *more advanced climate technologies or systems.*

1 “(B) *PRODUCTION INCENTIVE PAYMENTS.*—

2 “(i) *IN GENERAL.*—*Amounts loaned to*
3 *an obligor under subparagraph (A) shall be*
4 *made available in the form of a series of*
5 *production incentive payments provided by*
6 *the Board to the obligor during a period of*
7 *not more than 10 years, as determined by*
8 *the Board, beginning after the date on*
9 *which commercial project operations start*
10 *at the eligible project.*

11 “(ii) *AMOUNT.*—*Production incentive*
12 *payments under clause (i) shall be for an*
13 *amount equal to 25 percent of the value*
14 *of—*

15 “(I) *the energy produced or trans-*
16 *mitted by the eligible project during*
17 *the applicable year; or*

18 “(II) *any gains in energy effi-*
19 *ciency achieved by the eligible project*
20 *during the applicable year.*

21 “(2) *TERMS AND LIMITATIONS.*—

22 “(A) *IN GENERAL.*—*A secured loan under*
23 *this subsection shall be subject to such terms and*
24 *conditions, including any covenant, representa-*
25 *tion, warranty, and requirement (including a re-*

1 *quirement for an audit) that the Secretary deter-*
2 *mines to be appropriate.*

3 “(B) *AGREEMENT COSTS.*—*Subject to sub-*
4 *section (c)(4), the cost of carrying out an agree-*
5 *ment entered into under paragraph (1)(A) shall*
6 *be paid by the Secretary.*

7 “(C) *INTEREST RATE.*—

8 “(i) *IN GENERAL.*—*Subject to clause*
9 *(ii), the interest rate on a secured loan*
10 *under this subsection shall be established by*
11 *the Secretary.*

12 “(ii) *MINIMUM RATE.*—*The interest*
13 *rate on a secured loan under this subsection*
14 *shall not be less than the current average*
15 *market yield on outstanding marketable ob-*
16 *ligations of the United States of comparable*
17 *maturity, as of the date on which the agree-*
18 *ment under paragraph (1)(A) is executed.*

19 “(D) *SECURITY.*—*The secured loan—*

20 “(i) *shall be payable, in whole or in*
21 *part, from dedicated revenue sources gen-*
22 *erated by the eligible project;*

23 “(ii) *shall include a rate covenant, cov-*
24 *erage requirement, or similar security fea-*

1 *ture supporting the eligible project obliga-*
2 *tions; and*

3 “(iii) *may have a lien on revenues de-*
4 *scribed in clause (i), subject to any lien se-*
5 *curing eligible project obligations.*

6 “(E) *RIGHTS OF THIRD-PARTY CREDI-*
7 *TORS.—*

8 “(i) *AGAINST FEDERAL GOVERN-*
9 *MENT.—A third-party creditor of the obligor*
10 *shall not have any right against the Federal*
11 *Government with respect to any payments*
12 *due to the Federal Government under the*
13 *agreement entered into under paragraph*
14 *(1)(A).*

15 “(ii) *ASSIGNMENT.—An obligor may*
16 *assign production incentive payments to 1*
17 *or more lenders or to a trustee on behalf of*
18 *the lenders.*

19 “(F) *SUBORDINATION.—A secured loan*
20 *under this subsection shall be subordinate to sen-*
21 *ior private debt issued by a lender for the eligible*
22 *project.*

23 “(G) *NONRECOURSE STATUS.—A secured*
24 *loan under this subsection shall be nonrecourse to*

1 *the obligor in the event of bankruptcy, insol-*
2 *veny, or liquidation of the eligible project.*

3 “(H) *FEES.*—*The Secretary may impose*
4 *fees at a level sufficient to cover all or part of*
5 *the costs to the Federal Government of providing*
6 *production incentive payments under this sub-*
7 *section.*

