AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

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:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Energy 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.
Sec. 127. State building energy efficiency codes incentives.

Subtitle C—Energy Efficient Products

Sec. 131. Energy Star program.
Sec. 132. HVAC maintenance consumer education program.
Sec. 133. Public energy education program.
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.
Sec. 162. Energy efficient appliances.
Sec. 163. Energy efficiency standards.

Sec. 164. Energy strategy for the Department of Housing and Urban Development.

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

Sec. 201. Assessment of renewable energy resources.
Sec. 202. Renewable energy production incentive.
Sec. 203. Federal purchase requirement.

Subtitle B—Reliable Fuels

Sec. 211. Renewable content of gasoline.
Sec. 212. Renewable fuel.
Sec. 213. Survey of renewable fuels consumption.

Subtitle C—Federal Reformulated Fuels

Sec. 221. Short title.
Sec. 222. Leaking underground storage tanks.
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.
Sec. 263. Royalties.
Sec. 264. Geothermal leasing and permitting on Federal land.
Sec. 265. Assessment of geothermal energy potential.
Sec. 266. Cooperative or unit plans.
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.
Sec. 271. Leasing and permitting on Federal land withdrawn for military purposes.
Sec. 272. Technical amendments.

Subtitle G—Hydroelectric

Sec. 281. Alternative conditions and fishways.
Sec. 282. Alaska State jurisdiction over small hydroelectric projects.
Sec. 283. Flint Creek hydroelectric project.

Subtitle H—Renewable Portfolio Standard

Sec. 291. Renewable portfolio standard.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

Sec. 301. Permanent authority to operate the Strategic Petroleum Reserve and other energy programs.
Sec. 302. National Oilheat Research Alliance.
Sec. 303. Small Business and Agricultural Producer Energy Emergency Disaster Loan Program.

Subtitle B—Production Incentives

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.
Sec. 316. Alaska offshore royalty suspension.
Sec. 317. Oil and gas leasing in the National Petroleum Reserve in Alaska.
Sec. 318. North slope science initiative.
Sec. 319. Orphaned, abandoned, or idled wells on Federal land.
Sec. 320. Combined hydrocarbon leasing.
Sec. 321. Alternate energy-related uses on the outer Continental Shelf.
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.
Sec. 325. Denali Commission.
Sec. 326. Comprehensive inventory of OCS oil and natural gas resources.
Sec. 327. Review and demonstration program for oil and natural gas production.
Sec. 328. No Oil Producing and Exporting Cartels.

Subtitle C—Access to Federal Land

Sec. 341. Federal onshore oil and gas leasing practices.
Sec. 342. Management of Federal oil and gas leasing programs.
Sec. 343. Consultation regarding oil and gas leasing on public land.
Sec. 344. Pilot project to improve Federal permit coordination.
Sec. 345. Energy facility rights-of-ways and corridors on Federal land.
Sec. 346. Oil shale and tar sands.
Sec. 347. Finger Lakes withdrawal.

Sec. 348. Reinstatement of leases.

Subtitle D—Coastal Programs

Sec. 371. Coastal impact assistance program.

Subtitle E—Natural Gas

Sec. 381. Exportation or importation of natural gas.
Sec. 382. New natural gas storage facilities.
Sec. 383. Process coordination; hearings; rules of procedures.
Sec. 384. Penalties.
Sec. 385. Market manipulation.
Sec. 386. Natural gas market transparency rules.
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.

Subtitle F—Federal Coalbed Methane Regulation

Sec. 391. Federal coalbed methane regulation.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

Sec. 401. Authorization of Appropriations.
Sec. 402. Project Criteria.
Sec. 403. Report.
Sec. 404. Clean coal centers of excellence.
Sec. 405. Integrated coal/renewable energy system.
Sec. 406. Loan to place Alaska clean coal technology facility in service.
Sec. 407. Western integrated coal gasification demonstration project.

Subtitle B—Federal Coal Leases

Sec. 411. Repeal of the 160-acre limitation for coal leases.
Sec. 412. Mining plans.
Sec. 413. Payment of advance royalties under coal leases.
Sec. 414. Elimination of deadline for submission of coal lease operation and reclamation plan.
Sec. 415. Department of Energy transportation fuels from Illinois basin coal.
Sec. 416. Application of amendments.

TITLE V—INDIAN ENERGY

Sec. 501. Short title.
Sec. 502. Office of Indian Energy Policy and Programs.
Sec. 503. Indian energy.
Sec. 504. Four Corners transmission line project and electrification.
Sec. 505. Energy efficiency in federally assisted housing.
Sec. 506. Consultation with Indian tribes.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

Sec. 601. Short title.

Sec. 602. Extension of indemnification authority.
Sec. 603. Maximum assessment.
Sec. 604. Department of Energy liability limit.
Sec. 605. Incidents outside the United States.
Sec. 606. Reports.
Sec. 607. Inflation adjustment.
Sec. 608. Treatment of modular reactors.
Sec. 609. Applicability.
Sec. 610. Civil penalties.

Subtitle B—General Nuclear Matters

Sec. 621. Medical isotope production: nonproliferation, antiterrorism, and resource review.
Sec. 622. Safe disposal of greater-than-class C radioactive waste.
Sec. 623. Prohibition on nuclear exports to countries that sponsor terrorism.
Sec. 624. Decommissioning pilot program.
Sec. 625. Whistleblower protection for employees of the Department of Energy.

Subtitle C—Next Generation Nuclear Plant Project

Sec. 631. Project establishment.
Sec. 632. Project management.
Sec. 633. Project organization.
Sec. 634. Nuclear regulatory commission.
Sec. 635. Project timelines and authorization of appropriations.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

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.
Sec. 705. Report concerning compliance with alternative fueled vehicle purchasing requirements.
Sec. 706. Joint flexible fuel/hybrid vehicle commercialization initiative.

Subtitle B—Automobile Efficiency

Chapter 1—Maximum Average Fuel Economy

Sec. 711. Revised considerations for decisions on maximum feasible average fuel economy.
Sec. 712. Increased fuel economy standards.
Sec. 713. Expedited procedures for Congressional increase in fuel economy standards.
Sec. 714. Extension of maximum fuel economy increase for alternative fueled vehicles.

Chapter 2—Advanced Clean Vehicles

Sec. 721. Hybrid vehicles research and development.
Sec. 722. Diesel fueled vehicles research and development.
Sec. 723. Procurement of alternative fueled passenger automobiles.
Sec. 724. Procurement of hybrid light duty trucks.
Sec. 725. Definitions.

Subtitle C—Miscellaneous

Sec. 731. Railroad efficiency.
Sec. 732. Conserve by bicycling program.
Sec. 733. Reduction of engine idling of heavy-duty vehicles.
Sec. 734. Biodiesel engine testing project.
Sec. 735. Investigation of gasoline prices.

Subtitle D—Federal and State Procurement

Sec. 741. Definitions.
Sec. 742. Federal and State procurement of fuel cell vehicles and hydrogen energy systems.
Sec. 743. Federal procurement of stationary, portable, and micro fuel cells.

Subtitle E—Diesel Emissions Reduction

Sec. 751. Definitions.
Sec. 752. National grant and loan programs.
Sec. 753. State grant and loan programs.
Sec. 754. Evaluation and report.
Sec. 755. Outreach and incentives.
Sec. 756. Effect of subtitle.
Sec. 757. Authorization of appropriations.

TITLE VIII—HYDROGEN

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

TITLE IX—RESEARCH AND DEVELOPMENT

Sec. 901. Short title.
Sec. 902. Goals.
Sec. 903. Definitions.

Subtitle A—Energy Efficiency

Sec. 911. Energy efficiency.
Sec. 912. Next Generation Lighting Initiative.
Sec. 913. National Building Performance Initiative.
Sec. 914. Secondary electric vehicle battery use program.
Sec. 915. Energy Efficiency Science Initiative.
Sec. 916. Building Standards.

Subtitle B—Distributed Energy and Electric Energy Systems

Sec. 921. Distributed energy and electric energy systems.
Sec. 922. High power density industry program.
Sec. 923. Micro-cogeneration energy technology.
Sec. 924. Distributed energy technology demonstration program.
Sec. 925. Electric transmission and distribution programs.

Subtitle C—Renewable Energy

Sec. 931. Renewable energy.
Sec. 932. Bioenergy program.
Sec. 933. Hydrogen intermediate fuels research program.
Sec. 934. Concentrating solar power research program.
Sec. 935. Hybrid solar lighting research and development program.

Sec. 936. Miscellaneous projects.
Sec. 937. Biomass research and development.
Sec. 938. Production incentives for cellulosic biofuels.
Sec. 939. Procurement of biobased products.
Sec. 940. Small business bioproduct marketing and certification grants.
Sec. 941. Regional bioeconomy development grants.
Sec. 942. Preprocessing and harvesting demonstration grants.
Sec. 943. Education and outreach.
Sec. 944. Reports.

Subtitle D—Nuclear Energy

Sec. 945. Nuclear energy.
Sec. 946. Nuclear energy research programs.
Sec. 947. Advanced fuel cycle initiative.
Sec. 948. Nuclear science and engineering support for institutions of higher education.
Sec. 949. Security of nuclear facilities.
Sec. 950. Alternatives to industrial radioactive sources.

Subtitle E—Fossil Energy

Sec. 951. Fossil energy.
Sec. 952. Oil and gas research programs.
Sec. 953. Methane hydrate research.
Sec. 954. Low-volume gas reservoir research program.
Sec. 955. Research and development for coal mining technologies.
Sec. 956. Coal and related technologies program.
Sec. 957. Carbon capture research and development program.
Sec. 958. Complex well technology testing facility.

Subtitle F—Science

Sec. 961. Science.
Sec. 962. Fusion energy sciences program.
Sec. 963. Support for science and energy facilities and infrastructure.
Sec. 964. Catalysis research program.
Sec. 965. Hydrogen.
Sec. 966. Solid state lighting.
Sec. 967. Advanced scientific computing for energy missions.
Sec. 968. Genomes to Life Program.
Sec. 969. Fission and fusion energy materials research program.
Sec. 970. Energy-Water Supply Technologies Program.
Sec. 971. Spallation neutron source.

Subtitle G—International Cooperation

Sec. 981. Western Hemisphere energy cooperation.
Sec. 982. Cooperation between United States and Israel.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

Sec. 1001. Availability of funds.
Sec. 1002. Cost sharing.
Sec. 1003. Merit review of proposals.
Sec. 1004. External technical review of Departmental programs.
Sec. 1005. Improved technology transfer of energy technologies.

Sec. 1006. Technology Infrastructure Program.
Sec. 1007. Small business advocacy and assistance.
Sec. 1008. Outreach.
Sec. 1009. Relationship to other laws.
Sec. 1010. Improved coordination and management of civilian science and technology programs.
Sec. 1011. Other transactions authority.
Sec. 1012. Prizes for achievement in grand challenges of science and technology.
Sec. 1013. Technical corrections.

TITLE XI—PERSONNEL AND TRAINING

Sec. 1101. Workforce trends and traineeship grants.
Sec. 1102. Energy research fellowships.
Sec. 1103. Educational programs in science and mathematics.
Sec. 1104. Training guidelines for electric energy industry personnel.
Sec. 1105. National Center for Energy Management and Building Technologies.
Sec. 1106. Improved access to energy-related scientific and technical careers.
Sec. 1107. National Power Plant Operations Technology and Educational Center.

TITLE XII—ELECTRICITY

Sec. 1201. Short title.

Subtitle A—Reliability Standards

Sec. 1211. Electric reliability standards.

Subtitle B—Transmission Infrastructure Modernization

Sec. 1221. Siting of interstate electric transmission facilities.
Sec. 1222. Third-party finance.
Sec. 1223. Advanced transmission technologies.
Sec. 1224. Advanced power system technology incentive program.

Subtitle C—Transmission Operation Improvements

Sec. 1231. Open nondiscriminatory access.
Sec. 1232. Regional Transmission Organizations.
Sec. 1233. Federal utility participation in Transmission Organizations.
Sec. 1234. Standard market design.
Sec. 1235. Native load service obligation.
Sec. 1236. Protection of transmission contracts in the Pacific Northwest.

Subtitle D—Transmission Rate Reform

Sec. 1241. Transmission infrastructure investment.
Sec. 1242. Funding new interconnection and transmission upgrades.

Subtitle E—Amendments to PURPA

Sec. 1251. Net metering and additional standards.
Sec. 1252. Smart metering.
Sec. 1253. Cogeneration and small power production purchase and sale requirements.
Sec. 1254. Interconnection.

Subtitle F—Market Transparency, Enforcement, and Consumer Protection

Sec. 1261. Market transparency rules.
Sec. 1262. False statements.
Sec. 1263. Market manipulation.
Sec. 1264. Enforcement.
Sec. 1265. Refund effective date.
Sec. 1266. Refund authority.
Sec. 1267. Consumer privacy and unfair trade practices.
Sec. 1268. Office of Consumer Advocacy.
Sec. 1269. Authority of court to prohibit persons from serving as officers, directors, and energy traders.
Sec. 1270. Relief for extraordinary violations.

Subtitle G—Repeal of PUHCA and Merger Reform

Sec. 1271. Short title.
Sec. 1272. Definitions.
Sec. 1273. Repeal of the Public Utility Holding Company Act of 1935.
Sec. 1274. Federal access to books and records.
Sec. 1275. State access to books and records.
Sec. 1276. Exemption authority.
Sec. 1277. Affiliate transactions.
Sec. 1278. Applicability.
Sec. 1279. Effect on other regulations.
Sec. 1280. Enforcement.
Sec. 1281. Savings provisions.
Sec. 1282. Implementation.
Sec. 1283. Transfer of resources.
Sec. 1284. Effective date.
Sec. 1285. Service allocation.
Sec. 1286. Authorization of appropriations.
Sec. 1287. Conforming amendments to the Federal Power Act.
Sec. 1288. Merger review reform.

Subtitle H—Definitions

Sec. 1291. Definitions.
Sec. 1292. Energy policy and conservation technical correction.

Subtitle I—Technical and Conforming Amendments

Sec. 1295. Conforming amendments.

TITLE XIII—STUDIES

Sec. 1301. Energy and water saving measures in congressional buildings.
Sec. 1302. Increased hydroelectric generation at existing Federal facilities.
Sec. 1303. Alaska Natural Gas Pipeline.
Sec. 1304. Renewable energy on Federal land.
Sec. 1305. Coalbed methane study.
Sec. 1306. Backup fuel capability study.
Sec. 1307. Indian land rights-of-way.
Sec. 1308. Review of Energy Policy Act of 1992 programs.
Sec. 1309. Study of feasibility and effects of reducing use of fuel for automobiles.
Sec. 1310. Hybrid distributed power systems.
Sec. 1311. Mobility of scientific and technical personnel.

Sec. 1312. National Academy of Sciences report.
Sec. 1313. Report on research and development program evaluation methodologies.
Sec. 1314. Transmission system monitoring study.
Sec. 1315. Interagency review of competition in the wholesale and retail markets for electric energy.
Sec. 1316. Study on the benefits of economic dispatch.
Sec. 1317. Study of rapid electrical grid restoration.
Sec. 1318. Study of distributed generation.
Sec. 1319. Study on inventory of petroleum and natural gas storage.
Sec. 1320. Natural gas supply shortage report.
Sec. 1321. Split-estate Federal oil and gas leasing and development practices.
Sec. 1322. Resolution of Federal resource development conflicts in the Powder River Basin.
Sec. 1323. Study of energy efficiency standards.
Sec. 1324. Telecommuting study.
Sec. 1325. Oil bypass filtration technology.
Sec. 1326. Total integrated thermal systems.
Sec. 1327. University collaboration.
Sec. 1328. Hydrogen participation study.
Sec. 1329. Overall employment in a hydrogen economy.
Sec. 1330. Study of best management practices for energy research and development programs.
Sec. 1331. Effect of electrical contaminants on reliability of energy production systems.
Sec. 1332. Alternative fuels reports.
Sec. 1333. Final action on refunds for excessive charges.
Sec. 1334. Fuel cell and hydrogen technology study.
Sec. 1335. Passive solar technologies.
Sec. 1336. Study of link between energy security and increases in vehicle miles traveled.
Sec. 1337. Study of availability of skilled workers.
Sec. 1338. Science Study on Cumulative Impacts of Multiple Offshore Liquefied Natural Gas Facilities.

TITLE XIV—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

Sec. 1401. Definitions.
Sec. 1402. Terms and conditions.
Sec. 1403. Eligible projects.
Sec. 1404. Authorization of appropriations.

TITLE XV—ENERGY POLICY TAX INCENTIVES

Sec. 1500. Short title; amendment of 1986 Code.

Subtitle A—Electricity Infrastructure

Sec. 1501. Extension and modification of renewable electricity production credit.
Sec. 1502. Application of section 45 credit to agricultural cooperatives.
Sec. 1503 Expansion of resources to wave, current, tidal, and ocean thermal energy.
Sec. 1504. Clean renewable energy bonds.
Sec. 1505. Treatment of income of certain electric cooperatives.
Sec. 1506. Dispositions of transmission property to implement FERC restructuring policy.

Sec. 1507. Credit for production from advanced nuclear power facilities.
Sec. 1508. Credit for investment in clean coal facilities.
Sec. 1509. Clean energy coal bonds.

Subtitle B—Domestic Fossil Fuel Security

Sec. 1511. Credit for investment in clean coke/cogeneration manufacturing facilities.
Sec. 1512. Temporary expensing for equipment used in refining of liquid fuels.
Sec. 1513. Pass through to patrons of deduction for capital costs incurred by small refiner cooperatives in complying with Environmental Protection Agency sulfur regulations.
Sec. 1514. Modifications to enhanced oil recovery credit.
Sec. 1515. Natural gas distribution lines treated as 15-year property.

Subtitle C—Conservation and Energy Efficiency Provisions

Sec. 1521. Energy efficient commercial buildings deduction.
Sec. 1522. Credit for construction of new energy efficient homes.
Sec. 1523. Deduction for business energy property.
Sec. 1524. Credit for certain nonbusiness energy property.
Sec. 1525. Energy credit for combined heat and power system property.
Sec. 1526. Credit for energy efficient appliances.
Sec. 1527. Credit for residential energy efficient property.
Sec. 1528. Credit for business installation of qualified fuel cells and stationary microturbine power plants.
Sec. 1529. Business solar investment tax credit.

Subtitle D—Alternative Motor Vehicles and Fuels Incentives

Sec. 1531. Alternative motor vehicle credit.
Sec. 1532. Modification of credit for qualified electric vehicles.
Sec. 1533. Credit for installation of alternative fueling stations.
Sec. 1534. Volumetric excise tax credit for alternative fuels.
Sec. 1535. Extension of excise tax provisions and income tax credit for biodiesel.

Subtitle E—Additional Energy Tax Incentives

Sec. 1541. 10-year recovery period for underground natural gas storage facility property.
Sec. 1542. Expansion of research credit.
Sec. 1543. Small agri-biodiesel producer credit.
Sec. 1544. Improvements to small ethanol producer credit.
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 nonattainment 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.

Subtitle F—Revenue Raising Provisions

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.
Sec. 1564. Additional requirement for exempt purchases.
Sec. 1565. Reregistration in event of change in ownership.
Sec. 1566. Treatment of deep-draft vessels.
Sec. 1567. Reconciliation of on-loaded cargo to entered cargo.
Sec. 1568. Taxation of gasoline blendstocks and kerosene.
Sec. 1569. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States.
Sec. 1570. Penalty with respect to certain adulterated fuels.
Sec. 1571. Oil Spill Liability Trust Fund financing rate.
Sec. 1572. Extension of Leaking Underground Storage Tank Trust Fund financing rate.
Sec. 1573. Tire excise tax modification.

TITLE XVI—CLIMATE CHANGE

Subtitle A—National Climate Change Technology Deployment

Sec. 1601. Greenhouse gas intensity reducing technology strategies.
Sec. 1602. Climate infrastructure credit.

Subtitle B—Climate Change Technology Deployment in Developing Countries

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)).*

(B) INCLUSION.—The term "institution of higher education" includes an organization that—

(i) is organized, and at all times thereafter operated, exclusively for the benefit of, to perform the functions of, or to carry out the functions of 1 or more organizations referred to in subparagraph (A); and

(ii) is operated, supervised, or controlled by or in connection with 1 or more of those organizations.

(3) NATIONAL LABORATORY.—The term "National Laboratory" means any of the following laboratories owned by the Department:

(A) Ames Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Accelerator Laboratory.

(E) Idaho National Laboratory.

(F) Lawrence Berkeley National Laboratory.

(G) Lawrence Livermore National Laboratory.

(H) Los Alamos National Laboratory.

(I) National Energy Technology Laboratory.

(J) National Renewable Energy Laboratory.

(K) Oak Ridge National Laboratory.

(L) Pacific Northwest National Laboratory.

(M) Princeton Plasma Physics Laboratory.

(N) Sandia National Laboratories.

(O) Savannah River National Laboratory.

(P) Stanford Linear Accelerator Center.

(Q) Thomas Jefferson National Accelerator Facility.

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

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

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

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

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

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

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

"SEC. 551. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.

"(a) DEFINITIONS.—In this section:

"(1) CONGRESSIONAL BUILDING.—The term 'congressional building' means a facility administered by Congress.

"(2) PLAN.—The term 'plan' means an energy conservation and management plan developed under subsection (b)(1).

"(b) PLAN.—

"(1) IN GENERAL.—The Architect of the Capitol shall develop, update, and implement a cost-effective energy conservation and management plan for congressional buildings to meet the energy performance requirements for Federal buildings established under section 543(a)(1).

"(2) REQUIREMENTS.—The plan shall include—

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

"(B) a schedule that ensures that complete energy surveys of all congressional buildings are conducted every 5 years to determine the cost and payback period of energy and water conservation measures;

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

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

"(E) information packages and 'how-to' guides for each Member and employing authority of Congress that describe simple and cost-effective methods to save energy and taxpayer dollars in congressional buildings.

"(3) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, the Architect of the Capitol shall submit to Congress the plan developed under paragraph (1).

"(c) ANNUAL REPORT.—

"(1) IN GENERAL.—The Architect of the Capitol shall annually submit to Congress a report on congressional energy management and conservation pro-

grams carried out for congressional buildings under this section.

"(2) REQUIREMENTS.—A report submitted under paragraph (1) shall describe in detail—

"(A) energy expenditures and savings estimates for each congressional building;

"(B) any energy management and conservation projects for congressional buildings; and

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

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

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

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

"Sec. 551. Energy and water savings measures in congressional buildings.".

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

SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

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

(1) in paragraph (1), by striking "Subject to" and all that follows and inserting "(A) Subject to

paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption for each gross square foot of the Federal buildings of the agency for fiscal years 2006 through 2015 is reduced, as compared with the energy consumption for each gross square foot of the Federal buildings of the agency for fiscal year 2004, by the percentage specified in the following table:

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

"(B) The energy reduction goals and baseline established in subparagraph (A) supersede—

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

"(ii) any related reporting requirements."; and

(2) by adding at the end the following:

"(3) Not later than December 31, 2013, the Secretary shall—

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

"(B) submit to Congress recommendations concerning energy performance requirements for each of fiscal years 2015 through 2024.".

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

(1) in paragraph (1), by striking "An agency may exclude" and all that follows and inserting "(A) An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

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

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

"(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), Executive orders, and other Federal law; and

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

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

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

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

(2) in paragraph (2)—

(A) in the second sentence—

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

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

(B) in the third sentence, by striking "energy consumption requirements" and inserting "requirements of subsections (a) and (b)(1)"; and

(3) by adding at the end the following:

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

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

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

(2) by adding at the end the following:

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

"(2) Except as otherwise provided by law, funds described in paragraph (1) may be used by an agency only for energy efficiency, water conservation, or unconventional and renewable energy resources projects.".

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

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

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

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

SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

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

"(e) METERING OF ENERGY USE.—(1)(A) Not later than October 1, 2012, in accordance with guidelines established by the Secretary under paragraph (2), each Federal building shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in the building, be metered or submetered.

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

"(C) The data shall be—

"(i) incorporated into Federal energy tracking systems; and

"(ii) made available to Federal facility energy managers.

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

"(B) The guidelines shall—

"(i) take into consideration—

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

"(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency im-

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

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

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

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

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

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

"(A) the manner in which the agency will designate personnel primarily responsible for carrying out that implementation; and

"(B) demonstration by the agency, complete with documentation, of any finding that the use of advanced meters or advanced metering devices described in paragraph (1) is not practicable.".

SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

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

"SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

"(a) DEFINITIONS.—In this section:

"(1) The term 'Energy Star product' means a product that is rated for energy efficiency under an Energy Star program.

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

"(3) The term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

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

"(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—(1) Except as provided in paragraph (2), to meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall procure—

"(A) an Energy Star product; or

"(B) a FEMP designated product.

"(2) The head of an executive agency shall not be required to comply with paragraph (1) if the head of the executive agency specifies in writing that—

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

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

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

"(A) the specifications for any procurements involving energy consuming products and systems, including—

"(i) guide specifications;

"(ii) project specifications; and

"(iii) construction, renovation, and services contracts that include the provision of energy consuming products and systems; and

"(B) the factors for the evaluation of offers received for the procurement.

"(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—(1) Any inventory or listing of products by the General Services Administration or the Defense Logistics Agency shall clearly identify and prominently display Energy Star products and FEMP designated products.

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

"(B) Subparagraph (A) shall not apply if an agency ordering a product specifies in writing that—

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

"(ii) no Energy Star product or FEMP designated product is available to meet the functional requirements of the ordering agency.

"(d) SPECIFIC PRODUCTS.—(1) In the case of an electric motor of 1 to 500 horsepower, an executive agency shall select only a premium efficient motor that meets the standard established by the Secretary under paragraph (2).

"(2) Not later than 120 days after the date of enactment of this subsection and after considering the recommendations of associated electric motor manufacturers and energy efficiency groups, the Secretary shall establish a standard for premium efficient motors.

"(3)(A) Each Federal agency is encouraged to take actions (such as appropriate cleaning and maintenance) to maximize the efficiency of air conditioning and refrigeration equipment, including the use of a system treatment or additive that—

"(i) would reduce the electricity consumed by air conditioning and refrigeration equipment; and

"(ii) meets the criteria specified in subparagraph (B).

"(B) A system treatment or additive referred to in subparagraph (A) shall be—

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

"(I) air conditioning and refrigeration performance (including cooling capacity); or

"(II) the useful life of the equipment;

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

"(iii) shown, in tests conducted by the National Institute of Standards and Technology, in accordance with Department of Energy test procedures, to increase the seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) without having any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

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

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

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

(b) CONFORMING AMENDMENT.—The table of contents of the National Energy Conservation Policy Act (as amended by section 101(b)) is amended by inserting after the item relating to section 551 the following:

"Sec. 552. Federal procurement of energy efficient products.".

SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) PERMANENT EXTENSION.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking "2006" and inserting "2016".

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

SEC. 106. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) DEFINITION OF ENERGY INTENSITY.—In this section, the term "energy intensity" means the primary energy consumed for each unit of physical output in an industrial process.

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

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

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

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

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

(1) evaluates the success of the voluntary agreements under this section; and

(2) provides independent verification of a sample of the energy savings estimates provided by participating firms.

SEC. 107. FEDERAL BUILDING PERFORMANCE STANDARDS.

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

(1) in paragraph (2)(A), by striking "CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1–1989" and inserting "the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1–2004"; and

(2) by adding at the end the following:

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

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

"(I) the buildings be designed to achieve energy consumption levels that are at least 30 percent below the levels established in the version of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, that is

in effect as of the date of enactment of this paragraph; and

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

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

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

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

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

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

SEC. 108. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

"SEC. 6005. (a) DEFINITIONS.—In this section:

"(1) AGENCY HEAD.—The term 'agency head' means—

"(A) the Secretary of Transportation; and

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

"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

"(A) involves the procurement of cement or concrete; and

"(B) is carried out, in whole or in part, using Federal funds.

"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

"(A) ground granulated blast furnace slag;

"(B) coal combustion fly ash; and

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

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

"(2) PRIORITY.—In carrying out paragraph (1), an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

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

"(c) FULL IMPLEMENTATION STUDY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

"(2) MATTERS TO BE ADDRESSED.—The study shall—

"(A) quantify—

"(i) the extent to which recovered mineral components are being substituted for

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

"(ii) the energy savings and environmental benefits associated with the substitution;

"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from the law; and

"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

"(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

"(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the date on which the report under subsection (c)(3) is submitted, take additional actions under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects—

"(1) to realize more fully the energy savings and environmental benefits associated with increased substitution; and

"(2) to eliminate barriers identified under subsection (c)(2)(B).

"(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after 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.".

Subtitle B—Energy Assistance and State Programs

SEC. 121. WEATHERIZATION ASSISTANCE.

Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking "for fiscal years 1999 through 2003 such sums as may be necessary" and inserting "$325,000,000 for fiscal year 2006, $400,000,000 for fiscal year 2007, and $500,000,000 for fiscal year 2008".

SEC. 122. STATE ENERGY PROGRAMS.

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

"(g)(1) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of the State submitted under subsection (b) or (e).

"(2) A review conducted under paragraph (1) should—

"(A) consider the energy conservation plans of other States within the region; and

"(B) identify opportunities and actions carried out in pursuit of common energy conservation goals.".

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

"STATE ENERGY EFFICIENCY GOALS

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

"(1) shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2012 as compared to calendar year 1992; and

"(2) may contain interim goals.".

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

SEC. 123. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

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

(2) ENERGY STAR PROGRAM.—The term "Energy Star program" means the program established by section 324A of the Energy Policy and Conservation Act (as added by section 131(a)).

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

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

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

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

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

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

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

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

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying—

(A) the amount made available under subsection (f) for the fiscal year; and

(B) by the ratio that—

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

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

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

shall be adjusted proportionately so that no eligible State is allocated a sum that is less than such minimum amount as shall be determined by the Secretary.

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

(e) ISSUANCE OF REBATES.—

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

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

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

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

(C) the difference between—

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

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

the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to, the residential Energy Star product.

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

SEC. 124. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities through—

(1) construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in—

(A) the most recent version of the International Energy Conservation Code; or

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

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

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

(1) maintain any records and evidence of compliance that the Secretary may require; and

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

(A) develop and distribute information and materials; and

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

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section $30,000,000 for each of fiscal years 2006 through 2010.

(2) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of amounts made available under paragraph (1) shall be used for administrative expenses.

SEC. 125. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) DEFINITION OF INDIAN TRIBE.—In this section, the term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may provide grants, on a competitive basis, to units of local government, private or nonprofit community development organizations, and economic development entities of Indian tribes—

(A) to improve energy efficiency;

(B) to identify and develop alternative, renewable, and distributed energy supplies; and

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

(2) ELIGIBLE ACTIVITIES.—The following activities are eligible for grants under paragraph (1):

(A) Investments that develop alternative, renewable, and distributed energy supplies.

(B) Energy efficiency projects and energy conservation programs.

(C) Studies and other activities that improve energy efficiency in low-income rural and urban communities.

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

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

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

SEC. 126. STATE TECHNOLOGIES ADVANCEMENT COLLABORATIVE.

(a) IN GENERAL.—The Secretary, in cooperation with the States, shall establish a cooperative program for research, development, demonstration, and deployment of technologies in which there is a common Federal and State energy efficiency, renewable energy, and fossil energy interest, to be known as the "State Technologies Advancement Collaborative" (referred to in this section as the "Collaborative").

(b) DUTIES.—The Collaborative shall—

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

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

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

(c) ADMINISTRATION.—The Collaborative shall be administered through an agreement between the Department and appropriate State-based organizations.

(d) FUNDING SOURCES.—Funding for the Collaborative may be provided from—

(1) amounts specifically appropriated for the Collaborative; or

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

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section such sums as are necessary for each of fiscal years 2006 through 2010.

SEC. 127. STATE BUILDING ENERGY EFFICIENCY CODES INCENTIVES.

Section 304(e) of the Energy Conservation and Production Act (42 U.S.C. 6833(e)) is amended—

(1) in paragraph (1), by inserting before the period at the end of the first sentence the following: ", including increasing and verifying compliance with such codes"; and

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

"(2) Additional funding shall be provided under this subsection for implementation of a plan to achieve and document at least a 90 percent rate of compliance with residential and commercial building energy efficiency codes, based on energy performance—

"(A) to a State that has adopted and is implementing, on a statewide basis—

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

"(ii) a commercial building energy efficiency code that meets or exceeds the requirements of the ASHRAE Standard 90.1–2004, or any succeeding version of that standard that has received an affirmative determination from the Secretary under subsection (b)(2)(A); or

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

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

"(3) Of the amounts made available under this subsection, the Secretary may use $500,000 for each fiscal year to train State and local officials to implement codes described in paragraph (2).

"(4)(A) There are authorized to be appropriated to carry out this subsection—

"(i) $25,000,000 for each of fiscal years 2006 through 2010; and

"(ii) such sums as are necessary for fiscal year 2011 and each fiscal year thereafter.

"(B) Funding provided to States under paragraph (2) for each fiscal year shall not exceed ½ of the excess of funding under this subsection over $5,000,000 for the fiscal year.".

Subtitle C—Energy Efficient Products

SEC. 131. ENERGY STAR PROGRAM.

(a) IN GENERAL.—The Energy Policy and Conservation Act is amended by inserting after section 324 (42 U.S.C. 6294) the following:

"ENERGY STAR PROGRAM

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

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

"(b) DIVISION OF RESPONSIBILITIES.—Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency in accordance with the terms of applicable agreements between those agencies.

"(c) DUTIES.—The Administrator and the Secretary shall—

"(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for—

"(A) achieving energy efficiency; and

"(B) reducing pollution;

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

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

"(4) regularly update Energy Star product criteria for product categories;

"(5) solicit comments from interested parties prior to establishing or revising an Energy Star

product category, specification, or criterion (or prior to effective dates for any such product category, specification, or criterion);

"(6) on adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria, along with—

"(A) an explanation of the changes; and

"(B) as appropriate, responses to comments submitted by interested parties; and

"(7) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applicable effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.

"(d) DEADLINES.—The Secretary shall establish new qualifying levels—

"(1) not later than January 1, 2006, for clothes washers and dishwashers, effective beginning January 1, 2007; and

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

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

"Sec. 324A. Energy Star program.".

SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

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

"(c) HVAC MAINTENANCE.—(1) To ensure that installed air conditioning and heating systems operate at maximum rated efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings from properly conducted maintenance of air conditioning, heating, and ventilating systems.

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

"(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—(1) The Administrator of the Small Business Administration, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business Program, to assist small businesses in—

"(A) becoming more energy efficient;

"(B) understanding the cost savings from improved energy efficiency;

"(C) understanding and accessing Federal procurement opportunities with regard to Energy Star technologies and products; and

"(D) identifying financing options for energy efficiency upgrades.

"(2) The Secretary, the Administrator of the Environmental Protection Agency, and the Administrator of the Small Business Administration shall make program information available to small business concerns directly through the district offices and resource partners of the Small Business Administration, including small business development centers, women's business centers, and the Service Corps of Retired Executives (SCORE), and through other Federal agencies, including the Federal Emergency Management Agency and the Department of Agriculture.

"(3) The Secretary, on a cost shared basis in cooperation with the Administrator of the Environmental Protection Agency, shall provide to the Small Business Administration all advertising, marketing, and other written materials necessary for the dissemination of information under paragraph (2).

"(4) There are authorized to be appropriated such sums as may be necessary to carry out this subsection, which shall remain available until expended.".

SEC. 133. PUBLIC ENERGY EDUCATION PROGRAM.

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

(b) PARTICIPANTS.—The Secretary shall invite to participate in the conference individuals and entities representing all aspects of energy production and distribution, including—

(1) industrial firms;

(2) professional societies;

(3) educational organizations;

(4) trade associations; and

(5) governmental agencies.

(c) PURPOSE, SCOPE, AND STRUCTURE.—

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

(A) conservation and energy efficiency;

(B) the role of energy use in the economy; and

(C) the impact of energy use on the environment.

(2) SCOPE AND STRUCTURE.—Taking into consideration the purpose described in paragraph (1), the participants in the conference invited under subsection (b) shall design the scope and structure of the program described in subsection (a).

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

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

SEC. 134. ENERGY EFFICIENCY PUBLIC INFORMATION INITIATIVE.

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

(1) the need to reduce energy consumption during the 4-year period beginning on the date of enactment of this Act;

(2) the benefits to consumers of reducing consumption of electricity, natural gas, and petroleum, particularly during peak use periods;

(3) the importance of low energy costs to economic growth and preserving manufacturing jobs in the United States; and

(4) practical, cost-effective measures that consumers can take to reduce consumption of electricity, natural gas, and gasoline, including—

(A) maintaining and repairing heating and cooling ducts and equipment;

(B) weatherizing homes and buildings;

(C) purchasing energy efficient products; and

(D) proper tire maintenance.

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

(1) include collaborative efforts with State and local government officials and the private sector; and

(2) incorporate, to the maximum extent practicable, successful State and local public education programs.

(c) REPORT.—Not later than July 1, 2009, the Secretary shall submit to Congress a report describing the effectiveness of the program under this section.

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

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

SEC. 135. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

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

(1) in paragraph (29)—

(A) in subparagraph (D)—

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

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

(iii) in clause (iii), by striking "C78.1–1978(R1984)" and inserting "C78.81–2003 (Data Sheet 7881–ANSI–1019–1)"; and

(B) by adding at the end the following:

"(M) The term 'F34T12 lamp' (also known as a 'F40T12/ES lamp') means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1006–1).

"(N) The term 'F96T12/ES lamp' means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–3006–1).

"(O) The term 'F96T12HO/ES lamp' means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1017–1).

"(P) The term 'replacement ballast' means a ballast that—

"(i) is designed for use to replace an existing ballast in a previously installed luminaire;

"(ii) is marked 'FOR REPLACEMENT USE ONLY';

"(iii) is shipped by the manufacturer in packages containing not more than 10 ballasts; and

"(iv) has output leads that when fully extended are a total length that is less than the length of the lamp with which the ballast is intended to be operated.";

(2) in paragraph (30)(S)—

(A) by inserting "(i)" before "The term"; and

(B) by adding at the end the following:

"(ii) The term "medium base compact fluorescent lamp" does not include—

"(I) any lamp that is—

"(aa) specifically designed to be used for special purpose applications; and

"(bb) unlikely to be used in general purpose applications, such as the applications described in subparagraph (D); or

"(II) any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is—

"(aa) designed for special applications; and

"(bb) unlikely to be used in general purpose applications."; and

(3) by adding at the end the following:

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

"(33)(A) The term 'commercial prerinse spray valve' means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

"(B) The Secretary may modify the definition of 'commercial prerinse spray valve' by rule—

"(i) to include products—

"(I) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

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

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

"(ii) to exclude products—

"(I) that are used for special food service applications;

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

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

"(34) The term 'dehumidifier' means a self-contained, electrically operated, and mechanically encased assembly consisting of—

"(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

"(B) a refrigerating system, including an electric motor;

"(C) an air-circulating fan; and

"(D) means for collecting or disposing of the condensate.

"(35)(A) The term 'distribution transformer' means a transformer that—

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

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

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

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

"(i) a transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;

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

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

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

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

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

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

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

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

"(B) consists of an electrically powered integral light source that—

"(i) illuminates the legend 'EXIT' and any directional indicators; and

"(ii) provides contrast between the legend, any directional indicators, and the background.

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

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

"(B) is air-cooled; and

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

"(39) The term 'pedestrian module' means a light signal used to convey movement information to pedestrians.

"(40) The term 'refrigerated bottled or canned beverage vending machine' means a commercial refrigerator that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.

"(41) The term 'standby mode' means the lowest power consumption mode, as established on an individual product basis by the Secretary, that—

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

"(B) may persist for an indefinite time when an appliance is—

"(i) connected to the main electricity supply; and

"(ii) used in accordance with the instructions of the manufacturer.

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

"(43) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication that—

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

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

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

"(45)(A) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space.

"(B) The term 'unit heater' does not include a warm air furnace.

"(46)(A) The term 'high intensity discharge lamp' means an electric-discharge lamp in which—

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

"(ii) the arc tube has a bulb wall loading in excess of 3 Watts/cm^2.

"(B) The term 'high intensity discharge lamp' includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).

"(47)(A) The term 'mercury vapor lamp' means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury operating at a partial pressure in excess of 100,000 Pa (approximately 1 atm).

"(B) The term 'mercury vapor lamp' includes clear, phosphor-coated, and self-ballasted lamps described in subparagraph (A).

"(48) The term 'mercury vapor lamp ballast' means a device that is designed and marketed to start and operate mercury vapor lamps by providing the necessary voltage and current.".

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

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

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

"(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998).

"(B) The Secretary may review and revise the test procedures established under subparagraph (A).

"(C) For purposes of section 346(a), the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 346(a)(1) for distribution transformers for which the Secretary makes a determination that energy conservation standards would—

"(i) be technologically feasible and economically justified; and

"(ii) result in significant energy savings.

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

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

"(12)(A) Test procedures for medium base compact fluorescent lamps shall be based on the test methods for compact fluorescent lamps used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and the Department of Energy.

"(B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 325(cc).

"(C) Notwithstanding subparagraph (B), if manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp lifetime, medium base compact fluorescent lamps may be marketed before completion of the testing of lamp life and lumen maintenance at 40 percent of rated life.

"(13) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

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

ican Society for Testing and Materials Standard F2324, entitled 'Standard Test Method for Pre-Rinse Spray Valves.'

"(15) The test procedure for refrigerated bottled or canned beverage vending machines shall be based on American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 32.1–2004, entitled 'Methods of Testing for Rating Vending Machines for Bottled, Canned or Other Sealed Beverages'."; and

(2) by adding at the end the following:

"(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—(1) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prescribe testing requirements for—

"(A) suspended ceiling fans; and

"(B) refrigerated bottled or canned beverage vending machines.

"(2) To the maximum extent practicable, the testing requirements prescribed under paragraph (1) shall be based on existing test procedures used in industry.".

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

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

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

(2) in subsection (g)—

(A) in paragraph (6)(B), by inserting "and labeled" after "designed"; and

(B) by adding at the end the following:

"(8)(A) Each fluorescent lamp ballast (other than replacement ballasts or ballasts described in subparagraph (C))—

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

"(II) sold by the manufacturer on or after October 1, 2009; or

"(III) incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010; and

"(ii) designed—

"(I) to operate at nominal input voltages of 120 or 277 volts;

"(II) to operate with an input current frequency of 60 Hertz; and

"(III) for use in connection with F34T12 lamps, F96T12/ES lamps, or F96T12HO/ES lamps;

shall have a power factor of 0.90 or greater and shall have 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*

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

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

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

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

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

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

"(5) The Secretary may set more than 1 energy conservation standard for products that serve more than 1 major function by setting 1 energy conservation standard for each major function.";

(4) in the first sentence of subsection (p), by striking "Any" and inserting the following: "Except as provided in subsection (u), any"; and

(5) by adding at the end the following:

"(u) SPECIAL RULEMAKING PROCEDURES.—(1) Notwithstanding any other provision of law, the Secretary may publish a notice of direct final rulemaking based on an energy conservation standard recommended by an interested person, if—

"(A) in response to an advance notice of proposed rulemaking under paragraph (p), the interested person (including a representative of a manufacturer of a covered product, a conservation advocate, or consumer) submits a joint comment recommending an energy conservation standard; and

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

"(2) The Secretary shall publish a notice of direct final rulemaking under paragraph (1) with a notice of proposed

rulemaking incorporating by reference the regulatory language of the direct final rule that provides for an effective date not earlier than 90 days after the date of publication.

"(3) The Secretary may withdraw a direct final rule published under paragraph (2) before the effective date of the rule if an interested person files a significant adverse comment in response to the related notice of proposed rulemaking.

"(v) BATTERY CHARGER AND EXTERNAL POWER SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not later than 18 months after the date of enactment of this subsection, the Secretary shall, after providing notice and an opportunity for comment, prescribe, by rule, definitions and test procedures for the power use of battery chargers and external power supplies.

"(B) In establishing the test procedures under subparagraph (A), the Secretary shall—

"(i) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

"(ii) assess the current and projected future market for battery chargers and external power supplies.

"(C) The assessment under subparagraph (B)(ii) shall include—

"(i) estimates of the significance of potential energy savings from technical improvements to battery chargers and external power supplies; and

"(ii) suggested product classes for energy conservation standards.

"(D) Not later than 18 months after the date of enactment of this subsection, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

"(E)(i) Not later than 3 years after the date of enactment of this subsection, the Secretary shall issue a final rule that determines whether energy conservation standards shall be issued for battery chargers and external power supplies or classes of battery chargers and external power supplies.

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

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

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

"(2) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy conservation standards, taking into account standby mode power consumption compared to overall product energy consumption.

"(3) The Secretary shall not propose an energy conservation standard under this section, unless the Secretary has issued applicable test procedures for each product under section 323.

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

"(5) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 324A and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

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

retary shall prescribe, by rule, energy conservation standards for—

"(A) suspended ceiling fans; and

"(B) refrigerated bottled or canned beverage vending machines.

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

"(3) Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.

"(x) ILLUMINATED EXIT SIGNS.—An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

"(y) TORCHIERES.—A torchiere manufactured on or after January 1, 2006—

"(1) shall consume not more than 190 watts of power; and

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

"(z) LOW VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS.—The efficiency of a low voltage dry-type dis-

tribution transformer manufactured on or after January 1, 2007, shall be the Class I Efficiency Levels for distribution transformers specified in table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP–1–2002).

"(aa) TRAFFIC SIGNAL MODULES AND PEDESTRIAN MODULES.—Any traffic signal module or pedestrian module manufactured on or after January 1, 2006, shall—

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

"(2) be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

"(bb) UNIT HEATERS.—A unit heater manufactured on or after the date that is 3 years after the date of enactment of this subsection shall—

"(1) be equipped with an intermittent ignition device; and

"(2) have power venting or an automatic flue damper.