8 “(3) *REPAYMENT.*—

9 “(A) *SCHEDULE, TERMS, AND CONDI-*
10 *TIONS.*—*The Secretary shall establish a repay-*
11 *ment schedule and terms and conditions for each*
12 *secured loan under this subsection based on the*
13 *projected cash flow from revenues of the eligible*
14 *project.*

15 “(B) *REPAYMENT SCHEDULE.*—*Scheduled*
16 *repayments of principal or interest on a secured*
17 *loan under this subsection shall—*

18 “(i) *commence not later than 5 years*
19 *after the date on which the last production*
20 *incentive payment is made by the Board*
21 *under paragraph (1)(B); and*

22 “(ii) *be completed, with interest, not*
23 *later than 10 years after the date on which*
24 *the last production incentive payment is*
25 *made.*

1 “(C) *SOURCES OF REPAYMENT FUNDS.*—

2 *The sources of funds for scheduled loan repay-*
3 *ments under this subsection include—*

4 “(i) *the sale of electricity or generating*
5 *capacity,*

6 “(ii) *the sale or transmission of energy;*

7 “(iii) *revenues associated with energy*
8 *efficiency gains; or*

9 “(iv) *other dedicated revenue sources.*

10 “(D) *DEFERRED PAYMENTS.*—

11 “(i) *AUTHORIZATION.*—*If, at any time*
12 *during the 10-year period beginning on the*
13 *date on which commercial operations of the*
14 *eligible project start, the eligible project is*
15 *unable to generate sufficient revenues to pay*
16 *the scheduled loan repayments of principal*
17 *or interest on a secured loan under this sub-*
18 *section, the Secretary may, subject to cri-*
19 *teria established by the Secretary (including*
20 *standards for reasonable assurances of re-*
21 *payment), allow the obligor to add unpaid*
22 *principal and interest to the outstanding*
23 *balance of the secured loan.*

24 “(ii) *INTEREST.*—*Any payment de-*
25 *ferred under clause (i) shall—*

1 “(I) continue to accrue interest in
2 accordance with paragraph (2)(C)
3 until fully repaid; and

4 “(II) be scheduled to be amortized
5 over the number of years remaining in
6 the term of the loan in accordance with
7 subparagraph (B).

8 “(E) PREPAYMENT.—

9 “(i) USE OF EXCESS REVENUES.—At
10 the discretion of the obligor, any excess reve-
11 nues that remain after satisfying scheduled
12 debt service requirements on the eligible
13 project obligations and the secured loan,
14 and all deposit requirements under the
15 terms of any trust agreement, bond resolu-
16 tion, or similar agreement securing eligible
17 project obligations, may be applied annu-
18 ally to prepay loans pursuant to an agree-
19 ment entered into under paragraph (1)(A)
20 without penalty.

21 “(ii) USE OF PROCEEDS OF REFI-
22 NANCING.—The secured loan may be pre-
23 paid at any time without penalty from the
24 proceeds of refinancing from non-Federal
25 funding sources.

1 “(4) *SALE OF SECURED LOANS.*—

2 “(A) *IN GENERAL.*—*Subject to subpara-*
3 *graph (B), as soon as practicable after the date*
4 *on which the last production incentive payment*
5 *is made to the obligor under paragraph (1)(B)*
6 *and after notifying the obligor, the Secretary*
7 *may sell to another entity or reoffer into the cap-*
8 *ital markets a secured loan for the eligible*
9 *project if the Secretary determines that the sale*
10 *or reoffering can be made on favorable terms.*

11 “(B) *CONSENT REQUIRED.*—*In making a*
12 *sale or reoffering under subparagraph (A), the*
13 *Board may not change the original terms and*
14 *conditions of the secured loan without the writ-*
15 *ten consent of the obligor.*

16 “(h) *OTHER CREDIT-BASED FINANCIAL ASSISTANCE*
17 *MECHANISMS FOR ELIGIBLE PROJECTS.*—

18 “(1) *IN GENERAL.*—

19 “(A) *AGREEMENTS.*—*The Board may enter*
20 *into an agreement with 1 or more obligors to*
21 *make a secured loan to the obligors for eligible*
22 *projects selected under subsection (c) that employ*
23 *advanced technologies or systems, the proceeds of*
24 *which shall be used to—*

25 “(i) *finance eligible project costs; or*

1 “(ii) enhance eligible project revenues.