"(cc) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—(1) A bare lamp and covered lamp (no reflector)

medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy:

"(A) Minimum initial efficacy.

"(B) Lumen maintenance at 1000 hours.

"(C) Lumen maintenance at 40 percent of rated life.

"(D) Rapid cycle stress test.

"(E) Lamp life.

"(2) The Secretary may, by rule, establish requirements for color quality (CRI), power factor, operating frequency, and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps.

"(3) The Secretary may, by rule—

"(A) revise the requirements established under paragraph (2); or

"(B) establish other requirements, after considering energy savings, cost effectiveness, and consumer 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.*

"(ee) COMMERCIAL PRERINSE SPRAY VALVES.—Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

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

"(gg) APPLICATION DATE.—Section 327 applies—

"(1) to products for which energy conservation standards are to be established under subsection (l), (u), (v), or (w) beginning on the date on which a final rule is issued by the Secretary, except that any State or local standard prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the energy conservation standard established under subsection (l),(u), (v), or (w) for the product takes effect; and

"(2) to products for which energy conservation standards are established under subsections (x) through (ff) on the date of enactment of those subsections, except that any State or local standard prescribed or enacted before the date of enactment of those subsections shall not be preempted until the energy conservation standards established under subsections (x) through (ff) take effect.".

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

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(7)(A) is a regulation concerning standards for commercial prerinse spray valves adopted by the California Energy Commission before January 1, 2005; or

"(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations with changes in American Society for Testing and Materials Standard F2324;

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

"(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations to changes in the Institute for Transportation Engineers standards, entitled 'Performance Specification: Pedestrian Traffic Control Signal Indications'.".

SEC. 136. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL EQUIPMENT.

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

(1) in paragraph (1)—

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

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

"(D) Very large commercial package air conditioning and heating equipment.

"(E) Commercial refrigerators, freezers, and refrigerator-freezers.

"(F) Automatic commercial ice makers.

"(G) Commercial clothes washers.";

(2) in paragraph (2)(B), by striking "small and large commercial package air conditioning and heating equipment" and inserting "commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers";

(3) by striking paragraphs (8) and (9) and inserting the following:

"(8)(A) The term 'commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

"(B) The term 'small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

"(C) The term 'large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated—

"(i) at or above 135,000 Btu per hour; and

"(ii) below 240,000 Btu per hour (cooling capacity).

"(D) The term 'very large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated—

"(i) at or above 240,000 Btu per hour; and

"(ii) below 760,000 Btu per hour (cooling capacity).

"(9)(A) The term 'commercial refrigerator, freezer, and refrigerator-freezer' means refrigeration equipment that—

"(i) is not a consumer product (as defined in section 321);

"(ii) is not designed and marketed exclusively for medical, scientific, or research purposes;

"(iii) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;

"(iv) displays or stores merchandise and other perishable materials horizontally, semivertically, or vertically;

"(v) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

"(vi) is designed for pull-down temperature applications or holding temperature applications; and

"(vii) is connected to a self-contained condensing unit or to a remote condensing unit.

"(B) The term 'holding temperature application' means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

"(C) The term 'integrated average temperature' means the average temperature of all test package measurements taken during the test.

"(D) The term 'pull-down temperature application' means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 degrees F, can cool those beverages to an average stable temperature of 38 degrees F in 12 hours or less.

"(E) The term 'remote condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

"(F) The term 'self-contained condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories."; and

(4) by adding at the end the following:

"(19) The term 'automatic commercial ice maker' means a factory-made assembly (not necessarily shipped in 1 package) that—

"(A) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and

"(B) may include means for storing ice, dispensing ice, or storing and dispensing ice.

"(20) The term 'commercial clothes washer' means a soft-mount front-loading or soft-mount top-loading clothes washer that—

"(A) has a clothes container compartment that—

"(i) for horizontal-axis clothes washers, is not more than 3.5 cubic feet ; and

"(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

"(B) is designed for use in—

"(i) applications in which the occupants of more than 1 household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or

"(ii) other commercial applications.

"(21) The term 'harvest rate' means the amount of ice (at 32 degrees F) in pounds produced per 24 hours.".

(b) STANDARDS FOR COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the subsection heading, by striking "SMALL AND LARGE" and inserting "SMALL, LARGE, AND VERY LARGE";

(2) in paragraph (1), by inserting "but before January 1, 2010," after "January 1, 1994,";

(3) in paragraph (2), by inserting "but before January 1, 2010," after "January 1, 1995,"; and

(4) in paragraph (6)—

(A) in subparagraph (A)—

(i) by inserting "(i)" after "(A)";

(ii) by striking "the date of enactment of the Energy Policy Act of 1992" and inserting "January 1, 2010";

(iii) by inserting after "large commercial package air conditioning and heating equipment," the following: "and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES

Standard 90.1, as in effect on October 24, 1992, is amended with respect to any"; and

(iv) by adding at the end the following:

"(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard—

"(I) would result in significant additional conservation of energy; and

"(II) is technologically feasible and economically justified."; and

(B) in subparagraph (C)(ii), by inserting "and very large commercial package air conditioning and heating equipment" after "large commercial package air conditioning and heating equipment"; and

(5) by adding at the end the following:

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

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

"(i) 11.2 for equipment with no heating or electric resistance heating; and

"(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

"(i) 11.0 for equipment with no heating or electric resistance heating; and

"(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

"(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per

hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

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

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

"(i) 11.0 for equipment with no heating or electric resistance heating; and

"(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

"(i) 10.6 for equipment with no heating or electric resistance heating; and

"(ii) 10.4 for equipment with all other heating system types that are integrated into the

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

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

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

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

"(i) 10.0 for equipment with no heating or electric resistance heating; and

"(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

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

"(i) 9.5 for equipment with no heating or electric resistance heating; and

"(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

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

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

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

"(A) The term 'AV' means the adjusted volume (ft^3) (defined as 1.63 x frozen temperature compartment volume (ft^3) + chilled temperature compartment volume (ft^3)) with compartment volumes meas-

ured in accordance with the Association of Home Appliance Manufacturers Standard HRF1–1979.

"(B) The term 'V' means the chilled or frozen compartment volume (ft^3) (as defined in the Association of Home Appliance Manufacturers Standard HRF1–1979).

"(C) Other terms have such meanings as may be established by the Secretary, based on industry-accepted definitions and practice.

"(2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

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

"(3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than 0.126 V + 3.51.

"(4)(A) Not later than January 1, 2009, the Secretary shall issue, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

"(B) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraph (2)(A) with the standard levels effective for equipment manufactured 3 or more years after the date on which the final rule is published.

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

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

"(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final

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

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

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

(d) STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (c)) is amended by adding at the end the following:

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

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

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

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),*

not later than 5 years after the date on which the standards take effect, the Secretary shall issue a final rule to determine whether amending the applicable standards is technologically feasible and economically justified.

"(B) Not later than 5 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that amending the standards is not technologically feasible or economically justified, the Secretary shall issue a final rule to determine whether amending the standards established under paragraph (1) or the amended standards, as applicable, is technologically feasible or economically justified.

"(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

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

"(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final amended standard is published.

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

nically feasible and economically justified, as provided in subsections (o) and (p) of section 325.".

(e) STANDARDS FOR COMMERCIAL CLOTHES WASHERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (d)) is amended by adding at the end the following:

"(e) COMMERCIAL CLOTHES WASHERS.—(1) Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

"(A) a Modified Energy Factor of at least 1.26; and

"(B) a Water Factor of not more than 9.5.

"(2)(A)(i) Not later than January 1, 2010, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

"(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

"(B)(i) Not later than January 1, 2015, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

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

factured 3 years after the date on which the final amended standard is published.".

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

(1) in subsection (a)—

(A) in paragraph (4)—

(i) in subparagraph (A), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment,"; and

(ii) in subparagraph (B), by inserting "very large commercial package air conditioning and heating equipment," after "large commercial package air conditioning and heating equipment,"; and

(B) by adding at the end the following:

"(6)(A)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be—

"(I) the test procedures determined by the Secretary to be generally accepted industry testing procedures; or

"(II) rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

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

"(B)(i) In the case of commercial refrigerators, freezers, and refrigerators-freezers with doors covered by the standards adopted in February 2002, by the California Energy Commission, the rating temperatures shall be the integrated average temperature of 38 degrees F (± 2 degrees F) for refrigerator compartments and 0 degrees F (± 2 degrees F) for freezer compartments.

"(C) The Secretary shall issue a rule in accordance with paragraphs (2) and (3) to establish the appropriate rating temperatures for the other products for which standards will be established under subsection 342(c)(4).

"(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements under section 323(e).

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

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

"(ii) If the Secretary determines that 180 days is an insufficient period during which to review and adopt the amended test procedure or rating procedure under clause (i), the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure or rating procedure.

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

"(I) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

"(II) based on that review, adopt 1 new test procedure for use in the standards program.

"(ii) If a new test procedure is adopted under clause (i)—

"(I) section 323(e) shall apply; and

"(II) subparagraph (B) shall apply to the adopted test procedure.

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

"(B)(i) If Air-Conditioning and Refrigeration Institute Standard 810–2003 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended Air-Conditioning and Refrigeration Institute Standard, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

"(ii) If the Secretary issues a rule under clause (i) containing a determination described in clause (ii), the rule may establish an amended test procedure for the product that meets the requirements of paragraphs (2) and (3).

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

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

tablished by the Secretary for residential clothes washers under section 325(g).''; and

(2) in subsection (d)(1), by inserting ''very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,'' after ''large commercial package air conditioning and heating equipment,''.

(g) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by inserting ''very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,'' after ''large commercial package air conditioning and heating equipment,'' each place it appears.

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

(1) in subsection (a)—

(A) in paragraph (7), by striking ''and'' at the end;

(B) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

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

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

(3) by adding at the end the following:

"(d)(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to very large commercial package air conditioning and heating equipment to the same extent and in the same manner as section 327 applies under part A on the date of enactment of this subsection.

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

"(e)(1)(A) Subsections (a), (b), and (d) of section 326, subsections (m) through (s) of section 325, and sections 328 through 336 shall apply with respect to commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.

"(B) In applying those provisions to commercial refrigerators, freezers, and refrigerator-freezers, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

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

"(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

"(3)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under section 342(c)(4) to the same extent and in the same manner as the provisions apply under part A on the date of publication of the final rule by the Secretary, except that any State or local standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.

"(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

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

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

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

"(5)(A) In the case of any commercial refrigerator, freezer, or refrigerator-freezer to which standards are applicable under paragraphs (2) and (3) of section 342(c), the Secretary shall require manufacturers to certify, through an independent, nationally recognized testing or certification program, that the commercial refrigerator, freezer, or refrigerator-freezer meets the applicable standard.

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

"(C) As part of certification, information on equipment energy use and interior volume shall be made available to the Secretary.

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

"(ii) Any State standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(d)(1) take effect.

"(B) In applying section 327 to the equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

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

"(ii) Any State standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards established under section 342(d)(2) take effect.

"(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

"(3)(A) If the Secretary does not issue a final rule for a specific type of automatic commercial ice maker within the time frame specified in subsection 342(d), subsections (b) and (c) of section 327 shall no longer apply to the specific type of automatic commercial ice maker for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of automatic commercial ice maker.

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

"(4)(A) The Secretary shall monitor whether manufacturers are reducing harvest rates below tested values for the purpose of bringing non-complying equipment into compliance.

"(B) If the Secretary finds that there has been a substantial amount of manipulation with respect to harvest rates under subparagraph (A), the Secretary shall take steps to minimize the manipulation, such as requiring harvest rates to be within 5 percent of tested values.

"(g)(1)(A) If the Secretary does not issue a final rule for commercial clothes washers within the timeframe specified in section 342(e)(2), subsections (b) and (c) of section 327 shall not apply to commercial clothes washers for the

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

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

"(2) The Secretary shall undertake an educational program to inform owners of laundromats, multifamily housing, and other sites where commercial clothes washers are located about the new standard, including impacts on washer purchase costs and options for recovering those costs through coin collection.".

SEC. 137. EXPEDITED RULEMAKING.

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

(b) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—The first sentence of section 336(b)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6306(b)(2)) is amended by striking "such chapter." and inserting "that chapter, except, notwithstanding section 706(2)(D) of title 5, United States Code, no direct final rule prescribed or withdrawn under section 325(u) may be held unlawful or

set aside because of the failure of the Secretary to observe a procedure required by law other than the procedures required under section 325(u).".

(c) CONFORMING AMENDMENT.—Section 345(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6316(b)(1)) is amended by inserting "section 325(u)," before "section 326(a)".

SEC. 138. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

"(F)(i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider—

"(I) the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency; and

"(II) changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels.

"(ii) Not later than 2 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).".

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding at the end the following:

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

"(B) In the case of products to which TP–1 standards under section 325(y) apply, labeling requirements shall be based on the 'Standard for the Labeling of Distribution Transformer Efficiency' prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect on the date of enactment of this paragraph.

"(C) In the case of dehumidifiers covered under section 325(dd), the Commission shall not require an 'Energy Guide' label.".

SEC. 139. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS UTILITIES STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the National Association of Regulatory Utility Commissioners and the National Association of State Energy Officials, shall conduct a study of State and regional policies

that promote cost-effective programs to reduce energy consumption (including energy efficiency programs) that are carried out by—

(1) utilities that are subject to State regulation; and

(2) nonregulated utilities.

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

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

(2) funding sources, including rate surcharges;

(3) infrastructure planning approaches (including energy efficiency programs) and infrastructure improvements;

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

(5) methods of—

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

(B) encouraging utilities to undertake voluntary energy efficiency programs; and

(C) ensuring appropriate returns on energy efficiency programs.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) the findings of the study; and

(2) any recommendations of the Secretary, including recommendations on model policies to promote energy efficiency programs.

SEC. 140. ENERGY EFFICIENCY PILOT PROGRAM.

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

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

(A) energy efficiency; and

(B) reduction of consumption of electricity or natural gas in the State by at least 0.75 percent, as compared to a baseline determined by the Secretary for the period preceding the implementation of the program; or

(2) for any State that has adopted a statewide program as of the date of enactment of this Act, activities that reduce energy consumption in the State by expanding and improving the program.

(b) VERIFICATION.—A State that receives financial assistance under subsection (a)(1) shall submit to the Secretary independent verification of any energy savings achieved through the statewide program.

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

SEC. 141. ENERGY EFFICIENCY RESOURCE PROGRAMS.

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

"(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) DEMAND BASELINE.—The term 'demand baseline' means the baseline determined by the Secretary for an appropriate period preceding the implementation of an energy efficiency resource program.

"(B) ENERGY EFFICIENCY RESOURCE PROGRAMS.—The term 'energy efficiency resource program' means an energy efficiency or other demand reduction program that is designed to reduce annual electricity consumption or peak demand of consumers served by an electric utility

by a percentage of the demand baseline of the utility that is equal to not less than 0.75 percent of the number of years during which the program is in effect.

"(2) PUBLIC HEARINGS; DETERMINATIONS.—

"(A) As soon as practicable after the date of enactment of this subsection, but not later than 3 years after that date, each State regulatory authority (with respect to each electric utility over which the State has ratemaking authority) and each nonregulated electric utility shall, after notice, conduct a public hearing on the benefits and feasibility of implementing an energy efficiency resource program.

"(B) A State regulatory authority or nonregulated utility shall implement an energy efficiency resource program if, on the basis of a hearing under subparagraph (A), the State regulatory authority or nonregulated utility determines that the program would—

"(i) benefit end-use customers;

"(ii) be cost-effective based on total resource cost;

"(iii) serve the public welfare; and

"(iv) be feasible to implement.

"(3) IMPLEMENTATION.—

"(A) STATE REGULATORY AUTHORITIES.—If a State regulatory authority makes a determination under paragraph (2)(B), the State regulatory authority shall—

"(i) require each electric utility over which the State has ratemaking authority to implement an energy efficiency resource program; and

"(ii) allow such a utility to recover any expenditures incurred by the utility in implementing the energy efficiency resource program.

"(B) NONREGULATED ELECTRIC UTILITIES.—If a nonregulated electric utility makes a determination under paragraph (2)(B), the utility shall implement an energy efficiency resource program.

"(4) UPDATING REGULATIONS.—A State regulatory authority or nonregulated utility may update periodically a determination under paragraph (2)(B) to determine whether an energy efficiency resource program should be—

"(A) continued;,

"(B) modified; or

"(C) terminated.

"(5) EXCEPTION.—Paragraph (2) shall not apply to a State regulatory authority (or any non-regulated electric utility operating in the State) that demonstrates to the Secretary that an energy efficiency resource program is in effect in the State.".

(b) GAS UTILITIES.—Section 303 of the Public Utilities Regulatory Policy Act of 1978 (15 U.S.C. 3203) is amended by adding at the end the following:

"(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) DEMAND BASELINE.—The term 'demand baseline' means the baseline determined by the Secretary for an appropriate period preceding the implementation of an energy efficiency resource program.

"(B) ENERGY EFFICIENCY RESOURCE PROGRAMS.—The term 'energy efficiency resource program' means an energy efficiency or other demand reduction program that is designed to reduce annual gas consumption or peak demand of consumers served by a gas utility by a percentage of the demand baseline of the utility that is equal to not less than 0.75 percent of the number of years during which the program is in effect.

"(2) PUBLIC HEARINGS; DETERMINATIONS.—

"(A) As soon as practicable after the date of enactment of this subsection, but not later than 3 years after that date, each State regulatory authority (with respect to each gas utility over which the State has ratemaking authority) and each nonregulated gas utility shall, after notice, conduct a public hearing on the benefits and feasibility of implementing an energy efficiency resource program.

"(B) A State regulatory authority or nonregulated utility shall implement an energy efficiency resource program if, on the basis of a hearing under subparagraph (A), the State regulatory authority or nonregulated utility determines that the program would—

"(i) benefit end-use customers;

"(ii) be cost-effective based on total resource cost;

"(iii) serve the public welfare; and

"(iv) be feasible to implement.

"(3) IMPLEMENTATION.—

"(A) STATE REGULATORY AUTHORITIES.—If a State regulatory authority makes a deter-

mination under paragraph (2)(B), the State regulatory authority shall—

"(i) require each gas utility over which the State has ratemaking authority to implement an energy efficiency resource program; and

"(ii) allow such a utility to recover any expenditures incurred by the utility in implementing the energy efficiency resource program.

"(B) NONREGULATED GAS UTILITIES.—If a nonregulated gas utility makes a determination under paragraph (2)(B), the utility shall implement an energy efficiency resource program.

"(4) UPDATING REGULATIONS.—A State regulatory authority or nonregulated utility may update periodically a determination under paragraph (2)(B) to determine whether an energy efficiency resource program should be—

"(A) continued;,

"(B) modified; or

"(C) terminated.

"(5) EXCEPTION.—Paragraph (2) shall not apply to a State regulatory authority (or any nonregulated gas utility operating in the State) that

demonstrates to the Secretary that an energy efficiency resource program is in effect in the State.''.

SEC. 142. FUEL EFFICIENT ENGINE TECHNOLOGY FOR AIRCRAFT.

(a) IN GENERAL.—The Secretary and the Administrator of the National Aeronautics and Space Administration shall enter into a cooperative agreement to carry out a multi-year engine development program to advance technologies to enable more fuel efficient, turbine-based propulsion and power systems for aeronautical and industrial applications.

(b) PERFORMANCE OBJECTIVE.—The fuel efficiency performance objective for the program shall be to achieve a fuel efficiency improvement of more than 10 percent by exploring—

(1) advanced concepts, alternate propulsion, and power configurations, including hybrid fuel cell powered systems; and

(2) the use of alternate fuel in conventional or nonconventional turbine-based systems.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $60,000,000 for each of fiscal years 2006 through 2010.

SEC. 143. MOTOR VEHICLE TIRES SUPPORTING MAXIMUM FUEL EFFICIENCY.

(a) STANDARDS FOR TIRES MANUFACTURED FOR INTERSTATE COMMERCE.—Section 30123 of title 49, United States Code, is amended—

(1) in subsection (b), by inserting after the first sentence the following: "The grading system shall include standards for rating the fuel efficiency of tires designed for use on passenger cars and light trucks."; and

(2) by adding at the end the following:

"(d) NATIONAL TIRE FUEL EFFICIENCY PROGRAM.—(1) The Secretary shall develop and carry out a national tire fuel efficiency program for tires designed for use on passenger cars and light trucks.

"(2) The program shall include the following:

"(A) Policies and procedures for testing and labeling tires for fuel economy to enable tire buyers to make informed purchasing decisions about the fuel economy of tires.

"(B) Policies and procedures to promote the purchase of energy-efficient replacement tires, including purchase incentives, website listings on the Internet, printed fuel economy guide booklets, and mandatory requirements for tire retailers to provide tire buyers with fuel-efficiency information on tires.

"(C) Minimum fuel economy standards for tires, promulgated by the Secretary.

"(3) The minimum fuel economy standards for tires shall—

"(A) ensure that the average fuel economy of replacement tires is equal to or better than the average fuel economy of tires sold as original equipment;

"(B) secure the maximum technically feasible and cost-effective fuel savings;

"(C) not adversely affect tire safety;

"(D) not adversely affect the average tire life of replacement tires;

"(E) incorporate the results from—

"(i) laboratory testing; and

"(ii) to the extent appropriate and available, on-road fleet testing programs conducted by the manufacturers; and

"(F) not adversely affect efforts to manage scrap tires.

"(4) The policies, procedures, and standards developed under paragraph (2) shall apply to all types and models of tires that are covered by the uniform tire quality grading standards under section 575.104 of title 49, Code of Federal Regulations (or any successor regulation).

"(5) Not less often than every three years, the Secretary shall review the minimum fuel economy standards in effect for tires under this subsection and revise the standards as necessary to ensure compliance with requirements under paragraph (3). The Secretary may not, however, reduce the average fuel economy standards applicable to replacement tires.

"(6) Nothing in this chapter shall be construed to preempt any provision of State law relating to higher fuel economy standards applicable to replacement tires designed for use on passenger cars and light trucks.

"(7) Nothing in this chapter shall apply to—

"(A) a tire or group of tires with the same SKU, plant, and year, for which the volume of tires produced or imported is less than 15,000 annually;

"(B) a deep tread, winter-type snow tire, spacesaver tire, or temporary use spare tire;

"(C) a tire with a normal rim diameter of 12 inches or less;

"(D) a motorcycle tire; or

"(E) a tire manufactured specifically for use in an off-road motorized recreational vehicle.

"(8) In this subsection, the term 'fuel economy', with respect to tires, means the extent to which the tires con-

tribute to the fuel economy of the motor vehicles on which the tires are mounted.

(b) CONFORMING AMENDMENT.—Section 30103(b) of title 49, United States Code, is amended in paragraph (1) by striking "When" and inserting "Except as provided in section 30123(d) of this title, when".

(c) TIME FOR IMPLEMENTATION.—The Secretary of Transportation shall ensure that the national tire fuel efficiency program required under subsection (d) of section 30123 of title 49, United States Code (as added by subsection (a)(2)), is administered so as to apply the policies, procedures, and standards developed under paragraph (2) of such subsection (d) beginning not later than March 31, 2008.

Subtitle D—Measures to Conserve Petroleum

SEC. 151. REDUCTION OF DEPENDENCE ON IMPORTED PETROLEUM.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2006, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal

of reducing dependence on imported petroleum sources by 2015.

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

(A) include a description of the implementation, during the previous fiscal year, of provisions under this Act relating to domestic crude petroleum production;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1); and

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

(b) MEASURES TO REDUCE IMPORT DEPENDENCE THROUGH INCREASED DOMESTIC PETROLEUM CONSERVATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve petroleum in end-uses throughout the economy of the United States sufficient to reduce total demand for petroleum in the United States by 1,000,000 barrels per day from the amount projected for calendar year 2015 in the reference case contained in the report of

the Energy Information Administration entitled "Annual Energy Outlook 2005".

(2) CONTENTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

Subtitle E—Energy Efficiency in Housing

SEC. 161. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking "; and" and inserting a semicolon;

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

(C) by adding at the end the following:

"(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–

2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

"(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures."; and

(2) in subsection (e)(2)(C)—

(A) by striking "The treatment" and inserting the following:

"(i) IN GENERAL.—The treatment"; and

(B) by adding at the end the following:

"(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for—

"(I) equipment conversions to less costly utility sources;

"(II) projects with resident-paid utilities; and

"(III) adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for

occupancy rates increased by rehabilitation.

"(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including—

"(I) windows;

"(II) heating system replacements;

"(III) wall insulation;

"(IV) site-based generation; and

"(V) advanced energy savings technologies, including renewable energy generation and other such retrofits.".

SEC. 162. ENERGY EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP designated products, as such terms are defined in section 552 of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) (as amended by section 104) unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 163. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking " 1 year after the date of enactment of the Energy Policy Act of 1992" and inserting "September 30, 2006";

(ii) in subparagraph (A), by striking "; and" and inserting a semicolon;

(iii) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(iv) by adding at the end the following: "(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development."; and

(B) in paragraph (2), in the first sentence, by inserting ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v),

the 2003 International Energy Conservation Code" after "Standard 90.1–1989')";

(2) in subsection (b)—

(A) by striking "within 1 year after the date of enactment of the Energy Policy Act of 1992" and inserting "by September 30, 2006"; and

(B) by inserting ", and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" after "Standard 90.1–1989"; and

(3) in subsection (c)—

(A) in the heading, by inserting "AND THE INTERNATIONAL ENERGY CONSERVATION CODE" after "MODEL ENERGY CODE"; and

(B) by inserting ", or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code" after "Standard 90.1–1989".

SEC. 164. ENERGY STRATEGY FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) DEVELOPMENT OF STRATEGY.—The Secretary of Housing and Urban Development shall develop and implement an integrated energy strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing.

(b) CONTENTS OF STRATEGY.—The energy strategy required under subsection (a) shall include the development of energy reduction goals and incentives for public housing agencies.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, the Secretary of Housing and Urban Development shall submit to Congress a report describing—

(1) the energy strategy required under subsection (a);

(2) the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies; and

(3) the progress, if any, in implementing the energy strategy required under subsection (a).

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENTS.—Not later than 180 days after the date of enactment of this Act and each year thereafter, the Secretary shall—

(1) review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (tidal, wave, current, and thermal), geothermal, and hydroelectric energy resources; and

(2) undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and each year thereafter, the Secretary shall publish a report based on the most recent assessment under subsection (a).

(2) CONTENTS.—The report shall contain—

(A) a detailed inventory describing the available quantity and characteristics of the renewable energy resources; and

(B) such other information as the Secretary determines would be useful in developing the renewable energy resources, including—

(i) descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, and the location of energy and water resources;

(ii) available estimates of the costs needed to develop each resource;

(iii) an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets;

(iv) recommendations for removing or addressing those barriers; and

(v) recommendations for providing access to the electrical grid that do not unfairly disadvantage renewable or other energy producers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2006 through 2010.

SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended—

(1) by striking the last sentence;

(2) by designating the first, second, and third sentences as paragraphs (1), (2), and (3), respectively;

(3) in paragraph (3) (as so designated), by striking "and which satisfies" and all that follows through "deems necessary"; and

(4) by adding at the end the following:

"(4)(A) Subject to subparagraph (B), if there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities for a fiscal year, the Secretary shall assign—

"(i) 60 percent of appropriated funds for the fiscal year to facilities that use solar, wind, ocean (tidal, wave, current, and thermal), geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity; and

"(ii) 40 percent of appropriated funds for the fiscal year to other projects.

"(B) After submitting to Congress an explanation of the reasons for the alteration, the Secretary may alter the percentage requirements of subparagraph (A).".

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking "a State or any political" and all that follows through "nonprofit electrical cooperative" and inserting "a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)),"; and

(2) by inserting "landfill gas," after "wind, biomass,".

(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking "during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section" and inserting "before October 1, 2016".

(d) PAYMENT PERIOD.—Section 1212(d) of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended in the second sentence by inserting ", or in which the Secretary determines that all necessary Federal and State authoriza-

tions have been obtained to begin construction of the facility" after "eligible for such payments".

(e) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended in the first sentence by inserting "landfill gas," after "wind, biomass,".

(f) TERMINATION OF AUTHORITY.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking "the expiration of" and all that follows through "of this section" and inserting "September 30, 2026".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2026, to remain available until expended.".

SEC. 203. FEDERAL PURCHASE REQUIREMENT.

(a) DEFINITIONS.—In this section:

(1) BIOMASS.—The term "biomass" means any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residue, precommercial thinning, slash, brush, or nonmerchantable material;

(B) a solid wood waste material—

(i) including a waste pallet, crate, dunnage, manufacturing and construction wood waste (other than pressure-treated, chemically-treated, or painted wood waste), and landscape or right-of-way tree trimming; but

(ii) not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled;

(C) agriculture waste, including an orchard tree crop, vineyard, grain, legume, sugar, and other crop byproduct or residue, and a livestock waste nutrient; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) RENEWABLE ENERGY.—The term "renewable energy" means electric energy generated from solar, wind, biomass, ocean (tidal, wave, current, and thermal), landfill gas, geothermal, municipal solid waste, or new hydroelectric generation capacity achieved

from increased efficiency or additions of new capacity at an existing hydroelectric project.

(b) REQUIREMENT.—The President, acting through the Secretary, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total quantity of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in each of fiscal years 2007 through 2009.

(2) Not less than 5 percent in each of fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

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

(1) the renewable energy is produced and used onsite at a Federal facility;

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

(3) the renewable energy is produced on Indian land (as defined in section 2601 of the Energy Policy Act of 1992) and used at a Federal facility.

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

Subtitle B—Reliable Fuels

SEC. 211. RENEWABLE CONTENT OF GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

"(o) RENEWABLE FUEL PROGRAM.—

"(1) DEFINITIONS.—In this section:

"(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

"(i) dedicated energy crops and trees;

"(ii) wood and wood residues;

"(iii) plants;

"(iv) grasses;

"(v) agricultural residues;

"(vi) fibers;

"(vii) animal wastes and other waste materials; and

"(viii) municipal solid waste.

"(B) RENEWABLE FUEL.—

"(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

"(I)(aa) is produced from grain, starch, oilseeds, sugarcane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

"(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

"(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

"(ii) INCLUSION.—The term 'renewable fuel' includes—

"(I) cellulosic biomass ethanol; and

"(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

"(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

"(2) RENEWABLE FUEL PROGRAM.—

"(A) REGULATIONS.—

"(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

"(ii) NONCONTIGUOUS STATE OPTIN.—

"(I) IN GENERAL.—On the petition of a noncontiguous State or territory, the Administrator may allow the renewable fuel program established under this subsection to apply in the noncontiguous State or territory at the same time or any time after the Administrator promulgates regulations under this subparagraph.

"(II) OTHER ACTIONS.—In carrying out this clause, the Administrator may—

"(aa) issue or revise regulations under this paragraph;

"(bb) establish applicable percentages under paragraph (3);

"(cc) provide for the generation of credits under paragraph (5); and

"(dd) take such other actions as are necessary to allow for the application of the renewable fuels program in a noncontiguous State or territory.

"(iii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

"(I) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

"(II) shall not—

"(aa) restrict geographic areas in which renewable fuel may be used; or

"(bb) impose any per-gallon obligation for the use of renewable fuel.

"(iv) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 3.2 percent for calendar year 2006.

"(B) APPLICABLE VOLUME.—

"(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following 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.*

"(ii) CALENDAR YEAR 2013 AND THEREAFTER.—Subject to clauses (iii) and (iv), for the purposes of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Agriculture and the Secretary of Energy, based on a review of the implementation of the program during calendar years 2006 through 2012, including a review of—

"(I) the impact of the use of renewable fuels on the environment, air

quality, energy security, job creation, and rural economic development; and

"(II) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

"(iii) MINIMUM QUANTITY DERIVED FROM CELLULOSIC BIOMASS.—For calendar year 2013 and each calendar year thereafter—

"(I) the applicable volume referred to in clause (ii) shall contain a minimum of 250,000,000 gallons that are derived from cellulosic biomass; and

"(II) the 2.5-to-1 ratio referred to in paragraph (4) shall not apply.

"(iv) MINIMUM APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be not less than the product obtained by multiplying—

"(I) the number of gallons of gasoline that the Administrator estimates

will be sold or introduced into commerce in the calendar year; and

"(II) the ratio that—

"(aa) 8,000,000,000 gallons of renewable fuel; bears to

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—

"(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate, with respect to the following calendar year, of the volumes of gasoline projected to be sold or introduced into commerce in the United States.

"(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

"(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection

Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

"(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

"(I) be applicable to refineries, blenders, and importers, as appropriate;

"(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce in the United States; and

"(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

"(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

"(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

"(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

"(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

"(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

"(ii) for the generation of an appropriate amount of credits for biodiesel; and

"(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

"(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use

the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance for the calendar year in which the credit was generated.

"(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

"(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

"(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

"(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

"(i) less than 35 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(D) PERIODS.—The 2 periods referred to in this paragraph are—

"(i) April through September; and

"(ii) January through March and October through December.

"(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2006 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

"(F) STATE EXEMPTION FROM SEASONALITY REQUIREMENTS.—Notwithstanding any other provision of law, the seasonality requirement relating to renewable fuel use established by this paragraph shall not apply to any State that has received a waiver under section 209(b).

"(7) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the

national quantity of renewable fuel required under paragraph (2)—

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

"(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply.

"(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

"(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

"(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2006, on a national, regional, or State basis.

"(B) REQUIRED EVALUATIONS.—The study shall evaluate renewable fuel—

"(i) supplies and prices;

"(ii) blendstock supplies; and

"(iii) supply and distribution system capabilities.

"(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

"(D) WAIVER.—

"(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar year 2006.

"(ii) NO EFFECT ON WAIVER AUTHORITY.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

"(9) SMALL REFINERIES.—

"(A) TEMPORARY EXEMPTION.—

"(i) IN GENERAL.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

"(ii) EXTENSION OF EXEMPTION.—

"(I) STUDY BY SECRETARY OF ENERGY.—Not later than December 31, 2008, the Secretary of Energy shall conduct for the Administrator a study

to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

"(II) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

"(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

"(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

"(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause (i), the Administrator, in consultation with the

Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

"(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

"(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery under paragraph (5) beginning in the calendar year following the date of notification.

"(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

"(10) ETHANOL MARKET CONCENTRATION ANALYSIS.—

"(A) ANALYSIS.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

"(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

"(B) REPORT.—Not later than December 1, 2005, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

"(p) RENEWABLE FUEL SAFE HARBOR.—

"(1) IN GENERAL.—

"(A) SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, no re-

newable fuel (as defined in subsection (o)(1)) used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing renewable fuel, shall be deemed to be defective in design or manufacture by reason of the fact that the fuel is, or contains, renewable fuel, if—

"(i) the fuel does not violate a control or prohibition imposed by the Administrator under this section; and

"(ii) the manufacturer of the fuel is in compliance with all requests for information under subsection (b).

"(B) SAFE HARBOR NOT APPLICABLE.—In any case in which subparagraph (A) does not apply to a quantity of fuel, the existence of a design defect or manufacturing defect with respect to the fuel shall be determined under otherwise applicable law.

"(2) EXCEPTION.—This subsection does not apply to ethers.

"(3) APPLICABILITY.—This subsection applies with respect to all claims filed on or after the date of enactment of this subsection.".

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking "or (n)" each place it appears and inserting "(n), or (o)"; and

(B) in the second sentence, by striking "or (m)" and inserting "(m), or (o)"; and

(2) in the first sentence of paragraph (2), by striking "and (n)" each place it appears and inserting "(n), and (o)".

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

"(5) EXCLUSION FROM ETHANOL WAIVER.—

"(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limita-

tion established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

"(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

"(C) EFFECTIVE DATE.—

"(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

"(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

"(II) 1 year after the date of receipt of the notification.

"(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

"(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

"(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

SEC. 212. RENEWABLE FUEL.

(a) IN GENERAL.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

"SEC. 212. RENEWABLE FUEL.

"(a) DEFINITIONS.—In this section:

"(1) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

"(2) RFG STATE.—The term 'RFG State' means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

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

"(b) SURVEY OF RENEWABLE FUEL MARKET.—

"(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator shall—

"(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

"(i) conventional gasoline containing ethanol;

"(ii) reformulated gasoline containing ethanol;

"(iii) conventional gasoline containing renewable fuel; and

"(iv) reformulated gasoline containing renewable fuel; and

"(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

"(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—

"(A) IN GENERAL.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate.

"(B) RELIANCE ON EXISTING REQUIREMENTS.—To avoid duplicative requirements, in carrying out subparagraph (A), the Adminis-

trator shall rely, to the maximum extent practicable, on reporting and recordkeeping requirements in effect on the date of enactment of this section.

"(3) CONFIDENTIALITY.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

"(c) CELLULOSIC BIOMASS ETHANOL AND MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

"(1) IN GENERAL.—Funds may be provided for the cost (as defined in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of loan guarantees issued under title XIV of the Energy Policy Act of 2005 to carry out commercial demonstration projects for celluosic biomass and sucrose-derived ethanol.

"(2) DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The Secretary shall issue loan guarantees under this section to carry out not more than 4 projects to commercially demonstrate the feasibility and viability of producing cellulosic biomass ethanol or sucrose-derived ethanol, including at least 1 project that uses cereal straw as a feedstock and 1 project that uses municipal solid waste as a feedstock.

"(B) DESIGN CAPACITY.—Each project shall have a design capacity to produce at least 30,000,000 gallons of cellulosic biomass ethanol each year.

"(3) APPLICANT ASSURANCES.—An applicant for a loan guarantee under this section shall provide assurances, satisfactory to the Secretary, that—

"(A) the project design has been validated through the operation of a continuous process facility with a cumulative output of at least 50,000 gallons of ethanol;

"(B) the project has been subject to a full technical review;

"(C) the project is covered by adequate project performance guarantees;

"(D) the project, with the loan guarantee, is economically viable; and

"(E) there is a reasonable assurance of repayment of the guaranteed loan.

"(4) LIMITATIONS.—

"(A) MAXIMUM GUARANTEE.—Except as provided in subparagraph (B), a loan guarantee under this section may be issued for up to 80 percent of the estimated cost of a project, but may not exceed $250,000,000 for a project.

"(B) ADDITIONAL GUARANTEES.—

"(i) IN GENERAL.—The Secretary may issue additional loan guarantees for a project to cover up to 80 percent of the excess of actual project cost over estimated project cost but not to exceed 15 percent of the amount of the original guarantee.

"(ii) PRINCIPAL AND INTEREST.—Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan made under subparagraph (A).

"(5) EQUITY CONTRIBUTIONS.—To be eligible for a loan guarantee under this section, an applicant for the loan guarantee shall have binding commitments from equity investors to provide an initial equity contribution of at least 20 percent of the total project cost.

"(6) INSUFFICIENT AMOUNTS.—If the amount made available to carry out this section is insufficient to allow the Secretary to make loan guarantees for 3 projects described in subsection (b), the Secretary shall issue loan guarantees for 1 or more qualifying projects under this section in the order in which the

applications for the projects are received by the Secretary.

"(7) APPROVAL.—An application for a loan guarantee under this section shall be approved or disapproved by the Secretary not later than 90 days after the application is received by the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the Mississippi State University and the Oklahoma State University, $4,000,000 for each of fiscal years 2005 through 2007.

"(e) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

"(1) IN GENERAL.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

"(2) ELIGIBILITY.—

"(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia

made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

"(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2006 through 2010.

"(f) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

"(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

"(A) is located in the United States; and

"(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

"(A) $250,000,000 for fiscal year 2005; and

"(B) $400,000,000 for fiscal year 2006.".

(b) CONFORMING AMENDMENT.—The table of contents for the Clean Air Act (42 U.S.C. 7401 prec.) is amended by inserting after the item relating to section 211 the following:

"Sec. 212. Renewable fuels".

SEC. 213. SURVEY OF RENEWABLE FUELS CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

"(m) SURVEY OF RENEWABLE FUELS CONSUMPTION.—

"(1) IN GENERAL.—In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct

and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

"(2) ELEMENTS OF SURVEY.—In conducting the survey, the Administrator shall collect information retrospectively to 1998, on a national basis and a regional basis, including—

"(A) the quantity of renewable fuels produced;

"(B) the cost of production;

"(C) the cost of blending and marketing;

"(D) the quantity of renewable fuels blended;

"(E) the quantity of renewable fuels imported; and

"(F) market price data.".

Subtitle C—Federal Reformulated Fuels

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Federal Reformulated Fuels Act of 2005".

SEC. 222. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—Section

9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraphs (1), (2), and (12)"; and

(B) by inserting "and section 9010" before "if"; and

(2) by adding at the end the following:

"(12) REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—

"(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

"(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

"(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

"(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).".

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

"SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

"Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

"(1) by a State (pursuant to section 9003(h)(7)) acting under—

"(A) a program approved under section 9004; or

"(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

"(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

"SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

"In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

"(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2005, to remain available until expended; and

"(2) to carry out section 9010—

"(A) $50,000,000 for fiscal year 2005; and

"(B) $30,000,000 for fiscal years 2006 through 2010.".

(c) TECHNICAL AMENDMENTS.—

(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:

"Sec. 9010. Release prevention and compliance.
"Sec. 9011. Authorization of appropriations.".

(2) Section 9001(3)(A) of the Solid Waste Disposal Act (42 U.S.C. 6991(3)(A)) is amended by striking "sustances" and inserting "substances".

(3) Section 9003(f)(1) of the Solid Waste Disposal Act (42 U.S.C. 6991b(f)(1)) is amended by striking "subsection (c) and (d) of this section" and inserting "subsections (c) and (d)".

(4) Section 9004(a) of the Solid Waste Disposal Act (42 U.S.C. 6991c(a)) is amended in the second sentence by striking "referred to" and all that follows and inserting "referred to in subparagraph (A) or (B), or both, of section 9001(2).".

(5) Section 9005 of the Solid Waste Disposal Act (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking "study taking" and inserting "study, taking";

(B) in subsection (b)(1), by striking "relevent" and inserting "relevant"; and

(C) in subsection (b)(4), by striking "Evironmental" and inserting "Environmental".

SEC. 223. RESTRICTIONS ON THE USE OF MTBE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as "MTBE") has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the "Clean Air Act Amendments of 1990") (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that—

(A) increased use of MTBE could result from the adoption of that standard; and

(B) the use of MTBE would likely be needed to implement that standard;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health

effects of MTBE consumption at low levels are yet unknown as of the date of enactment of this Act;

(10) in the report entitled "Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline" and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(11) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting "fuel or fuel additive or" after "Administrator any"; and

(B) by striking "air pollution which" and inserting "air pollution, or water pollution, that";

(2) in paragraph (4)(B), by inserting "or water quality protection," after "emission control,"; and

(3) by adding at the end the following:

"(5) RESTRICTIONS ON USE OF MTBE.—

"(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

"(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

"(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

"(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

"(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present

in motor vehicle fuel in cases that the Administrator determines to be appropriate.

"(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

"(A) IN GENERAL.—

"(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of—

"(I) iso-octane or alkylates, unless the Administrator, in consultation with the Secretary of Energy, determines that transition assistance for the production of iso-octane or alkylates is inconsistent with the criteria specified in subparagraph (B); and

"(II) any other fuel additive that meets the criteria specified in subparagraph (B).

"(B) CRITERIA.—The criteria referred to in subparagraph (A) are that—

"(i) use of the fuel additive is consistent with this subsection;

"(ii) the Administrator has not determined that the fuel additive may reasonably be anticipated to endanger public health or the environment;

"(iii) the fuel additive has been registered and tested, or is being tested, in accordance with the requirements of this section; and

"(iv) the fuel additive will contribute to replacing quantities of motor vehicle fuel rendered unavailable as a result of paragraph (5).

"(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

"(i) is located in the United States; and

"(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

"(I) beginning on the date of enactment of this paragraph; and

"(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

"(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2005 through 2008.".

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (c) have no effect on any law enacted or in effect before the date of enactment of this Act concerning the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 224. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking "(including the oxygen content requirement contained in subparagraph (B))";

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking "Within 1 year after the enactment of the Clean Air Act Amendments of 1990," and inserting the following:

"(A) IN GENERAL.—Not later than November 15, 1991,"; and

(2) by adding at the end the following:

"(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

"(i) DEFINITION OF PADD.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

"(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State),

standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

"(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

"(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002.

"(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

"(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

"(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

"(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

"(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 2001 and 2002; and

"(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

"(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 2001 and 2002, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

"(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

"(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

"(vi) Not later than July 1, 2007, the Administrator shall promulgate final regulations to control hazardous air pollutants

from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph), and as authorized under section 202(1) of the Clean Air Act. If the Administrator promulgates by such date, final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels that achieve and maintain greater overall reductions in emissions of air toxics from reformulated gasoline than the reductions that would be achieved under section 211(k)(1)(B) of the Clean Air Act as amended by this clause, then sections 21l(k)(1)(i) through 211(k)(1)(v) shall be null and void and regulations promulgated thereunder shall be rescinded and have no further effect.

(c) COMMINGLING.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by adding at the end the following:

"(11) COMMINGLING.—The regulations under paragraph (1) shall permit the commingling at a re-

tail station of reformulated gasoline containing ethanol and reformulated gasoline that does not contain ethanol if, each time such commingling occurs—

"(A) the retailer notifies the Administrator before the commingling, identifying the exact location of the retail station and the specific tank in which the commingling will take place; and

"(B) the retailer certifies that the reformulated gasoline resulting from the commingling will meet all applicable requirements for reformulated gasoline, including content and emission performance standards.".