2 “(B) CREDIT-BASED FINANCIAL ASSIST-
3 ANCE.—Amounts made available as a secured
4 loan under subparagraph (A) shall be provided
5 by the Board to the obligor in the form of credit-
6 based financial assistance mechanisms that are
7 not otherwise specifically provided for in sub-
8 sections (d) through (g), as determined to be ap-
9 propriate by the Secretary.

10 “(2) TERMS AND LIMITATIONS.—

11 “(A) IN GENERAL.—A secured loan under
12 this subsection shall be subject to such terms and
13 conditions (including any covenants, representa-
14 tions, warranties, and requirements (including a
15 requirement for an audit)) as the Secretary de-
16 termines to be appropriate.

17 “(B) MAXIMUM AMOUNT.—Subject to sub-
18 section (c)(5), the total amount of the secured
19 loan under this subsection shall not exceed 50
20 percent of the reasonably anticipated eligible
21 project costs.

22 “(C) PERIOD OF AVAILABILITY.—The Board
23 may enter into a contract with the obligor to
24 provide credit-based financial assistance to an
25 eligible project during the period—

1 “(i) beginning on the date that the fi-
2 nancial structure of the eligible project is es-
3 tablished; and

4 “(ii) ending on the date of the start of
5 construction of the eligible project.

6 “(D) AGREEMENT COSTS.—Subject to sub-
7 section (c)(4)(E), the cost of carrying out an
8 agreement entered into under paragraph (1)(A)
9 shall be paid by the Board.

10 “(E) INTEREST RATE.—

11 “(i) IN GENERAL.—Subject to clause
12 (ii), the interest rate on a secured loan
13 under this subsection shall be established by
14 the Board.

15 “(ii) MINIMUM RATE.—The interest
16 rate on a secured loan under this subsection
17 shall not be less than the current average
18 market yield on outstanding marketable ob-
19 ligations of the United States of comparable
20 maturity, as of the date of the execution of
21 the secured loan agreement.

22 “(F) SECURITY.—The secured loan—

23 “(i) shall be payable, in whole or in
24 part, from dedicated revenue sources gen-
25 erated by the eligible project;

1 “(ii) shall include a rate covenant, cov-
2 erage requirement, or similar security fea-
3 ture supporting the eligible project obliga-
4 tions; and

5 “(iii) may have a lien on revenues de-
6 scribed in clause (i), subject to any lien se-
7 curing eligible project obligations.

8 “(G) *RIGHTS OF THIRD-PARTY CREDI-*
9 *TORS.—*

10 “(i) *AGAINST FEDERAL GOVERN-*
11 *MENT.—A third-party creditor of the obligor*
12 *shall not have any right against the Federal*
13 *Government with respect to any payments*
14 *due to the Federal Government under this*
15 *subsection.*

16 “(ii) *ASSIGNMENT.—An obligor may*
17 *assign payments made pursuant to an*
18 *agreement to provide credit-based financial*
19 *assistance under this subsection to 1 or*
20 *more lenders or to a trustee on behalf of the*
21 *lenders.*

22 “(H) *SUBORDINATION.—A secured loan*
23 *under this subsection shall be subordinate to sen-*
24 *ior private debt issued by a lender for the eligible*
25 *project.*

1 “(I) *NONRECOURSE STATUS.*—A secured
2 loan under this subsection shall be nonrecourse to
3 the obligor in the event of bankruptcy, insol-
4 vency, or liquidation of the eligible project.

5 “(J) *FEEES.*—The Board may establish fees
6 at a level sufficient to cover all or part of the
7 costs to the Federal Government of providing
8 credit-based financial assistance under this sub-
9 section.

10 “(3) *REPAYMENT.*—

11 “(A) *SCHEDULE AND TERMS AND CONDI-*
12 *TIONS.*—The Board shall establish a repayment
13 schedule and terms and conditions for each se-
14 cured loan under this subsection based on the
15 projected cash flow from eligible project revenues.

16 “(B) *REPAYMENT SCHEDULE.*—Scheduled
17 loan repayments of principal or interest on a se-
18 cured loan under this subsection shall—

19 “(i) commence not later than 5 years
20 after the date of substantial completion of
21 the eligible project; and

22 “(ii) be completed, with interest, not
23 later than 35 years after the date of sub-
24 stantial completion of the eligible project.

1 “(C) *SOURCES OF REPAYMENT FUNDS.*—

2 *The sources of funds for scheduled loan repay-*
3 *ments under this subsection shall include—*

4 “(i) *the sale of electricity or generating*
5 *capacity;*

6 “(ii) *the sale or transmission of energy;*

7 “(iii) *revenues associated with energy*
8 *efficiency gains; or*

9 “(iv) *other dedicated revenue sources,*
10 *such as carbon sequestration.*

11 “(D) *DEFERRED PAYMENTS.*—

12 “(i) *AUTHORIZATION.*—*If, at any time*
13 *during the 10-year period beginning on the*
14 *date of the start of commercial operations of*
15 *the eligible project, the eligible project is un-*
16 *able to generate sufficient revenues to pay*
17 *the scheduled loan repayments of principal*
18 *or interest on a secured loan under this sub-*
19 *section, the Secretary may, subject to cri-*
20 *teria established by the Secretary (including*
21 *standards for reasonable assurances of re-*
22 *payment), allow the obligor to add unpaid*
23 *principal and interest to the outstanding*
24 *balance of the secured loan.*

1 “(i) *INTEREST.*—Any payment de-
2 ferred under clause (i) shall—

3 “(I) continue to accrue interest in
4 accordance with paragraph (2)(E)
5 until fully repaid; and

6 “(II) be scheduled to be amortized
7 over the number of years remaining in
8 the term of the loan in accordance with
9 subparagraph (B).

10 “(E) *PREPAYMENT.*—

11 “(i) *USE OF EXCESS REVENUES.*—At
12 the discretion of the obligor, any excess reve-
13 nues that remain after satisfying scheduled
14 debt service requirements on the eligible
15 project obligations and secured loan, and all
16 deposit requirements under the terms of any
17 trust agreement, bond resolution, or similar
18 agreement securing eligible project obliga-
19 tions, may be applied annually to prepay a
20 secured loan under this subsection without
21 penalty.

22 “(ii) *USE OF PROCEEDS OF REFI-*
23 *NANCING.*—A secured loan under this sub-
24 section may be prepaid at any time without

1 *penalty from the proceeds of refinancing*
2 *from non-Federal funding sources.*

3 “(4) *SALE OF SECURED LOANS.—*

4 “(A) *IN GENERAL.—Subject to subpara-*
5 *graph (B), as soon as practicable after the start*
6 *of commercial operations of an eligible project*
7 *and after notifying the obligor, the Board may*
8 *sell to another entity or reoffer into the capital*
9 *markets a secured loan for the eligible project*
10 *under this subsection if the Secretary determines*
11 *that the sale or reoffering can be made on favor-*
12 *able terms.*

13 “(B) *CONSENT OF OBLIGOR.—In making a*
14 *sale or reoffering under subparagraph (A), the*
15 *Board may not change the original terms and*
16 *conditions of the secured loan without the writ-*
17 *ten consent of the obligor.*