(d) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) SAVINGS CLAUSE.—

(1) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 2001 and 2002;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline sup-

plied to PADD I during calendar years 2001 and 2002; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by paragraph (5) of section 211(c) of the Clean Air Act (as added by section 211(c)); and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 2001 and 2002 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

SEC. 225. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

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

(1) in paragraph (2)—

(A) by striking "may also" and inserting "shall, on a regular basis,"; and

(B) by striking subparagraph (A) and inserting the following:

"(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and"; and

(2) by adding at the end the following:

"(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

"(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of

using as substitutes for methyl tertiary butyl ether in gasoline—

"(I) ethyl tertiary butyl ether;

"(II) tertiary amyl methyl ether;

"(III) di-isopropyl ether;

"(IV) tertiary butyl alcohol;

"(V) other ethers and heavy alcohols, as determined by then Administrator;

"(VI) ethanol;

"(VII) iso-octane; and

"(VIII) alkylates; and

"(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

"(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Com-

merce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

"(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities such as—

"(i) the national energy laboratories; and

"(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).".

SEC. 226. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 205(a)) is amended by inserting after subsection (p) the following:

"(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

"(1) ANTI-BACKSLIDING ANALYSIS.—

"(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives re-

sulting from implementation of the amendments made by the Federal Reformulated Fuels Act of 2005.

"(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

"(2) EMISSIONS MODEL.—For the purposes of this section, not later than 4 years after the date of enactment of this paragraph, the Administrator shall develop and finalize an emissions model that reflects, to the maximum extent practicable, the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2007.

"(3) PERMEATION EFFECTS STUDY.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall conduct a study, and report to Congress the results of the study, on the effects of ethanol content in gasoline on permeation, the process by which fuel molecules migrate through the elastomeric materials (rubber and plastic

parts) that make up the fuel and fuel vapor systems of a motor vehicle.

"(B) EVAPORATIVE EMISSIONS.—The study shall include estimates of the increase in total evaporative emissions likely to result from the use of gasoline with ethanol content in a motor vehicle, and the fleet of motor vehicles, due to permeation.".

SEC. 227. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking "(6) OPT-IN AREAS.—(A) Upon" and inserting the following:

"(6) OPT-IN AREAS.—

"(A) CLASSIFIED AREAS.—

"(i) IN GENERAL.—Upon";

(2) in subparagraph (B), by striking "(B) If" and inserting the following:

"(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If";

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking "subparagraph (A)" and inserting "clause (i)"; and

(B) in the second sentence, by striking "this paragraph" and inserting "this subparagraph"; and

(4) by adding at the end the following:

"(B) OZONE TRANSPORT REGION.—

"(i) APPLICATION OF PROHIBITION.—

"(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii) that there is insufficient capacity to supply reformulated gasoline.

"(II) PUBLICATION OF APPLICATION.—As soon as practicable after the

date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

"(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

"(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

"(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

"(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

"(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply

reformulated gasoline, the Administrator, by regulation—

"(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

"(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

"(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.".

SEC. 228. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

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

(1) by striking "(C) A State" and inserting the following:

"(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

"(i) IN GENERAL.—A State"; and

(2) by adding at the end the following:

"(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.".

SEC. 229. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 con-

tiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2008, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

SEC. 230. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations under subsection (d), the Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Agriculture and the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note), establish a program, to be known as the "Advanced Biofuel Technologies Program", to demonstrate advanced technologies for the production of alternative transportation fuels.

(b) PRIORITY.—In carrying out the program under subsection (a), the Administrator shall give priority to projects that enhance the geographical diversity of alternative fuels production and utilize feedstocks that represent 10 percent or less of ethanol or biodiesel fuel production in the United States during the previous fiscal year.

(c) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—As part of the program under subsection (a), the Administrator shall fund demonstration projects—

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol; and

(B) to develop not less than 5 technologies for coproducing value-added bioproducts (such as fertilizers, herbicides, and pesticides) resulting from the production of biodiesel fuel.

(2) ADMINISTRATION.—Demonstration projects under this subsection shall be—

(A) conducted based on a merit-reviewed, competitive process; and

(B) subject to the cost-sharing requirements of section 1002.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $110,000,000 for each of fiscal years 2005 through 2009.

SEC. 231. SUGAR CANE ETHANOL PROGRAM.

(a) DEFINITION OF PROGRAM.—In this section, the term "program" means the Sugar Cane Ethanol Program established by subsection (b).

(b) ESTABLISHMENT.—There is established within the Environmental Protection Agency a program to be known as the "Sugar Cane Ethanol Program".

(c) PROJECT.—

(1) IN GENERAL.—Subject to the availability of appropriations under subsection (d), in carrying out the program, the Administrator of the Environmental Protection Agency shall establish a project that is—

(A) carried out in multiple States—

(i) in each of which is produced cane sugar that is eligible for loans under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), or a similar subsequent authority; and

(ii) at the option of each such State, that have an incentive program that requires the use of ethanol in the State; and

(B) designed to study the production of ethanol from cane sugar, sugarcane, and sugarcane byproducts.

(2) REQUIREMENTS.—A project described in paragraph (1) shall—

(A) be limited to the production of ethanol in the States of Florida, Louisiana, Texas, and Hawaii in a way similar to the existing program for the processing of corn for ethanol to demonstrate that the process may be applicable to cane sugar, sugarcane, and sugarcane byproducts;

(B) include information on the ways in which the scale of production may be replicated once the sugar cane industry has located sites for, and constructed, ethanol production facilities; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $36,000,000, to remain available until expended.

SEC. 232. NATIONAL PRIORITY PROJECT DESIGNATION.

(a) DESIGNATION OF NATIONAL PRIORITY PROJECTS.—

(1) IN GENERAL.—There is established the National Priority Project Designation (referred to in this section as the "Designation"), which shall be evidenced by a medal bearing the inscription "National Priority Project".

(2) DESIGN AND MATERIALS.—The medal shall be of such design and materials and bear such additional inscriptions as the President may prescribe.

(b) MAKING AND PRESENTATION OF DESIGNATION.—

(1) IN GENERAL.—The President, on the basis of recommendations made by the Secretary, shall annually designate organizations that have—

(A) advanced the field of renewable energy technology and contributed to North American energy independence; and

(B) been certified by the Secretary under subsection (e).

(2) PRESENTATION.—The President shall designate projects with such ceremonies as the President may prescribe.

(3) USE OF DESIGNATION.—An organization that receives a Designation under this section may publicize the Designation of the organization as a National Priority Project in advertising.

(4) CATEGORIES IN WHICH THE DESIGNATION MAY BE GIVEN.—Separate Designations shall be made to qualifying projects in each of the following categories:

(A) Wind and biomass energy generation projects.

(B) Photovoltaic and fuel cell energy generation projects.

(C) Energy efficient building and renewable energy projects.

(D) First-in-Class projects.

(c) SELECTION CRITERIA.—

(1) IN GENERAL.—Certification and selection of the projects to receive the Designation shall be based on criteria established under this subsection.

(2) WIND, BIOMASS, AND BUILDING PROJECTS.—In the case of a wind, biomass, or building project, the project shall demonstrate that the project will install not less than 30 megawatts of renewable energy generation capacity.

(3) SOLAR PHOTOVOLTAIC AND FUEL CELL PROJECTS.—In the case of a solar photovoltaic or fuel cell project, the project shall demonstrate that the project will install not less than 3 megawatts of renewable energy generation capacity.

(4) ENERGY EFFICIENT BUILDING AND RENEWABLE ENERGY PROJECTS.—In the case of an energy efficient building or renewable energy project, in addition to meeting the criteria established under paragraph (2), each building project shall demonstrate that the project will—

(A) comply with third-party certification standards for high-performance, sustainable buildings;

(B) use whole-building integration of energy efficiency and environmental performance design

and technology, including advanced building controls;

(C) use renewable energy for at least 50 percent of the energy consumption of the project;

(D) comply with applicable Energy Star standards; and

(E) include at least 5,000,000 square feet of enclosed space.

(5) FIRST-IN-CLASS USE.—Notwithstanding paragraphs (2) through (4), a new building project may qualify under this section if the Secretary determines that the project—

(A) represents a First-In-Class use of renewable energy; or

(B) otherwise establishes a new paradigm of building integrated renewable energy use or energy efficiency.

(d) APPLICATION.—

(1) INITIAL APPLICATIONS.—No later than 120 days after the date of enactment of this Act, and annually thereafter, the Secretary shall publish in the Federal Register an invitation and guidelines for submitting applications, consistent with this section.

(2) CONTENTS.—The application shall describe the project, or planned project, and the plans to meet the criteria established under subsection (c).

(e) CERTIFICATION.—

(1) IN GENERAL.—Not later than 60 days after the application period described in subsection (d), and annually thereafter, the Secretary shall certify projects that are reasonably expected to meet the criteria established under subsection (c).

(2) CERTIFIED PROJECTS.—The Secretary shall designate personnel of the Department to work with persons carrying out each certified project and ensure that the personnel—

(A) provide each certified project with guidance in meeting the criteria established under subsection (c);

(B) identify programs of the Department, including National Laboratories and Technology Centers, that will assist each project in meeting the criteria established under subsection (c); and

(C) ensure that knowledge and transfer of the most current technology between the applicable resources of the Federal Government (including the National Laboratories and Technology Centers, the Department, and the Environmental

Protection Agency) and the certified projects is being facilitated to accelerate commercialization of work developed through those resources.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

SEC. 233. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.

The Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended in title VI by adding at the end the following:

"SEC. 609. RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.

"(a) DEFINITIONS.—In this section:

"(1) The term 'eligible grantee' means a local government or municipality, peoples' utility district, irrigation district, and cooperative, nonprofit, or limited-dividend association in a rural area.

"(2) The term 'incremental hydropower' means additional generation achieved from increased efficiency after January 1, 2005, at a hydroelectric dam that was placed in service before January 1, 2005.

"(3) The term 'renewable energy' means electricity generated from—

"(A) a renewable energy source; or

"(B) hydrogen, other than hydrogen produced from a fossil fuel, that is produced from a renewable energy source.

"(4) The term 'renewable energy source' means—

"(A) wind;

"(B) ocean waves;

"(C) biomass;

"(D) solar

"(E) landfill gas;

"(F) incremental hydropower;

"(G) livestock methane; or

"(H) geothermal energy.

"(5) The term 'rural area' means a city, town, or unincorporated area that has a population of not more than 10,000 inhabitants.

"(b) GRANTS.—The Secretary, in consultation with the Secretary of Agriculture and the Secretary of the Interior, may provide grants under this section to eligible grantees for the purpose of—

"(1) increasing energy efficiency, siting or upgrading transmission and distribution lines serving rural areas,; or

"(2) providing or modernizing electric generation facilities that serve rural areas.

"(c) GRANT ADMINISTRATION.—(1) The Secretary shall make grants under this section based on a determination of cost-effectiveness and the most effective use of the funds to achieve the purposes described in subsection (b).

"(2) For each fiscal year, the Secretary shall allocate grant funds under this section equally between the purposes described in paragraphs (1) and (2) of subsection (b).

"(3) In making grants for the purposes described in subsection (b)(2), the Secretary shall give preference to renewable energy facilities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for each of fiscal years 2006 through 2012.".

SEC. 234. WASTE-DERIVED ETHANOL AND BIODIESEL.

Section 312(f)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)(1)) is amended—

(1) by striking "'biodiesel' means" and inserting the following: "'biodiesel'—

"(A) means"; and

(2) in subparagraph (A) (as designated by paragraph (1)) by striking "and" at the end and inserting the following:

"(B) includes biodiesel derived from—

"(i) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

"(ii) municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater; and"."

Subtitle D—Insular Energy

SEC. 241. DEFINITIONS.

In this subtitle:

(1) DISTRIBUTED GENERATION.—The term "distributed generation" means energy supplied in a rural or off-grid area.

(2) INSULAR AREA.—The term "insular area" means—

(A) Guam;

(B) American Samoa;

(C) the Commonwealth of the Northern Mariana Islands;

(D) the Federated States of Micronesia;

(E) the Republic of the Marshall Islands;

(F) the Republic of Palau;

(G) the United States Virgin Islands; and

(H) the Commonwealth of Puerto Rico.

SEC. 242. ASSESSMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary (in consultation with the Secretary of Interior) shall—

(1) conduct an assessment of the energy needs of insular areas; and

(2) submit a report describing the results of the assessment to—

(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Committee on Resources of the House of Representatives.

(b) STRATEGIES AND PROJECTS.—In conducting the assessment, for each of the insular areas, the Secretary shall identify and evaluate the strategies or projects with the greatest potential for reducing the dependence of the insular area on imported fossil fuels as used for the generation of electricity, including strategies and projects for—

(1) improved supply-side efficiency of centralized electrical generation, transmission, and distribution systems;

(2) improved demand-side management through—

(A) the application of established standards for energy efficiency for appliances;

(B) the conduct of energy audits for business and industrial customers; and

(C) the use of energy savings performance contracts;

(3) increased use of renewable energy, including—

(A) solar thermal energy for electric generation;

(B) solar thermal energy for water heating in large buildings, such as hotels, hospitals, government buildings, and residences;

(C) photovoltaic energy;

(D) wind energy;

(E) hydroelectric energy;

(F) wave energy;

(G) energy from ocean thermal resources, including ocean thermal-cooling for community air conditioning;

(H) water vapor condensation for the production of potable water;

(I) fossil fuel and renewable hybrid electrical generation systems; and

(J) other strategies or projects that the Secretary may identify as having significant potential; and

(4) fuel substitution and minimization with indigenous biofuels, such as coconut oil.

(c) DISTRIBUTED GENERATION.—In conducting the assessment, for each insular area with a significant need for distributed generation, the Secretary shall identify and evaluate the most promising strategies and projects described in paragraphs (3) and (4) of subsection (b) for meeting that need.

(d) FACTORS.—In assessing the potential of any strategy or project under this section, the Secretary shall consider—

(1) the estimated cost of the power or energy to be produced, including—

(A) any additional costs associated with the distribution of the generation; and

(B) the long-term availability of the generation source;

(2) the capacity of the local electrical utility to manage, operate, and maintain any project that may be undertaken; and

(3) other factors the Secretary considers to be appropriate.

SEC. 243. PROJECT FEASIBILITY STUDIES.

(a) IN GENERAL.—On a request described in subsection (b), the Secretary shall conduct a feasibility study of a project to implement a strategy or project identified under section 222 as having the potential to—

(1) significantly reduce the dependence of an insular area on imported oil; or

(2) provide needed distributed generation to an insular area.

(b) REQUEST.—The Secretary shall conduct a feasibility study under subsection (a) on—

(1) the request of an electric utility located in an insular area that commits to fund at least 10 percent of the cost of the study; and

(2) if the electric utility is located in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, written support for that request by the President or the Ambassador of the affected freely associated state.

(c) CONSULTATION.—The Secretary shall consult with regional utility organizations in—

(1) conducting feasibility studies under subsection (a); and

(2) determining the feasibility of potential projects.

(d) FEASIBILITY.—For the purpose of a feasibility study under subsection (a), a project shall be determined to be feasible if the project would significantly reduce the dependence of an insular area on imported fossil fuels, or provide needed distributed generation to an insular area, at a reasonable cost.

SEC. 244. IMPLEMENTATION.

(a) IN GENERAL.—On a determination by the Secretary (in consultation with the Secretary of the Interior) that a project is feasible under section 223 and a commitment by an electric utility to operate and maintain the project, the Secretary may provide such technical and financial assistance as the Secretary determines is appropriate for the implementation of the project.

(b) REGIONAL UTILITY ORGANIZATIONS.—In providing assistance under subsection (a), the Secretary shall consider providing the assistance through regional utility organizations.

SEC. 245. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary—

(1) $500,000 for the completion of the assessment under section 222;

(2) $500,000 for each fiscal year for project feasibility studies under section 223; and

(3) $5,000,000 for each fiscal year for project implementation under section 224.

(b) LIMITATION OF FUNDS RECEIVED BY INSULAR AREAS.—No insular area may receive, during any 3-year period, more than 20 percent of the total funds made available during that 3-year period under paragraphs (2) and (3) of subsection (a) unless the Secretary determines that providing funding in excess of that percentage best advances existing opportunities to meet the objectives of this subtitle.

Subtitle E—Biomass Energy

SEC. 251. DEFINITIONS.

In this subtitle:

(1) BIOMASS.—The term "biomass" means nonmerchantable material from, or precommercial thinnings of, trees and woody plants produced from treatments—

(A) to reduce hazardous fuels;

(B) to reduce or contain disease or insect infestations; or

(C) to restore forest health.

(2) ELIGIBLE COMMUNITY.—The term "eligible community" means an Indian Reservation, or a county, town, township, municipality, or other similar unit of local government with a population of not more than 50,000 individuals that the Secretary de-

termines is located in an area near Federal or Indian land, that is—

(A) at significant risk of catastrophic wildfire, disease, or insect infestation; or

(B) diseased or infested by insects.

(3) ELIGIBLE OPERATION.—The term "eligible operation" means a facility that—

(A) is located within the boundaries of an eligible community; and

(B) uses biomass from Federal or Indian land as a raw material to produce electric energy, sensible heat, or transportation fuels.

(4) GREEN TON.—The term "green ton" means 2,000 pounds of biomass that has not been mechanically or artificially dried.

(5) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(6) PERSON.—The term "person" includes—

(A) an individual;

(B) an eligible community;

(C) an Indian tribe;

(D) a small business or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(7) SECRETARY.—The term "Secretary" means—

(A) the Secretary of Agriculture, with respect to land within the National Forest System; or

(B) the Secretary of the Interior, with respect to Federal land under the jurisdiction of the Secretary of the Interior and Indian land.

SEC. 252. BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to any person that owns or operates an eligible operation to offset the costs incurred to purchase biomass for use by the eligible operation.

(b) PRIORITY.—In making grants under subsection (a), the Secretary shall give priority to eligible operations that use biomass from the highest risk areas, as determined by the Secretary.

(c) GRANT AMOUNT.—A grant provided under this section may not exceed $20 per green ton of biomass delivered.

(d) MONITORING OF GRANT RECIPIENT ACTIVITIES.—

(1) IN GENERAL.—As a condition of a grant under this section, the grant recipient shall keep such records as the Secretary may require to fully and cor-

rectly disclose the use of the grant funds and all transactions involved in the purchase of biomass.

(2) ACCESS.—On notice by the Secretary, the grant recipient shall provide the Secretary reasonable access to examine the inventory and records of the eligible operation.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for each of fiscal years 2006 through 2010—

(A) $12,500,000 to the Secretary of Agriculture; and

(B) $12,500,000 to the Secretary of the Interior.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

SEC. 253. IMPROVED BIOMASS UTILIZATION PROGRAM.

(a) IN GENERAL.—The Secretary may provide grants to persons in eligible communities to offset the costs of developing or researching proposals to improve the use of biomass or add value to biomass utilization.

(b) SELECTION.—Grant recipients shall be selected based on the potential of a proposal to—

(1) develop affordable thermal or electric energy resources for the benefit of an eligible community;

(2) provide opportunities for the creation or expansion of small business concerns within an eligible community;

(3) create new job opportunities within an eligible community;

(4) improve efficiency or develop cleaner technologies for biomass utilization; and

(5) reduce the hazardous fuel from the highest risk areas.

(c) LIMITATION.—No grant provided under this section shall exceed $500,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for each of fiscal years 2006 through 2010—

(A) $12,500,000 to the Secretary of Agriculture; and

(B) $12,500,000 to the Secretary of the Interior.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

SEC. 254. REPORT.

Not later than 3 years after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall jointly submit to Congress a report that describes the interim results of the programs carried out under sections 232 and 233.

Subtitle F—Geothermal Energy

SEC. 261. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

"SEC. 4. LEASING PROCEDURES.

"(a) NOMINATIONS.—The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this Act.

"(b) COMPETITIVE LEASE SALE REQUIRED.—

"(1) IN GENERAL.—Except as otherwise specifically provided by this Act, all land to be leased that is not subject to leasing under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

"(2) COMPETITIVE LEASE SALES.—The Secretary shall hold a competitive lease sale at least once every 2 years for land in a State that has nominations pending under subsection (a) if the land is otherwise available for leasing.

"(c) NONCOMPETITIVE LEASING.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

"(d) PENDING LEASE APPLICATIONS.—

"(1) IN GENERAL.—It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions necessary to process applications for geothermal leasing pending on May 19, 2005.

"(2) ADMINISTRATION.—An application described in paragraph (1) and any lease issued pursuant to the application—

"(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

"(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.".

SEC. 262. DIRECT USE.

(a) FEES FOR DIRECT USE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (d) as paragraphs (1) through (4), respectively;

(3) by inserting "(a) IN GENERAL.—" after "SEC. 5."; and

(4) by adding at the end the following:

"(d) DIRECT USE.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(1), the Secretary shall establish a schedule of fees, in lieu of royalties for geothermal resources, that a lessee or its affiliate—

"(A) uses for a purpose other than the commercial generation of electricity; and

"(B) does not sell.

"(2) SCHEDULE OF FEES.—The schedule of fees—

"(A) may be based on the quantity or thermal content, or both, of geothermal resources used or any other basis that the Secretary finds appropriate under the circumstances; and

"(B) shall ensure a fair return to the United States for use of the resource.

"(3) STATE OR LOCAL GOVERNMENTS.—If a State or local government is the lessee and uses geothermal resources without sale and for purposes other than commercial generation of electricity, the Secretary shall charge only a nominal fee for use of the resource.".

(b) LEASING FOR DIRECT USE.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) (as amended by section 241) is amended adding at the end the following:

"(e) LEASING FOR DIRECT USE OF GEOTHERMAL RESOURCES.—Notwithstanding subsection (b), the Secretary may identify areas in which the land to be leased under this Act exclusively for direct use of geothermal resources without sale for purposes other than commercial generation of electricity may be leased to any qualified applicant that first applies for such a lease under regulations issued by the Secretary, if the Secretary—

"(1) publishes a notice of the land proposed for leasing not later than 120 days before the date of the issuance of the lease;

"(2) does not receive during the 120-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and

"(3) determines there is no competitive interest in the land to be leased.

"(f) AREA SUBJECT TO LEASE FOR DIRECT USE.—

"(1) IN GENERAL.—Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.

"(2) LIMITATIONS.—The quantity of acreage covered by the lease shall not exceed the limitations established under section 7.".

SEC. 263. ROYALTIES.

(a) CALCULATION OF ROYALTIES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall issue a final regulation that provides a simplified methodology for calculating the royalty under subsection (a)(1) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)).

(2) CONSIDERATIONS.—In issuing the final regulation under paragraph (1), the Secretary shall—

(A) consider the use of a method based on gross proceeds from the sale of electricity; and

(B) ensure that the final regulation issued under paragraph (1) results in the same level of royalty revenues over a 10-year period as the regulation in effect on the day before the date of enactment of this Act.

(b) ROYALTY UNDER EXISTING LEASES.—

(1) IN GENERAL.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) before the date of enactment of this Act may, within the time period specified in paragraph (2), submit to the Secretary of the Interior a request to modify the terms of the lease relating to payment of royalties to comply with—

(A) in the case of a lease that meets the requirements of subsection (b) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)), the schedule of fees established under that section; and

(B) in the case of any other lease, the methodology established under subsection (a).

(2) TIMING.—A request for a modification under paragraph (1) shall be submitted to the Secretary by the date that is not later than—

(A) in the case of a lease for direct use, 18 months after the effective date of the schedule of

fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(B) in the case of any other lease, 18 months after the effective date of the final regulation issued under subsection (a).

(3) APPLICATION OF MODIFICATION.—If the lessee requests modification of a lease under paragraph (1)—

(A) the Secretary shall modify the lease to comply with—

(i) in the case of a lease for direct use, the schedule of fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(ii) in the case of any other lease, the methodology established under subsection (a); and

(B) the modification shall apply to any use of geothermal steam and any associated geothermal resources to which subsection (a) applies that occurs after the date of the modification.

(4) CONSULTATION.—The Secretary shall consult with the State and local governments affected by any

proposed changes in lease royalty terms under this subsection.

SEC. 264. GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into, and submit to Congress, a memorandum of understanding in accordance with this section regarding leasing and permitting for geothermal development of public land and National Forest System land under the respective jurisdictions of the Secretaries.

(b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall—

(1) identify areas with geothermal potential on land included in the National Forest System and, if necessary, require review of management plans to consider leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) as a land use; and

(2) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application processing.

(c) DATA RETRIEVAL SYSTEM.—The memorandum of understanding shall establish a joint data retrieval system that—

(1) is capable of tracking lease and permit applications; and

(2) provides to the applicant information as to the status of an application within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 265. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

Not later than 3 years after the date of enactment of this Act and thereafter as the availability of data and developments in technology warrants, the Secretary of the Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall—

(1) update the Assessment of Geothermal Resources made during 1978; and

(2) submit to Congress the updated assessment.

SEC. 266. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

"SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

"(a) ADOPTION OF UNITS BY LESSEES.—

"(1) IN GENERAL.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not any part of the geothermal reservoir, field, or like area, is subject to any cooperative plan of development or operation (referred to in this section as a 'unit agreement')), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for the reservoir, field, or like area, or any part thereof, including direct use resources, if determined and certified by the Secretary to be necessary or advisable in the public interest.

"(2) MAJORITY INTEREST OF SINGLE LEASES.—A majority interest of owners of any single lease shall have the authority to commit the lease to a unit agreement.

"(3) INITIATIVE OF SECRETARY.—The Secretary may also initiate the formation of a unit agreement, or require an existing Federal lease to commit to a unit agreement, if in the public interest.

"(4) MODIFICATION OF LEASE REQUIREMENTS BY SECRETARY.—

"(A) IN GENERAL.—The Secretary may, in the discretion of the Secretary and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of the leases and make conditions with respect to the leases, with the consent of the lessees, in connection with the creation and operation of any such unit agreement as the Secretary may consider necessary or advisable to secure the protection of the public interest.

"(B) UNLIKE TERMS OR RATES.—Leases with unlike lease terms or royalty rates shall not be required to be modified to be in the same unit.

"(b) REQUIREMENT OF PLANS UNDER NEW LEASES.—The Secretary may—

"(1) provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under a unit agreement; and

"(2) prescribe the unit agreement under which the lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

"(c) MODIFICATION OF RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION.—The Secretary may re-

quire that any unit agreement authorized by this section that applies to land owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the unit agreement to alter or modify, from time to time, the rate of prospecting and development and the quantity and rate of production under the unit agreement.

"(d) EXCLUSION FROM DETERMINATION OF HOLDING OR CONTROL.—Any land that is subject to a unit agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under section 7.

"(e) POOLING OF CERTAIN LAND.—If separate tracts of land cannot be independently developed and operated to use geothermal steam and associated geothermal resources pursuant to any section of this Act—

"(1) the land, or a portion of the land, may be pooled with other land, whether or not owned by the United States, for purposes of development and operation under a communitization agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if the pooling is determined by the Secretary to be in the public interest; and

"(2) operation or production pursuant to the communitization agreement shall be treated as operation or production with respect to each tract of land that is subject to the communitization agreement.

"(f) UNIT AGREEMENT REVIEW.—

"(1) IN GENERAL.—Not later than 5 years after the date of approval of any unit agreement and at least every 5 years thereafter, the Secretary shall—

"(A) review each unit agreement; and

"(B) after notice and opportunity for comment, eliminate from inclusion in the unit agreement any land that the Secretary determines is not reasonably necessary for unit operations under the unit agreement.

"(2) BASIS FOR ELIMINATION.—The elimination shall—

"(A) be based on scientific evidence; and

"(B) occur only if the elimination is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource.

"(3) EXTENSION.—Any land eliminated under this subsection shall be eligible for an extension under section 6(g) if the land meets the requirements for the extension.

"(g) DRILLING OR DEVELOPMENT CONTRACTS.—

"(1) IN GENERAL.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by 1 or more lessees of geothermal leases, with 1 or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served by the approval.

"(2) HOLDINGS OR CONTROL.—Each lease operated under an approved drilling or development contract, and interest under the contract, shall be excepted in determining holdings or control under section 7.

"(h) COORDINATION WITH STATE GOVERNMENTS.—The Secretary shall coordinate unitization and pooling activities with appropriate State agencies.".

SEC. 267. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)) is amended in subsection (a) by striking paragraph (2) and inserting the following:

"(2) a royalty on any byproduct that is a mineral specified in the first section of the Mineral Leas-

ing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of the mineral under a lease under that Act;".

SEC. 268. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6(i) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(i)) is amended by striking paragraph (2) and inserting the following:

"(2) The Secretary shall, by regulation, establish payments under this subsection at levels that ensure the diligent development of the lease.".

SEC. 269. ANNUAL RENTAL.

(a) ANNUAL RENTAL RATE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)) is amended in subsection (a) by striking paragraph (3) and inserting the following:

"(3) payment in advance of an annual rental of not less than—

"(A) for each of the first through tenth years of the lease—

"(i) in the case of a lease awarded in a noncompetitive lease sale, $1 per acre or fraction thereof; or

"(ii) in the case of a lease awarded in a competitive lease sale, $2 per acre or fraction thereof for the first year and $3 per acre or fraction thereof for each of the second through 10th years; and

"(B) for each year after the 10th year of the lease, $5 per acre or fraction thereof;".

(b) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)) is amended by adding at the end the following:

"(c) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—

"(1) IN GENERAL.—The Secretary shall terminate any lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, on the expiration of the 45-day period beginning on the date of the failure to pay the rental.

"(2) NOTIFICATION.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

"(3) REINSTATEMENT.—A lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of the amount.".

SEC. 270. ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 249(b)) is amended by adding at the end the following:

"(d) ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.—

"(1) IN GENERAL.—Subject to paragraphs (2) and (3), if, at any time after commercial production under a lease is achieved, production ceases for any reason, the lease shall remain in full force and effect for a period of not more than an aggregate number of 10 years beginning on the date production ceases, if, during the period in which production is ceased, the lessee pays royalties in advance at the monthly average rate at which the royalty was paid during the period of production.

"(2) REDUCTION.—The amount of any production royalty paid for any year shall be reduced (but

not below 0) by the amount of any advanced royalties paid under the lease to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if the cessation in production is required or otherwise caused by—

"(A) the Secretary;

"(B) the Secretary of the Air Force;

"(C) the Secretary of the Army;

"(D) the Secretary of the Navy;

"(E) a State or a political subdivision of a State; or

"(F) a force majeure.".

SEC. 271. LEASING AND PERMITTING ON FEDERAL LAND WITHDRAWN FOR MILITARY PURPOSES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Defense, in consultation with the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, interested States, political subdivisions of States, and representatives of the geothermal industry, and other interested persons, shall submit to the appropriate committees of Congress a joint report on leasing and

permitting activities for geothermal energy on Federal land withdrawn for military purposes.

(b) REQUIREMENTS.—The report required under subsection (a) shall include—

(1) a description of the military geothermal program, including a description of—

(A) any differences between the military geothermal program and the nonmilitary geothermal program, including required security procedures and operational considerations; and

(B) the reasons the differences described in subparagraph (A) are significant;

(2) with respect to the military geothermal program, a description of—

(A) revenues or energy provided to the Department of Defense and facilities of the Department Defense; and

(B) royalty structures, as applicable;

(3) any revenue sharing with States and political subdivisions of States and other benefits from—

(A) the implementation of the Geothermal Steam Act of 1970 (30 U.S.C 1001 et seq.) and other applicable Federal law by the Secretary of the Interior; and

(B) the administration of geothermal leasing under section 2689 of title 10, United States Code, by the Secretary of Defense;

(4) if appropriate—

(A) a description of the current methods and procedures used to ensure interagency coordination, as needed, in developing renewable energy sources on Federal land withdrawn for military purposes; and

(B) an identification of any new procedures that would improve interagency coordination to ensure efficient processing and administration of leases or contracts for geothermal energy on Federal land withdrawn for military purposes, consistent with the defense purposes of the withdrawals; and

(5) recommendations for any legislative or administrative actions that would increase geothermal production, including—

(A) a common royalty structure;

(B) leasing procedures; and

(C) other changes that—

(i) increase production;

(ii) offset military operation costs; or

(iii) enhance the ability of Federal agencies to develop geothermal resources.

(c) EFFECT.—Nothing in this section affects the legal status of geothermal leasing and development conducted by the Department of the Interior and the Department of Defense.

SEC. 272. TECHNICAL AMENDMENTS.

(a) The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by striking "geothermal steam and associated geothermal resources" each place it appears and inserting "geothermal resources".

(b) The first section of the Geothermal Steam Act of 1970 (30 U.S.C. 1001 note) is amended by striking "That this" and inserting the following:

"SECTION 1. SHORT TITLE.

"This".

(c) Section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001) is amended—

(1) by striking "SEC. 2. As" and inserting the following:

"SEC. 2. DEFINITIONS.

"As"; and

(2) by striking subsection (e) and inserting the following:

"(e) 'direct use' means use of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity; and".

(d) Section 3 of the Geothermal Steam Act of 1970 (30 U.S.C. 1002) is amended by striking "SEC. 3. Subject" and inserting the following:

"SEC. 3 . LANDS SUBJECT TO GEOTHERMAL LEASING.

"Subject".

(e) Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended by striking "SEC. 5. Geothermal" and inserting the following:

"SEC. 5. RENTS AND ROYALTIES.

"Geothermal".

(f) Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended by striking "SEC. 6. (a) The" and inserting the following:

"SEC. 6. DURATION OF LEASES.

"(a) The".

(g) Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended by striking "SEC. 7. A geothermal" and inserting the following:

"SEC. 7. ACREAGE OF GEOTHERMAL LEASE.

"A geothermal".

(h) Section 8 of the Geothermal Steam Act of 1970 (30 U.S.C. 1007) is amended by striking "SEC. 8. (a) The" and inserting the following:

"SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

"(a) The".

(i) Section 9 of the Geothermal Steam Act of 1970 (30 U.S.C. 1008) is amended by striking "SEC. 9. If" and inserting the following:

"SEC. 9. BYPRODUCTS.

"If".

(j) Section 10 of the Geothermal Steam Act of 1970 (30 U.S.C. 1009) is amended by striking "SEC. 10. The" and inserting the following:

"SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

"The".

(k) Section 11 of the Geothermal Steam Act of 1970 (30 U.S.C. 1010) is amended by striking "SEC. 11. The" and inserting the following:

"SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

"The".

(l) Section 12 of the Geothermal Steam Act of 1970 (30 U.S.C. 1011) is amended by striking "SEC. 12. Leases" and inserting the following:

"SEC. 12. TERMINATION OF LEASES.

"Leases".

(m) Section 13 of the Geothermal Steam Act of 1970 (30 U.S.C. 1012) is amended by striking "SEC. 13. The" and inserting the following:

"SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

"The".

(n) Section 14 of the Geothermal Steam Act of 1970 (30 U.S.C. 1013) is amended by striking "SEC. 14. Subject" and inserting the following:

"SEC. 14. SURFACE LAND USE.

"Subject".

(o) Section 15 of the Geothermal Steam Act of 1970 (30 U.S.C. 1014) is amended by striking "SEC. 15. (a) Geothermal" and inserting the following:

"SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

"(a) Geothermal".

(p) Section 16 of the Geothermal Steam Act of 1970 (30 U.S.C. 1015) is amended by striking "SEC. 16. Leases" and inserting the following:

"SEC. 16. REQUIREMENT FOR LESSEES.

"Leases".

(q) Section 17 of the Geothermal Steam Act of 1970 (30 U.S.C. 1016) is amended by striking "SEC. 17. Administration" and inserting the following:

"SEC. 17. ADMINISTRATION.

"Administration".

(r) Section 19 of the Geothermal Steam Act of 1970 (30 U.S.C. 1018) is amended by striking "SEC. 19. Upon" and inserting the following:

"SEC. 19. DATA FROM FEDERAL AGENCIES.

"Upon".

(s) Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended by striking "SEC. 20. Subject" and inserting the following:

"SEC. 20. DISPOSITION OF AMOUNTS RECEIVED FROM SALES, BONUSES, ROYALTIES, AND RENTALS.

"Subject".

(t) Section 21 of the Geothermal Steam Act of 1970 (30 U.S.C. 1020) is amended by striking "SEC. 21." and all that follows through "(b) Geothermal" and inserting the following:

"SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.

"Geothermal".

(u) Section 22 of the Geothermal Steam Act of 1970 (30 U.S.C. 1021) is amended by striking "SEC. 22. Nothing" and inserting the following:

"SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

"Nothing".

(v) Section 23 of the Geothermal Steam Act of 1970 (30 U.S.C. 1022) is amended by striking "SEC. 23. (a) All" and inserting the following:

"SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

"(a) All".

(w) Section 24 of the Geothermal Steam Act of 1970 (30 U.S.C. 1023) is amended by striking "SEC. 24. The" and inserting the following:

"SEC. 24. RULES AND REGULATIONS.

"The".

(x) Section 25 of the Geothermal Steam Act of 1970 (30 U.S.C. 1024) is amended by striking "SEC. 25. As" and inserting the following:

"SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

"As".

(y) Section 26 of the Geothermal Steam Act of 1970 is amended by striking "SEC. 26. The" and inserting the following:

"SEC. 26. AMENDMENT.

"The".

(z) Section 27 of the Geothermal Steam Act of 1970 (30 U.S.C. 1025) is amended by striking "SEC. 27. The" and inserting the following:

"SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

"The".

(aa) Section 28 of the Geothermal Steam Act of 1970 (30 U.S.C. 1026) is amended by striking "SEC. 28. (a)(1) The" and inserting the following:

"SEC. 28. SIGNIFICANT THERMAL FEATURES.

"(a)(1) The".

(bb) Section 29 of the Geothermal Steam Act of 1970 (30 U.S.C. 1027) is amended by striking "SEC. 29. The" and inserting the following:

"SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

"The".

Subtitle G—Hydroelectric

SEC. 281. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after "adequate protection and utilization of such reservation." at the end of the first proviso the following: "The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted within a time frame established by the Com-

mission for each license proceeding. Within 90 days of the date of enactment of this Act, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.".

(b) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after "and such fishways as may be prescribed by the Secretary of Commerce." the following: "The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted within a time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of this Act, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.".

(c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

"SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

"(a) ALTERNATIVE CONDITIONS.—(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as the 'Secretary') deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant or any other party to the license proceeding may propose an alternative condition.

"(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative condition—

"(A) provides for the adequate protection and utilization of the reservation; and

"(B) the Secretary concurs with the license applicant's judgment that the alternative condition will either—

"(i) cost significantly less to implement; or

"(ii) result in improved operation of the project works for electricity production, as compared to the condition initially deemed necessary by the Secretary.

"(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and

other factual information available to the Secretary and relevant to the Secretary's decision.

"(4) If the Secretary does not accept an applicant's alternative condition under this section, and the Commission finds that the Secretary's condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

"(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or any other party to the license proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

"(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the

proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative—

"(A) will be no less protective than the fishway initially prescribed by the Secretary; and

"(B) the Secretary concurs with the license applicant's judgment that the alternative prescription will either—

"(i) cost significantly less to implement; or

"(ii) result in improved operation of the project works for electricity production, as compared to the fishway initially deemed necessary by the Secretary.

"(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the prescription adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and

air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

"(4) If the Secretary concerned does not accept an applicant's alternative prescription under this section, and the Commission finds that the Secretary's prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.".

SEC. 282. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Section 32 of the Federal Power Act (16 U.S.C. 823c) is amended—

(1) in subsection (a)(3)(C), by inserting "except as provided in subsection (j)," before "conditions"; and

(2) by adding at the end the following:

"(j) FISH AND WILDLIFE.—If the State of Alaska determines that a recommendation under subsection (a)(3)(C) is inconsistent with paragraphs (1) and (2) of subsection (a), the State of Alaska may decline to adopt all or part of the recommendations in accordance with the procedures established under section 10(j)(2).".

SEC. 283. FLINT CREEK HYDROELECTRIC PROJECT.

(a) EXTENSION OF TIME.—Notwithstanding the time period specified in section 5 of the Federal Power Act (16 U.S.C. 798) that would otherwise apply to the Federal Energy Regulatory Commission (referred to in this section as the "Commission") project numbered 12107, the Commission shall—

(1) if the preliminary permit is in effect on the date of enactment of this Act, extend the preliminary permit for a period of 3 years beginning on the date on which the preliminary permit expires; or

(2) if the preliminary permit expired before the date of enactment of this Act, on request of the permittee, reinstate the preliminary permit for an additional 3-year period beginning on the date of enactment of this Act.

(b) LIMITATION ON CERTAIN FEES.—Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other provision of Federal law providing for the payment to the United States of charges for the use of Federal land for the purposes of operating and maintaining a hydroelectric development licensed by the Commission, any political subdivision of the State of Montana that holds a Commission license for the Commission project numbered 12107 in Granite and Deer Lodge Counties, Montana, shall be required to pay to the United States for the use of that land for each year during which the political subdivision continues to hold the license for the project, the lesser of—

(1) $25,000; or

(2) such annual charge as the Commission or any other department or agency of the Federal Government 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:***
2008 through 2011	*2.5*
2012 through 2015	*5.0*
2016 through 2019	*7.5*
2020 through 2030	*10.0.*

"(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;

"(C) purchasing renewable energy credits issued under subsection (b); or

"(D) a combination of the foregoing.

"(b) RENEWABLE ENERGY CREDIT TRADING PROGRAM.—

"(1) Not later than January 1, 2007, the Secretary shall establish a renewable energy credit trading program to permit an electric utility that does not generate or purchase enough electric energy from renewable energy to meet its obligations under subsection (a)(1) to satisfy such requirements by purchasing sufficient renewable energy credits.

"(2) As part of such program the Secretary shall—

"(A) issue renewable energy credits to generators of electric energy from new renewable energy;

"(B) sell renewable energy credits to electric utilities at the rate of 1.5 cents per kilowatt-hour (as adjusted for inflation under subsection (g));

"(C) ensure that a kilowatt hour, including the associated renewable energy credit, shall be used only once for purposes of compliance with this section; and

"(D) allow double credits for generation from facilities on Indian Lands, and triple credits for generation from small renewable distributed generators (meaning those those no larger than 1 megawatt).

"(3) Credits under paragraph (2)(A) may only be used for compliance with this section for 3 years from the date issued.

"(c) ENFORCEMENT.—

"(1) CIVIL PENALTIES.—Any electric utility that fails to meet the renewable energy requirements of subsection (a) shall be subject to a civil penalty.

"(2) AMOUNT OF PENALTY.—The amount of the civil penalty shall be determined by multiplying the number of kilowatt-hours of electric energy sold to electric consumers in violation of subsection (a) by the greater of 1.5 cents (adjusted for inflation under subsection (g)) or 200 percent of the average market value of renewable energy credits during the year in which the violation occurred.

"(3) MITIGATION OR WAIVER.—The Secretary may mitigate or waive a civil penalty under this subsection if the electric utility was unable to comply with subsection (a) for reasons outside of the reasonable control of the utility. The Secretary shall reduce

the amount of any penalty determined under paragraph (2) by an amount paid by the electric utility to a State for failure to comply with the requirement of a State renewable energy program if the State requirement is greater than the applicable requirement of subsection (a).

"(4) PROCEDURE FOR ASSESSING PENALTY.—The Secretary shall assess a civil penalty under this subsection in accordance with the procedures prescribed by section 333(d) of the Energy Policy and Conservation Act of 1954 (42 U.S.C. 6303).

"(d) STATE RENEWABLE ENERGY ACCOUNT PROGRAM.—

"(1) The Secretary shall establish, not later than December 31, 2008, a State renewable energy account program.

"(2) All money collected by the Secretary from the sale of renewable energy credits and the assessment of civil penalties under this section shall be deposited into the renewable energy account established pursuant to this subsection. The State renewable energy account shall be held by the Secretary and shall not be transferred to the Treasury Department.

"(3) Proceeds deposited in the State renewable energy account shall be used by the Secretary, subject

to appropriations, for a program to provide grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) for the purposes of promoting renewable energy production, including programs that promote technologies that reduce the use of electricity at customer sites such as solar water heating.

"(4) The Secretary may issue guidelines and criteria for grants awarded under this subsection. State energy offices receiving grants under this section shall maintain such records and evidence of compliance as the Secretary may require.

"(5) In allocating funds under this program, the Secretary shall give preference—

"(A) to States in regions which have a disproportionately small share of economically sustainable renewable energy generation capacity; and

"(B) to State programs to stimulate or enhance innovative renewable energy technologies.

"(e) RULES.—The Secretary shall issue rules implementing this section not later than 1 year after the date of enactment of this section.

"(f) EXEMPTIONS.—This section shall not apply in any calendar year to an electric utility—

"(1) that sold less than 4,000,000 megawatt-hours of electric energy to electric consumers during the preceding calendar year; or

"(2) in Hawaii.

"(g) INFLATION ADJUSTMENT.—Not later than December 31 of each year beginning in 2008, the Secretary shall adjust for inflation the price of a renewable energy credit under subsection (b)(2)(B) and the amount of the civil penalty per kilowatt-hour under subsection (c)(2).

"(h) STATE PROGRAMS.—Nothing in this section shall diminish any authority of a State or political subdivision thereof to adopt or enforce any law or regulation respecting renewable energy, but, except as provided in subsection (c)(3), no such law or regulation shall relieve any person of any requirement otherwise applicable under this section. The Secretary, in consultation with States having such renewable energy programs, shall, to the maximum extent practicable, facilitate coordination between the Federal program and State programs.

"(i) DEFINITIONS.—For purposes of this section:

"(1) BASE AMOUNT OF ELECTRICITY.—The term 'base amount of electricity' means the total amount of

electricity sold by an electric utility to electric consumers in a calendar year, excluding—

"(A) electricity generated by a hydroelectric facility (including a pumped storage facility but excluding incremental hydropower); and

"(B) electricity generated through the incineration of municipal solid waste.

"(2) DISTRIBUTED GENERATION FACILITY.—The term 'distributed generation facility' means a facility at a customer site.