18 “(i) *FEDERAL, STATE, AND LOCAL REGULATORY RE-*
19 *QUIREMENTS.—The provision of Federal financial assist-*
20 *ance to an eligible project under this section shall not—*

21 “(1) *relieve any recipient of the assistance of any*
22 *obligation to obtain any required Federal, State, or*
23 *local regulatory requirement, permit, or approval*
24 *with respect to the eligible project;*

1 “(2) *limit the right of any unit of Federal, State,*
 2 *or local government to approve or regulate any rate*
 3 *of return on private equity invested in the eligible*
 4 *project; or*

5 “(3) *otherwise supersede any Federal, State, or*
 6 *local law (including any regulation) applicable to the*
 7 *construction or operation of the eligible project.*

8 “(j) *AUTHORIZATION OF APPROPRIATIONS.—There are*
 9 *authorized to be appropriated such sums as are necessary*
 10 *to carry out this section for each of fiscal years 2006*
 11 *through 2010, to remain available until expended.”.*

12 ***Subtitle B—Climate Change Tech-***
 13 ***nology Deployment in Devel-***
 14 ***oping Countries***

15 ***SEC. 1611. CLIMATE CHANGE TECHNOLOGY DEPLOYMENT***
 16 ***IN DEVELOPING COUNTRIES.***

17 *The Global Environmental Protection Assistance Act*
 18 *of 1989 (Public Law 101–240; 103 Stat. 2521) is amending*
 19 *by adding at the end the following:*

20 ***“PART C—TECHNOLOGY DEPLOYMENT IN***
 21 ***DEVELOPING COUNTRIES***

22 ***“SEC. 731. DEFINITIONS.***

23 *“In this part:*

24 “(1) *CARBON SEQUESTRATION.—The term ‘car-*
 25 *bon sequestration’ means the capture of carbon diox-*

1 *ide through terrestrial, geological, biological, or other*
2 *means, which prevents the release of carbon dioxide*
3 *into the atmosphere.*

4 “(2) *GREENHOUSE GAS.*—*The term ‘greenhouse*
5 *gas’ means carbon dioxide, methane, nitrous oxide,*
6 *hydrofluorocarbons, perfluorocarbons, and sulfur*
7 *hexafluoride.*

8 “(3) *GREENHOUSE GAS INTENSITY.*—*The term*
9 *‘greenhouse gas intensity’ means the ratio of green-*
10 *house gas emissions to economic output.*

11 **“SEC. 732. REDUCTION OF GREENHOUSE GAS INTENSITY.**

12 “(a) *LEAD AGENCY.*—

13 “(1) *IN GENERAL.*—*The Department of State*
14 *shall act as the lead agency for integrating into*
15 *United States foreign policy the goal of reducing*
16 *greenhouse gas intensity in developing countries.*

17 “(2) *REPORTS.*—

18 “(A) *INITIAL REPORT.*—*Not later than 180*
19 *days after the date of enactment of this part, the*
20 *Secretary of State shall submit to the appro-*
21 *priate authorizing and appropriating commit-*
22 *tees of Congress an initial report, based on the*
23 *most recent information available to the Sec-*
24 *retary from reliable public sources, that identi-*
25 *fies the 25 developing countries that are the*

1 *greenhouse gas emitters, including for each*
2 *country—*

3 “(i) *an estimate of the quantity and*
4 *types of energy used;*

5 “(ii) *an estimate of the greenhouse gas*
6 *intensity of the energy, manufacturing, ag-*
7 *ricultural, and transportation sectors;*

8 “(iii) *a description the progress of any*
9 *significant projects undertaken to reduce*
10 *greenhouse gas intensity;*

11 “(iv) *a description of the potential for*
12 *undertaking projects to reduce greenhouse*
13 *gas intensity;*

14 “(v) *a description of any obstacles to*
15 *the reduction of greenhouse gas intensity;*
16 *and*