"(3) EXISTING RENEWABLE ENERGY.—The term 'existing renewable energy' means, except as provided in paragraph (7)(B), electric energy generated at a facility (including a distributed generation facility) placed in service prior to the date of enactment of this section from solar, wind, or geothermal energy; ocean energy; biomass (as defined in section 203(a) of the Energy Policy Act of 2005); or landfill gas.

"(4) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2) of the Internal Revenue Code of 1986).

"(5) INCREMENTAL GEOTHERMAL PRODUCTION.—

"(A) IN GENERAL.—The term 'incremental geothermal production' means for any year the excess of—

"(i) the total kilowatt hours of electricity produced from a facility (including a distributed generation facility) using geothermal energy, over

"(ii) the average annual kilowatt hours produced at such facility for 5 of the previous 7 calendar years before the date of enactment of this section after eliminating the highest and the lowest kilowatt hour production years in such 7-year period.

"(B) SPECIAL RULE.—A facility described in subparagraph (A) which was placed in service at least 7 years before the date of enactment of this section shall commencing with the year in which such date of enactment occurs, reduce the amount calculated under subparagraph (A)(ii) each year, on a cumulative basis, by the average percentage decrease in the annual kilowatt hour production for the 7-year period described in subparagraph (A)(ii) with such cumulative sum not to exceed 30 percent.

"(6) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional energy generated as a result of efficiency improvements or capacity additions made on or after the date of enactment of this section or the effective date of an existing applicable State renewable portfolio standard program at a hydroelectric facility that was placed in service before that date. The term does not include additional energy generated as a result of operational changes not directly associated with efficiency improvements or capacity additions. Efficiency improvements and capacity additions shall be measured on the basis of the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility and certified by the Secretary or the Federal Energy Regulatory Commission.

"(7) NEW RENEWABLE ENERGY.—The term 'new renewable energy' means—

"(A) electric energy generated at a facility (including a distributed generation facility) placed in service on or after January 1, 2003, from—

"(i) solar, wind, or geothermal energy or ocean energy;

"(ii) biomass (as defined in section 203(a) of the Energy Policy Act of 2005);

"(iii) landfill gas; or

"(iv) incremental hydropower; and

"(B) for electric energy generated at a facility (including a distributed generation facility) placed in service prior to the date of enactment of this section—

"(i) the additional energy above the average generation in the 3 years preceding the date of enactment of this section at the facility from—

"(I) solar or wind energy or ocean energy;

"(II) biomass (as defined in section 203(a) of the Energy Policy Act of 2005);

"(III) landfill gas; or

"(IV) incremental hydropower.

"(ii) the incremental geothermal production.

"(8) OCEAN ENERGY.—The term 'ocean energy' includes current, wave, tidal, and thermal energy.

"(j) SUNSET.—This section expires on December 31, 2030.".

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6212 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting the following:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 166. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this part and part D, to remain available until expended.";

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by inserting before section 273 (42 U.S.C. 6283) the following:

"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS";

(2) by striking section 273(e) (42 U.S.C. 6283(e)); and

(3) by striking part D (42 U.S.C. 6285).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

"PART D—NORTHEAST HOME HEATING OIL RESERVE

"Sec. 181. Establishment.
"Sec. 182. Authority.
"Sec. 183. Conditions for release; plan.
"Sec. 184. Northeast Home Heating Oil Reserve Account.
"Sec. 185. Exemptions.";

(2) by amending the items relating to part C of title II to read as follows:

"PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

"Sec. 273. Summer fill and fuel budgeting programs.";

and

(3) by striking the items relating to part D of title II.

(d) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended by striking "by more" and all that follows through "mid-October through March" and inserting "by more than 60 percent over its 5-year rolling average for the months of

mid-October through March (considered as a heating season average)".

(e) FILL STRATEGIC PETROLEUM RESERVE TO CAPACITY.—(1) IN GENERAL.—The Secretary shall, as expeditiously as practicable, without incurring excessive cost or appreciably affecting the price of gasoline or heating oil to consumers, acquire petroleum in quantities sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000-barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), in accordance with the sections 159 and 160 of that Act (42 U.S.C. 6239, 6240).

(2) PROCEDURES.—

(A) IN GENERAL.—The Secretary shall develop, with an opportunity for public comment, procedures to obtain oil for the Reserve with the intent of maximizing the overall domestic supply of crude oil (including quantities stored in private sector inventories) and minimizing the costs to the Department of the Interior and the Department of Energy of acquiring such oil (including foregone revenues to the Treasury when oil for the Reserve is obtained through the royalty-in-kind program), consistent with national security.

(B) CONSIDERATIONS.—The procedures shall provide that, for purposes of determining whether to acquire oil for the Reserve or defer deliveries of oil, the Secretary shall take into account—

(i) current and future prices, supplies, and inventories of oil;

(ii) national security; and

(iii) other factors that the Secretary determines to be appropriate.

(C) REVIEW OF REQUESTS FOR DEFERRALS OF SCHEDULED DELIVERIES.—The procedures shall include procedures and criteria for the review of requests for the deferrals of scheduled deliveries.

(D) DEADLINES.—The Secretary shall—

(i) propose the procedures required under this paragraph not later than 120 days after the date of enactment of this Act;

(ii) promulgate the procedures not later than 180 days after the date of enactment of this Act; and

(iii) comply with the procedures in acquiring oil for Reserve effective beginning

on the date that is 180 days after the date of enactment of this Act.

SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.

Section 713 of the Energy Act of 2000 (Public Law 106–469; 42 U.S.C. 6201 note) is amended by striking "4" and inserting "9".

SEC. 303. SMALL BUSINESS AND AGRICULTURAL PRODUCER ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) SMALL BUSINESS PRODUCER ENERGY EMERGENCY DISASTER LOAN PROGRAM.—

(1) DISASTER LOAN AUTHORITY.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (3) the following:

"(4)(A) In this paragraph—

"(i) the term 'base price index' means the moving average of the closing unit price on the New York Mercantile Exchange for heating oil, natural gas, gasoline, or propane for the 10 days, in each of the most recent 2 preceding years, which correspond to the trading days described in clause (ii);

"(ii) the term 'current price index' means the moving average of the closing unit price on

the New York Mercantile Exchange, for the 10 most recent trading days, for contracts to purchase heating oil, natural gas, gasoline, or propane during the subsequent calendar month, commonly known as the 'front month'; and

"(iii) the term 'significant increase' means—

"(I) with respect to the price of heating oil, natural gas, gasoline, or propane, any time the current price index exceeds the base price index by not less than 40 percent; and

"(II) with respect to the price of kerosene, any increase which the Administrator, in consultation with the Secretary of Energy, determines to be significant.

"(B) The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury on or after January 1, 2005, as the result of a significant increase in the price of heating oil, natural gas, gasoline, propane, or kerosene occurring on or after January 1, 2005.

"(C) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

"(D) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $1,500,000, unless such borrower constitutes a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the $1,500,000 limitation.

"(E) For purposes of assistance under this paragraph—

"(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

"(ii) if no declaration has been made pursuant to clause (i), the Governor of a State in which a significant increase in the price of heating oil, natural gas, gasoline, propane, or kerosene has occurred may certify to the Adminis-

tration that small business concerns have suffered economic injury as a result of such increase and are in need of financial assistance which is not otherwise available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

"(F) Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating oil, natural gas, gasoline, propane, or kerosene to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, cogeneration, solar energy, wind energy, or fuel cells.".

(2) CONFORMING AMENDMENTS.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting ", significant increase in the price of heating oil, natural gas, gasoline, propane, or kerosene" after "civil disorders"; and

(B) by inserting "other" before "economic".

(b) AGRICULTURAL PRODUCER EMERGENCY LOANS.—

(1) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(A) in the first sentence—

(i) by striking "operations have" and inserting "operations (i) have"; and

(ii) by inserting before ": Provided," the following: ", or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after January 1, 2005, as the result of a significant increase in energy costs or input costs from energy sources occurring on or after January 1, 2005, in connection with an energy emergency declared by the President or the Secretary";

(B) in the third sentence, by inserting before the period at the end the following: "or by an energy emergency declared by the President or the Secretary"; and

(C) in the fourth sentence—

(i) by inserting "or energy emergency" after "natural disaster" each place that term appears; and

(ii) by inserting "or declaration" after "emergency designation".

(2) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) shall be available to carry out the amendments made by subparagraph (A) to meet the needs resulting from natural disasters.

(c) GUIDELINES AND RULEMAKING.—

(1) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration and the Secretary of Agriculture shall each issue guidelines to carry out this section and the amendments made by this section, which guidelines shall become effective on the date of their issuance.

(2) RULEMAKING.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration, after consultation with the Secretary of Energy, shall promulgate regulations specifying the method for determining a significant increase in the price of kerosene under sec-

tion 7(b)(4)(A)(iii)(II) of the Small Business Act (15 U.S.C. 636(b)(4)(A)(iii)(II)), as added by this section.

(d) REPORTS.—

(1) SMALL BUSINESS ADMINISTRATION.—Not later than 12 months after the date on which the Administrator of the Small Business Administration issues guidelines under subsection (c)(1), and annually thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the assistance made available under section 7(b)(4) of the Small Business Act, as added by this section, including—

(A) the number of small business concerns that applied for a loan under such section 7(b)(4) and the number of those that received such loans;

(B) the dollar value of those loans;

(C) the States in which the small business concerns that received such loans are located;

(D) the type of energy that caused the significant increase in the cost for the participating small business concerns; and

(E) recommendations for ways to improve the assistance provided under such section 7(b)(4), if any.

(2) DEPARTMENT OF AGRICULTURE.—Not later than 12 months after the date on which the Secretary of Agriculture issues guidelines under subsection (c)(1), and annually thereafter, the Secretary shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Agriculture, Nutrition, and Forestry of the Senate and to the Committee on Small Business and the Committee on Agriculture of the House of Representatives, a report that—

(A) describes the effectiveness of the assistance made available under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)), as amended by this section; and

(B) contains recommendations for ways to improve the assistance provided under such section 321(a).

(e) EFFECTIVE DATE.—

(1) SMALL BUSINESS.—The amendments made by subsection (a) shall apply during the 4-year period beginning on the earlier of the date on which guide-

lines are published by the Administrator of the Small Business Administration under subsection (c)(1) or 30 days after the date of enactment of this Act, with respect to assistance under section 7(b)(4) of the Small Business Act, as added by this section.

(2) AGRICULTURE.—The amendments made by subsection (b) shall apply during the 4-year period beginning on the earlier of the date on which guidelines are published by the Secretary of Agriculture under subsection (c)(1) or 30 days after the date of enactment of this Act, with respect to assistance under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)), as amended by this section.

Subtitle B—Production Incentives

SEC. 311. DEFINITION OF SECRETARY.

In this subtitle, the term "Secretary" means the Secretary of the Interior.

SEC. 312. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after the date of enactment of this Act under any Federal oil or gas lease or permit under—

(1) section 36 of the Mineral Leasing Act (30 U.S.C. 192);

(2) section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353); or

(3) any other Federal law governing leasing of Federal land for oil and gas development.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States shall, on the demand of the Secretary, be paid in oil or gas. If the Secretary makes such a demand, the following provisions apply to the payment:

(1) SATISFACTION OF ROYALTY OBLIGATION.—Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies royalty obligation of the lessee for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) MARKETABLE CONDITION.—

(A) DEFINITION OF MARKETABLE CONDITION.—In this paragraph, the term "in marketable condition" means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field

or area in which the royalty production was produced.

(B) REQUIREMENT.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) DISPOSITION BY THE SECRETARY.—The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) RETENTION BY THE SECRETARY.—The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use oil or gas received as royalty taken in-kind (referred to in this paragraph as "royalty production") to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from royalty in-kind sales, without fiscal year limitation, to pay salaries and other administrative costs directly related to the royalty in-kind program.

(c) REIMBURSEMENT OF COST.—If a lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) REPORTS.—

(1) IN GENERAL.—Not later than September 30, 2006, the Secretary shall submit to Congress a report that addresses—

(A) actions taken to develop businesses processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) REPORTS ON OIL OR GAS ROYALTIES TAKEN IN-KIND.—For each of fiscal years 2006 through 2015 in which the United States takes oil or gas royalties in-kind from production in any State or from the outer Continental Shelf, excluding royalties taken in-

kind and sold to refineries under subsection (h), the Secretary shall submit to Congress a report that describes—

(A) the 1 or more methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-value;

(B) an explanation of the evaluation that led the Secretary to take royalties in-kind from a lease or group of leases, including the expected revenue effect of taking royalties in-kind;

(C) actual amounts received by the United States derived from taking royalties in-kind and costs and savings incurred by the United States associated with taking royalties in-kind, including administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties in-kind.

(f) DEDUCTION OF EXPENSES.—

(1) IN GENERAL.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the Treasury.

(2) ACCOUNTING FOR DEDUCTIONS.—If the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary—

(1) shall consult with a State before conducting a royalty in-kind program under this subtitle within the State;

(2) may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(3) shall consult annually with any State from which Federal oil or gas royalty is being taken in-kind to ensure, to the maximum extent practicable,

that the royalty in-kind program provides revenues to the State greater than or equal to the revenues likely to have been received had royalties been taken in-value.

(h) SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not have their own source of supply for crude oil, the Secretary may grant preference to those refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in those refineries at private sale at not less than the market price.

(2) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary may, at the discretion of the Secretary, prorate the oil among refineries described in paragraph (1) in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary in-kind from onshore oil and gas leases may be sold at not less than the market price to any Federal agency.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in-kind from a Federal oil or gas lease on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—

(1) PREFERENCE.—In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(A) assessing the effectiveness of granting preferences specified in paragraph (1); and

(B) providing a specific recommendation on the continuation of authority to grant preferences.

SEC. 313. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) DEFINITION OF MARGINAL PROPERTY.—Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this sec-

tion, the term "marginal property" means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90,000,000 British thermal units of gas per well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary issues regulations under subsection (e) that prescribe different standards or requirements, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) if the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) if the spot price of natural gas delivered at Henry Hub, Louisiana, is, on

average, less than $2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

(c) REDUCED ROYALTY RATE.—

(1) IN GENERAL.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) PERIOD OF EFFECTIVENESS.—The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (c)(1)(A) shall terminate—

(1) with respect to oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) REGULATIONS PRESCRIBING DIFFERENT RELIEF.—

(1) DISCRETIONARY REGULATIONS.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) ROYALTY RELIEF FOR OFFSHORE WELLS.—With respect to royalty relief for oil or gas produced from wells located on the outer Continental Shelf, the Secretary shall use authority available to the Secretary as of the day before the date of enactment of this Act—

(A) to accept and consider petitions from persons seeking, and providing justification for, royalty relief for 1 or more of those wells; and

(B) not later than 90 days after the date of receipt of a petition, on a case-by-case basis—

(i) approve the petition and provide royalty relief or a royalty reduction for oil or gas produced from the wells covered by the petition; or

(ii) disapprove the petition.

(3) CONSIDERATIONS.—In issuing regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters, as determined by the Secretary.

(f) SAVINGS PROVISION.—Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

SEC. 314. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) DEFINITIONS.—In this section:

(1) LEASE ISSUED IN SHALLOW WATERS.—The term "lease issued in shallow waters" means—

(A) a lease entirely in water less than 200 meters deep; or

(B) a lease—

(i) partially in water less than 200 meters deep; and

(ii) to which no royalty relief provisions in law or lease terms apply.

(2) SIDETRACK.—

(A) IN GENERAL.—The term "sidetrack" means a well resulting from drilling an additional hole to a new objective bottom-hole location by leaving a previously drilled hole.

(B) INCLUSION.—The term "sidetrack" includes—

(i) drilling a well from a platform slot reclaimed from a previously drilled well;

(ii) re-entering and deepening a previously drilled well; and

(iii) a bypass from a sidetrack, including drilling around material blocking a hole or drilling to straighten a crooked hole.

(3) ULTRA DEEP WELL.—The term "ultra deep well" means a well drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the effective date of this section, in addition to any

other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to, or regulated under, the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35,000,000,000 cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters located in the Gulf of Mexico wholly west of 87°, 30'' West longitude that are issued before the date that is 180 days after the date of enactment of this Act.

(2) SUSPENSION VOLUMES.—The Secretary may grant suspension volumes of less than 35,000,000,000 cubic feet in any case in which—

(A) the ultra deep well is a sidetrack; or

(B) the lease has previously produced from wells with a perforated interval the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

(c) LIMITATION.—The Secretary shall not grant royalty incentives under this section if the average annual natural gas price on the New York Mercantile Exchange exceeds a threshold price specified, and adjusted for inflation, by the Secretary.

(d) APPLICABILITY.—

(1) IN GENERAL.—Royalty incentives under this subsection apply only to natural gas production from ultra deep wells that are drilled after the date of enactment of this Act.

(2) REVIEW AND SUSPENSION.—Not earlier than 10 years after the date of enactment of this Act, the Secretary may—

(A) review the relief granted under this section; and

(B) by regulation, modify or suspend the relief.

(e) EFFECTIVE DATE.—This section takes effect on October 1, 2006.

SEC. 315. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) IN GENERAL.—Subject to subsections (b) and (c), for each tract located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico (including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude), any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring during the 5-year period beginning on the date of enactment of this Act shall use the bidding system authorized under section

8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)).

(b) SUSPENSION OF ROYALTIES.—The suspension of royalties under subsection (a) shall be established at a volume of not less than—

(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 meters or more but less than 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 meters or more but not greater than 1,600 meters; and

(3) 12,000,000 barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

(c) LIMITATION.—The Secretary may place limitations on royalty relief granted under this section based on market price.

SEC. 316. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by inserting "and in the Planning Areas offshore Alaska," after "West longitude,".

SEC. 317. OIL AND GAS LEASING IN THE NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) TRANSFER OF AUTHORITY.—

(1) REDESIGNATION.—The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.) is amended by redesignating section 107 (42 U.S.C. 6507) as section 108.

(2) TRANSFER.—The matter under the heading "EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA" under the heading "ENERGY AND MINERALS" of title I of Public Law 96–514 (42 U.S.C. 6508) is—

(A) transferred to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

(B) redesignated as section 107 of that Act; and

(C) moved so as to appear after section 106 of that Act (42 U.S.C. 6506).

(b) COMPETITIVE LEASING.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as amended by subsection (a)(2)) is amended—

(1) by striking the heading and all that follows through "Provided, That (1) activities" and inserting the following:

"SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.

"(a) IN GENERAL.—The Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the Reserve in accordance with this Act.

"(b) MITIGATION OF ADVERSE EFFECTS.—

"(1) IN GENERAL.—Activities";

(2) in subsection (b)(1) (as designated by paragraph (1)), by striking "to mitigate" and inserting "to prevent to the extent practicable, and to mitigate,";

(3) by striking "Alaska (the Reserve); (2) the" and inserting "Alaska.

"(2) CERTAIN RESOURCES AND FACILITIES.—In carrying out the leasing program under this section, the Secretary shall minimize, to the extent practicable, the impact to surface resources and consolidate facilities.

"(c) LAND USE PLANNING; BLM WILDERNESS STUDY.—The";

(4) by striking "Reserve; (3) the" and inserting "Reserve.

"(d) FIRST LEASE SALE.—The;";

(5) by striking "4332); (4) the" and inserting "4321 et seq.).

"(e) WITHDRAWALS.—The";

(6) by striking "herein; (5) bidding" and inserting "under this section.

"(f) BIDDING SYSTEMS.—Bidding";

(7) by striking "629); (6) lease" and inserting "629).

"(g) GEOLOGICAL STRUCTURES.—Lease";

(8) by striking "structures; (7) the" and inserting "structures.

"(h) SIZE OF LEASE TRACTS.—The";

(9) by striking "Secretary; (8)" and all that follows through "Drilling, production," and inserting "Secretary.

"(i) TERMS.—

"(1) IN GENERAL.—Each lease shall be issued for an initial period of not more than 10 years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities or drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

"(2) TERMINATION.—No lease issued under this section covering lands capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than 60 days after notice by registered or certified mail, with-

in which to place the lands in producing status or unless, after such status is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this Act.

"(3) RENEWAL OF LEASES WITHOUT DISCOVERIES.—At the end of the primary term of a lease, the Secretary shall renew for one additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease, pays the Secretary a renewal fee of $100 per acre of leased land, and—

"(A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or

"(B) all or part of the lease

"(i) is part of a unit agreement covering a lease described in subparagraph (A); and

"(ii) has not been previously contracted out of the unit.

"(4) APPLICABILITY.—This subsection applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.

"(j) UNIT AGREEMENTS.—

"(1) IN GENERAL.—For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary shall, among other things, examine the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

"(2) CONSULTATION.—In making a determination under paragraph (1), the Secretary shall consult with the State of Alaska or a Regional Corporation (as defined in section 3 of the Alaska Native Claims

Settlement Act (43 U.S.C. 1602)) with respect to the creation or expansion of units that include acreage in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

"(3) PRODUCTION ALLOCATION METHODOLOGY.—(A) The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

"(B) The Secretary shall use a production allocation methodology for each participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and area variation in reservoir producibility across diverse leasehold interests. The implementation of the foregoing production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

"(4) BENEFIT OF OPERATIONS.—Drilling, production,";

(10) by striking "When separate" and inserting the following:

"(5) POOLING.—If separate";

(11) by inserting "(in consultation with the owners of the other land)" after "determined by the Secretary of the Interior";

(12) by striking "thereto; (10) to" and all that follows through "the terms provided therein" and inserting "to the agreement.

"(k) EXPLORATION INCENTIVES.—

"(1) IN GENERAL.—

"(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the

judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

"(B) APPLICABILITY.—This paragraph applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.";

(13) by striking "The Secretary is authorized to" and inserting the following:

"(2) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may";

(14) by striking "In the event" and inserting the following:

"(3) SUSPENSION OF PAYMENTS.—If";

(15) by striking "thereto; and (11) all" and inserting "to the lease.

"(l) RECEIPTS.—All";

(16) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively;

(17) by striking "Any agency" and inserting the following:

"(m) EXPLORATIONS.—Any agency";

(18) by striking "Any action" and inserting the following:

"(n) ENVIRONMENTAL IMPACT STATEMENTS.—

"(1) JUDICIAL REVIEW.—Any action";

(19) by striking "The detailed" and inserting the following:

"(2) INITIAL LEASE SALES.—The detailed";

(20) by striking "section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504)" and inserting "section 104(a)"; and

(21) by adding at the end the following:

"(o) REGULATIONS.—As soon as practicable after the date of enactment of the Energy Policy Act of 2005, the Secretary shall issue regulations to implement this section.

"(p) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—

"(1) IN GENERAL.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), the Secretary of the Interior shall waive administration of any oil and gas lease to the extent that the lease covers any land in the Reserve in which all of the subsurface estate is conveyed to the Arctic Slope Regional Corporation (referred to in this subsection as the 'Corporation').

"(2) PARTIAL CONVEYANCE.—

"(A) IN GENERAL.—In a case in which a conveyance of a subsurface estate described in

paragraph (1) does not include all of the land covered by the oil and gas lease, the person that owns the subsurface estate in any particular portion of the land covered by the lease shall be entitled to all of the revenues reserved under the lease as to that portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to that portion.

"(B) SEGREGATION OF LEASE.—In a case described in subparagraph (A), the Secretary of the Interior shall—

"(i) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

"(ii) waive administration of the lease that covers the subsurface estate conveyed to the Corporation.

"(C) NO CHANGE IN LEASE OBLIGATIONS.—The segregation of the lease described in subparagraph (B)(i) has no effect on the obligations of the lessee under either of the resulting leases, including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties).

"(3) AUTHORITY TO MANAGE FEDERALLY OWNED SURFACE ESTATE.—Nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.".

(c) CONFORMING AMENDMENTS.—Section 104 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively.

SEC. 318. NORTH SLOPE SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Interior shall establish a long-term initiative to be known as the "North Slope Science Initiative" (referred to in this section as the "Initiative").

(2) PURPOSE.—The purpose of the Initiative shall be to implement efforts to coordinate collection of scientific data that will provide a better understanding of the terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska.

(b) OBJECTIVES.—To ensure that the Initiative is conducted through a comprehensive science strategy and implementation plan, the Initiative shall, at a minimum—

(1) identify and prioritize information needs for inventory, monitoring, and research activities to address the individual and cumulative effects of past, ongoing, and anticipated development activities and environmental change on the North Slope;

(2) develop an understanding of information needs for regulatory and land management agencies, local governments, and the public;

(3) focus on prioritization of pressing natural resource management and ecosystem information needs, coordination, and cooperation among agencies and organizations;

(4) coordinate ongoing and future inventory, monitoring, and research activities to minimize duplication of effort, share financial resources and expertise, and assure the collection of quality information;

(5) identify priority needs not addressed by agency science programs in effect on the date of enactment of this Act and develop a funding strategy to meet those needs;

(6) provide a consistent approach to high caliber science, including inventory, monitoring, and research;

(7) maintain and improve public and agency access to—

(A) accumulated and ongoing research; and

(B) contemporary and traditional local knowledge; and

(8) ensure through appropriate peer review that the science conducted by participating agencies and organizations is of the highest technical quality.

(c) MEMBERSHIP.—

(1) IN GENERAL.—To ensure comprehensive collection of scientific data, in carrying out the Initiative, the Secretary shall consult and coordinate with Federal, State, and local agencies that have responsibilities for land and resource management across the North Slope.

(2) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements with the State of Alaska, the North Slope Borough, the Arctic Slope Regional Corporation, and other Federal agencies as appropriate to coordinate efforts, share resources, and fund projects under this section.

(d) SCIENCE TECHNICAL ADVISORY PANEL.—

(1) IN GENERAL.—The Initiative shall include a panel to provide advice on proposed inventory, monitoring, and research functions.

(2) MEMBERSHIP.—The panel described in paragraph (1) shall consist of a representative group of not more than 15 scientists and technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Native Alaskan entities, conservation organizations, wildlife management organizations, and academia, as determined by the Secretary.

(e) REPORTS.—Not later than 3 years after the date of enactment of this section and each year thereafter, the Secretary shall publish a report that describes the studies and findings of the Initiative.

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

SEC. 319. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

(b) ACTIVITIES.—The program under subsection (a) shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned, or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(c) COOPERATION AND CONSULTATIONS.—In carrying out the program under subsection (a), the Secretary shall—

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(d) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall submit to Congress a plan for carrying out the program under subsection (a).

(e) IDLED WELL.—For the purposes of this section, a well is idled if—

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LAND.—

(1) IN GENERAL.—The Secretary of Energy shall establish a program to provide technical and financial assistance to oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private land.

(2) ASSISTANCE.—The Secretary of Energy shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of

onshore orphaned or abandoned oil or gas wells on State and private land.

(3) ACTIVITIES.—The program under paragraph (1) shall include—

(A) mechanisms to facilitate identification, if feasible, of the persons currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities;

(C) information and training programs on best practices for remediation of different types of sites; and

(D) funding of State mitigation efforts on a cost-shared basis.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.

(2) USE.—Of the amounts authorized under paragraph (1), $5,000,000 are authorized for each fiscal year for activities under subsection (f).

SEC. 320. COMBINED HYDROCARBON LEASING.

(a) SPECIAL PROVISIONS REGARDING LEASING.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) in the first sentence of subparagraph (A) (as designated by paragraph (1)), by striking "they shall be" and inserting "the lands may be"; and

(3) by adding at the end the following:

"(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

"(i) a lease for exploration for and extraction of tar sand; and

"(ii) a lease for exploration for and development of oil and gas.

"(C) A lease described in subparagraph (B) shall have provisions addressing the appropriate accommodation of resources.

"(D) A lease issued for tar sand development shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $2 per acre.".

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is

amended in the second sentence by inserting "subject to paragraph (2)(B)," after "Thereafter,".

(c) REGULATIONS.—Not later than 45 days after the date of enactment of this Act, the Secretary of the Interior shall issue final regulations to implement the amendments made by this section.

SEC. 321. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

"(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

"(A) support exploration, development, or production of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

"(B) support transportation of oil or natural gas, excluding shipping activities;

"(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

"(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

"(2) PAYMENTS.—The Secretary shall establish royalties, fees, rentals, bonus, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

"(3) COMPETITIVE OR NONCOMPETITIVE BASIS.—Except with respect to projects that meet the criteria established under section 321(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

"(4) REQUIREMENTS.—The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

"(A) safety;

"(B) protection of the environment;

"(C) prevention of waste;

"(D) conservation of the natural resources of the outer Continental Shelf;

"(E) coordination with relevant Federal agencies;

"(F) protection of national security interests of the United States;

"(G) protection of correlative rights in the outer Continental Shelf;

"(H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

"(I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

"(J) consideration of—

"(i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

"(ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;

"(K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and

"(L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

"(5) LEASE DURATION, SUSPENSION, AND CANCELLATION.—The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

"(6) SECURITY.—The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—

"(A) furnish a surety bond or other form of security, as prescribed by the Secretary;

"(B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and

"(C) provide for the restoration of the lease, easement, or right-of-way.

"(7) COORDINATION AND CONSULTATION WITH AFFECTED STATE AND LOCAL GOVERNMENTS.—The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

"(8) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor

of any affected State, shall issue any necessary regulations to carry out this subsection.

"(9) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

"(10) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.".

(b) COORDINATED OCS MAPPING INITIATIVE.—

(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of Commerce, the Commandant of the Coast Guard, and the Secretary of Defense, shall establish an interagency comprehensive digital mapping initiative for the outer Continental Shelf to assist in decisionmaking relating to the siting of activities under subsection (p) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) (as added by subsection (a)).

(2) USE OF DATA.—The mapping initiative shall use, and develop procedures for accessing, data col-

lected before the date on which the mapping initiative is established, to the maximum extent practicable.

(3) INCLUSIONS.—Mapping carried out under the mapping initiative shall include an indication of the locations on the outer Continental Shelf of—

(A) Federally-permitted activities;

(B) obstructions to navigation;

(C) submerged cultural resources;

(D) undersea cables;

(E) offshore aquaculture projects; and

(F) any area designated for the purpose of safety, national security, environmental protection, or conservation and management of living marine resources.

(c) CONFORMING AMENDMENT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking the section heading and inserting the following: "LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—".

(d) SAVINGS PROVISION.—Nothing in the amendment made by subsection (a) requires the resubmittal of any document that was previously submitted or the reauthorization of any action that was previously authorized with respect to a project for which, before the date of enactment of this Act—

(1) an offshore test facility has been constructed; or

(2) a request for a proposal has been issued by a public authority.

SEC. 322. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

(a) SHORT TITLE.—This section may be cited as the "National Geological and Geophysical Data Preservation Program Act of 2005".

(b) PROGRAM.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material; and

(3) to provide technical and financial assistance related to the archival material.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and

archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as the geological survey in the State.

(4) DATA FROM FEDERAL LAND.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference

being given to archiving data in the State in which the data were collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) NATIONAL CATALOG.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in the system; and

(C) the means of accessing the material.

(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities under subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be not more than 50 percent of the total cost of the activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term "Advisory Committee" means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) PROGRAM.—The term "Program" means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) SURVEY.—The term "Survey" means the United States Geological Survey.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2006 through 2010.

SEC. 323. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after "acreage held in special tar sand areas" the following: ", and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year,".

SEC. 324. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT.—The Secretary shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) the effects on the utility system, including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of the displacement on the economic relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of the displacement on the relationship described in (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii

(b) CONTRACTING AUTHORITY.—The Secretary may carry out the assessment under subsection (a) directly or, in whole or in part, through 1 or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary shall prepare (in consultation with agencies of the State of Hawaii and other

stakeholders, as appropriate), and submit to Congress, a report describing the findings, conclusions, and recommendations resulting from the assessment.

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

SEC. 325. DENALI COMMISSION.

(a) DEFINITION OF COMMISSION.—In this section, the term "Commission" means the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).

(b) ENERGY PROGRAMS.—The Commission shall use amounts made available under subsection (d) to carry out energy programs, including—

(1) energy generation and development, including—

(A) fuel cells, hydroelectric, solar, wind, wave, and tidal energy; and

(B) alternative energy sources;

(2) the construction of energy transmission, including interties;

(3) the replacement and cleanup of fuel tanks;

(4) the construction of fuel transportation networks and related facilities;

(5) power cost equalization programs; and

(6) projects using coal as a fuel, including coal gasification projects.

(c) OPEN MEETINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a meeting of the Commission shall be open to the public if—

(A) the Commission members take action on behalf of the Commission; or

(B) the deliberations of the Commission determine, or result in the joint conduct or disposition of, official Commission business.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to any portion of a Commission meeting for which the Commission, in public session, votes to close the meeting for the reasons described in paragraph (2), (4), (5), or (6) of subsection (c) of section 552b of title 5, United States Code.

(3) PUBLIC NOTICE.—

(A) IN GENERAL.—At least 1 week before a meeting of the Commission, the Commission shall make a public announcement of the meeting that describes—

(i) the time, place, and subject matter of the meeting;

(ii) whether the meeting is to be open or closed to the public; and

(iii) the name and telephone number of an appropriate person to respond to requests for information about the meeting.

(B) ADDITIONAL NOTICE.—The Commission shall make a public announcement of any change to the information made available under subparagraph (A) at the earliest practicable time.

(4) MINUTES.—The Commission shall keep, and make available to the public, a transcript, electronic recording, or minutes from each Commission meeting, except for portions of the meeting closed under paragraph (2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission not more than $55,000,000 for each of fiscal years 2006 through 2015 to carry out subsection (b).

SEC. 326. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.

(a) IN GENERAL.—The Secretary of the Interior shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf ("OCS"). The inventory and analysis shall—

(1) use available data on oil and gas resources in areas offshore of Mexico and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3–D seismic technology to obtain accurate resource estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas such as the deepwater and subsalt areas in the Gulf of Mexico;

(4) estimate the effect that understated oil and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the Federal government and coastal States, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) REPORTS.—The Secretary of Interior shall submit a report to Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within 6 months of the date of enactment of the section. The report shall be publicly available and updated at least every 5 years.

SEC. 327. REVIEW AND DEMONSTRATION PROGRAM FOR OIL AND NATURAL GAS PRODUCTION.

(a) REVIEW.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Energy (referred to in this section as the "Secretary"), shall carry out a review of, and submit to Congress a report on opportunities to enhance production of oil and natural gas from public land and the outer Continental Shelf, and increase sequestration of carbon dioxide through the provision of royalty or other production incentives to lessees that inject carbon dioxide as a means of enhanced recovery.

(2) COMPONENTS.—The Secretary of the Interior shall describe in the review and report under paragraph (1)—

(A) eligibility requirements for incentives;

(B) the appropriate level of royalty relief, if any;

(C) other appropriate production incentives, if any;

(D) an estimate of the increased quantity of oil and gas production that could be achieved through implementation of those incentives;

(E) an estimate of the quantity of carbon sequestration that could be achieved through implementation of those incentives;

(F) practices (and the extent of the use of the practices) as of the date of enactment of this Act that rely on carbon dioxide injection for enhanced oil and gas recovery; and

(G) any recommendations for implementation of royalty relief or other production incentives, including—

(i) the period of time during which those incentives should be available; and

(ii) any geographic or other limitations that should apply to the incentives.

(b) DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a competitive grant program to provide

grants to producers of oil and gas to carry out projects to inject carbon dioxide for the purpose of enhancing recovery of oil or natural gas while increasing the sequestration of carbon dioxide.

(B) PROJECTS.—The demonstration program shall provide for—

(i) not more than 10 projects in the Willistin Basin in North Dakota and Montana; and

(ii) 1 project in the Cook Inlet Basin in Alaska.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue requirements relating to applications for grants under paragraph (1).

(B) RULEMAKING.—The issuance of requirements under subparagraph (A) shall not require a rulemaking.

(C) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require under subparagraph (A) that an application for a grant include—

(i) a description of the project proposed in the application;

(ii) an estimate of the production increase and the duration of the production increase from the project, as compared to conventional recovery techniques, including water flooding;

(iii) an estimate of the carbon dioxide sequestered by project, over the life of the project;

(iv) a plan to collect and disseminate data relating to each project to be funded by the grant;

(v) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(vi) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(vii) a description of which costs of the project will be supported by Federal assistance under this section; and

(viii) a description of any secondary or tertiary recovery efforts in the field and

the efficacy of water flood recovery techniques used.

(3) PARTNERS.—An applicant for a grant under paragraph (1) may carry out a project under a pilot program in partnership with 1 or more other public or private entities.

(4) SELECTION CRITERIA.—In evaluating applications under this subsection, the Secretary shall—

(A) consider the previous experience with similar projects of each applicant;

(B) give priority consideration to applications that—

(i) are most likely to maximize production of oil and gas in a cost-effective manner;

(ii) sequester significant quantities of carbon dioxide from anthropogenic sources;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this section is completed; and

(iv) minimize any adverse environmental effects from the project.

(5) DEMONSTRATION PROGRAM REQUIREMENTS.—

(A) MAXIMUM AMOUNT.—The Secretary shall not provide more than $3,000,000 in Federal assistance under this subsection to any applicant.

(B) COST SHARING.—The Secretary shall require cost-sharing in accordance with section 1002.

(C) PERIOD OF GRANTS.—

(i) IN GENERAL.—A project funded by a grant under this subsection shall begin construction not later than 2 years after the date of provision of the grant, but in any case not later than December 31, 2010.

(ii) TERM.—The Secretary shall not provide grant funds to any applicant under this subsection for a period of more than 5 years.

(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the program under this subsection are transferred among other participants and interested

parties, including other applicants that submitted applications for a grant under this subsection.

(7) SCHEDULE.—

(A) PUBLICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, and elsewhere, as appropriate, a request for applications to carry out projects under this subsection.

(B) DATE FOR APPLICATIONS.—An application for a grant under this subsection shall be submitted not later than 180 days after the date of publication of the request under subparagraph (A).

(C) SELECTION.—After the date by which applications for grants are required to be submitted under subparagraph (B), the Secretary, in a timely manner, shall select, after peer review and based on the criteria under paragraph (4), those projects to be awarded a grant under this subsection.

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

SEC. 328. NO OIL PRODUCING AND EXPORTING CARTELS.

(a) SHORT TITLE.—This section may be cited as the "No Oil Producing and Exporting Cartels Act of 2005" or "NOPEC".

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

"SEC. 7A. OIL PRODUCING CARTELS.

"(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

"(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

"(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

"(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

"(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be im-

mune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

"(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

"(d) ENFORCEMENT.—The Attorney General of the United States and the Federal Trade Commission may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.".

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking "or" after the semicolon;

(2) in paragraph (7), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(8) in which the action is brought under section 7A of the Sherman Act.".

Subtitle C—Access to Federal Land

SEC. 341. FEDERAL ONSHORE OIL AND GAS LEASING PRACTICES.

(a) REVIEW OF ONSHORE OIL AND GAS LEASING PRACTICES.—The Secretary of the Interior shall make the

necessary arrangements with the National Academy of Public Administration to commission the Academy to perform a review of Federal onshore oil and gas leasing practices. The Secretary of the Interior shall conduct an internal review concurrent with the work of the National Academy of Public Administration. The reviews shall include the following:

(1) The process by which Federal land managers accept or reject an offer to lease, including the timeframes in which such offers are acted upon, and any recommendations for improving and expediting the process.

(2) The process for considering applications for permits to drill, including the timeframes in which such applications are considered, and any recommendations for improving and expediting the process.

(3) The process for considering surface use plans of operation, including the timeframes in which such plans are considered, and any recommendations for improving and expediting the process.

(4) The process for administrative appeal of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease, including the timeframes in which

such appeals are heard and decided, and any recommendations for improving and expediting the process.

(5) The process by which Federal land managers identify stipulations to address site-specific concerns and conditions, including those relating to the environment and resource use conflicts, whether stipulations are effective in addressing resource values, and any recommendations for expediting and improving the identification and effectiveness of stipulations.

(6) The process by which the Federal land management agencies coordinate planning and analysis with planning of Federal, State, and local agencies having jurisdiction over adjacent areas and other land uses, and any recommendations for improving and expediting the process.

(7) The documentation provided to lease applicants and lessees with respect to determinations to reject lease applications or to require modification of proposed surface use plans of operation and recommendations regarding improvement of such documentation to more clearly set forth the basis for the decision.

(8) The adequacy of resources available to the Secretary of the Interior for administering the Federal onshore oil and gas leasing program.

(9) Actions taken by the Secretary under section 3 of Executive Order No. 13212 (42 U.S.C. 13201 note).

(10) Actions taken by, or plans of, the Secretary to improve the Federal onshore oil and gas leasing program.

(b) REPORT.—The Secretary of the Interior and the National Academy of Public Administration shall report to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate not later than 18 months after the date of the enactment of this Act, summarizing the findings of their respective reviews undertaken pursuant to this section and making recommendations with respect to improvements in the Federal onshore oil and gas leasing program.

SEC. 342. MANAGEMENT OF FEDERAL OIL AND GAS LEASING PROGRAMS.

(a) TIMELY ACTION ON LEASES AND PERMITS.—

(1) SECRETARY OF THE INTERIOR.—To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for

leasing, the Secretary of the Interior (referred to in this section as the "Secretary") shall—

(A) ensure expeditious compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any other applicable environmental and cultural resources laws;

(B) improve consultation and coordination with the States and the public; and

(C) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(2) SECRETARY OF AGRICULTURE.—To ensure timely action on oil and gas lease applications for permits to drill on land otherwise available for leasing, the Secretary of Agriculture shall—

(A) ensure expeditious compliance with all applicable environmental and cultural resources laws; and

(B) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(b) BEST MANAGEMENT PRACTICES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary

shall develop and implement best management practices to—

(A) improve the administration of the onshore oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(B) ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing.

(2) REGULATIONS.—Not later than 180 days after the development of the best management practices under paragraph (1), the Secretary shall publish, for public comment, proposed regulations that set forth specific timeframes for processing leases and applications in accordance with the best management practices, including deadlines for—

(A) approving or disapproving—

(i) resource management plans and related documents;

(ii) lease applications;

(iii) applications for permits to drill; and

(iv) surface use plans; and

(B) related administrative appeals.

(c) IMPROVED ENFORCEMENT.—The Secretary and the Secretary Agriculture shall improve inspection and enforce-

ment of oil and gas activities, including enforcement of terms and conditions in permits to drill on land under the jurisdiction of the Secretary and the Secretary of Agriculture, respectively.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available to carry out activities relating to oil and gas leasing on public land administered by the Secretary and National Forest System land administered by the Secretary of Agriculture, there are authorized to be appropriated for each of fiscal years 2006 through 2010—

(1) to the Secretary, acting through the Director of the Bureau of Land Management—

(A) $40,000,000 to carry out subsections (a)(1) and (b); and

(B) $20,000,000 to carry out subsection (c);

(2) to the Secretary, acting through the Director of the United States Fish and Wildlife Service, $5,000,000 to carry out subsection (a)(1); and

(3) to the Secretary of Agriculture, acting through the Chief of the Forest Service, $5,000,000 to carry out subsections (a)(2) and (c).

SEC. 343. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public land under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System land under the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of—

(A) oil and gas lease applications;

(B) surface use plans of operation, including steps for processing surface use plans; and

(C) applications for permits to drill, including applications for permits to drill consistent with applicable timelines;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts;

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied;

(4) establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture; and

(5) establish a joint geographic information system mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 344. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this section as the "Secretary") shall estab-

lish a Federal Permit Streamlining Pilot Project (referred to in this section as the "Pilot Project").

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with—

(A) the Secretary of Agriculture;

(B) the Administrator of the Environmental Protection Agency; and

(C) the Chief of Engineers.

(2) STATE PARTICIPATION.—The Secretary may request that the Governors of Wyoming, Montana, Colorado, Utah, and New Mexico be signatories to the memorandum of understanding.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall, if appropriate, assign to each of the field offices identified in subsection (d) an employee who has expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) FIELD OFFICES.—The following Bureau of Land Management Field Offices shall serve as the Pilot Project offices:

(1) Rawlins, Wyoming.

(2) Buffalo, Wyoming.

(3) Miles City, Montana

(4) Farmington, New Mexico.

(5) Carlsbad, New Mexico.

(6) Grand Junction/Glenwood Springs, Colorado.

(7) Vernal, Utah.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) outlines the results of the Pilot Project to date; and

(2) makes a recommendation to the President regarding whether the Pilot Project should be implemented throughout the United States.

(f) ADDITIONAL PERSONNEL.—The Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the field offices, including inspection and enforcement relating

to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq).

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

(2) TRANSFER OF FUNDS.—For the purposes of coordination and processing of oil and gas use authorizations on Federal land under the administration of the Pilot Project offices identified in subsection (d), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

(A) the United States Fish and Wildlife Service;

(B) the Bureau of Indian Affairs;

(C) the Forest Service;

(D) the Environmental Protection Agency;

(E) the Corps of Engineers; and

(F) the States of Wyoming, Montana, Colorado, Utah, and New Mexico.

(h) SAVINGS PROVISION.—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 345. ENERGY FACILITY RIGHTS-OF-WAYS AND CORRIDORS ON FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) CORRIDOR.—In this section and section 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1763), the term "corridor" means—

(A) a linear strip of land—

(i) with a width determined with consideration given to technological, environmental, and topographical factors; and

(ii) that contains, or may in the future contain, 1 or more utility facilities;

(B) a land use designation that is established—

(i) by law;

(ii) by order of the head of a Federal agency;

(iii) through the land use planning process; or

(iv) by other management decision; and

(C) a designation made for the purpose of establishing the preferred location of a compatible utility facility.

(2) FEDERAL AUTHORIZATION.—

(A) IN GENERAL.—The term "Federal authorization" means any authorization required under Federal law in order to site a utility facility.