17 “(vi) *a description of the best practices*
18 *learned by the Agency for International De-*
19 *velopment from conducting previous pilot*
20 *and demonstration projects to reduce green-*
21 *house gas intensity.*

22 “(B) *UPDATE.—Not later than 18 months*
23 *after the date on which the initial report is sub-*
24 *mitted under subparagraph (A), the Secretary*
25 *shall submit to the appropriate authorizing and*

1 *appropriating committees of Congress, based on*
2 *the best information available to the Secretary,*
3 *an update of the information provided in the*
4 *initial report.*

5 “(C) *USE.—*

6 “(i) *INITIAL REPORT.—The Secretary*
7 *of State shall use the initial report sub-*
8 *mitted under subparagraph (A) to establish*
9 *baselines for the developing countries identi-*
10 *fied in the report with respect to the infor-*
11 *mation provided under clauses (i) and (ii)*
12 *of that subparagraph.*

13 “(ii) *ANNUAL REPORTS.—The Sec-*
14 *retary of State shall use the annual reports*
15 *prepared under subparagraph (B) and any*
16 *other information available to the Secretary*
17 *to track the progress of the developing coun-*
18 *tries with respect to reducing greenhouse gas*
19 *intensity.*

20 “(b) *PROJECTS.—The Secretary of State, in coordina-*
21 *tion with Administrator of the United States Agency for*
22 *International Development, shall (directly or through agree-*
23 *ments with the World Bank, the International Monetary*
24 *Fund, the Overseas Private Investment Corporation, and*
25 *other development institutions) provide assistance to devel-*

1 *oping countries specifically for projects to reduce greenhouse*
2 *gas intensity, including projects to—*

3 “(1) *leverage, through bilateral agreements, funds*
4 *for reduction of greenhouse gas intensity;*

5 “(2) *increase private investment in projects and*
6 *activities to reduce greenhouse gas intensity; and*

7 “(3) *expedite the deployment of technology to re-*
8 *duce greenhouse gas intensity.*

9 “(c) *FOCUS.—In providing assistance under sub-*
10 *section (b), the Secretary of State shall focus on—*

11 “(1) *promoting the rule of law, property rights,*
12 *contract protection, and economic freedom; and*

13 “(2) *increasing capacity, infrastructure, and*
14 *training.*

15 “(d) *PRIORITY.—In providing assistance under sub-*
16 *section (b), the Secretary of State shall give priority to*
17 *projects in the 25 developing countries identified in the re-*
18 *port submitted under subsection (a)(2)(A).*

19 **“SEC. 733. TECHNOLOGY INVENTORY FOR DEVELOPING**
20 **COUNTRIES.**

21 “(a) *IN GENERAL.—The Secretary of State, in coordi-*
22 *nation with the Secretary of Energy and the Secretary of*
23 *Commerce, shall conduct an inventory of greenhouse gas in-*
24 *tensity reducing technologies that are developed, or under*
25 *development in the United States, to identify technologies*

1 *that are suitable for transfer to, deployment in, and com-*
2 *mercialization in the developing countries identified in the*
3 *report submitted under section 732(a)(2)(A).*

4 “(b) *REPORT.*—*Not later than 180 days after the com-*
5 *pletion of the inventory under subsection (a), the Secretary*
6 *of State and the Secretary of Energy shall jointly submit*
7 *to Congress a report that—*

8 “(1) *includes the results of the completed inven-*
9 *tory;*

10 “(2) *identifies obstacles to the transfer, deploy-*
11 *ment, and commercialization of the inventoried tech-*
12 *nologies;*

13 “(3) *includes results from previous Federal re-*
14 *ports related to the inventoried technologies; and*

15 “(4) *includes an analysis of market forces related*
16 *to the inventoried technologies.*

17 **“SEC. 734. TRADE-RELATED BARRIERS TO EXPORT OF**
18 **GREENHOUSE GAS INTENSITY REDUCING**
19 **TECHNOLOGIES.**

20 “(a) *IN GENERAL.*—*Not later than 1 year after the*
21 *date of enactment of this part, the United States Trade Rep-*
22 *resentative shall (as appropriate and consistent with appli-*
23 *cable bilateral, regional, and mutual trade agreements)—*

24 “(1) *identify trade-relations barriers maintained*
25 *by foreign countries to the export of greenhouse gas*

1 *intensity reducing technologies and practices from the*
2 *United States to the developing countries identified in*
3 *the report submitted under section 732(a)(2)(A); and*

4 *“(2) negotiate with foreign countries for the re-*
5 *moval of those barriers.*

6 *“(b) ANNUAL REPORT.—Not later than 1 year after*
7 *the date on which a report is submitted under subsection*
8 *(a)(1) and annually thereafter, the United States Trade*
9 *Representative shall submit to Congress a report that de-*
10 *scribes any progress made with respect to removing the bar-*
11 *riers identified by the United States Trade Representative*
12 *under subsection (a)(1).*

13 **“SEC. 735. GREENHOUSE GAS INTENSITY REDUCING TECH-**
14 **NOLOGY EXPORT INITIATIVE.**

15 *“(a) IN GENERAL.—There is established an inter-*
16 *agency working group to carry out a Greenhouse Gas Inten-*
17 *sity Reducing Technology Export Initiative to—*

18 *“(1) promote the export of greenhouse gas inten-*
19 *sity reducing technologies and practices from the*
20 *United States;*

21 *“(2) identify developing countries that should be*
22 *designated as priority countries for the purpose of ex-*
23 *porting greenhouse gas intensity reducing technologies*
24 *and practices, based on the report submitted under*
25 *section 732(a)(2)(A);*

1 “(3) identify potential barriers to adoption of ex-
2 ported greenhouse gas intensity reducing technologies
3 and practices based on the reports submitted under
4 section 734; and

5 “(4) identify previous efforts to export energy
6 technologies to learn best practices.

7 “(b) COMPOSITION.—The working group shall be com-
8 posed of—

9 “(1) the Secretary of State, who shall act as the
10 head of the working group;

11 “(2) the Administrator of the United States
12 Agency for International Development;

13 “(3) the United States Trade Representative;

14 “(4) a designee of the Secretary of Energy; and

15 “(5) a designee of the Secretary of Commerce.

16 “(c) PERFORMANCE REVIEWS AND REPORTS.—Not
17 later than 180 days after the date of enactment of this part
18 and each year thereafter, the interagency working group
19 shall—

20 “(1) conduct a performance review of actions
21 taken and results achieved by the Federal Government
22 (including each of the agencies represented on the
23 interagency working group) to promote the export of
24 greenhouse gas intensity reducing technologies and
25 practices from the United States; and

1 “(2) submit to the appropriate authorizing and
2 appropriating committees of Congress a report that
3 describes the results of the performance reviews and
4 evaluates progress in promoting the export of green-
5 house gas intensity reducing technologies and prac-
6 tices from the United States, including any rec-
7 ommendations for increasing the export of the tech-
8 nologies and practices.

9 **“SEC. 736. TECHNOLOGY DEMONSTRATION PROJECTS.**

10 “(a) *IN GENERAL.*—The Secretary of State, in coordi-
11 nation with the Secretary of Energy and the Administrator
12 of the United States Agency for International Development,
13 shall promote the adoption of technologies and practices
14 that reduce greenhouse gas intensity in developing countries
15 in accordance with this section.

16 “(b) *DEMONSTRATION PROJECTS.*—

17 “(1) *IN GENERAL.*—The Secretaries and the Ad-
18 ministrator shall plan, coordinate, and carry out, or
19 provide assistance for the planning, coordination, or
20 carrying out of, demonstration projects under this sec-
21 tion in at least 10 eligible countries, as determined by
22 the Secretaries and the Administrator.