(B) INCLUSIONS.—The term "Federal authorization" includes such permits, special use authorizations, certifications, opinions, or other approvals as may be required, that are issued by a Federal agency.

(3) FEDERAL LAND.—

(A) IN GENERAL.—The term "Federal land" means all land owned by the United States.

(B) EXCLUSIONS.—The term "Federal land" does not include land—

(i) within the National Park System;

(ii) within the National Wilderness Preservation System;

(iii) designated as a National Monument;

(iv) held in trust for an Indian or Indian tribe; or

(v) on the outer Continental Shelf.

(4) UTILITY CORRIDOR.—The term "utility corridor" means any linear strip of land across Federal land referred to in subsection (b) of approved width, but limited for use by a utility facility by technological, environmental, or topographical factors.

(5) UTILITY FACILITY.—The term "utility facility" means any privately-, publicly-, or cooperatively-owned line, facility, or system—

(A) for the transportation of—

(i) oil or natural gas, synthetic liquid or gaseous fuel, or any refined product produced from any of those materials; or

(ii) products in support of production, or for storage or terminal facilities in connection with production; or

(B) for the generation, transmission, or distribution of electric energy.

(b) UTILITY CORRIDORS.—

(1) IN GENERAL.—Not later than 2 years after the document described in subsection (c)(3) is completed, the Secretary of the Interior, with respect to public lands (as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)), and the Secretary of Agriculture,

with respect to National Forest System land, shall designate utility corridors pursuant to—

(A) section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) in the 11 contiguous Western States (as identified in section 103(o) of that Act (43 U.S.C. 1702(o))); and

(B) relevant departmental and agency land use and resource management plans or equivalent plans.

(2) COORDINATION.—The Secretary shall coordinate with affected Federal agencies to jointly—

(A) identify potential utility corridors on Federal land in States not described in paragraph (1)(A); and

(B) develop a schedule for the designation, environmental review, and incorporation of the utility corridors into relevant departmental and agency land use and resource management plans or equivalent plans.

(3) SPECIFICATIONS OF CORRIDOR.—A corridor designated under this section shall specify the centerline, width, and compatible uses of the corridor.

(c) FEDERAL PERMIT COORDINATION.—

(1) IN GENERAL.—The Secretary shall enter into a memorandum of understanding with the Secretary

of the Interior, the Secretary of Agriculture, and the Secretary of Defense for the purpose of coordinating all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility.

(2) ADDITIONAL ENTITIES.—To the maximum extent practicable under applicable law, the Secretary shall coordinate the process developed through the memorandum of understanding under paragraph (1) with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility to ensure timely review and permit decisions.

(3) CONTENTS OF MOU.—The memorandum of understanding under paragraph (1) shall provide for—

(A) coordination, among affected Federal agencies, to ensure that the necessary Federal authorizations—

(i) are conducted concurrently with applicable State siting processes; and

(ii) are considered within a specific time frame identified within the memorandum of understanding;

(B) an agreement among the affected Federal agencies to prepare a programmatic environmental review document to be used as the underlying basis for all Federal authorization decisions; and

(C) a process to expedite applications to construct or modify utility facilities within utility corridors.

SEC. 346. OIL SHALE AND TAR SANDS.

(a) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States that—

(1) United States oil shale and tar sands are strategically important domestic resources that should be developed through methods that help reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports;

(2) the development of oil shale and tar sands, for research and commercial development, should be conducted in an economically feasible and environmentally sound manner, using practices that minimize impacts;

(3) development should occur at a deliberate pace, with an emphasis on sustainability, to benefit

the United States while taking into account affected States and communities; and

(4) the Secretary of the Interior should work toward developing a commercial leasing program for oil shale and tar sands so that such a program can be implemented when production technologies are commercially viable.

(b) LEASING PROGRAM.—

(1) RESEARCH AND DEVELOPMENT.—

(A) IN GENERAL.—In accordance with section 21 of the Mineral Leasing Act (30 U.S.C. 241) and any other applicable law, except as provided in this section, not later than 1 year after the date of enactment of this Act, from land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the "Secretary") shall, for a period determined by the Secretary, make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with respect to innovative technologies for the recovery of shale oil from oil shale resources on public land.

(B) APPLICATION.—The Secretary may offer to lease the land to persons that submit an

application for the lease, if the Secretary determines that there is no competitive interest in the land.

(C) ADMINISTRATION.—In carrying out this paragraph, the Secretary shall—

(i) provide for environmentally sound research and development of oil shale;

(ii) provide for an appropriate return to the public, as determined by the Secretary;

(iii) before carrying out any activity that will disturb the surface of land, provide for an adequate bond, surety, or other financial arrangement to ensure reclamation;

(iv) provide for a primary lease term of 10 years, after which the lease term may be extended if the Secretary determines that diligent research and development activities are occurring on the land leased;

(v) require the owner or operator of a project under this subsection, within such period as the Secretary may determine—

(I) to submit a plan of operations;

(II) to develop an environmental protection plan; and

(III) to undertake diligent research and development activities;

(vi) ensure that leases under this section are not larger than necessary to conduct research and development activities under an application under subparagraph (B);

(vii) provide for consultation with affected State and local governments; and

(viii) provide for such requirements as the Secretary determines to be in the public interest.

(2) COMMERCIAL LEASING.—Prior to conducting commercial leasing, the Secretary shall carry out—

(A) the programmatic environmental impact statement required under subsection (c); and

(B) the analysis required under subsection (d).

(3) MONEYS RECEIVED.—Any moneys received from a leasing activity under this subsection shall be paid in accordance with section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(c) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—Not later than 18 months after the date of enact-

ment of this Act, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall complete a programmatic environmental impact statement that analyzes potential leasing for commercial development of oil shale resources on public land.

(d) ANALYSIS OF POTENTIAL LEASING PROGRAM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report (including recommendations) analyzing a potential leasing program for the commercial development of oil shale on public land.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) an analysis of technologies and research and development programs for the production of oil and other materials from oil shale and tar sands in existence on the date on which the report is prepared;

(B) an analysis of—

(i) whether leases under the program should be issued on a competitive basis;

(ii) the term of the leases;

(iii) the maximum size of the leases;

(iv) the use and distribution of bonus bid lease payments;

(v) the royalty rate to be applied, including whether a sliding scale royalty rate should be used;

(vi) whether an opportunity should be provided to convert research and development leases into leases for commercial development, including the terms and conditions that should apply to the conversion;

(vii) the maximum number of leases and maximum acreage to be leased under the leasing program to an individual; and

(viii) any infrastructure required to support oil shale development in industry and communities;

(C) an identification of events that should serve as a precursor to commercial leasing, including development of environmentally and commercially viable technologies, and the completion of land use planning and environmental reviews; and

(D) an analysis, developed in conjunction with the appropriate State water resource agencies, of the demand for, and availability of,

water with respect to the development of oil shale and tar sands.

(3) PUBLIC PARTICIPATION.—In preparing the report under this subsection, the Secretary shall provide notice to, and solicit comment from—

(A) the public;

(B) representatives of local governments;

(C) representatives of industry; and

(D) other interested parties.

(4) PARTICIPATION BY CERTAIN STATES.—In preparing the report under this subsection, the Secretary shall—

(A) provide notice to, and solicit comment from, the Governors of the States of Colorado, Utah, and Wyoming; and

(B) incorporate into the report submitted to Congress under paragraph (1) any response of the Secretary to those comments.

(e) OIL SHALE AND TAR SANDS TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary of Energy, in cooperation with the Secretary of the Interior, shall establish an Oil Shale and Tar Sands Task Force to develop a program to coordinate and accelerate the commercial development of oil shale and tar sands in an integrated manner.

(2) COMPOSITION.—The Task Force shall be composed of—

(A) the Secretary of Energy (or the designee of the Secretary of Energy);

(B) the Secretary of Defense (or the designee of the Secretary of Defense);

(C) the Secretary of the Interior (or the designee of the Secretary of the Interior);

(D) the Governors of the affected States; and

(E) representatives of local governments in affected areas.

(3) DEVELOPMENT OF A 5-YEAR PLAN.—

(A) IN GENERAL.—The Task Force shall formulate a 5-year plan to promote the development of oil shale and tar sands.

(B) COMPONENTS.—In formulating the plan, the Task Force shall—

(i) identify public actions that are required to stimulate prudent development of oil shale and tar sands;

(ii) analyze the costs and benefits of those actions;

(iii) make recommendations concerning specific actions that should be taken to stimulate prudent development of oil

shale and tar sands, including economic, investment, tax, technology, research and development, infrastructure, environmental, education, and socio-economic actions;

(iv) consult with representatives of industry and other stakeholders;

(v) provide notice and opportunity for public comment on the plan;

(vi) identify oil shale and tar sands technologies that—

(I) are ready for pilot plant and semiworks development; and

(II) have a high probability of leading to advanced technology for first- or second-generation commercial production; and

(vii) assess the availability of water from the Green River Formation to meet the potential needs of oil shale and tar sands development.

(4) NATIONAL PROGRAM OFFICE.—The Task Force shall analyze and make recommendations regarding the need for a national program office to administer the plan.

(5) PARTNERSHIP.—The Task Force shall recommend whether to initiate a partnership with Alberta, Canada, for purposes of sharing information relating to the development and production of oil from tar sands.

(6) REPORTS.—

(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this Act, the Task Force shall submit to the President and Congress a report that describes the analysis and recommendations of the Task Force and contains the 5-year plan.

(B) SUBSEQUENT REPORTS.—The Secretary of Energy shall provide an annual report describing the progress in carrying out the plan for each of the 5 years following submission of the report provided for in subparagraph (A).

(f) MINERAL LEASING ACT AMENDMENTS.—Section 21(a) of the Mineral Leasing Act (30 U.S.C. 241(a)) is amended—

(1) by designating the first, second, and third sentences as paragraphs (1), (2), and (3), respectively; and

(2) in paragraph (3) (as designated by paragraph (1))—

(A) by striking "rate of 50 cents per acre" and inserting "rate of $2.00 per acre"; and

(B) in the last proviso—

(i) by striking "That not more than one lease shall be granted under this section to any" and inserting "That no"; and

(ii) by striking "except that with respect to leases for" and inserting "shall acquire or hold more than 25,000 acres of oil shale leases in the United States. For".

(g) COST-SHARED DEMONSTRATION TECHNOLOGIES.—

(1) IDENTIFICATION.—The Secretary of Energy shall identify technologies for the development of oil shale and tar sands that—

(A) are ready for demonstration at a commercially-representative scale; and

(B) have a high probability of leading to commercial production.

(2) ASSISTANCE.—For each technology identified under paragraph (1), the Secretary of Energy may provide—

(A) technical assistance;

(B) assistance in meeting environmental and regulatory requirements; and

(C) cost-sharing assistance in accordance with section 1002.

(h) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary of Energy may provide technical assistance for the purpose of overcoming technical challenges to the development of oil shale and tar sands technologies for application in the United States.

(2) ADMINISTRATION.—The Secretary of Energy may provide technical assistance under this section on a cost-shared basis in accordance with section 1002.

(i) NATIONAL OIL SHALE ASSESSMENT.—

(1) ASSESSMENT.—

(A) IN GENERAL.—The Secretary shall carry out a national assessment of oil shale resources for the purposes of evaluating and mapping oil shale deposits, in the geographic areas described in subparagraph (B).

(B) GEOGRAPHIC AREAS.—The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are—

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales of the eastern United States; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale, as determined by the Secretary.

(2) USE OF STATE SURVEYS AND UNIVERSITIES.—In carrying out the assessment under paragraph (1), the Secretary may request assistance from any State-administered geological survey or university.

(j) STATE WATER RIGHTS.—Nothing in this section preempts or affects any State water law or interstate compact relating to water.

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

SEC. 347. FINGER LAKES WITHDRAWAL.

All Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

(1) all forms of entry, appropriation, or disposal under the public land laws; and

(2) disposition under all laws relating to oil and gas leasing.

SEC. 348. REINSTATEMENT OF LEASES.

Notwithstanding section 31(d)(2)(B) of the Mineral Leasing Act (30 U.S.C. 188(d)(2)(B)), the Secretary may reinstate any oil and gas lease issued under that Act that was terminated for failure of a lessee to pay the full amount of rental on or before the anniversary date of the lease, during the period beginning on September 1, 2001, and ending on June 30, 2004, if—

(1) not later than 120 days after the date of enactment of this Act, the lessee—

(A) files a petition for reinstatement of the lease;

(B) complies with the conditions of section 31(e) of the Mineral Leasing Act (30 U.S.C. 188(e)); and

(C) certifies that the lessee did not receive a notice of termination by the date that was 13 months before the date of termination; and

(2) the land is available for leasing.

Subtitle D—Coastal Programs

SEC. 371. COASTAL IMPACT ASSISTANCE PROGRAM.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended to read as follows:

"SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a coastal State any part of which political subdivision is—

"(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State as of the date of enactment of the Energy Policy Act of 2005; and

"(B) not more than 200 nautical miles from the geographic center of any leased tract.

"(2) COASTAL POPULATION.—The term 'coastal population' means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

"(3) COASTAL STATE.—The term 'coastal State' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

"(4) COASTLINE.—The term 'coastline' has the meaning given the term 'coast line' in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

"(5) DISTANCE.—The term 'distance' means the minimum great circle distance, measured in statute miles.

"(6) LEASED TRACT.—The term 'leased tract' means a tract that is subject to a lease under section 6 or 8 for the purpose of drilling for, developing, and producing oil or natural gas resources.

"(7) LEASING MORATORIA.—The term 'leasing moratoria' means the prohibitions on preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3063).

"(8) POLITICAL SUBDIVISION.—The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

"(9) PRODUCING STATE.—

"(A) IN GENERAL.—The term 'producing State' means a coastal State that has a coastal seaward boundary within 200 nautical miles of

the geographic center of a leased tract within any area of the outer Continental Shelf.

"(B) EXCLUSION.—The term 'producing State' does not include a producing State, a majority of the coastline of which is subject to leasing moratoria, unless production was occurring on January 1, 2005, from a lease within 10 nautical miles of the coastline of that State.

"(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

"(A) IN GENERAL.—The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract—

"(i) lying—

"(I) seaward of the zone covered by section 8(g); or

"(II) within that zone, but to which section 8(g) does not apply; and

"(ii) the geographic center of which lies within a distance of 200 nautical miles from any part of the coastline of any coastal State.

"(B) INCLUSIONS.—The term 'qualified Outer Continental Shelf revenues' includes bonus

bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

"(C) EXCLUSION.—The term 'qualified Outer Continental Shelf revenues' does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on January 1, 2005.

"(b) PAYMENTS TO PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

"(1) IN GENERAL.—The Secretary shall, without further appropriation, disburse to producing States and coastal political subdivisions in accordance with this section $250,000,000 for each of fiscal years 2007 through 2010.

"(2) DISBURSEMENT.—In each fiscal year, the Secretary shall disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (4), such funds as are allocated to the pro-

ducing State or coastal political subdivision, respectively, under this section for the fiscal year.

"(3) ALLOCATION AMONG PRODUCING STATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

"(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

"(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

"(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES.—For purposes of subparagraph (A)—

"(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2007 and 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2006; and

"(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 and 2010 shall be determined

using qualified outer Continental Shelf revenues received for fiscal year 2008.

"(C) MULTIPLE PRODUCING STATES.—In a case in which more than 1 producing State is located within 200 nautical miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

"(i) the nearest point on the coastline of the producing State; and

"(ii) the geographic center of the leased tract.

"(D) MINIMUM ALLOCATION.—The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

"(4) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

"(A) IN GENERAL.—The Secretary shall pay 35 percent of the allocable share of each producing State, as determined under paragraph (3) to the coastal political subdivisions in the producing State.

"(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

"(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

"(I) the coastal population of the coastal political subdivision; bears to

"(II) the coastal population of all coastal political subdivisions in the producing State;

"(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

"(I) the number of miles of coastline of the coastal political subdivision; bears to

"(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

"(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that

are closest to the geographic center of each leased tract, as determined by the Secretary.

"(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be considered to be 1/3 the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

"(D) EXCEPTION FOR THE STATE OF ALASKA.—For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the 2 coastal political subdivisions that are closest to the geographic center of a leased tract.

"(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005, unless the lease was in production on that date.

"(6) NO APPROVED PLAN.—

"(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (4) or (5) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

"(B) RETENTION OF ALLOCATION.—The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) is decided.

"(C) WAIVER.—The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c).

"(c) COASTAL IMPACT ASSISTANCE PLAN.—

"(1) SUBMISSION OF STATE PLANS.—

"(A) IN GENERAL.—Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

"(B) PUBLIC PARTICIPATION.—In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

"(2) APPROVAL.—

"(A) IN GENERAL.—The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

"(B) COMPONENTS.—The Secretary shall approve a plan submitted under paragraph (1) if—

"(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

"(ii) the plan contains—

"(I) the name of the State agency that will have the authority to represent and act on behalf of the pro-

ducing State in dealing with the Secretary for purposes of this section;

"(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

"(III) for each coastal political subdivision that receives an amount under this section—

"(aa) the name of a contact person; and

"(bb) a description of how the coastal political subdivision will use amounts provided under this section;

"(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

"(V) a description of measures that will be taken to determine the availability of assistance from other

relevant Federal resources and programs.

"(3) AMENDMENT.—Any amendment to a plan submitted under paragraph (1) shall be—

"(A) developed in accordance with this subsection; and

"(B) submitted to the Secretary for approval or disapproval under paragraph (4).

"(4) PROCEDURE.—Not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or (3), the Secretary shall approve or disapprove the plan or amendment.

"(d) AUTHORIZED USES.—

"(1) IN GENERAL.—A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State law, only for 1 or more of the following purposes:

"(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

"(B) Mitigation of damage to fish, wildlife, or natural resources.

"(C) Planning assistance and the administrative costs of complying with this section.

"(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

"(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

"(2) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.

"(3) LIMITATION.—Not more than 23 percent of amounts received by a producing State or coastal political subdivision for any 1 fiscal year shall be used for the purposes described subparagraphs (C) and (E) 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.

"(3)(A) Except as provided in subparagraph (B), the Commission may approve an application described in paragraph (2), in whole or part, with such modifications and upon such terms and conditions as the Commission finds appropriate.

"(B) The Commission shall not—

"(i) deny an application solely on the basis that the applicant proposes to use the liquefied natural gas import facility exclusively or partially for gas that the applicant or an affiliate of the applicant will supply to the facility; or

"(ii) condition an order on—

"(I) a requirement that the liquefied natural gas import facility offer service to customers other than the applicant, or any affiliate of the applicant, securing the order;

"(II) any regulation of the rates, charges, terms, or conditions of service of the liquefied natural gas import facility; or

"(III) a requirement to file with the Commission schedules or contracts related to the rates, charges, terms, or conditions of service of the liquefied natural gas import facility.

"(4) An order issued for a liquefied natural gas import facility that also offers service to customers on an open ac-

cess basis shall not result in subsidization of expansion capacity by existing customers, degradation of service to existing customers, or undue discrimination against existing customers as to their terms or conditions of service at the facility, as all of those terms are defined by the Commission.".

SEC. 382. NEW NATURAL GAS STORAGE FACILITIES.

Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding at the end the following:

"(f)(1) In exercising its authority under this Act or the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.), the Commission may authorize a natural gas company (or any person that will be a natural gas company on completion of any proposed construction) to provide storage and storage-related services at market-based rates for new storage capacity placed in service after the date of enactment of the Energy Policy Act of 2005, notwithstanding the fact that the company is unable to demonstrate that the company lacks market power, if the Commission determines that—

"(A) market-based rates are in the public interest and necessary to encourage the construction of storage capacity in areas needing storage services; and

"(B) customers are adequately protected.

"(2) The Commission shall ensure that reasonable terms and conditions are in place to protect consumers.

"(3) If the Commission authorizes a natural gas company to charge market-based rates under this subsection, the Commission shall review periodically (but not more frequently than triennially) whether the market-based rate is just, reasonable, and not unduly discriminatory or preferential.".

SEC. 383. PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURES.

Section 15 of the Natural Gas Act (15 U.S.C. 717n) is amended—

(1) by striking the section heading and inserting the following:

"PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURE";

(2) by redesignating subsections (a) and (b) as subsections (e) and (f), respectively;

(3) by striking "SEC. 15." and inserting the following:

"SEC. 15. (a) In this section, the term 'Federal authorization'—

"(1) means any authorization required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7; and

"(2) includes any permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7.

"(b)(1) With respect to an application for Federal authorization, the Commission shall, unless the Commission orders otherwise, be the lead agency for purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) As lead agency, the Commission, in consultation with affected agencies, shall prepare a single environmental review document, which shall be used as a basis for all decisions under Federal law on—

"(A) an application for authorization under section 3; or

"(B) a certificate of public convenience and necessity under section 7.

"(c)(1) The Commission shall, in consultation with agencies responsible for Federal authorizations, and with due consideration of recommendations by the agencies, establish a schedule for all Federal authorizations required to be completed before an application under section 3 or 7 may be approved.

"(2) In establishing a schedule, the Commission shall comply with applicable schedules established by Federal law.

"(3) All Federal and State agencies with jurisdiction over natural gas infrastructure shall seek to coordinate their proceedings within the timeframes established by the Commission with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7.

"(d)(1) In a case in which an administrative agency or officer has failed to act by the deadline established by the Commission under this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, take action on the pending application.

"(2) Based on the overall record and in consultation with the affected agency, the President may—

"(A) issue the necessary authorization with any appropriate conditions; or

"(B) deny the application.

"(3) Not later than 90 days after the filing of an appeal, the President shall issue a decision as to that appeal.

"(4) In making a decision under this subsection, the President shall comply with applicable requirements of Federal law, including—

"(A) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

"(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(C) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

"(D) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

"(E) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(F) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); and

"(G) the Clean Air Act (42 U.S.C. 7401 et seq.).".

SEC. 384. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) NATURAL GAS ACT.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(A) in subsection (a)—

(i) by striking "$5,000" and inserting "$1,000,000"; and

(ii) by striking "two years" and inserting "5 years"; and

(B) in subsection (b), by striking "$500" and inserting "$50,000".

(2) NATURAL GAS POLICY ACT OF 1978.—Section 504(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414(c)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "$5,000" and inserting "$1,000,000";

(ii) in subparagraph (B), by striking "two years" and inserting "5 years"; and

(B) in paragraph (2), by striking "$500 for each violation" and inserting "$50,000 for each day on which the offense occurs".

(b) CIVIL PENALTIES.—

(1) NATURAL GAS ACT.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended—

(A) by redesignating sections 22 through 24 as sections 24 through 26, respectively; and

(B) by inserting after section 21 (15 U.S.C. 717t) the following:

"CIVIL PENALTY AUTHORITY

"SEC. 22. (a) Any person that violates this Act, or any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this Act, shall

be subject to a civil penalty of not more than $1,000,000 per day per violation for as long as the violation continues.

"(b) The penalty shall be assessed by the Commission after notice and opportunity for public hearing.

"(c) In determining the amount of a proposed penalty, the Commission shall take into consideration the nature and seriousness of the violation and the efforts to remedy the violation.".

(2) NATURAL GAS POLICY ACT OF 1978.—Section 504(b)(6)(A) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414(b)(6)(A)) is amended—

(A) in clause (i), by striking "$5,000" and inserting "$1,000,000"; and

(B) in clause (ii), by striking "$25,000" and inserting "$1,000,000".

SEC. 385. MARKET MANIPULATION.

The Natural Gas Act is amended by inserting after section 4 (15 U.S.C. 717c) the following:

"PROHIBITION ON MARKET MANIPULATION

"SEC. 4A. It shall be unlawful for any entity, directly or indirectly, to use or employ, in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b)) in contravention

of such rules and regulations as the Commission may prescribe as necessary in the public interest or for the protection of natural gas ratepayers.''

SEC. 386. NATURAL GAS MARKET TRANSPARENCY RULES.

The Natural Gas Act (15 U.S.C. 717 et seq.) (as amended by section 385(b)(1)) is amended by inserting after section 22 the following:

''NATURAL GAS MARKET TRANSPARENCY RULES

''SEC. 23. (a)(1) The Commission may issue such rules as the Commission considers to be appropriate to establish an electronic information system to provide the Commission and the public with access to such information as is necessary to facilitate price transparency and participation in markets for the sale or transportation of natural gas in interstate commerce.

''(2) The system under paragraph (1) shall provide, on a timely basis, information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.

''(3) The Commission may—

''(A) obtain information described in paragraph (2) from any market participant; and

''(B) rely on an entity other than the Commission to receive and make public the information.

"(b)(1) Rules described in subsection (a)(1), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

"(2) In determining the information to be made available under this section and time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c)(1) This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

"(2) Any request by the Commission for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Com-

mission, which shall cooperate in responding to any information request by the Commission.

"(d) In carrying out this section, the Commission shall not—

"(1) compete with, or displace from the market place, any price publisher (including any electronic price publisher);

"(2) regulate price publishers (including any electronic price publisher); or

"(3) impose any requirements on the publication of information by price publishers (including any electronic price publisher).

"(e)(1) The Commission shall not condition access to interstate pipeline transportation on the reporting requirements of this section.

"(2) The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to comply with the reporting requirements of this section.

"(f)(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 22(b).

"(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the transportation or sale of natural gas subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in violation of section 4A.".

SEC. 387. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION UNDER THE COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) IN GENERAL.—Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended to read as follows:

"APPEALS TO THE SECRETARY

"SEC. 319. (a) NOTICE.—Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 307, the Secretary shall publish an initial notice in the Federal Register.

"(b) CLOSURE OF RECORD.—

"(1) IN GENERAL.—Not later than the end of the 270-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

"(2) NOTICE.—After closing the administrative record, the Secretary shall immediately publish a no-

tice in the Federal Register that the administrative record has been closed.

"(3) EXCEPTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), during the 270-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

"(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

"(ii) as the Secretary determines necessary to receive, on an expedited basis—

"(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this Act; or

"(II) any clarifying information submitted by a party to the proceeding related to information already existing in the sole record.

"(B) APPLICABILITY.—The Secretary may only stay the 270-day period described in paragraph (1) for a period not to exceed 60 days.

"(c) DEADLINE FOR DECISION.—

"(1) IN GENERAL.—Not later than 90 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

"(2) SUBSEQUENT DECISION.—Not later than 45 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 90-day period, the Secretary shall issue a decision.".

SEC. 388. FEDERAL-STATE LIQUEFIED NATURAL GAS FORUMS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation and consultation with the Secretary of Transportation, the Secretary of Homeland Security, the Federal Energy Regulatory Commission, and the Governors of the Coastal States, shall convene not less than 3 forums on liquefied natural gas.

(b) REQUIREMENTS.—The forums shall—

(1) be located in areas where liquefied natural gas facilities are under consideration;

(2) be designed to foster dialogue among Federal officials, State and local officials, the general public,

independent experts, and industry representatives; and

(3) at a minimum, provide an opportunity for public education and dialogue on—

(A) the role of liquefied natural gas in meeting current and future United States energy supply requirements and demand, in the context of the full range of energy supply options;

(B) the Federal and State siting and permitting processes;

(C) the potential risks and rewards associated with importing liquefied natural gas;

(D) the Federal safety and environmental requirements (including regulations) applicable to liquefied natural gas;

(E) prevention, mitigation, and response strategies for liquefied natural gas hazards; and

(F) additional issues as appropriate.

(c) PURPOSE.—The purpose of the forums shall be to identify and develop best practices for addressing the issues and challenges associated with liquefied natural gas imports, building on existing cooperative efforts.

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

SEC. 389. PROHIBITION OF TRADING AND SERVING BY CERTAIN PERSONS.

Section 20 of the Natural Gas Act (15 U.S.C. 717s) is amended by adding at the end the following:

"(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any person who is engaged or has engaged in practices constituting a violation of section 4A (including related rules and regulations) from—

"(1) acting as an officer or director of a natural gas company; or

"(2) engaging in the business of—

"(A) the purchasing or selling of natural gas; or

"(B) the purchasing or selling of transmission services subject to the jurisdiction of the Commission.".

Subtitle F—Federal Coalbed Methane Regulation

SEC. 391. FEDERAL COALBED METHANE REGULATION.

Any State that, as of the date of enactment of this Act, is included on the list of affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13368(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act, the State

takes, or prior to that date of enactment, has taken, any of the actions required for removal from the list under that section.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) CLEAN COAL POWER INITIATIVE.—There is authorized to be appropriated to the Secretary to carry out the activities authorized by this subtitle $200,000,000 for each of fiscal years 2006 through 2012, to remain available until expended.

(b) REPORT.—Not later than March 31, 2006, the Secretary shall submit to Congress a report that includes a 10-year plan containing—

(1) a detailed assessment of whether the aggregate assistance levels provided under subsection (a) are the appropriate assistance levels for the clean coal power initiative;

(2) a detailed description of how proposals for assistance under the clean coal power initiative will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued under the clean coal power initiative; and

(4) a detailed description of how the clean coal power initiative will avoid problems enumerated in Government Accountability Office reports on the Clean Coal Technology Program of the Department, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

SEC. 402. PROJECT CRITERIA.

(a) IN GENERAL.—To be eligible to receive assistance under this subtitle, a project shall advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In allocating the funds made available under section 401(a), the Secretary shall ensure that at least 80 percent of the

funds are used only to fund projects on coal-based gasification technologies, including—

(i) gasification combined cycle;

(ii) gasification fuel cells and turbine combined cycle;

(iii) gasification coproduction; and

(iv) hybrid gasification and combustion.

(B) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—

(I) IN GENERAL.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve.

(II) PRESCRIPTIVE MILESTONES.—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(ii) 2020 GOALS.—The Secretary shall establish the periodic milestones so as to

achieve by the year 2020 coal gasification projects able—

(I) to remove at least 99 percent of sulfur dioxide;

(II) to emit not more than .05 lbs of NO_x per million Btu;

(III) to achieve at least 95 percent reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 50 percent for coal of more than 9,000 Btu;

(bb) 48 percent for coal of 7,000 to 9,000 Btu; and

(cc) 46 percent for coal of less than 7,000 Btu.

(2) OTHER PROJECTS.—

(A) ALLOCATION OF FUNDS.—The Secretary shall ensure that up to 20 percent of the funds made available under section 401(a) are used to fund projects other than those described in paragraph (1).

(B) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—

(I) IN GENERAL.—The Secretary shall periodically establish technical milestones specifying the emission and thermal efficiency levels that projects funded under this paragraph shall be designed, and reasonably expected, to achieve.

(II) PRESCRIPTIVE MILESTONES.—The technical milestones shall become more prescriptive during the period of the clean coal power initiative.

(ii) 2020 GOALS.—The Secretary shall set the periodic milestones so as to achieve by the year 2020 projects able—

(I) to remove at least 97 percent of sulfur dioxide;

(II) to emit no more than .08 lbs of NO_x *per million Btu;*

(III) to achieve at least 90 percent reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 43 percent for coal of more than 9,000 Btu;

(bb) 41 percent for coal of 7,000 to 9,000 Btu; and

(cc) 39 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) interested entities, including—

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal or advanced coal technologies;

(iv) environmental organizations;

(v) organizations representing workers; and

(vi) organizations representing consumers.

(4) EXISTING UNITS.—In the case of projects at units in existence on the date of enactment of this Act, in lieu of the thermal efficiency requirements described in paragraphs (1)(B)(ii)(IV) and (2)(B)(ii)(IV), the milestones shall be designed to achieve an overall thermal design efficiency improve-

ment, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(5) ADMINISTRATION.—

(A) ELEVATION OF SITE.—In evaluating project proposals to achieve thermal efficiency levels established under paragraphs (1)(B)(i) and (2)(B)(i) and in determining progress towards thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4), the Secretary shall take into account and make adjustments for the elevation of the site at which a project is proposed to be constructed.

(B) APPLICABILITY OF MILESTONES.—The thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) shall not apply to projects that separate and capture at least 50 percent of the potential emissions of carbon dioxide by a facility.

(C) PERMITTED USES.—In carrying out this section, the Secretary shall give high priority to projects that include, as part of the project—

(i) the separation or capture of carbon dioxide; or

(ii) the reduction of the demand for natural gas if deployed.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide financial assistance under this subtitle for a project unless the recipient documents to the satisfaction of the Secretary that—

(1) the recipient is financially responsible;

(2) the recipient will provide sufficient information to the Secretary to enable the Secretary to ensure that the funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that, as determined by the Secretary—

(1) meet the requirements of subsections (a), (b), and (c); and

(2) are likely—

(A) to achieve overall cost reductions in the use of coal to generate useful forms of energy or chemical feedstocks;

(B) to improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(C) to demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of the date of enactment of this Act.

(e) COST-SHARING.—In carrying out this subtitle, the Secretary shall require cost sharing in accordance with section 1002.

(f) SCHEDULED COMPLETION OF SELECTED PROJECTS.—

(1) IN GENERAL.—In selecting a project for financial assistance under this section, the Secretary shall establish a reasonable period of time during which the owner or operator of the project shall com-

plete the construction or demonstration phase of the project, as the Secretary determines to be appropriate.

(2) CONDITION OF FINANCIAL ASSISTANCE.—The Secretary shall require as a condition of receipt of any financial assistance under this subtitle that the recipient of the assistance enter into an agreement with the Secretary not to request an extension of the time period established for the project by the Secretary under paragraph (1).

(3) EXTENSION OF TIME PERIOD.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may extend the time period established under paragraph (1) if the Secretary determines, in the sole discretion of the Secretary, that the owner or operator of the project cannot complete the construction or demonstration phase of the project within the time period due to circumstances beyond the control of the owner or operator.

(B) LIMITATION.—The Secretary shall not extend a time period under subparagraph (A) by more than 4 years.

(g) FEE TITLE.—The Secretary may vest fee title or other property interests acquired under cost-share clean coal

power initiative agreements under this subtitle in any entity, including the United States.

(h) DATA PROTECTION.—For a period not exceeding 5 years after completion of the operations phase of a cooperative agreement, the Secretary may provide appropriate protections (including exemptions from subchapter II of chapter 5 of title 5, United States Code) against the dissemination of information that—

(1) results from demonstration activities carried out under the clean coal power initiative program; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a clean coal power initiative project.

(i) APPLICABILITY.—No technology, or level of emission reduction, solely by reason of the use of the technology, or the achievement of the emission reduction, by 1 or more facilities receiving assistance under this Act, shall be considered to be—

(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411);

(2) achievable for purposes of section 169 of that Act (42 U.S.C. 7479); or

(3) achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501).

SEC. 403. REPORT.

Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2012, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1)(A) the technical milestones described in section 402; and

(B) how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2)(B) of section 402; and

(2) the status of projects that receive assistance under this subtitle.

SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.

(a) IN GENERAL.—As part of the clean coal power initiative, the Secretary shall award competitive, merit-based grants to institutions of higher education for the establishment of centers of excellence for energy systems of the future.

(b) BASIS FOR GRANTS.— The Secretary shall award grants under this section to institutions of higher education that show the greatest potential for advancing new clean coal technologies.

SEC. 405. INTEGRATED COAL/RENEWABLE ENERGY SYSTEM.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may provide loan guarantees for a project to produce energy from coal of less than 7,000 Btu/lb using appropriate advanced integrated gasification combined cycle technology, including repowering of existing facilities, that—

(1) is combined with wind and other renewable sources;

(2) minimizes and offers the potential to sequester carbon dioxide emissions; and

(3) provides a ready source of hydrogen for near-site fuel cell demonstrations.

(b) REQUIREMENTS.—The facility—

(1) may be built in stages;

(2) shall have a combined output of at least 200 megawatts at successively more competitive rates; and

(3) shall be located in the Upper Great Plains.

(c) TECHNICAL CRITERIA.—Technical criteria described in section 402(b) shall apply to the facility.

(d) FEDERAL COST SHARE.—The Federal cost share for the facility shall not exceed 50 percent.

(e) INVESTMENT TAX CREDITS.—

(1) IN GENERAL.—The loan guarantees provided under this section do not preclude the facility from re-

ceiving an allocation for investment tax credits under section 48A of the Internal Revenue Code of 1986.

(2) OTHER FUNDING.—Use of the investment tax credit described in paragraph (1) does not prohibit the use of other clean coal program funding.

SEC. 406. LOAN TO PLACE ALASKA CLEAN COAL TECHNOLOGY FACILITY IN SERVICE.

(a) DEFINITIONS.—In this section:

(1) BORROWER.—The term "borrower" means the owner of the clean coal technology plant.

(2) CLEAN COAL TECHNOLOGY PLANT.—The term "clean coal technology plant" means the plant located near Healy, Alaska, constructed under Department cooperative agreement number DE–FC–22–91PC90544.

(3) COST OF A DIRECT LOAN.—The term "cost of a direct loan" has the meaning given the term in section 502(5)(B) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(B)).

(b) AUTHORIZATION.—Subject to subsection (c), the Secretary shall use amounts made available under subsection (e) to provide the cost of a direct loan to the borrower for purposes of placing the clean coal technology plant into reliable operation for the generation of electricity.

(c) REQUIREMENTS.—

(1) MAXIMUM LOAN AMOUNT.—The amount of the direct loan provided under subsection (b) shall not exceed $80,000,000.

(2) DETERMINATIONS BY SECRETARY.—Before providing the direct loan to the borrower under subsection (b), the Secretary shall determine that—

(A) the plan of the borrower for placing the clean coal technology plant in reliable operation has a reasonable prospect of success;

(B) the amount of the loan (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project; and

(C) there is a reasonable prospect that the borrower will repay the principal and interest on the loan.

(3) INTEREST; TERM.—The direct loan provided under subsection (b) shall bear interest at a rate and for a term that the Secretary determines appropriate, after consultation with the Secretary of the Treasury, taking into account the needs and capacities of the borrower and the prevailing rate of interest for similar loans made by public and private lenders.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any other terms and conditions that the Secretary determines to be appropriate.

(d) USE OF PAYMENTS.—The Secretary shall retain any payments of principal and interest on the direct loan provided under subsection (b) to support energy research and development activities, to remain available until expended, subject to any other conditions in an applicable appropriations Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to provide the cost of a direct loan under subsection (b).

SEC. 407. WESTERN INTEGRATED COAL GASIFICATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall carry out a project to demonstrate production of energy from coal mined in the western United States using integrated gasification combined cycle technology (referred to in this section as the "demonstration project").

(b) COMPONENTS.—The demonstration project—

(i) may include repowering of existing facilities;

(ii) shall be designed to demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb.; and

(iii) shall be capable of removing and sequestering carbon dioxide emissions.

(c) ALL TYPES OF WESTERN COALS.—Notwithstanding the foregoing, and to the extent economically feasible, the demonstration project shall also be designed to demonstrate the ability to use a variety of types of coal (including subbituminous and bituminous coal with an energy content of up to 13,000 Btu/lb.) mined in the western United States.

(d) LOCATION.—The demonstration project shall be located in a western State at an altitude of greater than 4,000 feet above sea level.

(e) COST SHARING.—The Federal share of the cost of the demonstration project shall be determined in accordance with section 1002.

(f) LOAN GUARANTEES.—Notwithstanding title XIV, the demonstration project shall not be eligible for Federal loan guarantees.

Subtitle B—Federal Coal Leases

SEC. 411. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended—

(1) in the first sentence, by striking "Any person" and inserting the following: "(a)(1) Except as

provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person";

(2) in the second sentence, by striking "The Secretary" and inserting the following:

"(b) The Secretary";

(3) in the third sentence, by striking "The minimum" and inserting the following:

"(c) The minimum";

(4) in subsection (a) (as designated by paragraph (1))—

(A) by striking "upon" and all that follows and inserting the following: "secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease."; and

(B) by adding at the end the following:

"(2) A finding referred to in paragraph (1) is a finding by the Secretary that the modifications—

"(A) would be in the interest of the United States;

"(B) would not displace a competitive interest in the lands; and

"(C) would not include lands or deposits that can be developed as part of another potential or existing operation.

"(3) In no case shall the total area added by modifications to an existing coal lease under paragraph (1)—

"(A) exceed 320 acres; or

"(B) add acreage larger than that in the original lease.".

SEC. 412. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following:

"(B) The Secretary may establish a period of more than 40 years if the Secretary determines that—

"(i) the longer period will ensure the maximum economic recovery of a coal deposit; or

"(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.".

SEC. 413. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended—

(1) in the first sentence, by striking "Each lease" and inserting the following: "(1) Each lease";

(2) in the second sentence, by striking "The Secretary" and inserting the following:

"(2) The Secretary";

(3) in the third sentence, by striking "Such advance royalties" and inserting the following:

"(3) Advance royalties described in paragraph (2)";

(4) in the seventh sentence, by striking "The Secretary" and inserting the following:

"(6) The Secretary";

(5) in the last sentence, by striking "Nothing" and inserting the following:

"(7) Nothing";

(6) by striking the fourth, fifth, and sixth sentences; and

(7) by inserting after paragraph (3) (as designated by paragraph (3)) the following:

"(4) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

"(5) The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (4) to the extent that the advance royalties have not been used to reduce production royalties for a prior year.".

SEC. 414. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking "and not later than three years after a lease is issued,".

SEC. 415. DEPARTMENT OF ENERGY TRANSPORTATION FUELS FROM ILLINOIS BASIN COAL.

(a) IN GENERAL.—The Secretary shall carry out a program to evaluate the commercial and technical viability of advanced technologies for the production of Fischer-Tropsch transportation fuels, and other transportation fuels, manufactured from Illinois basin coal, including the capital modification of existing facilities and the construction of testing facilities under subsection (b).

(b) FACILITIES.—For the purpose of evaluating the commercial and technical viability of different processes for producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal, the Secretary shall support the use and capital modification of existing facilities and the construction of new facilities at—

(1) Southern Illinois University Coal Research Center;

(2) University of Kentucky Center for Applied Energy Research; and

(3) Energy Center at Purdue University.

(c) GASIFICATION PRODUCTS TEST CENTER.—In conjunction with the activities described in subsections (a) and (b), the Secretary shall construct a test center to evaluate and confirm liquid and gas products from syngas catalysis in order that the system has an output of at least 500 gallons of Fischer-Tropsch transportation fuel per day in a 24-hour operation.

(d) MILESTONES.—

(1) SELECTION OF PROCESSES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall select processes for evaluating the commercial and technical viability of different processes of producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal.

(2) AGREEMENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall offer to enter into agreements—

(A) to carry out the activities described in this section, at the facilities described in subsection (b); and

(B) for the capital modifications or construction of the facilities at the locations described in subsection (b).

(3) EVALUATIONS.—Not later than 3 years after the date of enactment of the Act, the Secretary shall begin, at the facilities described in subsection (b), evaluation of the technical and commercial viability of different processes of producing Fischer-Tropsch transportation fuels, and other transportation fuels, from Illinois basin coal.

(4) CONSTRUCTION OF FACILITIES.—

(A) IN GENERAL.—The Secretary shall construct the facilities described in subsection (b) at the lowest cost practicable.

(B) GRANTS OR AGREEMENTS.—The Secretary may make grants or enter into agreements or contracts with the institutions of higher education described in subsection (b).

(e) COST SHARING.—The cost of making grants under this section shall be shared in accordance with section 1002.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $85,000,000 for the period of fiscal years 2006 through 2010.

SEC. 416. APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—The amendments made by this subtitle apply to any coal lease issued on or after the date of enactment of this Act.

(b) COAL LEASES ISSUED BEFORE DATE OF ENACTMENT.—With respect to any coal lease issued before the date of enactment of this Act, the amendments made by this subtitle apply—

(1) on the date of readjustment of the lease as provided under section 7(a) of the Mineral Leasing Act (30 U.S.C. 207); or

(2) on request by the lessee, prior to that date.

TITLE V—INDIAN ENERGY

SEC. 501. SHORT TITLE.

This title may be cited as the "Indian Tribal Energy Development and Self-Determination Act of 2005".

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) IN GENERAL.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

"OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

"SEC. 217. (a) ESTABLISHMENT.—

"(1) There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the 'Office').

"(2) The Office shall be headed by a Director, to be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) DUTIES OF DIRECTOR.—The Director, in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

"(1) promote Indian tribal energy development, efficiency, and use;

"(2) reduce or stabilize energy costs;

"(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and

"(4) bring electrical power and service to Indian land and the homes of tribal members that are—

"(A) located on Indian land; or

"(B) acquired, constructed, or improved (in whole or in part) with Federal funds.".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking "SECTION" and inserting "SEC."; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

"Sec. 213. Establishment of policy for National Nuclear Security Administration.
"Sec. 214. Establishment of security, counterintelligence, and intelligence policies.
"Sec. 215. Office of Counterintelligence.
"Sec. 216. Office of Intelligence.
"Sec. 217. Office of Indian Energy Policy and Programs.".

(2) Section 5315 of title 5, United States Code, is amended by inserting "Director, Office of Indian Energy Policy and Programs, Department of Energy." after "Inspector General, Department of Energy.".

SEC. 503. INDIAN ENERGY.

(a) IN GENERAL.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

"TITLE XXVI—INDIAN ENERGY

"SEC. 2601. DEFINITIONS.

"In this title:

"(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

"(2) The term 'Indian land' means—

"(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

"(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

"(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

"(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

"(iii) by a dependent Indian community; and

"(C) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land.

"(3) The term 'Indian reservation' includes—

"(A) an Indian reservation in existence in any State as of the date of enactment of this paragraph;

"(B) a public domain Indian allotment; and

"(C) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

"(i) on original or acquired territory of the community; or

"(ii) within or outside the boundaries of any particular State.

"(4)(A) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) For the purpose of paragraph (12) and sections 2603(b)(1)(C) and 2604, the term 'Indian tribe' does not include any Native Corporation.

"(5) The term 'integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

"(6) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

"(7) The term 'organization' means a partnership, joint venture, limited liability company, or

other unincorporated association or entity that is established to develop Indian energy resources.