23 “(2) *ELIGIBILITY.*—A country shall be eligible
24 for assistance under this subsection if the Secretaries

1 *and the Administrator determine that the country has*
2 *demonstrated a commitment to—*

3 *“(A) just governance, including—*

4 *“(i) promoting the rule of law;*

5 *“(ii) respecting human and civil*
6 *rights;*

7 *“(iii) protecting private property*
8 *rights; and*

9 *“(iv) combating corruption; and*

10 *“(B) economic freedom, including economic*
11 *policies that—*

12 *“(i) encourage citizens and firms to*
13 *participate in global trade and inter-*
14 *national capital markets;*

15 *“(ii) promote private sector growth*
16 *and the sustainable management of natural*
17 *resources; and*

18 *“(iii) strengthen market forces in the*
19 *economy.*

20 *“(3) SELECTION.—In determining which eligible*
21 *countries to provide assistance to under paragraph*
22 *(1), the Secretaries and the Administrator shall*
23 *consider—*

24 *“(A) the opportunity to reduce greenhouse*
25 *gas intensity in the eligible country; and*

1 “(B) the opportunity to generate economic
2 growth in the eligible country.

3 “(4) *TYPES OF PROJECTS.*—*Demonstration*
4 *projects under this section may include—*

5 “(A) coal gasification, coal liquefaction, and
6 clean coal projects;

7 “(B) carbon sequestration projects;

8 “(C) cogeneration technology initiatives;

9 “(D) renewable projects; and

10 “(E) lower emission transportation.

11 **“SEC. 737. FELLOWSHIP AND EXCHANGE PROGRAMS.**

12 *“The Secretary of State, in coordination with the Sec-*
13 *retary of Energy, the Secretary of Commerce, and the Ad-*
14 *ministrator of the Environmental Protection Agency, shall*
15 *carry out fellowship and exchange programs under which*
16 *officials from developing countries visit the United States*
17 *to acquire expertise and knowledge of best practices to re-*
18 *duce greenhouse gas intensity in their countries.*

19 **“SEC. 738. AUTHORIZATION OF APPROPRIATIONS.**

20 *“There are authorized to be appropriated such sums*
21 *as are necessary to carry out this part (other than section*
22 *736).*

23 **“SEC. 739. EFFECTIVE DATE.**

24 *“Except as otherwise provided in this part, this part*
25 *takes effect on October 1, 2005.”.*

1 **SEC. 1612. SENSE OF THE SENATE ON CLIMATE CHANGE.**

2 (a) *FINDINGS.*—Congress finds that—

3 (1) *greenhouse gases accumulating in the atmos-*
4 *phere are causing average temperatures to rise at a*
5 *rate outside the range of natural variability and are*
6 *posing a substantial risk of rising sea-levels, altered*
7 *patterns of atmospheric and oceanic circulation, and*
8 *increased frequency and severity of floods and*
9 *droughts;*

10 (2) *there is a growing scientific consensus that*
11 *human activity is a substantial cause of greenhouse*
12 *gas accumulation in the atmosphere; and*

13 (3) *mandatory steps will be required to slow or*
14 *stop the growth of greenhouse gas emissions into the*
15 *atmosphere.*

16 (b) *SENSE OF THE SENATE.*—*It is the sense of the Sen-*
17 *ate that Congress should enact a comprehensive and effective*
18 *national program of mandatory, market-based limits and*
19 *incentives on emissions of greenhouse gases that slow, stop,*
20 *and reverse the growth of such emissions at a rate and in*
21 *a manner that—*

22 (1) *will not significantly harm the United States*
23 *economy; and*

1 (2) *will encourage comparable action by other*
2 *nations that are major trading partners and key con-*
3 *tributors to global emissions.*

Attest:

Secretary.

109TH CONGRESS
1ST SESSION

H. R. 6

AMENDMENT