"(8) The term 'Program' means the Indian energy resource development program established under section 2602(a).

"(9) The term 'Secretary' means the Secretary of the Interior.

"(10) The term 'sequestration' means the long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

"(11) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 2602.

"(12) The term 'tribal land' means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States, or is subject to a restriction against alienation under laws of the United States.

"SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

"(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

"(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist consenting Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

"(2) In carrying out the Program, the Secretary shall—

"(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

"(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the integration of energy resources, and to process, use, or develop those energy resources, on Indian land;

"(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources; and

"(D) provide grants and technical assistance to an appropriate tribal environmental organization, as determined by the Secretary, that represents multiple Indian tribes to establish a national resource center to develop tribal capacity to establish and carry out tribal environmental programs in support of energy-related programs and activities under this title, including—

"(i) training programs for tribal environmental officials, program managers, and other governmental representatives;

"(ii) the development of model environmental policies and tribal laws, including tribal environmental review codes, and the creation and maintenance of a clearinghouse of best environmental management practices; and

"(iii) recommended standards for reviewing the implementation of tribal envi-

ronmental laws and policies within tribal judicial or other tribal appeals systems.

"(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

"(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM.—

"(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.

"(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

"(A) energy, energy efficiency, and energy conservation programs;

"(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities, including the creation of tribal utilities to assist in securing electricity to promote electrification of homes and businesses on Indian land;

"(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

"(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

"(3)(A) The Director shall develop a program to support and implement research projects that provide Indian tribes with opportunities to participate in carbon sequestration practices on Indian land, including—

"(i) geologic sequestration;

"(ii) forest sequestration;

"(iii) agricultural sequestration; and

"(iv) any other sequestration opportunities the Director considers to be appropriate.

"(B) The activities carried out under subparagraph (A) shall be—

"(i) coordinated with other carbon sequestration research and development programs conducted by the Secretary of Energy;

"(ii) conducted to determine methods consistent with existing standardized measurement protocols to account and report the quantity of carbon dioxide or other greenhouse gases sequestered in projects that may be implemented on tribal land; and

"(iii) reviewed periodically to collect and distribute to Indian tribes information on carbon sequestration practices that will increase the sequestration of carbon without threatening the social and economic well-being of Indian tribes.

"(4)(A) The Director, in consultation with Indian tribes, may develop a formula for providing grants under this subsection.

"(B) In providing a grant under this subsection, the Director shall give priority to any application received from an Indian tribe with inadequate electric service (as determined by the Director).

"(C) In providing a grant under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Director shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Director determines to be appropriate.

"(5) The Secretary of Energy may issue such regulations as the Secretary determines to be necessary to carry out this subsection.

"(6) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2006 through 2016.

"(c) DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM.—

"(1) Subject to paragraphs (2) and (4), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for an amount equal to not more than 90 percent of the unpaid principal and interest due on any loan made to an Indian tribe for energy development.

"(2)(A) In evaluating energy development proposals for which the Secretary of Energy may provide a loan guarantee under paragraph (1), the Secretary of Energy shall give priority to any project that uses a new technology, such as coal gasification, carbon capture and sequestration, or renewable energy-based electricity generation, if competing proposals are similar with respect to the level at which the proposals meet or exceed the criteria established by the Secretary of Energy for the loan guarantee program.

"(B) In providing a loan guarantee under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Secretary of Energy shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Secretary determines to be appropriate.

"(3) A loan guarantee under this subsection shall be made by—

"(A) a financial institution subject to examination by the Secretary of Energy; or

"(B) an Indian tribe, from funds of the Indian tribe.

"(4) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

"(5) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

"(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

"(7) Not later than 1 year after the date of enactment of this section, the Secretary of Energy shall submit to Congress a report on the financing require-

ments of Indian tribes for energy development on Indian land.

"(d) PREFERENCE.—

"(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

"(2) In carrying out this subsection, a Federal agency or department shall not—

"(A) pay more than the prevailing market price for an energy product or byproduct; or

"(B) obtain less than prevailing market terms and conditions.

"SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

"(a) GRANTS.—The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

"(b) USE OF FUNDS.—Funds from a grant provided under this section may be used—

"(1)(A) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

"(B) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

"(C) by an Indian tribe (other than an Indian Tribe in the State of Alaska, except the Metlakatla Indian Community) for—

"(i) the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development; and

"(ii) the development of technical infrastructure to protect the environment under applicable law; or

"(D) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure to protect the environment under applicable law; and

"(2) by an Indian tribe for the training of employees that—

"(A) are engaged in the development of energy resources on Indian land; or

"(B) are responsible for protecting the environment.

"(c) OTHER ASSISTANCE.—

"(1) In carrying out the obligations of the United States under this title, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that on the request of an Indian tribe, the Indian tribe shall have available scientific and technical information and expertise, for use in the regulation, development, and management of energy resources of the Indian tribe on Indian land.

"(2) The Secretary may carry out paragraph (1)—

"(A) directly, through the use of Federal officials; or

"(B) indirectly, by providing financial assistance to an Indian tribe to secure independent assistance.

"SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

"(a) LEASES AND BUSINESS AGREEMENTS.—In accordance with this section—

"(1) an Indian tribe may, at the discretion of the Indian tribe, enter into a lease or business agreement for the purpose of energy resource development

on tribal land, including a lease or business agreement for—

"(A) exploration for, extraction of, processing of, or other development of the energy mineral resources of the Indian tribe located on tribal land; or

"(B) construction or operation of—

"(i) an electric generation, transmission, or distribution facility located on tribal land; or

"(ii) a facility to process or refine energy resources developed on tribal land; and

"(2) a lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), or any other provision of law, if—

"(A) the lease or business agreement is executed pursuant to a tribal energy resource agreement approved by the Secretary under subsection (e);

"(B) the term of the lease or business agreement does not exceed—

"(i) 30 years; or

"(ii) in the case of a lease for the production of oil resources, gas resources, or

both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

"(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subsection (e)(2)(D)(i)).

"(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without approval by the Secretary if—

"(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

"(2) the term of the right-of-way does not exceed 30 years;

"(3) the pipeline or electric transmission or distribution line serves—

"(A) an electric generation, transmission, or distribution facility located on tribal land; or

"(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

"(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under an agreement described in subparagraphs (D) and (E) of subsection (e)(2)).

"(c) RENEWALS.—A lease or business agreement entered into, or a right-of-way granted, by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

"(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources under this section shall be valid unless the lease, business agreement, or right-of-way is authorized by a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

"(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

"(1) On the date on which regulations are promulgated under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy

resource agreement governing leases, business agreements, and rights-of-way under this section.

"(2)(A) Not later than 1 year after the date on which the Secretary receives a tribal energy resource agreement from an Indian tribe under paragraph (1), or not later than 60 days after the Secretary receives a revised tribal energy resource agreement from an Indian tribe under paragraph (4)(C) (or a later date, as agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

"(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

"(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe;

"(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

"(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

"(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

"(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

"(III) address amendments and renewals;

"(IV) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

"(V) address technical or other relevant requirements;

"(VI) establish requirements for environmental review in accordance with subparagraph (C);

"(VII) ensure compliance with all applicable environmental laws, including a requirement that each lease, business agreement, and right-of-way state that the lessee, operator, or right-of-way grantee shall comply with all such laws;

"(VIII) identify final approval authority;

"(IX) provide for public notification of final approvals;

"(X) establish a process for consultation with any affected States regarding off-reservation impacts, if any, identified under subparagraph (C)(i);

"(XI) describe the remedies for breach of the lease, business agreement, or right-of-way;

"(XII) require each lease, business agreement, and right-of-way to include a statement that, if any of its provisions violates an express term or requirement of the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed—

"(aa) the provision shall be null and void; and

"(bb) if the Secretary determines the provision to be material, the Secretary may suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe;

"(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the executed lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations promulgated under paragraph (8);

"(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal remedies that must be exhausted before a petition may be submitted to the Secretary under paragraph (7)(B);

"(XV) specify the financial assistance, if any, to be provided by the Secretary to the Indian tribe to assist in implementation of the tribal energy resource agreement, including environmental review of individual projects; and

"(XVI) in accordance with the regulations promulgated by the Secretary under paragraph (8), require that the Indian tribe, as soon as practicable after receipt of a notice by the Indian tribe, give written notice to the Secretary of—

"(aa) any breach or other violation by another party of any provision in a lease, business agreement, or right-of-way entered into under the tribal energy resource agreement; and

"(bb) any activity or occurrence under a lease, business agreement, or right-of-way that constitutes a violation of Federal or tribal environmental laws.

"(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for, at a minimum—

"(i) the identification and evaluation of all significant environmental effects (as compared to a no-action alternative), including effects on cultural resources;

"(ii) the identification of proposed mitigation measures, if any, and incorporation of the mitigation measures into the lease, business agreement, or right-of-way;

"(iii) a process for ensuring that—

"(I) the public is informed of, and has an opportunity to comment on, the environmental impacts of the proposed action; and

"(II) responses to relevant and substantive comments are provided, before tribal approval of the lease, business agreement, or right-of-way;

"(iv) sufficient administrative support and technical capability to carry out the environmental review process; and

"(v) oversight by the Indian tribe of energy development activities by any other party under any lease, business agreement, or right-of-way entered into pursuant to the tribal energy resource agreement, to determine whether the activities are in compliance with the tribal energy resource agreement and applicable Federal environmental laws.

"(D) A tribal energy resource agreement between the Secretary and an Indian tribe under this subsection shall include—

"(i) provisions requiring the Secretary to conduct a periodic review and evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources under the tribal energy resource agreement; and

"(ii) if a periodic review and evaluation, or an investigation, by the Secretary of any breach or violation described in a notice provided by the Indian tribe to the Secretary in accordance with subparagraph (B)(iii)(XVI), results in a finding by the Secretary of imminent jeopardy to a physical trust asset arising from a violation of the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take actions determined by the Secretary to be necessary to protect the asset, including reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and any condition that caused the jeopardy are corrected.

"(E) Periodic review and evaluation under subparagraph (D) shall be conducted on an an-

nual basis, except that, after the third annual review and evaluation, the Secretary and the Indian tribe may mutually agree to amend the tribal energy resource agreement to authorize the review and evaluation under subparagraph (D) to be conducted once every 2 years.

"(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted for approval under paragraph (1).

"(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date of disapproval—

"(A) notify the Indian tribe in writing of the basis for the disapproval;

"(B) identify what changes or other actions are required to address the concerns of the Secretary; and

"(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

"(5) If an Indian tribe executes a lease or business agreement, or grants a right-of-way, in accordance with a tribal energy resource agreement ap-

proved under this subsection, the Indian tribe shall, in accordance with the process and requirements under regulations promulgated under paragraph (8), provide to the Secretary—

"(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

"(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to enforce the terms of, and protect the rights of the Indian tribe under, the lease, business agreement, or right-of-way.

"(6)(A) In carrying out this section, the Secretary shall—

"(i) act in accordance with the trust responsibility of the United States relating to mineral and other trust resources; and

"(ii) act in good faith and in the best interests of the Indian tribes.

"(B) Subject to the provisions of subsections (a)(2), (b), and (c) waiving the requirement of Secretarial approval of leases, business agreements, and rights-of-way executed pursuant to tribal energy resource agreements approved under this section, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship or from any treaties, statutes, and other laws of the United States, Executive Orders, or agreements between the United States and any Indian tribe.

"(C) The Secretary shall continue to fulfill the trust obligation of the United States to ensure that the rights and interests of an Indian tribe are protected if—

"(i) any other party to a lease, business agreement, or right-of-way violates any applicable Federal law or the terms of any lease, business agreement, or right-of-way under this section; or

"(ii) any provision in a lease, business agreement, or right-of-way violates the tribal energy resource agreement pursuant to which the

lease, business agreement, or right-of-way was executed.

"(D)(i) In this subparagraph, the term 'negotiated term' means any term or provision that is negotiated by an Indian tribe and any other party to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

"(ii) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any negotiated term of, or any loss resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved by the Secretary under paragraph (2).

"(7)(A) In this paragraph, the term 'interested party' means any person (including an entity) that has demonstrated that an interest of the person has sustained, or will sustain, an adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(B) After exhaustion of any tribal remedy, and in accordance with regulations promulgated by the Secretary under paragraph (8), an interested party may submit to the Secretary a petition to review the compliance by an Indian tribe with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

"(C)(i) Not later than 20 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall—

"(I) provide to the Indian tribe a copy of the petition; and

"(II) consult with the Indian tribe regarding any noncompliance alleged in the petition.

"(ii) Not later than 45 days after the date on which a consultation under clause (i)(II) takes place, the Indian tribe shall respond to any claim made in a petition under subparagraph (B).

"(iii) The Secretary shall act in accordance with subparagraphs (D) and (E) only if the Indian tribe—

"(I) denies, or fails to respond to, each claim made in the petition within the period described in clause (ii); or

"(II) fails, refuses, or is unable to cure or otherwise resolve each claim made in the petition

within a reasonable period, as determined by the Secretary, after the expiration of the period described in clause (ii).

"(D)(i) Not later than 120 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall determine whether the Indian tribe is not in compliance with the tribal energy resource agreement.

"(ii) The Secretary may adopt procedures under paragraph (8) authorizing an extension of time, not to exceed 120 days, for making the determination under clause (i) in any case in which the Secretary determines that additional time is necessary to evaluate the allegations of the petition.

"(iii) Subject to subparagraph (E), if the Secretary determines that the Indian tribe is not in compliance with the tribal energy resource agreement, the Secretary shall take such action as the Secretary determines to be necessary to ensure compliance with the tribal energy resource agreement, including—

"(I) temporarily suspending any activity under a lease, business agreement, or right-of-way under this section until the Indian tribe is in compliance with the approved tribal energy resource agreement; or

"(II) rescinding approval of all or part of the tribal energy resource agreement, and if all of the agreement is rescinded, reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsection (a) or (b).

"(E) Before taking an action described in subparagraph (D)(iii), the Secretary shall—

"(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

"(ii) provide the Indian tribe with a written notice of the violations together with the written determination; and

"(iii) before taking any action described in subparagraph (D)(iii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

"(F) An Indian tribe described in subparagraph (E) shall retain all rights to appeal under any regulation promulgated by the Secretary.

"(8) Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Sec-

retary shall promulgate regulations that implement this subsection, including—

"(A) criteria to be used in determining the capacity of an Indian tribe under paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe;

"(B) a process and requirements in accordance with which an Indian tribe may—

"(i) voluntarily rescind a tribal energy resource agreement approved by the Secretary under this subsection; and

"(ii) return to the Secretary the responsibility to approve any future lease, business agreement, or right-of-way under this subsection;

"(C) provisions establishing the scope of, and procedures for, the periodic review and evaluation described in subparagraphs (D) and (E) of paragraph (2), including provisions for review of transactions, reports, site inspections, and any

other review activities the Secretary determines to be appropriate; and

"(D) provisions describing final agency actions after exhaustion of administrative appeals from determinations of the Secretary under paragraph (7).

"(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

"(1) any Federal environmental law;

"(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

"(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2006 through 2016 to carry out this section and to make grants or provide other appropriate assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal energy resource agreements in accordance with this section.

"SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

"(a) DEFINITIONS.—In this section:

"(1) The term "Administrator" means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

"(2) The term "power marketing administration" means—

"(A) the Bonneville Power Administration;

"(B) the Western Area Power Administration; and

"(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

"(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as the Administrators determine to be appropriate, including administration of programs of the power marketing administration, in accordance with this section.

"(c) ACTION BY ADMINISTRATORS.—In carrying out this section, in accordance with laws in existence on the date of enactment of the Energy Policy Act of 2005—

"(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

"(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

"(3) the Administrator of the Western Area Power Administration may purchase non-federally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

"(4) each Administrator shall not—

"(A) pay more than the prevailing market price for an energy product; or

"(B) obtain less than prevailing market terms and conditions.

"(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

"(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

"(2) The costs of technical assistance provided under paragraph (1) shall be funded—

"(A) by the Secretary of Energy using non-reimbursable funds appropriated for that purpose; or

"(B) by any appropriate Indian tribe.

"(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Energy Policy Act of 2005, the Secretary of Energy shall submit to Congress a report that—

"(1) describes the use by Indian tribes of Federal power allocations of the power marketing administration (or power sold by the Southwestern Power Administration) to or for the benefit of Indian tribes in a service area of the power marketing administration; and

"(2) identifies—

"(A) the quantity of power allocated to, or used for the benefit of, Indian tribes by the Western Area Power Administration;

"(B) the quantity of power sold to Indian tribes by any other power marketing administration; and

"(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to deliver Federal power.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section

$750,000, non-reimbursable, to remain available until expended.

"SEC. 2606. WIND AND HYDROPOWER FEASIBILITY STUDY.

"(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that uses wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

"(b) SCOPE OF STUDY.—The study shall—

"(1) determine the feasibility of blending wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

"(2) review historical and projected requirements for, and patterns of availability and use of, firming power;

"(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

"(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

"(5) include an independent tribal engineer as a study team member.

"(c) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Secretary and the Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

"(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the use of combined wind and hydropower;

"(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

"(3) recommendations for a demonstration project to be carried out by the Western Area Power Administration, in partnership with an Indian tribal government or tribal energy resource development organization, to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

"(4) an identification of—

"(A) the economic and environmental costs of, or benefits to be realized through, a Federal-tribal partnership; and

"(B) the manner in which a Federal-tribal partnership could contribute to the energy security of the United States.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000, to remain available until expended.

"(2) NONREIMBURSABILITY.—Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.".

(b) CONFORMING AMENDMENTS.—The table of contents for the Energy Policy Act of 1992 is amended by striking 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 involving energy development or transmission.
"Sec. 2605. Federal Power Marketing Administrations.
"Sec. 2606. Wind and hydropower feasibility study.".

SEC. 504. FOUR CORNERS TRANSMISSION LINE PROJECT AND ELECTRIFICATION.

(a) TRANSMISSION LINE PROJECT.—The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance under section 217

of the Department of Energy Organization Act, as added by section 502, and section 2602 of the Energy Policy Act of 1992, as amended by this Act, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

(b) NAVAJO ELECTRIFICATION.—Section 602 of Public Law 106–511 (114 Stat. 2376) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "5-year" and inserting "10-year"; and

(B) in the third sentence, by striking "2006" and inserting "2011"; and

(2) in the first sentence of subsection (e) by striking "2006" and inserting "2011".

SEC. 505. ENERGY EFFICIENCY IN FEDERALLY ASSISTED HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the promotion of shared savings contracts; and

(3) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(b) AMENDMENT.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting "improvement to achieve greater energy efficiency," after "planning,".

SEC. 506. CONSULTATION WITH INDIAN TRIBES.

In carrying out this Act and the amendments made by this Act, the Secretary of Energy and the Secretary shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes in a manner that is consistent with the Federal trust and the government-to-government relationships between Indian tribes and the United States.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 601. SHORT TITLE.

This subtitle may be cited as the "Price-Anderson Amendments Act of 2005".

SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking "LICENSES" and inserting "LICENSEES"; and

(2) by striking "December 31, 2003" each place it appears and inserting "December 31, 2025".

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking "December 31, 2006" and inserting "December 31, 2025".

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking "August 1, 2002" each place it appears and inserting "December 31, 2025".

SEC. 603. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking "$63,000,000" and inserting "$95,800,000"; and

(B) by striking "$10,000,000 in any 1 year" and inserting "$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)"; and

(2) in subsection t.(1)—

(A) by inserting "total and annual" after "amount of the maximum";

(B) by striking "the date of the enactment of the Price-Anderson Amendments Act of 1988" and inserting "August 20, 2003"; and

(C) in subparagraph (A), by striking "such date of enactment" and inserting "August 20, 2003".

SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) (as amended by section 602(b)) is amended by striking paragraph (2) and inserting the following:

"(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

"(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary determines to be ap-

propriate to cover public liability arising out of or in connection with the contractual activity; and

"(B) shall indemnify the persons indemnified against the liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.) in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal expenses incurred by the contractor as are approved by the Secretary.".

(b) CONTRACT AMENDMENTS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) (as amended by section 602(b)) is amended by striking paragraph (3) and inserting the following:

"(3) All agreements of indemnification under which the Department of Energy (or predecessor agencies) may be required to indemnify any person under this section shall be considered to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.".

(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking "the maximum amount of financial protection required under subsection b. or"; and

(2) by striking "paragraph (3) of subsection d., whichever amount is more" and inserting "paragraph (2) of subsection d.".

SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking "$100,000,000" and inserting "$500,000,000".

(b) LIABILITY LIMIT.—Section 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking "$100,000,000" and inserting "$500,000,000".

SEC. 606. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking "August 1, 1998" and inserting "December 31, 2021".

SEC. 607. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) (as amended by section 603(2)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) that date, in the case of the first adjustment under this paragraph; or

"(B) the previous adjustment under this paragraph.".

SEC. 608. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) (as amended by section 603) is amended by adding at the end the following:

"(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

"(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of not less than 100,000 electrical kilowatts and not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.".

SEC. 609. APPLICABILITY.

The amendments made by sections 603, 604, and 605 do not apply to a nuclear incident that occurs before the date of enactment of this Act.

SEC. 610. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a) is amended by striking subsection d. and inserting the following:

"d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

"(2) In this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.".

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under

a contract entered into before the date of enactment of this Act.

Subtitle B—General Nuclear Matters

SEC. 621. MEDICAL ISOTOPE PRODUCTION: NONPROLIFERATION, ANTITERRORISM, AND RESOURCE REVIEW.

(a) DEFINITIONS.—In this section:

(1) HIGHLY ENRICHED URANIUM FOR MEDICAL ISOTOPE PRODUCTION.—The term "highly enriched uranium for medical isotope production" means highly enriched uranium contained in, or for use in, targets to be irradiated for the sole purpose of producing medical isotopes.

(2) MEDICAL ISOTOPES.—The term "medical isotopes" means radioactive isotopes, including molybdenum-99, that are used to produce radiopharmaceuticals for diagnostic or therapeutic procedures on patients.

(b) STUDY.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences for the conduct of a study of issues associated with section 134 of the Atomic Energy Act

of 1954 (42 U.S.C. 2160d), including issues associated with the implementation of that section.

(2) CONTENTS.—The study shall include an analysis of—

(A) the effectiveness to date of section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) in facilitating the conversion of foreign reactor fuel and targets to low-enriched uranium, which reduces the risk that highly enriched uranium will be diverted and stolen;

(B) the degree to which isotope producers that rely on United States highly enriched uranium are complying with the intent of section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) to expeditiously convert targets to low-enriched uranium;

(C) the adequacy of physical protection and material control and accounting measures at foreign facilities that receive United States highly enriched uranium for medical isotope production, in comparison to Nuclear Regulatory Commission regulations and Department administrative requirements;

(D) the likely consequences of an exemption of highly enriched uranium exports for medical

isotope production from section 134(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2160d(a)) for—

(i) United States efforts to eliminate highly enriched uranium commerce worldwide through the support of the Reduced Enrichment in Research and Test Reactors program; and

(ii) other United States nonproliferation and antiterrorism initiatives;

(E) incentives that could supplement the incentives of section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) to further encourage foreign medical isotope producers to convert from highly enriched uranium to low-enriched uranium;

(F) whether implementation of section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) has ever caused, or is likely to cause, an interruption in the production and supply of medical isotopes in needed quantities;

(G) whether the United States supply of isotopes is sufficiently diversified to withstand an interruption of production from any 1 supplier,

and, if not, what steps should be taken to diversify United States supply; and

(H) any other aspects of implementation of section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) that have a bearing on Federal nonproliferation and antiterrorism laws (including regulations) and policies.

(3) TIMING; CONSULTATION.—The National Academy of Sciences study shall be—

(A) conducted in full consultation with the Secretary of State, the staff of the Reduced Enrichment in Research and Test Reactors program at Argonne National Laboratory, and other interested organizations and individuals with expertise in nuclear nonproliferation; and

(B) submitted to Congress not later than 18 months after the date of enactment of this Act.

SEC. 622. SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE.

(a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE STORAGE FACILITY.—The Secretary shall provide to Congress official notification of the final designation of an entity within the Department to have the responsibility of completing activities needed to provide a facility for safely dis-

posing of all greater-than-Class C low-level radioactive waste.

(b) REPORTS AND PLANS.—

(1) REPORT ON PERMANENT DISPOSAL FACILITY.—

(A) PLAN REGARDING COST AND SCHEDULE FOR COMPLETION OF EIS AND ROD.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with Congress, shall submit to Congress a report containing an estimate of the cost and a proposed schedule to complete an environmental impact statement and record of decision for a permanent disposal facility for greater-than-Class C radioactive waste.

(B) ANALYSIS OF ALTERNATIVES.—Before the Secretary makes a final decision on the disposal alternative or alternatives to be implemented, the Secretary shall—

(i) submit to Congress a report that describes all alternatives under consideration, including all information required in the comprehensive report making recommendations for ensuring the safe disposal of all greater-than-Class C low-level radioactive

waste that was submitted by the Secretary to Congress in February 1987; and

(ii) await action by Congress.

(2) SHORT-TERM PLAN FOR RECOVERY AND STORAGE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan to ensure the continued recovery and storage of greater-than-Class C low-level radioactive sealed sources that pose a security threat until a permanent disposal facility is available.

(B) CONTENTS.—The plan shall address estimated cost, resource, and facility needs.

SEC. 623. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

(1) by inserting "a." before "No nuclear materials and equipment"; and

(2) by adding at the end the following:

"b.(1)(A) Notwithstanding any other provision of law, including section 121, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assist-

ance authorized by section 57 b. and regulated under part 810 of title 10, Code of Federal Regulations (or a successor regulation), and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations (or a successor regulation), shall be exported or reexported, or transferred or retransferred, whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of the items or assistance described in this paragraph to any country the government of which has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities.

"(B) Countries described in subparagraph (A) specifically include any country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under—

"(i) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

"(ii) section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)); or

"(iii) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

"(2) This subsection does not apply to exports, reexports, transfers, or retransfers of radiation monitoring tech-

nologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that the technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

"(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that—

"(A) the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons; and

"(B)(i) the government of the country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

"(ii) in the judgment of the President, the government of the country has provided adequate,

verifiable assurances that the country will cease its support for acts of international terrorism;

"(iii) the waiver of paragraph (1) is in the vital national security interest of the United States; or

"(iv) the waiver of paragraph (1) is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.".

(b) APPLICABILITY TO EXPORTS APPROVED FOR TRANSFER BUT NOT TRANSFERRED.—Subsection b. of section 129 of Atomic Energy Act of 1954 (as added by subsection (a)), shall apply with respect to exports that have been approved for transfer as of the date of enactment of this Act but have not yet been transferred as of that date.

SEC. 624. DECOMMISSIONING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary shall establish a decommissioning pilot program under which the Secretary shall decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas, in accordance with the decommissioning activities contained in the report of the Department relating to the reactor, dated August 31, 1998.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $16,000,000.

SEC. 625. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF THE DEPARTMENT OF ENERGY.

(a) DEFINITION OF EMPLOYER.—Section 211(a)(2) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)(2)) is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking "that is indemnified" and all that follows through "12344."; and

(3) by adding at the end the following:

"(E) the Department of Energy.".

(b) DE NOVO JUDICIAL DETERMINATION.—Section 211(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)) is amended by adding at the end the following:

"(4) DE NOVO JUDICIAL DETERMINATION.—If the Secretary does not issue a final decision within 180 days after the filing of a complaint under paragraph (1) and the Secretary does not show that the delay is caused by the bad faith of the claimant, the claimant may bring a civil action in United States district court for a determination of the claim by the court de novo.".

Subtitle C—Next Generation Nuclear Plant Project

SEC. 631. PROJECT ESTABLISHMENT.

(a) ESTABLISHMENT.—The Secretary shall establish a project to be known as the "Next Generation Nuclear Plant Project" (referred to in this subtitle as the "Project").

(b) CONTENT.—The Project shall consist of the research, development, design, construction, and operation of a prototype plant, including a nuclear reactor that—

(1) is based on research and development activities supported by the Generation IV Nuclear Energy Systems Initiative under section 942(d); and

(2) shall be used—

(A) to generate electricity;

(B) to produce hydrogen; or

(C) both to generate electricity and to produce hydrogen.

SEC. 632. PROJECT MANAGEMENT.

(a) DEPARTMENTAL MANAGEMENT.—

(1) IN GENERAL.—The Project shall be managed in the Department by the Office of Nuclear Energy, Science, and Technology.

(2) GENERATION IV NUCLEAR ENERGY SYSTEMS PROGRAM.—The Secretary may combine the Project

with the Generation IV Nuclear Energy Systems Initiative.

(3) EXISTING DOE PROJECT MANAGEMENT EXPERTISE.—The Secretary may utilize capabilities for review of construction projects for advanced scientific facilities within the Office of Science to track the progress of the Project.

(b) LABORATORY MANAGEMENT.—

(1) LEAD LABORATORY.—The Idaho National Laboratory shall be the lead National Laboratory for the Project and shall collaborate with other National Laboratories, institutions of higher education, other research institutes, industrial researchers, and international researchers to carry out the Project.

(2) INDUSTRIAL PARTNERSHIPS.—

(A) IN GENERAL.—The Idaho National Laboratory shall organize a consortium of appropriate industrial partners that will carry out cost-shared research, development, design, and construction activities, and operate research facilities, on behalf of the Project.

(B) COST-SHARING.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 1002.

(C) PREFERENCE.—Preference in determining the final structure of the consortium or any partnerships under this subtitle shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

(3) PROTOTYPE PLANT SITING.—The prototype nuclear reactor and associated plant shall be sited at the Idaho National Laboratory in Idaho.

(4) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

(5) OTHER LABORATORY CAPABILITIES.—The Project may use, if appropriate, facilities at other National Laboratories.

SEC. 633. PROJECT ORGANIZATION.

(a) MAJOR PROJECT ELEMENTS.—The Project shall consist of the following major program elements:

(1) High-temperature hydrogen production technology development and validation.

(2) Energy conversion technology development and validation.

(3) Nuclear fuel development, characterization, and qualification.

(4) Materials selection, development, testing, and qualification.

(5) Reactor and balance-of-plant design, engineering, safety analysis, and qualification.

(b) PROJECT PHASES.—The Project shall be conducted in the following phases:

(1) FIRST PROJECT PHASE.—A first project phase shall be conducted to—

(A) select and validate the appropriate technology under subsection (a)(1);

(B) carry out enabling research, development, and demonstration activities on technologies and components under paragraphs (2) through (4) of subsection (a);

(C) determine whether it is appropriate to combine electricity generation and hydrogen production in a single prototype nuclear reactor and plant; and

(D) carry out initial design activities for a prototype nuclear reactor and plant, including development of design methods and safety analytical methods and studies under subsection (a)(5).

(2) SECOND PROJECT PHASE.—A second project phase shall be conducted to—

(A) continue appropriate activities under paragraphs (1) though (5) of subsection (a);

(B) develop, through a competitive process, a final design for the prototype nuclear reactor and plant;

(C) apply for licenses to construct and operate the prototype nuclear reactor from the Nuclear Regulatory Commission; and

(D) construct and start up operations of the prototype nuclear reactor and its associated hydrogen or electricity production facilities.

(c) PROJECT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall ensure that the Project is structured so as to maximize the technical interchange and transfer of technologies and ideas into the Project from other sources of relevant expertise, including—

(A) the nuclear power industry, including nuclear powerplant construction firms, particularly with respect to issues associated with plant design, construction, and operational and safety issues;

(B) the chemical processing industry, particularly with respect to issues relating to—

(i) the use of process energy for production of hydrogen; and

(ii) the integration of technologies developed by the Project into chemical processing environments; and

(C) international efforts in areas related to the Project, particularly with respect to hydrogen production technologies.

(2) INTERNATIONAL COLLABORATION.—

(A) IN GENERAL.—The Secretary shall seek international cooperation, participation, and financial contributions for the Project.

(B) ASSISTANCE FROM INTERNATIONAL PARTNERS.—The Secretary, through the Idaho National Laboratory, may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners if the specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(C) PARTNER NATIONS.—The Project may involve demonstration of selected project objectives in a partner country.

(D) GENERATION IV INTERNATIONAL FORUM.—The Secretary shall ensure that international activities of the Project are coordinated with the Generation IV International Forum.

(3) REVIEW BY NUCLEAR ENERGY RESEARCH ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Nuclear Energy Research Advisory Committee of the Department (referred to in this paragraph as the "NERAC") shall—

(i) review all program plans for the Project and all progress under the Project on an ongoing basis; and

(ii) ensure that important scientific, technical, safety, and program management issues receive attention in the Project and by the Secretary.

(B) ADDITIONAL EXPERTISE.—The NERAC shall supplement the expertise of NERAC or appoint subpanels to incorporate into the review by NERAC the relevant sources of expertise described under paragraph (1).

(C) INITIAL REVIEW.—Not later than 180 days after the date of enactment of this Act, the NERAC shall—

(i) review existing program plans for the Project in light of the recommendations of the document entitled "Design Features and Technology Uncertainties for the Next Generation Nuclear Plant," dated June 30, 2004; and

(ii) address any recommendations of the document not incorporated in program plans for the Project.

(D) FIRST PROJECT PHASE REVIEW.—On a determination by the Secretary that the appropriate activities under the first project phase under subsection (b)(1) are nearly complete, the Secretary shall request the NERAC to conduct a comprehensive review of the Project and to report to the Secretary the recommendation of NERAC concerning whether the Project is ready to proceed to the second project phase under subsection (b)(2).

(E) TRANSMITTAL OF REPORTS TO CONGRESS.—Not later than 60 days after receiving any report from the NERAC related to the

Project, the Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a copy of the report, along with any additional views of the Secretary that the Secretary may consider appropriate.

SEC. 634. NUCLEAR REGULATORY COMMISSION.

(a) IN GENERAL.—In accordance with section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), the Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this subtitle.

(b) LICENSING STRATEGY.—Not later than 3 years after the date of enactment of this Act, the Secretary and the Chairman of the Nuclear Regulatory Commission shall jointly submit to the appropriate committees of the Senate and the House of Representatives a licensing strategy for the prototype nuclear reactor, including—

(1) a description of ways in which current licensing requirements relating to light-water reactors need to be adapted for the types of prototype nuclear reactor being considered by the Project;

(2) a description of analytical tools that the Nuclear Regulatory Commission will have to develop to independently verify designs and performance charac-

teristics of components, equipment, systems, or structures associated with the prototype nuclear reactor;

(3) other research or development activities that may be required on the part of the Nuclear Regulatory Commission in order to review a license application for the prototype nuclear reactor; and

(4) an estimate of the budgetary requirements associated with the licensing strategy.

(c) ONGOING INTERACTION.—The Secretary shall seek the active participation of the Nuclear Regulatory Commission throughout the duration of the Project to—

(1) avoid design decisions that will compromise adequate safety margins in the design of the reactor or impair the accessibility of nuclear safety-related components of the prototype reactor for inspection and maintenance;

(2) develop tools to facilitate inspection and maintenance needed for safety purposes; and

(3) develop risk-based criteria for any future commercial development of a similar reactor architectures.

SEC. 635. PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.

(a) TARGET DATE TO COMPLETE THE FIRST PROJECT PHASE.—Not later than September 30, 2011—

(1) the Secretary shall select the technology to be used by the Project for high-temperature hydrogen production and the initial design parameters for the prototype nuclear plant; or

(2) submit to Congress a report establishing an alternative date for making the selection.

(b) DESIGN COMPETITION FOR SECOND PROJECT PHASE.—

(1) IN GENERAL.—The Secretary, acting through the Idaho National Laboratory, shall fund not more than 4 teams for not more than 2 years to develop detailed proposals for competitive evaluation and selection of a single proposal for a final design of the prototype nuclear reactor.

(2) SYSTEMS INTEGRATION.—The Secretary may structure Project activities in the second project phase to use the lead industrial partner of the competitively selected design under paragraph (1) in a systems integration role for final design and construction of the Project.

(c) TARGET DATE TO COMPLETE PROJECT CONSTRUCTION.—Not later than September 30, 2021—

(1) the Secretary shall complete construction and begin operations of the prototype nuclear reactor and associated energy or hydrogen facilities; or

(2) submit to Congress a report establishing an alternative date for completion.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for research and construction activities under this subtitle (including for transfer to the Nuclear Regulatory Commission for activities under section 634 as appropriate)—

(1) $1,250,000,000 for the period of fiscal years 2006 through 2015; and

(2) such sums as are necessary for each of fiscal years 2016 through 2021.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.

Section 400AA(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)) is amended by striking subparagraph (E) and inserting the following:

"(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of the requirements of this section for vehicles operated by the agency in a particular geographic area in which—

"(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

"(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

"(ii) The Secretary shall monitor compliance with this subparagraph by all fleets receiving a waiver.

"(iii) The Secretary shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved, including information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.".

SEC. 702. FUEL USE CREDITS.

(a) IN GENERAL.—Section 312 of the Energy Policy Act of 1992 (42 U.S.C. 13220) is amended to read as follows:

"SEC. 312. FUEL USE CREDITS.

"(a) DEFINITIONS.—In this section:

"(1) BIODIESEL.—The term 'biodiesel' means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration require-

ments for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545).

"(2) QUALIFYING VOLUME.—The term 'qualifying volume' means—

"(A) in the case of biodiesel, when used as a component of fuel containing at least 20 percent biodiesel by volume—

"(i) 450 gallons; or

"(ii) if the Secretary determines by rule that the average annual alternative fuel use in light duty vehicles by fleets and covered persons exceeds 450 gallons or gallon equivalents, the amount of the average annual alternative fuel use; and

"(B) in the case of an alternative fuel, the amount of the fuel determined by the Secretary to have an equivalent energy content to the amount of biodiesel defined as a qualifying volume under subparagraph (A).

"(b) ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall allocate 1 credit under this section to a fleet or covered person for each qualifying volume of alternative fuel or bio-

diesel purchased for use in a vehicle operated by the fleet.

"(2) LIMITATION.—The Secretary may not allocate a credit under this section for the purchase of an alternative fuel or biodiesel that is required by Federal or State law.

"(3) DOCUMENTATION.—A fleet or covered person seeking a credit under paragraph (1) shall provide written documentation to the Secretary supporting the allocation of the credit to the fleet or covered person.

"(c) USE.—At the request of a fleet or covered person allocated a credit under subsection (b), the Secretary shall, for the year in which the purchase of a qualifying volume is made, consider the purchase to be the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title, title IV, or title V.

"(d) TREATMENT.—A credit provided to a fleet or covered person under this section shall be considered to be a credit under section 508.

"(e) ISSUANCE OF RULE.—Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, the Secretary shall issue a rule establishing procedures for the implementation of this section.".

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 is amended by striking the item relating to section 312 and inserting the following:

"Sec. 312. Fuel use credits.".

SEC. 703. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking "may" and inserting "shall".

SEC. 704. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) ALTERNATIVE COMPLIANCE.—Title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is amended—

(1) by redesignating section 514 (42 U.S.C. 13264) as section 515; and

(2) by inserting after section 513 (42 U.S.C. 13263) the following:

"SEC. 514. ALTERNATIVE COMPLIANCE.

"(a) APPLICATION FOR WAIVER.—Any covered person subject to section 501 and any State subject to section 507(o) may petition the Secretary for a waiver of the applicable requirements of section 501 or 507(o).

"(b) GRANT OF WAIVER.—The Secretary shall grant a waiver of the requirements of section 501 or 507(o) on a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered person—

"(1) will achieve a reduction in the annual consumption of petroleum fuels by the fleet equal to—

"(A) the reduction in consumption of petroleum that would result from 100 percent cumulative compliance with the fuel use requirements of section 501; or

"(B) in the case of an entity covered under section 507(o), a reduction equal to the annual consumption by the State entity of alternative fuels if all of the cumulative alternative fuel vehicles of the State entity given credit under section 508 were to use alternative fuel 100 percent of the time; and

"(2) is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(c) REVOCATION OF WAIVER.—The Secretary shall revoke any waiver granted under this section if the State or covered person fails to comply with subsection (b).".

(b) CREDITS.—Section 508(a) of the Energy Policy Act of 1992 (42 U.S.C. 13258(a)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) The Secretary"; and

(2) by adding at the end the following:

"(2) Not later than January 31, 2007, the Secretary shall—

"(A) allocate credit in an amount to be determined by the Secretary for—

"(i) acquisition of—

"(I) a light-duty hybrid electric vehicle;

"(II) a plug-in hybrid electric vehicle;

"(III) a fuel cell electric vehicle;

"(IV) a medium- or heavy-duty hybrid electric vehicle;

"(V) a neighborhood electric vehicle; or

"(VI) a medium- or heavy-duty dedicated vehicle; and

"(ii) investment in qualified alternative fuel infrastructure or nonroad equipment, as determined by the Secretary; and

"(B) allocate more than 1, but not to exceed 5, credits for investment in an emerging technology relating to any vehicle described in subparagraph (A) to encourage—

"(i) a reduction in petroleum demand;

"(ii) technological advancement; and

"(iii) environmental safety.".

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by striking the item relating to section 514 and inserting the following:

"Sec. 514. Alternative compliance.
"Sec. 515. Authorization of appropriations.
"Sec. 516. Termination of authority.".

SEC. 705. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLE PURCHASING REQUIREMENTS.

Section 310(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13218(b)(1)) is amended by striking "1 year after the date of enactment of this subsection" and inserting "February 15, 2006".

SEC. 706. JOINT FLEXIBLE FUEL/HYBRID VEHICLE COMMERCIALIZATION INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term eligible entity means—

(A) a for-profit corporation;

(B) a nonprofit corporation; or

(C) an institution of higher education.

(2) PROGRAM.—The term "program" means the applied research program established under subsection (b).

(b) ESTABLISHMENT.—The Secretary shall establish an applied research program to improve technologies for the commercialization of—

(1) a combination hybrid/flexible fuel vehicle; or

(2) a plug-in hybrid/flexible fuel vehicle.

(c) GRANTS.—In carrying out the program, the Secretary shall provide grants that give preference to proposals that—

(1) achieve the greatest reduction in miles per gallon of petroleum fuel consumption;

(2) achieve not less than 250 miles per gallon of petroleum fuel consumption; and

(3) have the greatest potential of commercialization to the general public within 5 years.

(d) VERIFICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register procedures to verify—

(1) the hybrid/flexible fuel vehicle technologies to be demonstrated; and

(2) that grants are administered in accordance with this section.

(e) REPORT.—Not later than 260 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that—

(1) identifies the grant recipients;

(2) describes the technologies to be funded under the program;

(3) assesses the feasibility of the technologies described in paragraph (2) in meeting the goals described in subsection (c);

(4) identifies applications submitted for the program that were not funded; and

(5) makes recommendations for Federal legislation to achieve commercialization of the technology demonstrated.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, to remain available until expended—

(1) $3,000,000 for fiscal year 2005;

(2) $7,000,000 for fiscal year 2006;

(3) $10,000,000 for fiscal year 2007; and

(4) $20,000,000 for fiscal year 2008.

Subtitle B—Automobile Efficiency

CHAPTER 1—MAXIMUM AVERAGE FUEL ECONOMY

SEC. 711. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.

Section 32902(f) of title 49, United States Code, is amended to read as follows:

"(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:

"(1) Technological feasibility.

"(2) Economic practicability.

"(3) The effect of other motor vehicle standards of the Government on fuel economy.

"(4) The need of the United States to conserve energy.

"(5) The desirability of reducing United States dependence on imported oil.

"(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.

"(7) The effects of increased fuel economy on air quality.

"(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.

"(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.

"(10) The cost and lead time necessary for the introduction of the necessary new technologies.

"(11) The potential for advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.

"(12) The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with the average fuel economy standards adversely affects the availability of resources for the development of advanced technology for the propulsion of motor vehicles.

"(13) The report of the National Research Council that is entitled 'Effectiveness and Impact of Corporate Average Fuel Economy Standards', issued in January 2002.".

SEC. 712. INCREASED FUEL ECONOMY STANDARDS.

(a) NEW REGULATIONS REQUIRED.—

(1) NON-PASSENGER AUTOMOBILES.—

(A) REQUIREMENT FOR NEW REGULATIONS.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for non-passenger automobiles. The regulations shall be determined on the basis of the maximum feasible average fuel economy levels for the non-passenger

automobiles, taking into consideration the matters set forth in subsection (f) of such section. The new regulations under this paragraph shall apply for model years after the 2007 model year, subject to subsection (b).

(B) TIME FOR ISSUING REGULATIONS.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than April 1, 2006.

(2) PASSENGER AUTOMOBILES.—

(A) REQUIREMENT FOR NEW REGULATIONS.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for passenger automobiles. The regulations shall be determined on the basis of the maximum feasible average fuel economy levels for the passenger automobiles, taking into consideration the matters set forth in subsection (f) of such section.

(B) TIME FOR ISSUING REGULATIONS.—The Secretary of Transportation shall issue the final regulations under subparagraph (A) not later than 2½ years after the date of the enactment of this Act.

(b) PHASED INCREASES.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.

(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: "or such other number as the Secretary prescribes under subsection (c)".

(d) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under section 32902(a) or section 32902(c) of title 49, United States Code, the Secretary of Transportation shall also issue an environmental assessment of the effects of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $5,000,000 for each of fiscal years 2006 through 2010 for carrying out this section and for administering the regulations issued pursuant to this section.

SEC. 713. EXPEDITED PROCEDURES FOR CONGRESSIONAL INCREASE IN FUEL ECONOMY STANDARDS.

(a) CONDITION FOR APPLICABILITY.—If the Secretary of Transportation fails to issue final regulations with respect to non-passenger automobiles under section 712, or fails to issue final regulations with respect to passenger automobiles under such section, on or before the date by which such final regulations are required by such section to be issued, respectively, then this section shall apply with respect to a bill described in subsection (b).

(b) BILL.—A bill referred to in this subsection is a bill that satisfies the following requirements:

(1) INTRODUCTION.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).

(2) TITLE.—The title of the bill is as follows: "A bill to establish new average fuel economy standards for certain motor vehicles.".

(3) TEXT.—The bill provides after the enacting clause only the text specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:

(A) NON-PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to non-passenger automobiles, the following text:

"That, section 32902 of title 49, United States Code, is amended by adding at the end the following new subsection:

" '(__) NON-PASSENGER AUTOMOBILES.—The average fuel economy standard for non-passenger automobiles manufactured by a manufacturer in a model year after model year ____ shall be ____ miles per gallon.' ", the first blank space being filled in with a subsection designation, the second blank space being filled in with the number of a year, and the third blank space being filled in with a number.

(B) PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to passenger automobiles, the following text:

"That, section 32902(b) of title 49, United States Code, is amended to read as follows:

" '(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year ____ shall be ____ miles per gallon.' ", the first blank space being filled in with the number of a year and the second blank space being filled in with a number.

(C) SUBSTITUTE TEXT.—Any text substituted by an amendment that is in order under subsection (c)(3).

(c) EXPEDITED PROCEDURES.—A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98–473; 98 Stat. 1936), with the following exceptions:

(1) REFERENCES TO RESOLUTION.—The references in such paragraphs to a resolution shall be deemed to refer to the bill described in subsection (b).

(2) COMMITTEES OF JURISDICTION.—The committees to which the bill is referred under this subsection shall—

(A) in the Senate, be the Committee on Commerce, Science, and Transportation; and

(B) in the House of Representatives, be the Committee on Energy and Commerce.

(3) AMENDMENTS.—

(A) AMENDMENTS IN ORDER.—Only four amendments to the bill are in order in each House, as follows:

(i) Two amendments proposed by the majority leader of that House.

(ii) Two amendments proposed by the minority leader of that House.

(B) FORM AND CONTENT.—To be in order under subparagraph (A), an amendment shall propose to strike all after the enacting clause and substitute text that only includes the same text as is proposed to be stricken except for one or more different numbers in the text.

(C) DEBATE, ET CETERA.—Subparagraph (B) of section 8066(c)(5) of the Department of Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed under this paragraph in the same manner as such subparagraph (B) applies to debatable motions.

SEC. 714. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.

(a) MANUFACTURING INCENTIVES.—Section 32905 of title 49, United States Code, is amended—

(1) in subsections (b) and (d), by striking "1993–2004" and inserting "1993–2008";

(2) in subsection (f), by striking "2001" and inserting "2007"; and

(3) in subsection (f)(1), by striking "2004" and inserting "2008".

(b) EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE.—Section 32906(a)(1) of title 49, United States Code, is amended—

(1) in subparagraph (A), by striking "1993–2004" and inserting "1993 through 2008"; and

(2) in subparagraph (B), by striking "2005–2008" and inserting "2009 through 2012".

CHAPTER 2—ADVANCED CLEAN VEHICLES

SEC. 721. HYBRID VEHICLES RESEARCH AND DEVELOPMENT.

(a) RECHARGEABLE ENERGY STORAGE SYSTEMS AND OTHER TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of batteries and other rechargeable energy storage systems, power electronics, hybrid systems integration, and other technologies for use in hybrid vehicles.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2006, 2007, and 2008 in the amount $50,000,000 for research and development activities under this section.

SEC. 722. DIESEL FUELED VEHICLES RESEARCH AND DEVELOPMENT.

(a) DIESEL COMBUSTION AND AFTER TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement

of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.

(b) GOALS.—The Secretary shall carry out subsection (a) with a view to achieving the following goals:

(1) COMPLIANCE WITH CERTAIN EMISSION STANDARDS BY 2010.—Developing and demonstrating diesel technologies that, not later than 2010, meet the following standards:

(A) TIER-2 EMISSION STANDARDS.—The tier 2 emission standards.

(B) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The heavy-duty emission standards of 2007.

(2) POST-2010 HIGHLY EFFICIENT TECHNOLOGIES.—Developing the next generation of low emissions, high efficiency diesel engine technologies, including homogeneous charge compression ignition technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for each of fiscal years 2006, 2007, and 2008 in the amount of $75,000,000 for research and development of advanced combustion engines and advanced fuels.

SEC. 723. PROCUREMENT OF ALTERNATIVE FUELED PASSENGER AUTOMOBILES.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only alternative fueled vehicles are procured by or for each agency fleet of passenger automobiles that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(b) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of alternative fueled vehicles in subsection (a) to—

(1) the procurement for such agency of any vehicles described in subparagraphs (A) through (F) of section 303(b)(3) of the Energy Policy Act of 1992 (42 U.S.C. 13212(b)(3)); or

(2) a procurement of vehicles for such agency if the procurement of alternative fueled vehicles cannot meet the requirements of the agency for vehicles due to insufficient availability of the alternative fuel used to power such vehicles.

(c) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2005.—This subsection applies with respect to pro-

curements of alternative fueled vehicles in fiscal year 2006 and subsequent fiscal years.

SEC. 724. PROCUREMENT OF HYBRID LIGHT DUTY TRUCKS.

(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—

(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.

(2) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—

(A) to meet specific requirements of the agency for capabilities of light duty trucks;

(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government;

(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles; or

(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the costs of comparable non-hybrid vehicles by a factor that is significantly higher than the difference between—

(i) the real cost of the hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and

(ii) the costs of the comparable non-hybrid vehicles to retail purchasers.

(3) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2005.—This subsection applies with respect to procurements of light duty trucks in fiscal year 2006 and subsequent fiscal years.

(b) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for

Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055; 10 U.S.C. 2302 note).

SEC. 725. DEFINITIONS.

In this chapter:

(1) ALTERNATIVE FUELED VEHICLE.—The term "alternative fueled vehicle" means—

(A) an alternative fueled vehicle, as defined in section 301(3) of the Energy Policy Act of 1992 (42 U.S.C. 13211(3));

(B) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) biodiesel, as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

(C) a motor vehicle that operates on a blend of fuel that is at least 20 percent (by volume) bioderived hydrocarbons (including aliphatic compounds) produced from agricultural and animal waste.

(2) HEAVY-DUTY EMISSION STANDARDS OF 2007.—The term "heavy-duty emission standards of 2007" means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on January 18, 2001, under section 202 of the Clean Air Act to apply to

heavy-duty vehicles of model years beginning with the 2007 vehicle model year.

(3) HYBRID VEHICLE.—The term "hybrid vehicle" means—

(A) a motor vehicle that draws propulsion energy from on board sources of stored energy that are both—

(i) an internal combustion or heat engine using combustible fuel; and

(ii) a rechargeable energy storage system; and

(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.

(4) MOTOR VEHICLE.—The term "motor vehicle" means any vehicle that is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and that has at least four wheels.

(5) TIER 2 EMISSION STANDARDS DEFINED.—The term "tier 2 emission standards" means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under section 202 of the Clean

Air Act (42 U.S.C. 7521) to apply to passenger automobiles, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.

(6) TERMS DEFINED IN EPA REGULATIONS.—The terms "passenger automobile" and "light truck" have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

Subtitle C—Miscellaneous

SEC. 731. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary shall (in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency) establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $25,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007; and

(3) $50,000,000 for fiscal year 2008.

SEC. 732. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "program" means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the "Conserve by Bicycling Program".

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from non-Federal sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a

study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (c);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out

this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

SEC. 733. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

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

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term "advanced truck stop electrification system" means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term "auxiliary power unit" means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term "heavy-duty vehicle" means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term "idle reduction technology" means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term "long-duration idling" means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term "long-duration idling" does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act,

the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology.

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction technology based on beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A)—

(I) $19,500,000 for fiscal year 2006;

(II) $30,000,000 for fiscal year 2007; and

(III) $45,000,000 for fiscal year 2008.

(ii) COST SHARING.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this

section to be provided from non-Federal sources.

(iii) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

"(12) HEAVY DUTY VEHICLES.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

"(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

"(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

"(i) the idle reduction technology is fully functional at all times; and

"(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).".

SEC. 734. BIODIESEL ENGINE TESTING PROJECT.

(a) DEFINITION OF BIODIESEL.—In this section, the term "biodiesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets—

(1) the registration requirements for fuels and fuel additives established under section 211 of the Clean Air Act (42 U.S.C. 7545); and

(2) the American Society for Testing and Materials Standard D6751–02a "Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels".

(b) PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall initiate a project, in partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel

and biodiesel fuel providers, to provide biodiesel testing in advanced diesel engine and fuel system technology.

(c) SCOPE.—The project shall provide for testing to determine the impact of biodiesel on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and anti-tampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the options for optimizing those technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in those fueling systems and engines when used as a blend with diesel fuel containing a maximum of 15-parts-per-million sulfur content, as mandated by the Administrator of the Environmental Protection Agency during 2006.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the project, including—

(1) a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies; and

(2) recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2008.

SEC. 735. INVESTIGATION OF GASOLINE PRICES.

(a) INVESTIGATION.—Not later than 90 days after the date of enactment of this Act, the Federal Trade Commission shall conduct an investigation to determine if the price of gasoline is being artificially manipulated by reducing refinery capacity or by any other form of market manipulation or price gouging practices.

(b) EVALUATION AND ANALYSIS.—The Secretary shall direct the National Petroleum Council to conduct an evaluation and analysis to determine whether, and to what extent, environmental and other regulations affect new domestic refinery construction and significant expansion of existing refinery capacity.

(c) REPORTS TO CONGRESS.—

(1) INVESTIGATION.—On completion of the investigation under subsection (a), the Federal Trade Commission shall submit to Congress a report that describes—

(A) the results of the investigation; and

(B) any recommendations of the Federal Trade Commission.

(2) EVALUATION AND ANALYSIS.—On completion of the evaluation and analysis under subsection (b), the Secretary shall submit to Congress a report that describes—

(A) the results of the evaluation and analysis; and

(B) any recommendations of the National Petroleum Council.

Subtitle D—Federal and State Procurement

SEC. 741. DEFINITIONS.

In this subtitle:

(1) DEPARTMENT.—The term "Department" means the Department of Energy.

(2) FUEL CELL.—The term "fuel cell" means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(3) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(4) STATIONARY; PORTABLE.—The terms "stationary" and "portable", when used in reference to a fuel cell, include—

(A) continuous electric power; and

(B) backup electric power.

(5) TASK FORCE.—The term "Task Force" means the Hydrogen and Fuel Cell Technical Task Force established under section 102(a) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (as amended by section 801).

(6) TECHNICAL ADVISORY COMMITTEE.—The term "Technical Advisory Committee" means the independent Technical Advisory Committee selected under section 102(d) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (as added by section 801).

SEC. 742. FEDERAL AND STATE PROCUREMENT OF FUEL CELL VEHICLES AND HYDROGEN ENERGY SYSTEMS.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of fuel cell vehicles and hydrogen energy systems;

(2) to support development of technologies relating to fuel cell vehicles, public refueling stations, and hydrogen energy systems; and

(3) to require the Federal government, which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, in conjunction with private industry partners.

(b) FEDERAL LEASES AND PURCHASES.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Not later than January 1, 2010, the head of any Federal agency that uses a light-duty or heavy-duty vehicle fleet shall lease or purchase fuel cell vehicles and hydrogen energy systems to meet any applicable energy savings goal described in subsection (c).

(B) LEARNING DEMONSTRATION VEHICLES.—The Secretary may lease or purchase appropriate vehicles developed under section 201 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (as added by section 801) to meet the requirement in subparagraph (A).

(2) COSTS OF LEASES AND PURCHASES.—

(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay to Federal agencies (or share the cost under interagency agreements) the difference in cost between—

(i) the cost to the agencies of leasing or purchasing fuel cell vehicles and hydrogen energy systems under paragraph (1); and

(ii) the cost to the agencies of a feasible alternative to leasing or purchasing fuel cell vehicles and hydrogen energy systems, as determined by the Secretary.

(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a fuel cell vehicle or hydrogen energy system; or

(ii) a cost-effective management structure of the lease of a fuel cell vehicle or hydrogen energy system.

(3) EXCEPTION.—

(A) IN GENERAL.—If the Secretary determines that the head of an agency described in

paragraph (1) cannot find an appropriately efficient and reliable fuel cell vehicle or hydrogen energy system in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee.

(c) ENERGY SAVINGS GOALS.—

(1) IN GENERAL.—

(A) REGULATIONS.—Not later than December 31, 2006, the Secretary shall—

(i) in cooperation with the Task Force, promulgate regulations for the period of 2008 through 2010 that extend and augment energy savings goals for each Federal agency, in accordance with any Executive order issued after March 2000; and

(ii) promulgate regulations to expand the minimum Federal fleet requirement and

credit allowances for fuel cell vehicle systems under section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

(B) REVIEW, EVALUATION, AND NEW REGULATIONS.—Not later than December 31, 2010, the Secretary shall—

(i) review the regulations promulgated under subparagraph (A);

(ii) evaluate any progress made toward achieving energy savings by Federal agencies; and

(iii) promulgate new regulations for the period of 2011 through 2015 to achieve additional energy savings by Federal agencies relating to technical and cost-performance standards.

(2) OFFSETTING ENERGY SAVINGS GOALS.—An agency that leases or purchases a fuel cell vehicle or hydrogen energy system in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal of the agency.

(d) COOPERATIVE PROGRAM WITH STATE AGENCIES.—

(1) IN GENERAL.—The Secretary may establish a cooperative program with State agencies managing

motor vehicle fleets to encourage purchase of fuel cell vehicles by the agencies.

(2) INCENTIVES.—In carrying out the cooperative program, the Secretary may offer incentive payments to a State agency to assist with the cost of planning, differential purchases, and administration.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2008;

(2) $25,000,000 for fiscal year 2009;

(3) $65,000,000 for fiscal year 2010; and

(4) such sums as are necessary for each of fiscal years 2011 through 2015.

SEC. 743. FEDERAL PROCUREMENT OF STATIONARY, PORTABLE, AND MICRO FUEL CELLS.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of stationary, portable, and micro fuel cells; and

(2) to support development of technologies relating to stationary, portable, and micro fuel cells.

(b) FEDERAL LEASES AND PURCHASES.—

(1) IN GENERAL.—Not later than January 1, 2006, the head of any Federal agency that uses electrical power from stationary, portable, or microportable devices shall lease or purchase a stationary, port-

able, or micro fuel cell to meet any applicable energy savings goal described in subsection (c).

(2) COSTS OF LEASES AND PURCHASES.—

(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay the cost to Federal agencies (or share the cost under interagency agreements) of leasing or purchasing stationary, portable, and micro fuel cells under paragraph (1).

(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a stationary, portable, or micro fuel cell; or

(ii) a cost-effective management structure of the lease of a stationary, portable, or micro fuel cell.

(3) EXCEPTION.—

(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable stationary, portable, or micro

fuel cell in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee of the Task Force.

(c) ENERGY SAVINGS GOALS.—An agency that leases or purchases a stationary, portable, or micro fuel cell in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal described in section 732(c)(1) that is applicable to the agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007;

(3) $75,000,000 for fiscal year 2008;

(4) $100,000,000 for fiscal year 2009;

(5) $100,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fiscal years 2011 through 2015.

Subtitle E—Diesel Emissions Reduction

SEC. 751. DEFINITIONS.

In this subtitle:

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

(2) CERTIFIED ENGINE CONFIGURATION.—The term "certified engine configuration" means a new, rebuilt, or remanufactured engine configuration—

(A) that has been certified or verified by—

(i) the Administrator; or

(ii) the California Air Resources Board;

(B) that meets or is rebuilt or remanufactured to a more stringent set of engine emission standards, as determined by the Administrator; and

(C) in the case of a certified engine configuration involving the replacement of an existing engine or vehicle, an engine configuration that replaced an engine that was—

(i) removed from the vehicle; and

(ii) returned to the supplier for remanufacturing to a more stringent set of

engine emissions standards or for scrappage.

(3) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a regional, State, local, or tribal agency with jurisdiction over transportation or air quality; and

(B) a nonprofit organization or institution that—

(i) represents organizations that own or operate diesel fleets; or

(ii) has, as its principal purpose, the promotion of transportation or air quality.

(4) EMERGING TECHNOLOGY.—The term "emerging technology" means a technology that is not certified or verified by the Administrator or the California Air Resources Board but for which an approvable application and test plan has been submitted for verification to the Administrator or the California Air Resources Board.

(5) HEAVY-DUTY TRUCK.—The term "heavy-duty truck" has the meaning given the term "heavy duty vehicle" in section 202 of the Clean Air Act (42 U.S.C. 7521).

(6) MEDIUM-DUTY TRUCK.—The term "medium-duty truck" has such meaning as shall be determined by the Administrator, by regulation.

(7) VERIFIED TECHNOLOGY.—The term "verified technology" means a pollution control technology, including a retrofit technology, that has been verified by—

(A) the Administrator; or

(B) the California Air Resources Board.

SEC. 752. NATIONAL GRANT AND LOAN PROGRAMS.

(a) IN GENERAL.—The Administrator shall use 70 percent of the funds made available to carry out this subtitle for each fiscal year to provide grants and low-cost revolving loans, as determined by the Administrator, on a competitive basis, to eligible entities to achieve significant reductions in diesel emissions in terms of—

(1) tons of pollution produced; and

(2) diesel emissions exposure, particularly from fleets operating in areas designated by the Administrator as poor air quality areas.

(b) DISTRIBUTION.—

(1) IN GENERAL.—The Administrator shall distribute funds made available for a fiscal year under this subtitle in accordance with this section.

(2) FLEETS.—The Administrator shall provide not less than 50 percent of funds available for a fiscal year under this section to eligible entities for the benefit of public fleets.

(3) ENGINE CONFIGURATIONS AND TECHNOLOGIES.—

(A) CERTIFIED ENGINE CONFIGURATIONS AND VERIFIED TECHNOLOGIES.—The Administrator shall provide not less than 90 percent of funds available for a fiscal year under this section to eligible entities for projects using—

(i) a certified engine configuration; or

(ii) a verified technology.

(B) EMERGING TECHNOLOGIES.—

(i) IN GENERAL.—The Administrator shall provide not more than 10 percent of funds available for a fiscal year under this section to eligible entities for the development and commercialization of emerging technologies.

(ii) APPLICATION AND TEST PLAN.—To receive funds under clause (i), a manufacturer, in consultation with an eligible entity, shall submit for verification to the Administrator or the California Air Resources

Board a test plan for the emerging technology, together with the application under subsection (c).

(c) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant or loan under this section, an eligible entity shall submit to the Administrator an application at a time, in a manner, and including such information as the Administrator may require.

(2) INCLUSIONS.—An application under this subsection shall include—

(A) a description of the air quality of the area served by the eligible entity;

(B) the quantity of air pollution produced by the diesel fleet in the area served by the eligible entity;

(C) a description of the project proposed by the eligible entity, including—

(i) any certified engine configuration, verified technology, or emerging technology to be used by the eligible entity; and

(ii) the means by which the project will achieve a significant reduction in diesel emissions;

(D) an evaluation (using methodology approved by the Administrator or the National Academy of Sciences) of the quantifiable and unquantifiable benefits of the emissions reductions of the proposed project;

(E) an estimate of the cost of the proposed project;

(F) a description of the age and expected lifetime control of the equipment used by the eligible entity;

(G) a description of the diesel fuel available to the eligible entity, including the sulfur content of the fuel; and

(H) provisions for the monitoring and verification of the project.

(3) PRIORITY.—In providing a grant or loan under this section, the Administrator shall give priority to proposed projects that, as determined by the Administrator—

(A) maximize public health benefits;

(B) are the most cost-effective;

(C) serve areas—

(i) with the highest population density;

(ii) that are poor air quality areas, including areas identified by the Administrator as—

(I) in nonattainment or maintenance of national ambient air quality standards for a criteria pollutant;

(II) Federal Class I areas; or

(III) areas with toxic air pollutant concerns;

(iii) that receive a disproportionate quantity of air pollution from a diesel fleet, including ports, rail yards, and distribution centers; or

(iv) that use a community-based multistakeholder collaborative process to reduce toxic emissions;

(D) include a certified engine configuration, verified technology, or emerging technology that has a long expected useful life;

(E) will maximize the useful life of any retrofit technology used by the eligible entity; and

(F) use diesel fuel with a sulfur content of less than or equal to 15 parts per million, as the Administrator determines to be appropriate.

(d) USE OF FUNDS.—

(1) IN GENERAL.—An eligible entity may use a grant or loan provided under this section to fund the costs of—

(A) a retrofit technology (including any incremental costs of a repowered or new diesel engine) that significantly reduces emissions through development and implementation of a certified engine configuration, verified technology, or emerging technology for—

(i) a bus;

(ii) a medium-duty truck or a heavy-duty truck;

(iii) a marine engine;

(iv) a locomotive; or

(v) a nonroad engine or vehicle used in—

(I) construction;

(II) handling of cargo (including at a port or airport);

(III) agriculture;

(IV) mining; or

(V) energy production; or

(B) an idle-reduction program involving a vehicle or equipment described in subparagraph (A).

(2) REGULATORY PROGRAMS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), no grant or loan provided under this section shall be used to fund the costs of emissions reductions that are mandated under Federal, State or local law.

(B) MANDATED.—For purposes of subparagraph (A), voluntary or elective emission reduction measures shall not be considered "mandated", regardless of whether the reductions are included in the State implementation plan of a State.

SEC. 753. STATE GRANT AND LOAN PROGRAMS.

(a) IN GENERAL.—Subject to the availability of adequate appropriations, the Administrator shall use 30 percent of the funds made available for a fiscal year under this subtitle to support grant and loan programs administered by States that are designed to achieve significant reductions in diesel emissions.

(b) APPLICATIONS.—The Administrator shall—

(1) provide to States guidance for use in applying for grant or loan funds under this section, including information regarding—

(A) the process and forms for applications;

(B) permissible uses of funds received; and

(C) the cost-effectiveness of various emission reduction technologies eligible to be carried out using funds provided under this section; and

(2) establish, for applications described in paragraph (1)—

(A) an annual deadline for submission of the applications;

(B) a process by which the Administrator shall approve or disapprove each application; and

(C) a streamlined process by which a State may renew an application described in paragraph (1) for subsequent fiscal years.

(c) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—For each fiscal year, the Administrator shall allocate among States for which applications are approved by the Administrator under subsection (b)(2)(B) funds made available to carry out this section for the fiscal year.

(2) ALLOCATION.—Using not more than 20 percent of the funds made available to carry out this subtitle for a fiscal year, the Administrator shall provide to each State described in paragraph (1) for the fiscal year an allocation of funds that is equal to—

(A) if each of the 50 States qualifies for an allocation, an amount equal to 2 percent of the funds made available to carry out this section; or

(B) if fewer than 50 States qualifies for an allocation, an amount equal to the amount described in subparagraph (A), plus an additional amount equal to the product obtained by multiplying—

(i) the proportion that—

(I) the population of the State; bears to

(II) the population of all States described in paragraph (1); by

(ii) the amount of funds remaining after each State described in paragraph (1) receives the 2-percent allocation under this paragraph.

(3) STATE MATCHING INCENTIVE.—

(A) IN GENERAL.—If a State agrees to match the allocation provided to the State under paragraph (2) for a fiscal year, the Administrator shall provide to the State for the fiscal year an additional amount equal to 50 percent of the allocation of the State under paragraph (2).

(B) REQUIREMENTS.—A State—

(i) may not use funds received under this subtitle to pay a matching share required under this subsection; and

(ii) shall not be required to provide a matching share for any additional amount received under subparagraph (A).

(4) UNCLAIMED FUNDS.—Any funds that are not claimed by a State for a fiscal year under this subsection shall be used to carry out section 742.

(d) ADMINISTRATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3) and, to the extent practicable, the priority areas listed in section 742(c)(3), a State shall use any funds provided under this section to develop and implement such grant and low-cost revolving loan programs in the State as are appropriate to meet State needs and goals relating to the reduction of diesel emissions.

(2) APPORTIONMENT OF FUNDS.—The Governor of a State that receives funding under this section may determine the portion of funds to be provided as grants or loans.

(3) USE OF FUNDS.—A grant or loan provided under this section may be used for a project relating to—

(A) a certified engine configuration; or

(B) a verified technology.

SEC. 754. EVALUATION AND REPORT.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and biennially thereafter, the Administrator shall submit to Congress a report evaluating the implementation of the programs under this subtitle.

(b) INCLUSIONS.—The report shall include a description of—

(1) the total number of grant applications received;

(2) each grant or loan made under this subtitle, including the amount of the grant or loan;

(3) each project for which a grant or loan is provided under this subtitle, including the criteria used to select the grant or loan recipients;

(4) the estimated air quality benefits, cost-effectiveness, and cost-benefits of the grant and loan programs under this subtitle;

(5) the problems encountered by projects for which a grant or loan is provided under this subtitle; and

(6) any other information the Administrator considers to be appropriate.

SEC. 755. OUTREACH AND INCENTIVES.

(a) DEFINITION OF ELIGIBLE TECHNOLOGY.—In this section, the term "eligible technology" means—

(1) a verified technology; or

(2) an emerging technology.

(b) TECHNOLOGY TRANSFER PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a program under which the Administrator—

(A) informs stakeholders of the benefits of eligible technologies; and

(B) develops nonfinancial incentives to promote the use of eligible technologies.

(2) ELIGIBLE STAKEHOLDERS.—Eligible stakeholders under this section include—

(A) equipment owners and operators;

(B) emission control technology manufacturers;

(C) engine and equipment manufacturers;

(D) State and local officials responsible for air quality management;

(E) community organizations; and

(F) public health and environmental organizations.

(c) STATE IMPLEMENTATION PLANS.—The Administrator shall develop appropriate guidance to provide credit to a State for emission reductions in the State created by

the use of eligible technologies through a State implementation plan under section 110 of the Clean Air Act (42 U.S.C. 7410).

(d) INTERNATIONAL MARKETS.—The Administrator, in coordination with the Department of Commerce and industry stakeholders, shall inform foreign countries with air quality problems of the potential of technology developed or used in the United States to provide emission reductions in those countries.

SEC. 756. EFFECT OF SUBTITLE.

Nothing in this subtitle affects any authority under the Clean Air Act (42 U.S.C. 7401 et seq.) in existence on the day before the date of enactment of this Act.

SEC. 757. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $200,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

TITLE VIII—HYDROGEN

SEC. 801. HYDROGEN RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

The Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 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;*

"(2) to make critical public investments in building strong links to private industry, institutions of higher education, National Laboratories, and research institutions to expand innovation and industrial growth;

"(3) to build a mature hydrogen economy that creates fuel diversity in the massive transportation sector of the United States;

"(4) to sharply decrease the dependency of the United States on imported oil, eliminate most emissions from the transportation sector, and greatly enhance our energy security; and

"(5) to create, strengthen, and protect a sustainable national energy economy.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) DEPARTMENT.—The term 'Department' means the Department of Energy.

"(2) FUEL CELL.—The term 'fuel cell' means a device that directly converts the chemical energy of a fuel, which is supplied from an external source, and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

"(3) HEAVY-DUTY VEHICLE.—The term 'heavy-duty vehicle' means a motor vehicle that—

"(A) is rated at more than 8,500 pounds gross vehicle weight;

"(B) has a curb weight of more than 6,000 pounds; or

"(C) has a basic vehicle frontal area in excess of 45 square feet.

"(4) INFRASTRUCTURE.—The term 'infrastructure' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).

"(5) LIGHT-DUTY VEHICLE.—The term 'light-duty vehicle' means a motor vehicle that is rated at 8,500 or less pounds gross vehicle weight.

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

"(7) STATIONARY; PORTABLE.—The terms 'stationary' and 'portable', when used in reference to a fuel cell, include—

"(A) continuous electric power; and

"(B) backup electric power.

"(8) TASK FORCE.—The term 'Task Force' means the Hydrogen and Fuel Cell Technical Task Force established under section 102(a).

"(9) TECHNICAL ADVISORY COMMITTEE.—The term 'Technical Advisory Committee' means the inde-

pendent Technical Advisory Committee of the Task Force selected under section 102(d).

"TITLE I—HYDROGEN AND FUEL CELLS

"SEC. 101. HYDROGEN AND FUEL CELL TECHNOLOGY RESEARCH AND DEVELOPMENT.

"(a) IN GENERAL.—The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a research and development program on technologies relating to the production, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

"(b) GOAL.—The goal of the program shall be to demonstrate and commercialize the use of hydrogen for transportation (in light-duty vehicles and heavy-duty vehicles), utility, industrial, commercial and residential applications.

"(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical evolution and cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and end uses of hydrogen that—

"(1) steadily increase production, distribution, and end use efficiency and reduce life-cycle emissions;

"(2) resolve critical problems relating to catalysts, membranes, storage, lightweight materials, electronic controls, manufacturability, and other problems that emerge from research and development;

"(3) enhance sources of renewable fuels and biofuels for hydrogen production; and

"(4) enable widespread use of distributed electricity generation and storage.

"(d) PUBLIC EDUCATION AND RESEARCH.—In carrying out this section, the Secretary shall support enhanced public education and research conducted at institutions of higher education in fundamental sciences, application design, and systems concepts (including education and research relating to materials, subsystems, manufacturability, maintenance, and safety) relating to hydrogen and fuel cells.

"(e) COST SHARING.—The costs of carrying out projects and activities under this section shall be shared in accordance with section 1002 of the Energy Policy Act of 2005.

"SEC. 102. TASK FORCE.

"(a) ESTABLISHMENT.—The Secretary, in consultation with the Director of the Office of Science and Tech-

nology Policy, shall establish an interagency Task Force, to be known as the 'Hydrogen and Fuel Cell Technical Task Force' to advise the Secretary in carrying out programs under this Act.

"(b) MEMBERSHIP.—The Task Force shall be comprised of such representatives of the Office of Science and Technology Policy, the Environmental Protection Agency, the Department of Transportation, the Department of Defense, the National Aeronautics and Space Administration, and such other Federal employees, as the Secretary, in consultation with the Director of the Office of Science and Technology Policy, determines to be appropriate.

"(c) DUTIES.—The Task Force shall review and make any necessary recommendations to the Secretary on implementation and conduct of programs under this Act.

"(d) TECHNICAL ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The Secretary shall select such number of members as the Secretary considers to be appropriate to form an independent, nonpolitical Technical Advisory Committee.

"(2) MEMBERSHIP.—Each member of the Technical Advisory Committee shall have scientific, technical, or industrial expertise, as determined by the Secretary.

"(3) DUTIES.—The Technical Advisory Committee shall provide technical advice and assistance to the Task Force and the Secretary.

"SEC. 103. TECHNOLOGY TRANSFER.

"In carrying out this Act, the Secretary shall carry out programs that—

"(1) provide for the transfer of critical hydrogen and fuel cell technologies to the private sector;

"(2) accelerate wider application of those technologies in the global market;

"(3) foster the exchange of generic, nonproprietary information; and

"(4) assess technical and commercial viability of technologies relating to the production, distribution, storage, and use of hydrogen energy and fuel cells.

"SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

"(a) HYDROGEN SUPPLY.—There are authorized to be appropriated to carry out projects and activities relating to hydrogen production, storage, distribution and dispensing, transport, education and coordination, and technology transfer under this title—

"(1) $160,000,000 for fiscal year 2006;

"(2) $200,000,000 for fiscal year 2007;

"(3) $220,000,000 for fiscal year 2008;

"(4) $230,000,000 for fiscal year 2009;

"(5) $250,000,000 for fiscal year 2010; and

"(6) such sums as are necessary for each of fiscal years 2011 through 2015.

"(b) FUEL CELL TECHNOLOGIES.—There are authorized to be appropriated to carry out projects and activities relating to fuel cell technologies under this title—

"(1) $150,000,000 for fiscal year 2006;

"(2) $160,000,000 for fiscal year 2007;

"(3) $170,000,000 for fiscal year 2008;

"(4) $180,000,000 for fiscal year 2009;

"(5) $200,000,000 for fiscal year 2010; and

"(6) such sums as are necessary for each of fiscal years 2011 through 2015.

"TITLE II—HYDROGEN AND FUEL CELL DEMONSTRATION

"SEC. 201. HYDROGEN SUPPLY AND FUEL CELL DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall carry out a program to demonstrate developmental hydrogen and fuel cell systems for mobile, portable, and stationary uses, using improved versions of the learning demonstrations program concept of the Department including demonstrations involving—

"(1) light-duty vehicles;

"(2) heavy-duty vehicles;

"(3) fleet vehicles;

"(4) specialty industrial and farm vehicles; and

"(5) commercial and residential portable, continuous, and backup electric power generation.

"(b) OTHER DEMONSTRATION PROGRAMS.—To develop widespread hydrogen supply and use options, and assist evolution of technology, the Secretary shall—

"(1) carry out demonstrations of evolving hydrogen and fuel cell technologies in national parks, remote island areas, and on Indian tribal land, as selected by the Secretary;

"(2) in accordance with any code or standards developed in a region, fund prototype, pilot fleet, and infrastructure regional hydrogen supply corridors along the interstate highway system in varied climates across the United States; and

"(3) fund demonstration programs that explore the use of hydrogen blends, hybrid hydrogen, and hydrogen reformed from renewable agricultural fuels, including the use of hydrogen in hybrid electric, heavier duty, and advanced internal combustion-powered vehicles.

"(c) SYSTEM DEMONSTRATIONS.—

"(1) IN GENERAL.—As a component of the demonstration program under this section, the Secretary shall provide grants, on a cost share basis as appropriate, to eligible entities (as determined by the Secretary) for use in—

"(A) devising system design concepts that provide for the use of advanced composite vehicles in programs under section 732 of the Energy Policy Act of 2005 that—

"(i) have as a primary goal the reduction of drive energy requirements;

"(ii) after 2010, add another research and development phase to the vehicle and infrastructure partnerships developed under the learning demonstrations program concept of the Department; and

"(iii) are managed through an enhanced FreedomCAR program within the Department that encourages involvement in cost-shared projects by manufacturers and governments; and

"(B) designing a local distributed energy system that—

"(i) incorporates renewable hydrogen production, off-grid electricity production,

and fleet applications in industrial or commercial service;

"(ii) integrates energy or applications described in clause (i), such as stationary, portable, micro, and mobile fuel cells, into a high-density commercial or residential building complex or agricultural community; and

"(iii) is managed in cooperation with industry, State, tribal, and local governments, agricultural organizations, and nonprofit generators and distributors of electricity.

"(2) COST SHARING.—The costs of carrying out a project or activity under this subsection shall be shared in accordance with section 1002 of the Energy Policy Act of 2005.

"(d) IDENTIFICATION OF NEW RESEARCH AND DEVELOPMENT REQUIREMENTS.—In carrying out the demonstrations under subsection (a), the Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall—

"(1) after 2008 for stationary and portable applications, and after 2010 for vehicles, identify new research and development requirements that refine

technological concepts, planning, and applications; and

"(2) during the second phase of the learning demonstrations under subsection (c)(1)(A)(ii) redesign subsequent research and development to incorporate those requirements.

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title—

"(1) $185,000,000 for fiscal year 2006;

"(2) $200,000,000 for fiscal year 2007;

"(3) $250,000,000 for fiscal year 2008;

"(4) $300,000,000 for fiscal year 2009;

"(5) $375,000,000 for fiscal year 2010; and

"(6) such sums as are necessary for each of fiscal years 2011 through 2015.

"TITLE III—REGULATORY MANAGEMENT

"SEC. 301. CODES AND STANDARDS.

"(a) IN GENERAL.—The Secretary, in cooperation with the Task Force, shall provide grants to, or offer to enter into contracts with such professional organizations, public service organizations, and government agencies as the Secretary determines appropriate to support timely and extensive development of safety codes and standards relating to

fuel cell vehicles, hydrogen energy systems, and stationary, portable, and micro fuel cells.

"(b) EDUCATIONAL EFFORTS.—The Secretary shall support educational efforts by organizations and agencies described in subsection (a) to share information, including information relating to best practices, among those organizations and agencies.

"SEC. 302. DISCLOSURE.

"Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) shall apply to any project carried out through a grant, cooperative agreement, or contract under this Act.

"SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title—

"(1) $4,000,000 for fiscal year 2006;

"(2) $7,000,000 for fiscal year 2007;

"(3) $8,000,000 for fiscal year 2008;

"(4) $10,000,000 for fiscal year 2009;

"(5) $9,000,000 for fiscal year 2010; and

"(6) such sums as are necessary for each of fiscal 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

"(B) 2,500,000 hydrogen-fueled vehicles by 2020;

"(5) progress made toward achieving the goal of supplying hydrogen at a sufficient number of fueling stations in the United States by 2010 can be achieved by integrating—

"(A) hydrogen activities; and

"(B) associated targets and timetables for the development of hydrogen technologies;

"(6) any problem relating to the design, execution, or funding of a program under this Act;

"(7) progress made toward and goals achieved in carrying out this Act and updates to the developmental roadmap, including the results of the reviews conducted by the National Academy of Sciences under subsection (b) for the fiscal years covered by the report; and

"(8) any updates to strategic plans that are necessary to meet the goals described in paragraph (4).

"(b) NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct and submit to the Secretary, not later than September 30, 2007, and triennially thereafter—

"(A) the results of a review of the projects and activities carried out under this Act;

"(B) recommendations for any new authorities or resources needed to achieve strategic goals; and

"(C) recommendations for approaches by which the Secretary could achieve a substantial decrease in the dependence on and consumption of natural gas and imported oil by the Federal Government, including by increasing the use of fuel cell vehicles, stationary and portable fuel cells, and hydrogen energy systems.

"(2) REAUTHORIZATION.—The Secretary shall use the results of reviews conducted under paragraph (1) in proposing to Congress any legislative changes relating to reauthorization of this Act.

"SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this title $1,500,000 for each of fiscal years 2006 through 2010.

"TITLE V—TERMINATION OF AUTHORITY

"SEC. 501. TERMINATION OF AUTHORITY.

"This Act and the authority provided by this Act terminate on September 30, 2015.".

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 901. SHORT TITLE.

This title may be cited as the "Energy Research, Development, Demonstration, and Commercial Application Act of 2005".

SEC. 902. GOALS.

(a) IN GENERAL.—In order to achieve the purposes of this title, the Secretary shall conduct a balanced set of programs of energy research, development, demonstration, and commercial application focused on—

(1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies;

(2) promoting diversity of energy supply;

(3) decreasing the dependence of the United States on foreign energy supplies;

(4) improving the energy security of the United States; and

(5) decreasing the environmental impact of energy-related activities.

(b) GOALS.—The Secretary shall publish measurable cost and performance-based goals with each annual budget submission in at least the following areas:

(1) Energy efficiency for buildings, energy-consuming industries, and vehicles.

(2) Electric energy generation (including distributed generation), transmission, and storage.

(3) Renewable energy technologies, including wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, and hydropower.

(4) Fossil energy, including power generation, onshore and offshore oil and gas resource recovery, and transportation.

(5) Nuclear energy, including programs for existing and advanced reactors, and education of future specialists.

(c) PUBLIC COMMENT.—The Secretary shall provide mechanisms for input on the annually published goals from industry, institutions of higher education, and other public sources.

(d) EFFECT OF GOALS.—Nothing in subsection (a) or the annually published goals creates any new authority for any Federal agency, or may be used by any Federal agency, to support the establishment of regulatory standards or regulatory requirements.

SEC. 903. DEFINITIONS.

In this title:

(1) DEPARTMENTAL MISSION.—The term "departmental mission" means any of the functions vested in the Secretary by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(2) HISPANIC-SERVING INSTITUTION.—The term "Hispanic-serving institution" has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

(3) NONMILITARY ENERGY LABORATORY.—The term "nonmilitary energy laboratory" means a National Laboratory other than a National Laboratory listed in subparagraph (G), (H), or (N) of section 2(3).

(4) PART B INSTITUTION.—The term "part B institution" has the meaning given the term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(5) SINGLE-PURPOSE RESEARCH FACILITY.—The term "single-purpose research facility" means—

(A) any of the primarily single-purpose entities owned by the Department; or

(B) any other organization of the Department designated by the Secretary.

Subtitle A—Energy Efficiency

SEC. 911. ENERGY EFFICIENCY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) $772,000,000 for fiscal year 2006;

(2) $865,000,000 for fiscal year 2007; and

(3) $920,000,000 for fiscal year 2008.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 912, $50,000,000 for each of fiscal years 2006 through 2008.

(2) For activities under section 914, $7,000,000 for each of fiscal years 2006 through 2008.

(3) For activities under section 915—

(A) $30,000,000 for fiscal year 2006;

(B) $35,000,000 for fiscal year 2007; and

(C) $40,000,000 for fiscal year 2008.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary to carry out section 912 $50,000,000 for each of fiscal years 2009 through 2013.

(d) LIMITATIONS.—None of the funds authorized to be appropriated under this section may be used for—

(1) the issuance or implementation of energy efficiency regulations;

(2) the weatherization program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(3) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(4) a Federal energy management measure carried out under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.).

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) ADVANCED SOLID-STATE LIGHTING.—The term "advanced solid-state lighting" means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) INDUSTRY ALLIANCE.—The term "Industry Alliance" means an entity selected by the Secretary under subsection (d).

(3) INITIATIVE.—The term "Initiative" means the Next Generation Lighting Initiative carried out under this section.

(4) RESEARCH.—The term "research" includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(5) WHITE LIGHT EMITTING DIODE.—The term "white light emitting diode" means a semiconducting package, using either organic or inorganic materials, that produces white light using externally applied voltage.

(b) INITIATIVE.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(c) OBJECTIVES.—The objectives of the Initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting, are more energy-efficient and cost-competitive, and have less environmental impact.

(d) INDUSTRY ALLIANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall competitively select an Industry Alliance to represent participants who are private, for-profit firms, including large

and small businesses, that, as a group, are broadly representative of United States solid state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(e) RESEARCH.—

(1) GRANTS.—The Secretary shall carry out the research activities of the Initiative through competitively awarded grants to—

(A) researchers, including Industry Alliance participants;

(B) small businesses;

(C) National Laboratories; and

(D) institutions of higher education.

(2) INDUSTRY ALLIANCE.—The Secretary shall annually solicit from the Industry Alliance—

(A) comments to identify solid-state lighting technology needs;

(B) an assessment of the progress of the research activities of the Initiative; and

(C) assistance in annually updating solid-state lighting technology roadmaps.

(3) AVAILABILITY TO PUBLIC.—The information and roadmaps under paragraph (2) shall be available to the public.

(f) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—The Secretary shall carry out a development, demonstration, and commercial application program for the Initiative through competitively selected awards.

(2) PREFERENCE.—In making the awards, the Secretary may give preference to participants in the Industry Alliance.

(g) COST SHARING.—In carrying out this section, the Secretary shall require cost sharing in accordance with section 1002.

(h) INTELLECTUAL PROPERTY.—The Secretary may require (in accordance with section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908)) that for any new invention developed under subsection (e)—

(1) that the Industry Alliance participants who are active participants in research, development, and demonstration activities related to the advanced solid-state lighting technologies that are covered by this section shall be granted the first option to negotiate with the invention owner, at least in the field of solid-state

lighting, nonexclusive licenses and royalties on terms that are reasonable under the circumstances;

(2)(i) that, for 1 year after a United States patent is issued for the invention, the patent holder shall not negotiate any license or royalty with any entity that is not a participant in the Industry Alliance described in paragraph (1); and

(ii) that, during the year described in clause (i), the patent holder shall negotiate nonexclusive licenses and royalties in good faith with any interested participant in the Industry Alliance described in paragraph (1); and

(3) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(i) NATIONAL ACADEMY REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Initiative.

SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under sub-

section (e), a National Building Performance Initiative (referred to in this section as the "Initiative").

(2) COCHAIRS.—The interagency group shall be co-chaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) INTEGRATION OF EFFORTS.—The Initiative shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the interagency group shall submit to Congress a plan for carrying out the appropriate Federal role in the Initiative.

(2) INCLUSIONS.—The plan shall include—

(A) research, development, demonstration, and commercial application of systems and materials for new construction and retrofit relating to the building envelope and building system components;

(B) research, development, demonstration, and commercial application to develop tech-

nology and infrastructure enabling the energy efficient, automated operation of buildings and building equipment; and

(C) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(e) ADVISORY COMMITTEE.—The Director of the Office of Science and Technology Policy shall establish an advisory committee to—

(1) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(2) review and provide recommendations on the plan described in subsection (c).

(f) ADMINISTRATION.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) BATTERY.—The term "battery" means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(2) ASSOCIATED EQUIPMENT.—The term "associated equipment" means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries.

(2) ADMINISTRATION.—The program shall be—

(A) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(B) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(C) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) SOLICITATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States.

(2) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that the solicitations are necessary to carry out this section.

(d) SELECTION OF PROPOSALS.—

(1) IN GENERAL.—Not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), the Secretary shall select up to 5 proposals that may receive financial assistance under this section once the Department receives appropriated funds to carry out this section.

(2) FACTORS.—In selecting proposals, the Secretary shall consider—

(A) the diversity of battery type;

(B) geographic and climatic diversity; and

(C) life-cycle environmental effects of the approaches.

(3) LIMITATION.—No 1 project selected under this section shall receive more than 25 percent of the funds made available to carry out the program under this section.

(4) NONFEDERAL INVOLVEMENT.—In selecting proposals, the Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) OTHER CRITERIA.—In selecting proposals, the Secretary may consider such other criteria as the Secretary considers appropriate.

(e) CONDITIONS.—In carrying out this section, the Secretary shall require that—

(1) relevant information be provided to—

(A) the Department;

(B) the users of the batteries;

(C) the proposers of a project under this section; and

(D) the battery manufacturers; and

(2) the costs of carrying out projects and activities under this section are shared in accordance with section 1002.

SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary shall submit to Congress, along with the annual budget request of the President submitted to Congress, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

SEC. 916. BUILDING STANDARDS.

(a) DEFINITION OF HIGH PERFORMANCE BUILDING.—In this section, the term "high performance building" means a building that integrates and optimizes energy efficiency, durability, life-cycle performance, and occupant productivity.

(b) ASSESSMENT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Institute of Building Sciences to—

(1) conduct an assessment (in cooperation with industry, standards development organizations, and other entities, as appropriate) of whether the current voluntary consensus standards and rating systems for high performance buildings are consistent with the research, development and demonstration activities of the Department;

(2) determine if additional research is required, based on the findings of the assessment; and,

(3) recommend steps for the Secretary to accelerate the development of voluntary consensus-based standards for high performance buildings that are based on the findings of the assessment.

(c) GRANT AND TECHNICAL ASSISTANCE PROGRAM.—Consistent with subsection (b), the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 3701 et seq.), and the amendments made by that Act, the Secretary shall establish a grant and technical assistance program to support the development of voluntary consensus-based standards for high performance buildings.

Subtitle B—Distributed Energy and Electric Energy Systems

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—

(1) DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS ACTIVITIES.—There are authorized to be appropriated to the Secretary to carry out distributed energy and electric energy systems activities, including activities authorized under this subtitle—

(A) $220,000,000 for fiscal year 2006;

(B) $240,000,000 for fiscal year 2007; and

(C) $260,000,000 for fiscal year 2008.

(2) POWER DELIVERY RESEARCH INITIATIVE.—There are authorized to be appropriated to the Secretary to carry out the Policy Delivery Research Initiative under subsection 925(e)—

(A) $30,000,000 for fiscal year 2006;

(B) $35,000,000 for fiscal year 2007; and

(C) $40,000,000 for fiscal year 2008.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under subsection (a), $20,000,000 for each of fiscal years 2006 and 2007 shall be available to carry out activities under section 924.

SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a comprehensive research, development, demonstration, and commercial application program to improve the energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities.

(b) TECHNOLOGIES.—The program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 923. MICRO-COGENERATION ENERGY TECHNOLOGY.

(a) IN GENERAL.—The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology.

(b) USES.—The consortia shall explore—

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

(2) the use of excess power to operate other appliances within the residence; and

(3) the supply of excess generated power to the power grid.

SEC. 924. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAM.

The Secretary may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the use of distributed energy technologies (such as fuel cells, microturbines, reciprocating engines, thermally activated technologies, and combined heat and power systems) in highly energy intensive commercial applications.

SEC. 925. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) DEMONSTRATION PROGRAM.—The Secretary shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems, which shall include—

(1) advanced energy and energy storage technologies, materials, and systems, giving priority to new transmission technologies, including composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and submit to Congress a 5-year program plan to guide activities under this section.

(2) CONSULTATION.—In preparing the program plan, the Secretary shall consult with—

(A) utilities;

(B) energy service providers;

(C) manufacturers;

(D) institutions of higher education;

(E) other appropriate State and local agencies;

(F) environmental organizations;

(G) professional and technical societies; and

(H) any other persons the Secretary considers appropriate.

(c) IMPLEMENTATION.—The Secretary shall consider implementing the program under this section using a consortium of participants from industry, institutions of higher education, and National Laboratories.

(d) REPORT.—Not later than 2 years after the submission of the plan under subsection (b), the Secretary shall submit to Congress a report—

(1) describing the progress made under this section; and

(2) identifying any additional resources needed to continue the development and commercial application of transmission and distribution of infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on power delivery using compo-

nents incorporating high temperature superconductivity.

(2) GOALS.—The goals of the Initiative shall be—

(A) to establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) to provide technical leadership for establishing reliability for high temperature superconductivity power applications, including suitable modeling and analysis;

(C) to facilitate the commercial transition toward direct current power transmission, storage, and use for high power systems using high temperature superconductivity; and

(D) to facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control, and reliability.

(3) INCLUSIONS.—The Initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current,

and controllable alternating current transmission systems;

(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and

(C) testbeds developed in cooperation with National Laboratories, industries, and institutions of higher education to—

(i) demonstrate those technologies;

(ii) prepare the technologies for commercial introduction; and

(iii) address cost or performance roadblocks to successful commercial use.

(f) TRANSMISSION AND DISTRIBUTION GRID PLANNING AND OPERATIONS INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on tools needed to plan, operate, and expand the transmission and distribution grids in the presence of competitive market mechanisms for energy, load demand, customer response, and ancillary services.

(2) GOALS.—The goals of the Initiative shall be—

(A)(i) to develop and use a geographically distributed center, consisting of institutions of higher education, and National Laboratories, with expertise and facilities to develop the underlying theory and software for power system application; and

(ii) to ensure commercial development in partnership with software vendors and utilities;

(B) to provide technical leadership in engineering and economic analysis for the reliability and efficiency of power systems planning and operations in the presence of competitive markets for electricity;

(C) to model, simulate, and experiment with new market mechanisms and operating practices to understand and optimize those new methods before actual use; and

(D) to provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

Subtitle C—Renewable Energy

SEC. 931. RENEWABLE ENERGY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) $610,000,000 for fiscal year 2006;

(2) $659,000,000 for fiscal year 2007; and

(3) $710,000,000 for fiscal year 2008.

(b) BIOENERGY.—From the amounts authorized under subsection (a), there are authorized to be appropriated to carry out section 932—

(1) $167,650,000 for fiscal year 2006;

(2) $180,000,000 for fiscal year 2007; and

(3) $192,000,000 for fiscal year 2008.

(c) CONCENTRATING SOLAR POWER.—From amounts authorized under subsection (a), there is authorized to be appropriated to carry out section 933 $50,000,000 for each of fiscal years 2006 through 2008.

(d) ADMINISTRATION.—Of the funds authorized under subsection (b), not less than $5,000,000 for each fiscal year shall be made available for grants to—

(1) part B institutions;

(2) Tribal Colleges or Universities (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and

(3) Hispanic-serving institutions.

(e) CONSULTATION.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of—

(1) advanced wind power technology, including combined use with coal gasification;

(2) biomass;

(3) geothermal energy systems; and

(4) other renewable energy technologies to assist in delivering electricity to rural and remote locations.

SEC. 932. BIOENERGY PROGRAM.

(a) DEFINITION OF LIGNOCELLULOSIC FEEDSTOCK.—In this section, the term "lignocellulosic feedstock" means any portion of a plant or coproduct from conversion, including crops, trees, and agricultural and forest residues not specifically grown for food.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower energy systems;

(2) biofuels;

(3) bioproducts;

(4) integrated biorefineries that may produce biopower, biofuels, and bioproducts;

(5) cross-cutting research and development in feedstocks; and

(6) economic analysis.

(c) BIOFUELS AND BIOPRODUCTS.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry and institutions of higher education—

(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from lignocellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles;

(2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of biorefinery technologies using enzyme-based processing systems;

(3) advanced biotechnology processes capable of increasing energy production from lignocellulosic feedstocks, with emphasis on reducing the dependence of industry on fossil fuels in manufacturing facilities; and

(4) other advanced processes that will enable the development of cost-effective bioproducts, including biofuels.

(d) REPEAL OF SUNSET PROVISION.—Section 311 of the Biomass Research and Development Act of 2000 (7 U.S.C. 8101 note) is repealed.

SEC. 933. HYDROGEN INTERMEDIATE FUELS RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, shall carry out a 3-year program of research, development, and demonstration on the use of ethanol and other low-cost transportable renewable feedstocks as intermediate fuels for the safe, energy efficient, and cost-effective transportation of hydrogen.

(b) GOALS.—The goals of the program shall include—

(1) demonstrating the cost-effective conversion of ethanol or other low-cost transportable renewable feedstocks to pure hydrogen suitable for eventual use in fuel cells;

(2) using existing commercial reforming technology or modest modifications of existing technology to reform ethanol or other low-cost transportable renewable feedstocks into hydrogen;

(3) converting at least 1 commercially available internal combustion engine hybrid electric passenger vehicle to operate on hydrogen;

(4) not later than 1 year after the date on which the program begins, installing and operating an ethanol reformer, or reformer for another low-cost transportable renewable feedstock (including onsite hydrogen compression, storage, and dispensing), at the facilities of a fleet operator;

(5) operating the 1 or more vehicles described in paragraph (3) for a period of at least 2 years; and

(6) collecting emissions and fuel economy data on the 1 or more vehicles described in paragraph (3) in various operating and environmental conditions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

SEC. 934. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a program of research and development to evaluate the potential for concentrating solar power for hydrogen production, including cogeneration approaches for both hydrogen and electricity.

(b) ADMINISTRATION.—The program shall take advantage of existing facilities to the extent practicable and shall include—

(1) development of optimized technologies that are common to both electricity and hydrogen production;

(2) evaluation of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;

(3) evaluation of materials issues for the thermochemical cycles described in paragraph (2);

(4) cogeneration of solar thermal electric power and photo-synthetic-based hydrogen production;

(5) system architectures and economics studies; and

(6) coordination with activities under the Advanced Reactor Hydrogen Co-generation Project established under subtitle C of title VI on high temperature materials, thermochemical cycles, and economic issues.

(c) ASSESSMENT.—In carrying out the program under this section, the Secretary shall—

(1) assess conflicting guidance on the economic potential of concentrating solar power for electricity production received from the National Research Coun-

cil in the report entitled "Renewable Power Pathways: A Review of the U.S. Department of Energy's Renewable Energy Programs" and dated 2000 and subsequent reviews of that report funded by the Department; and

(2) provide an assessment of the potential impact of technology used to concentrate solar power for electricity before, or concurrent with, submission of the budget for fiscal year 2007.

(d) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall provide to Congress a report on the economic and technical potential for electricity or hydrogen production, with or without cogeneration, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity or hydrogen from concentrating solar power.

SEC. 935. HYBRID SOLAR LIGHTING RESEARCH AND DEVELOPMENT PROGRAM.

(a) DEFINITION OF HYBRID SOLAR LIGHTING.—In this section, the term "hybrid solar lighting" means a novel lighting system that integrates sunlight and electrical lighting in complement to each other in common lighting fixtures for the purpose of improving energy efficiency.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for hybrid solar lighting aimed at developing hybrid solar lighting systems that are—

(1) designed to eliminate large roof penetrations and associated architectural design and maintenance problems that limit the conventional use of daylight in most buildings;

(2) easily integrated with electric lights; and

(3) compatible with a majority of electric lamps and light fixtures.

(c) LIMITATIONS.—Funding authorized under this section shall not be used for lighting systems based on conventional daylighting installations such as skylights, light wells, light shelves, or roof monitors.

(d) NATIONAL ACADEMY OF SCIENCES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a biannual review of the activities under this section including program priorities, technical milestones, and opportunities for technology transfer and commercialization.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $4,000,000 for fiscal year 2006;

(2) $6,000,000 for fiscal year 2007; and

(3) $6,000,000 for fiscal year 2008.

SEC. 936. MISCELLANEOUS PROJECTS.

The Secretary shall conduct research, development, demonstration, and commercial application programs for—

(1) ocean energy, including wave energy;

(2) the combined use of renewable energy technologies with 1 another and with other energy technologies, including the combined use of wind power and coal gasification technologies; and

(3) renewable energy technologies for cogeneration of hydrogen and electricity.

SEC. 937. BIOMASS RESEARCH AND DEVELOPMENT.

(a) DEFINITIONS.—Section 303 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) by striking paragraphs (2), (9), and (10);

(2) by redesignating paragraphs (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (7), (8), (9), and (10), respectively;

(3) by inserting after paragraph (1) the following:

"(2) BIOBASED FUEL.—The term 'biobased fuel' means any transportation fuel produced from biomass.

"(3) BIOBASED PRODUCT.—The term 'biobased product' means an industrial product (including chemicals, materials, and polymers) produced from biomass, or a commercial or industrial product (including animal feed and electric power) derived in connection with the conversion of biomass to fuel.";

(4) by inserting after paragraph (5) (as redesignated by paragraph (2)) the following:

"(6) DEMONSTRATION.—The term 'demonstration' means demonstration of technology in a pilot plant or semi-works scale facility."; and

(5) by striking paragraph (9) (as redesignated by paragraph (2)) and inserting the following:

"(9) NATIONAL LABORATORY.—The term 'National Laboratory' means any of the following laboratories owned by the Department:

"(A) Ames Laboratory.

"(B) Argonne National Laboratory.

"(C) Brookhaven National Laboratory.

"(D) Fermi National Accelerator Laboratory.

"(E) Idaho National Laboratory.

"(F) Lawrence Berkeley National Laboratory.

"(G) Lawrence Livermore National Laboratory.

"(H) Los Alamos National Laboratory.

"(I) National Energy Technology Laboratory.

"(J) National Renewable Energy Laboratory.

"(K) Oak Ridge National Laboratory.

"(L) Pacific Northwest National Laboratory.

"(M) Princeton Plasma Physics Laboratory.

"(N) Sandia National Laboratories.

"(O) Stanford Linear Accelerator Center.

"(P) Thomas Jefferson National Accelerator Facility.".

(b) COOPERATION AND COORDINATION IN BIOMASS RESEARCH AND DEVELOPMENT.—Section 304 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsections (a) and (d), by striking "industrial products" each place it appears and inserting "fuels and biobased products";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(c) BIOMASS RESEARCH AND DEVELOPMENT BOARD.—Section 305 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsections (a) and (c), by striking "industrial products" each place it appears and inserting "fuels and biobased products";

(2) in subsection (b)—

(A) in paragraph (1), by striking "304(d)(1)(B)" and inserting "304(b)(1)(B)"; and

(B) in paragraph (2), by striking "304(d)(1)(A)" and inserting "304(b)(1)(A)"; and

(3) in subsection (c)—

(A) in paragraph (1)(B), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(3) ensure that—

"(A) solicitations are open and competitive with awards made annually; and

"(B) objectives and evaluation criteria of the solicitations are clearly stated and mini-

mally prescriptive, with no areas of special interest; and

"(4) ensure that the panel of scientific and technical peers assembled under section 307(g)(1)(C) to review proposals is composed predominantly of independent experts selected from outside the Departments of Agriculture and Energy.".

(d) BIOMASS RESEARCH AND DEVELOPMENT TECHNICAL ADVISORY COMMITTEE.—Section 306 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking "biobased industrial products" and inserting "biofuels";

(B) by redesignating subparagraphs (B) through (J) as subparagraphs (C) through (K), respectively;

(C) by inserting after subparagraph (A) the following:

"(B) an individual affiliated with the biobased industrial and commercial products industry;";

(D) in subparagraph (F) (as redesignated by subparagraph (B)) by striking "an individual has" and inserting "2 individuals have";

(E) in subparagraphs (C), (D), (G), and (I) (as redesignated by subparagraph (B)) by striking "industrial products" each place it appears and inserting "fuels and biobased products"; and

(F) in subparagraph (H) (as redesignated by subparagraph (B)), by inserting "and environmental" before "analysis";

(2) in subsection (c)(2)—

(A) in subparagraph (A), by striking "goals" and inserting "objectives, purposes, and considerations";

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

"(B) solicitations are open and competitive with awards made annually and that objectives and evaluation criteria of the solicitations are clearly stated and minimally prescriptive, with no areas of special interest;"; and

(D) in subparagraph (C) (as redesignated by subparagraph (B)) by inserting "predominantly from outside the Departments of Agriculture and Energy" after "technical peers".

(e) BIOMASS RESEARCH AND DEVELOPMENT INITIATIVE.—Section 307 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (a), by striking "research on biobased industrial products" and inserting "research on, and development and demonstration of, biobased fuels and biobased products, and the methods, practices and technologies, biotechnology, for their production"; and

(2) by striking subsections (b) through (e) and inserting the following:

"(b) OBJECTIVES.—The objectives of the Initiative are to develop—

"(1) technologies and processes necessary for abundant commercial production of biobased fuels at prices competitive with fossil fuels;

"(2) high-value biobased products—

"(A) to enhance the economic viability of biobased fuels and power; and

"(B) as substitutes for petroleum-based feedstocks and products; and

"(3) a diversity of sustainable domestic sources of biomass for conversion to biobased fuels and biobased products.

"(c) PURPOSES.—The purposes of the Initiative are—

"(1) to increase the energy security of the United States;

"(2) to create jobs and enhance the economic development of the rural economy;

"(3) to enhance the environment and public health; and

"(4) to diversify markets for raw agricultural and forestry products.

"(d) TECHNICAL AREAS.—To advance the objectives and purposes of the Initiative, the Secretary of Agriculture and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency and heads of other appropriate departments and agencies (referred to in this section as the 'Secretaries'), shall direct research and development toward—

"(1) feedstock production through the development of crops and cropping systems relevant to production of raw materials for conversion to biobased fuels and biobased products, including—

"(A) development of advanced and dedicated crops with desired features, including enhanced productivity, broader site range, low requirements for chemical inputs, and enhanced processing;

"(B) advanced crop production methods to achieve the features described in subparagraph (A);

"(C) feedstock harvest, handling, transport, and storage; and

"(D) strategies for integrating feedstock production into existing managed land;

"(2) overcoming recalcitrance of cellulosic biomass through developing technologies for converting cellulosic biomass into intermediates that can subsequently be converted into biobased fuels and biobased products, including—

"(A) pretreatment in combination with enzymatic or microbial hydrolysis; and

"(B) thermochemical approaches, including gasification and pyrolysis;

"(3) product diversification through technologies relevant to production of a range of biobased products (including chemicals, animal feeds, and cogenerated

power) that eventually can increase the feasibility of fuel production in a biorefinery, including—

"(A) catalytic processing, including thermochemical fuel production;

"(B) metabolic engineering, enzyme engineering, and fermentation systems for biological production of desired products or cogeneration of power;

"(C) product recovery;

"(D) power production technologies; and

"(E) integration into existing biomass processing facilities, including starch ethanol plants, paper mills, and power plants; and

"(4) analysis that provides strategic guidance for the application of biomass technologies in accordance with realization of improved sustainability and environmental quality, cost effectiveness, security, and rural economic development, usually featuring system-wide approaches.

"(e) ADDITIONAL CONSIDERATIONS.—Within the technical areas described in subsection (d), and in addition to advancing the purposes described in subsection (c) and the objectives described in subsection (b), the Secretaries shall support research and development—

"(1) to create continuously expanding opportunities for participants in existing biofuels production by seeking synergies and continuity with current technologies and practices, such as the use of dried distillers grains as a bridge feedstock;

"(2) to maximize the environmental, economic, and social benefits of production of biobased fuels and biobased products on a large scale through life-cycle economic and environmental analysis and other means; and

"(3) to assess the potential of Federal land and land management programs as feedstock resources for biobased fuels and biobased products, consistent with the integrity of soil and water resources and with other environmental considerations.

"(f) ELIGIBLE ENTITIES.—To be eligible for a grant, contract, or assistance under this section, an applicant shall be—

"(1) an institution of higher education;

"(2) a national laboratory;

"(3) a Federal research agency;

"(4) a State research agency;

"(5) a private sector entity;

"(6) a nonprofit organization; or

"(7) a consortium of 2 of more entities described in paragraphs (1) through (6).

"(g) ADMINISTRATION.—

"(1) IN GENERAL.—After consultation with the Board, the points of contact shall—

"(A) publish annually 1 or more joint requests for proposals for grants, contracts, and assistance under this section;

"(B) require that grants, contracts, and assistance under this section be awarded competitively, on the basis of merit, after the establishment of procedures that provide for scientific peer review by an independent panel of scientific and technical peers; and

"(C) give some preference to applications that—

"(i) involve a consortia of experts from multiple institutions;

"(ii) encourage the integration of disciplines and application of the best technical resources; and

"(iii) increase the geographic diversity of demonstration projects.

"(2) DISTRIBUTION OF FUNDING BY TECHNICAL AREA.—Of the funds authorized to be appropriated

for activities described in this section, funds shall be distributed for each of fiscal years 2006 through 2010 so as to achieve an approximate distribution of—

"(A) 20 percent of the funds to carry out activities for feedstock production under subsection (d)(1);

"(B) 45 percent of the funds to carry out activities for overcoming recalcitrance of cellulosic biomass under subsection (d)(2);

"(C) 30 percent of the funds to carry out activities for product diversification under subsection (d)(3); and

"(D) 5 percent of the funds to carry out activities for strategic guidance under subsection (d)(4).

"(3) DISTRIBUTION OF FUNDING WITHIN EACH TECHNICAL AREA.—Within each technical area described in paragraphs (1) through (3) of subsection (d), funds shall be distributed for each of fiscal years 2006 through 2010 so as to achieve an approximate distribution of—

"(A) 15 percent of the funds for applied fundamentals;

"(B) 35 percent of the funds for innovation; and

"(C) 50 percent of the funds for demonstration.

"(4) MATCHING FUNDS.—

"(A) IN GENERAL.—A minimum 20 percent funding match shall be required for demonstration projects under this title.

"(B) COMMERCIAL APPLICATIONS.—A minimum of 50 percent funding match shall be required for commercial application projects under this title.

"(5) TECHNOLOGY AND INFORMATION TRANSFER TO AGRICULTURAL USERS.—The Administrator of the Cooperative State Research, Education, and Extension Service and the Chief of the Natural Resources Conservation Service shall ensure that applicable research results and technologies from the Initiative are adapted, made available, and disseminated through those services, as appropriate.".

(f) ANNUAL REPORTS.—Section 309 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "purposes described in section 307(b)" and

inserting "objectives, purposes, and additional considerations described in subsections (b) through (e) of section 307";

(ii) in subparagraph (B), by striking "and" at the end;

(iii) by redesignating subparagraph (C) as subparagraph (D); and

(iv) by inserting after subparagraph (B) the following:

"(C) achieves the distribution of funds described in paragraphs (2) and (3) of section 307(g); and"; and

(B) in paragraph (2), by striking "industrial products" and inserting "fuels and biobased products"; and

(2) by adding at the end the following:

"(c) UPDATES.—The Secretary and the Secretary of Energy shall update the Vision and Roadmap documents prepared for Federal biomass research and development activities.".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 310(b) of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note) is amended by striking "title $54,000,000 for each of fiscal years 2002

through 2007" and inserting "title $200,000,000 for fiscal year 2006 and each fiscal year thereafter".

(h) HYDROGEN INTERMEDIATE FUELS RESEARCH PROGRAM.—

(1) IN GENERAL.—The Secretary shall conduct a research, development, and demonstration program focused on the economic production and use of hydrogen from biofuels, with emphasis on the rural electrical generation sectors.

(2) ELECTRICAL GENERATION SECTOR OBJECTIVES.—The objectives of the program conducted under paragraph (1) in the rural electrical generation sector shall be to—

(A) design, develop, and test low-cost gasification equipment to convert biomass to hydrogen at regional rural cooperatives, or at businesses owned by farmers, close to agricultural operations to minimize the cost of biomass transportation to large central gasification plants;

(B) demonstrate low-cost electrical generation at such rural cooperatives or farmer-owned businesses, using renewable hydrogen derived from biomass in either fuel cell generators, or, as an interim cost reduction option, in conventional internal combustion engine gensets;

(C) determine the economic return to co-operatives or other businesses owned by farmers of producing hydrogen from biomass and selling electricity compared to agricultural economic returns from producing and selling conventional crops alone;

(D) evaluate the crop yield and long-term soil sustainability of growing and harvesting of feedstocks for biomass gasification, and

(E) demonstrate the use of a portion of the biomass-derived hydrogen in various agricultural vehicles to reduce—

(i) dependence on imported fossil fuel; and

(ii) environmental impacts.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $5,000,000.

SEC. 938. PRODUCTION INCENTIVES FOR CELLULOSIC BIOFUELS.

(a) PURPOSE.—The purpose of this section is to—

(1) accelerate deployment and commercialization of biofuels;

(2) deliver the first 1,000,000,000 gallons in annual cellulosic biofuels production by 2015;

(3) ensure biofuels produced after 2015 are cost competitive with gasoline and diesel; and

(4) ensure that small feedstock producers and rural small businesses are full participants in the development of the cellulosic biofuels industry.

(b) DEFINITIONS.—In this section:

(1) CELLULOSIC BIOFUELS.—The term "cellulosic biofuels" means any fuel that is produced from cellulosic feedstocks.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means a producer of fuel from cellulosic biofuels the production facility of which—

(A) is located in the United States;

(B) meets all applicable Federal and State permitting requirements; and

(C) meets any financial criteria established by the Secretary.

(c) PROGRAM.—

(1) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Defense, and the Administrator of the Environmental Protection Agency, shall establish an incentive program for the production of cellulosic biofuels.

(2) BASIS OF INCENTIVES.—Under the program, the Secretary shall award production incentives on a per gallon basis of cellulosic biofuels from eligible entities, through—

(A) set payments per gallon of cellulosic biofuels produced in an amount determined by the Secretary, until initiation of the first reverse auction; and

(B) reverse auction thereafter.

(3) FIRST REVERSE AUCTION.—The first reverse auction shall be held on the earlier of—

(A) not later than 1 year after the first year of annual production in the United States of 100,000,000 gallons of cellulosic biofuels, as determined by the Secretary; or

(B) not later than 3 years after the date of enactment of this Act.

(4) REVERSE AUCTION PROCEDURE.—

(A) IN GENERAL.—On initiation of the first reverse auction, and each year thereafter until the earlier of the first year of annual production in the United States of 1,000,000,000 gallons of cellulosic biofuels, as determined by the Secretary, or 10 years after the date of enactment

of this Act, the Secretary shall conduct a reverse auction at which—

(i) the Secretary shall solicit bids from eligible entities;

(ii) eligible entities shall submit—

(I) a desired level of production incentive on a per gallon basis; and

(II) an estimated annual production amount in gallons; and

(iii) the Secretary shall issue awards for the production amount submitted, beginning with the eligible entity submitting the bid for the lowest level of production incentive on a per gallon basis and meeting such other criteria as are established by the Secretary, until the amount of funds available for the reverse auction is committed.

(B) AMOUNT OF INCENTIVE RECEIVED.—An eligible entity selected by the Secretary through a reverse auction shall receive the amount of performance incentive requested in the auction for each gallon produced and sold by the entity during the first 6 years of operation.

(C) COMMENCEMENT OF PRODUCTION OF CELLULOSIC BIOFUELS.—As a condition of the

receipt of an award under this section, an eligible entity shall enter into an agreement with the Secretary under which the eligible entity agrees to begin production of cellulosic biofuels not later than 3 years after the date of the reverse auction in which the eligible entity participates.

(d) LIMITATIONS.—Awards under this section shall be limited to—

(1) a per gallon amount determined by the Secretary during the first 4 years of the program;

(2) a declining per gallon cap over the remaining lifetime of the program, to be established by the Secretary so that cellulosic biofuels produced after the first year of annual cellulosic biofuels production in the United States in excess of 1,000,000,000 gallons are cost competitive with gasoline and diesel;

(3) not more than 25 percent of the funds committed within each reverse auction to any 1 project;

(4) not more than $100,000,000 in any 1 year; and

(5) not more than $1,000,000,000 over the lifetime of the program.

(e) PRIORITY.—In selecting a project under the program, the Secretary shall give priority to projects that—

(1) demonstrate outstanding potential for local and regional economic development;

(2) include agricultural producers or cooperatives of agricultural producers as equity partners in the ventures; and

(3) have a strategic agreement in place to fairly reward feedstock suppliers.

(f) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $250,000,000.

SEC. 939. PROCUREMENT OF BIOBASED PRODUCTS.

(a) FEDERAL PROCUREMENT.—

(1) DEFINITION OF PROCURING AGENCY.—Section 9001 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101) is amended—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) PROCURING AGENCY.—The term 'procuring agency' means—

"(A) any Federal agency that is using Federal funds for procurement; or

"(B) any person contracting with any Federal agency with respect to work performed under the contract.".

(2) PROCUREMENT.—Section 9002 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102) is amended—

(A) by striking "Federal agency" each place it appears (other than in subsections (f) and (g)) and inserting "procuring agency";

(B) in subsection (c)(2)—

(i) by striking "(2)" and all that follows through "Notwithstanding" and inserting the following:

"(2) FLEXIBILITY.—Notwithstanding";

(ii) by striking "an agency" and inserting "a procuring agency"; and

(iii) by striking "the agency" and inserting "the procuring agency";

(C) in subsection (d), by striking "procured by Federal agencies" and inserting "procured by procuring agencies"; and

(D) in subsection (f), by striking "Federal agencies" and inserting "procuring agencies" .

(b) CAPITOL COMPLEX PROCUREMENT.—Section 9002 of the Farm Security and Rural Investment Act of 2002

(7 U.S.C. 8102) (as amended by subsection (a)(2)) is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following:

"(j) INCLUSION.—Not later than 90 days after the date of enactment of the Energy Policy Act of 2005, the Architect of the Capitol, the Sergeant at Arms of the Senate, and the Chief Administrative Officer of the House of Representatives shall establish procedures that apply the requirements of this section to procurement for the Capitol Complex.".

(c) EDUCATION.—

(1) IN GENERAL.—The Architect of the Capitol shall establish in the Capitol Complex a program of public education regarding use by the Architect of the Capitol of biobased products.

(2) PURPOSES.—The purposes of the program shall be—

(A) to establish the Capitol Complex as a showcase for the existence and benefits of biobased products; and

(B) to provide access to further information on biobased products to occupants and visitors.

(d) PROCEDURE.—Requirements issued under the amendments made by subsection (b) shall be made in ac-

cordance with directives issued by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

SEC. 940. SMALL BUSINESS BIOPRODUCT MARKETING AND CERTIFICATION GRANTS.

(a) IN GENERAL.—Using amounts made available under subsection (g), the Secretary of Agriculture (referred to in this section as the "Secretary") shall make available on a competitive basis grants to eligible entities described in subsection (b) for the biobased product marketing and certification purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity eligible for a grant under this section is any manufacturer of biobased products that—

(A) proposes to use the grant for the biobased product marketing and certification purposes described in subsection (c); and

(B) has not previously received a grant under this section.

(2) PREFERENCE.—In making grants under this section, the Secretary provide a preference to an eligible entity that has fewer than 50 employees.

(c) BIOBASED PRODUCT MARKETING AND CERTIFICATION GRANT PURPOSES.—A grant made under this section shall be used—

(1) to provide working capital for marketing of biobased products; and

(2) to provide for the certification of biobased products to—

(A) qualify for the label described in section 9002(h)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8102(h)(1)); or

(B) meet other biobased standards determined appropriate by the Secretary.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—Grant recipients shall provide matching non-Federal funds equal to the amount of the grant received.

(2) EXPENDITURE.—Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) AMOUNT.—A grant made under this section shall not exceed $100,000.

(f) ADMINISTRATION.—The Secretary shall establish such administrative requirements for grants under this sec-

tion, including requirements for applications for the grants, as the Secretary considers appropriate.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section—

(1) $1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for fiscal year 2007 and each subsequent fiscal year.

SEC. 941. REGIONAL BIOECONOMY DEVELOPMENT GRANTS.

(a) IN GENERAL.—Using amounts made available under subsection (g), the Secretary of Agriculture (referred to in this section as the "Secretary") shall make available on a competitive basis grants to eligible entities described in subsection (b) for the purposes described in subsection (c).

(b) ELIGIBLE ENTITIES.—An entity eligible for a grant under this section is any regional bioeconomy development association, agricultural or energy trade association, or Land Grant institution that—

(1) proposes to use the grant for the purposes described in subsection (c); and

(2) has not previously received a grant under this section.

(c) REGIONAL BIOECONOMY DEVELOPMENT ASSOCIATION GRANT PURPOSES.—A grant made under this section

shall be used to support and promote the growth and development of the bioeconomy within the region served by the eligible entity, through coordination, education, outreach, and other endeavors by the eligible entity.

(d) MATCHING FUNDS.—

(1) IN GENERAL.—Grant recipients shall provide matching non-Federal funds equal to the amount of the grant received.

(2) EXPENDITURE.—Matching funds shall be expended in advance of grant funding, so that for every dollar of grant that is advanced, an equal amount of matching funds shall have been funded prior to submitting the request for reimbursement.

(e) ADMINISTRATION.—The Secretary shall establish such administrative requirements for grants under this section, including requirements for applications for the grants, as the Secretary considers appropriate.

(f) AMOUNT.—A grant made under this section shall not exceed $500,000.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make grants under this section—

(1) $1,000,000 for fiscal year 2006; and

(2) such sums as are necessary for fiscal year 2007 and each subsequent fiscal year.

SEC. 942. PREPROCESSING AND HARVESTING DEMONSTRATION GRANTS.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the "Secretary") shall make grants available on a competitive basis to enterprises owned by agricultural producers, for the purposes of demonstrating cost-effective, cellulosic biomass innovations in—

(1) preprocessing of feedstocks, including cleaning, separating and sorting, mixing or blending, and chemical or biochemical treatments, to add value and lower the cost of feedstock processing at a biorefinery; or

(2) 1-pass or other efficient, multiple crop harvesting techniques.

(b) LIMITATIONS ON GRANTS.—

(1) NUMBER OF GRANTS.—Not more than 5 demonstration projects per fiscal year shall be funded under this section.

(2) NON-FEDERAL COST SHARE.—The non-Federal cost share of a project under this section shall be not less than 20 percent, as determined by the Secretary.

(c) CONDITION OF GRANT.—To be eligible for a grant for a project under this section, a recipient of a grant or a participating entity shall agree to use the material harvested under the project—

(1) to produce ethanol; or

(2) for another energy purpose, such as the generation of heat or electricity.

(d) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010.

SEC. 943. EDUCATION AND OUTREACH.

(a) IN GENERAL.—The Secretary of Agriculture shall establish, within the Department of Agriculture or through an independent contracting entity, a program of education and outreach on biobased fuels and biobased products consisting of—

(1) training and technical assistance programs for feedstock producers to promote producer ownership, investment, and participation in the operation of processing facilities; and

(2) public education and outreach to familiarize consumers with the biobased fuels and biobased products.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this title $1,000,000 for each of fiscal years 2006 through 2010.

SEC. 944. REPORTS.

(a) BIOBASED PRODUCT POTENTIAL.—Not later than 1 year after the date of enactment of this Act, the Secretary

of Agriculture (referred to in this section as the "Secretary") shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the economic potential for the United States of the widespread production and use of commercial and industrial biobased products through calendar year 2025; and

(2) as the maximum extent practicable, identifies the economic potential by product area.

(b) ANALYSIS OF ECONOMIC INDICATORS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress an analysis of economic indicators of the biobased economy.

Subtitle D—Nuclear Energy

SEC. 945. NUCLEAR ENERGY.

(a) CORE PROGRAMS.—There are authorized to be appropriated to the Secretary to carry out nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle, other than those described in subsection (b)—

(1) $330,000,000 for fiscal year 2006;

(2) $355,000,000 for fiscal year 2007; and

(3) $495,000,000 for fiscal year 2008.

(b) NUCLEAR INFRASTRUCTURE SUPPORT.—There are authorized to be appropriated to the Secretary to carry out activities under section 942(f):

(1) $135,000,000 for fiscal year 2006;

(2) $140,000,000 for fiscal year 2007; and

(3) $145,000,000 for fiscal year 2008.

(c) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 943—

(A) $150,000,000 for fiscal year 2006;

(B) $155,000,000 for fiscal year 2007; and

(C) $275,000,000 for fiscal year 2008.

(2) For activities under section 944—

(A) $43,600,000 for fiscal year 2006;

(B) $50,100,000 for fiscal year 2007; and

(C) $56,000,000 for fiscal year 2008.

(3) For activities under section 946, $6,000,000 for each of fiscal years 2006 through 2008.

(d) LIMITATION.—None of the funds authorized under this section may be used to decommission the Fast Flux Test Facility.

SEC. 946. NUCLEAR ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The Secretary shall carry out a Nuclear Energy Research Ini-

tiative for research and development related to nuclear energy.

(b) NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.—The Secretary shall carry out a Nuclear Energy Plant Optimization Program to support research and development activities addressing reliability, availability, productivity, component aging, safety, and security of existing nuclear power plants.

(c) NUCLEAR POWER 2010 PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations of the Nuclear Energy Research Advisory Committee of the Department in the report entitled "A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010" and dated October 2001.

(2) ADMINISTRATION.—The Program shall include—

(A) use of the expertise and capabilities of industry, institutions of higher education, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(B) consideration of a variety of reactor designs suitable for both developed and developing nations;

(C) participation of international collaborators in research, development, and design efforts, as appropriate; and

(D) encouragement for participation by institutions of higher education and industry.

(d) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

(1) IN GENERAL.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan for and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application.

(2) ADMINISTRATION.—In conducting the Initiative, the Secretary shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(A) are economically competitive with other electric power generation plants;

(B) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(C) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and

(D) use improved instrumentation.

(e) REACTOR PRODUCTION OF HYDROGEN.—The Secretary shall carry out research to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen.

(f) NUCLEAR INFRASTRUCTURE SUPPORT.—

(1) IN GENERAL.—The Secretary shall—

(A) develop and implement a strategy for the facilities of the Office of Nuclear Energy, Science, and Technology; and

(B) submit to Congress a report describing the strategy, along with the budget request of the President submitted to Congress for fiscal year 2006.

(2) ADMINISTRATION.—The strategy shall provide a cost-effective means for—

(A) maintaining existing facilities and infrastructure;

(B) closing unneeded facilities;

(C) making facility upgrades and modifications; and

(D) building new facilities.

SEC. 947. ADVANCED FUEL CYCLE INITIATIVE.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Nuclear Energy, Science and Tech-

nology, shall conduct an advanced fuel recycling technology research and development program (referred to in this section as the "program") to evaluate proliferation-resistant fuel recycling and transmutation technologies that minimize environmental or public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts.

(b) ANNUAL REVIEW.—The program shall be subject to annual review by the Nuclear Energy Research Advisory Committee of the Department or other independent entity, as appropriate.

(c) INTERNATIONAL COOPERATION.—In carrying out the program, the Secretary is encouraged to seek opportunities to enhance the progress of the program through international cooperation.

(d) REPORTS.—The Secretary shall submit, as part of the annual budget submission of the Department, a report on the activities of the program.

SEC. 948. NUCLEAR SCIENCE AND ENGINEERING SUPPORT FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) ESTABLISHMENT.—The Secretary shall support a program to invest in human resources and infrastructure in the nuclear sciences and engineering and related fields

(including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) DUTIES.—

(1) IN GENERAL.—In carrying out the program under this section, the Secretary shall—

(A) establish fellowship and faculty assistance programs; and

(B) provide support for fundamental research and encourage collaborative research among industry, National Laboratories, and institutions of higher education through the Nuclear Energy Research Initiative established under section 942(a).

(2) ENTIRE FUEL CYCLE.—The Secretary is encouraged to support activities addressing the entire fuel cycle through involvement of the Office of Nuclear Energy, Science and Technology and the Office of Civilian Radioactive Waste Management.

(3) OUTREACH.—The Secretary shall support communication and outreach related to nuclear science, engineering, and nuclear waste management.

(c) MAINTAINING RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE IN INSTITUTIONS

OF HIGHER EDUCATION.—Activities under this section may include—

(1) converting research reactors currently using high-enrichment fuels to low-enrichment fuels;

(2) upgrading operational instrumentation;

(3) sharing of reactors among institutions of higher education;

(4) providing technical assistance, in collaboration with the United States nuclear industry, in relicensing and upgrading training reactors as part of a student training program; and

(5) providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) INTERACTIONS BETWEEN NATIONAL LABORATORIES AND INSTITUTIONS OF HIGHER EDUCATION.—The Secretary shall develop sabbatical fellowship and visiting scientist programs to encourage sharing of personnel between National Laboratories and institutions of higher education.

(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a research reactor at an institution of higher education used in the research project.

SEC. 949. SECURITY OF NUCLEAR FACILITIES.

The Secretary, acting through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct a research and development program on cost-effective technologies for increasing—

(1) the safety of nuclear facilities from natural phenomena; and

(2) the security of nuclear facilities from deliberate attacks.

SEC. 950. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) SURVEY.—

(1) IN GENERAL.—Not later than August 1, 2006, the Secretary shall submit to Congress the results of a survey of industrial applications of large radioactive sources.

(2) ADMINISTRATION.—The survey shall—

(A) consider well-logging sources as 1 class of industrial sources;

(B) include information on current domestic and international Department, Department of Defense, State Department, and commercial programs to manage and dispose of radioactive sources; and

(C) analyze available disposal options for currently deployed or future sources and, if defi-

ciencies are noted for either deployed or future sources, recommend legislative options that Congress may consider to remedy identified deficiencies.

(b) PLAN.—

(1) IN GENERAL.—In conjunction with the survey conducted under subsection (a), the Secretary shall establish a research and development program to develop alternatives to sources described in subsection (a) that reduce safety, environmental, or proliferation risks to either workers using the sources or the public.

(2) ACCELERATORS.—Miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site shall be considered as part of the research and development efforts.

(3) REPORT.—Not later than August 1, 2006, the Secretary shall submit to Congress a report describing the details of the program plan.

Subtitle E—Fossil Energy

SEC. 951. FOSSIL ENERGY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out fossil energy research, development, demonstration, and commercial application

activities, including activities authorized under this subtitle—

(1) $583,000,000 for fiscal year 2006;

(2) $611,000,000 for fiscal year 2007; and

(3) $626,000,000 for fiscal year 2008.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 954, $20,000,000 for each of fiscal years 2006 through 2008.

(2) For activities under section 955—

(A) $337,000,000 for fiscal year 2006;

(B) $364,000,000 for fiscal year 2007; and

(C) $394,000,000 for fiscal year 2008.

(3) For activities under section 956—

(A) $20,000,000 for fiscal year 2006;

(B) $25,000,000 for fiscal year 2007; and

(C) $30,000,000 for fiscal year 2008.

(4) For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d) $25,000,000 for each of fiscal years 2006 through 2008.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy established under section 3197 of the Floyd

D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d) $25,000,000 for each of fiscal years 2009 through 2012.

(d) LIMITATIONS.—

(1) USES.—None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) INSTITUTIONS OF HIGHER EDUCATION.—Of the funds authorized under subsection (b)(1), not less than 20 percent of the funds appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

SEC. 952. OIL AND GAS RESEARCH PROGRAMS.

(a) OIL AND GAS RESEARCH.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil and shale; and

(7) related environmental research.

(b) NATURAL GAS AND OIL DEPOSITS REPORT.—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall submit to Congress a report on the latest estimates of natural gas and oil reserves, reserves growth, and undiscovered resources in Federal and State waters off the coast of Louisiana, Texas, Alabama, and Mississippi.

(c) INTEGRATED CLEAN POWER AND ENERGY RESEARCH.—

(1) ESTABLISHMENT OF CENTER.—The Secretary shall establish a national center or consortium of excellence in clean energy and power generation, using the resources of the Clean Power and Energy Research Consortium in existence on the date of enactment of this Act, to address the critical dependence of the United States on energy and the need to reduce emissions.

(2) FOCUS AREAS.—The center or consortium shall conduct a program of research, development, demonstration, and commercial application on integrating the following 6 focus areas:

(A) Efficiency and reliability of gas turbines for power generation.

(B) Reduction in emissions from power generation.

(C) Promotion of energy conservation issues.

(D) Effectively using alternative fuels and renewable energy.

(E) Development of advanced materials technology for oil and gas exploration and use in harsh environments.

(F) Education on energy and power generation issues.

SEC. 953. METHANE HYDRATE RESEARCH.

(a) IN GENERAL.—The Methane Hydrate Research and Development Act of 2000 (30 U.S.C. 1902 note; Public Law 106–193) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Methane Hydrate Research and Development Act of 2000'.

"SEC. 2. FINDINGS.

"Congress finds that—

"(1) in order to promote energy independence and meet the increasing demand for energy, the United States will require a diversified portfolio of substantially increased quantities of electricity, natural gas, and transportation fuels;

"(2) according to the report submitted to Congress by the National Research Council entitled 'Charting the Future of Methane Hydrate Research in the United States', the total United States resources of gas hydrates have been estimated to be on the order of 200,000 trillion cubic feet;

"(3) according to the report of the National Commission on Energy Policy entitled 'Ending the Energy Stalemate—A Bipartisan Strategy to Meet America's Energy Challenge', and dated December 2004, the United States may be endowed with over 1/4 of the methane hydrate deposits in the world;

"(4) according to the Energy Information Administration, a shortfall in natural gas supply from conventional and unconventional sources is expected to occur in or about 2020; and

"(5) the National Academy of Science states that methane hydrate may have the potential to alleviate the projected shortfall in the natural gas supply.

"SEC. 3. DEFINITIONS.

"In this Act:

"(1) CONTRACT.—The term 'contract' means a procurement contract within the meaning of section 6303 of title 31, United States Code.

"(2) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means a cooperative agreement within the meaning of section 6305 of title 31, United States Code.

"(3) DIRECTOR.—The term 'Director' means the Director of the National Science Foundation.

"(4) GRANT.—The term 'grant' means a grant awarded under a grant agreement (within the meaning of section 6304 of title 31, United States Code).

"(5) INDUSTRIAL ENTERPRISE.—The term 'industrial enterprise' means a private, nongovernmental enterprise that has an expertise or capability that relates to methane hydrate research and development.

"(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Energy, acting through the Assistant Secretary for Fossil Energy.

"(8) SECRETARY OF COMMERCE.—The term 'Secretary of Commerce' means the Secretary of Com-

merce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

"(9) SECRETARY OF DEFENSE.—The term 'Secretary of Defense' means the Secretary of Defense, acting through the Secretary of the Navy.

"(10) SECRETARY OF THE INTERIOR.—The term 'Secretary of the Interior' means the Secretary of the Interior, acting through the Director of the United States Geological Survey, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service.

"SEC. 4. METHANE HYDRATE RESEARCH AND DEVELOPMENT PROGRAM.

"(a) IN GENERAL.—

"(1) COMMENCEMENT OF PROGRAM.—Not later than 90 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, the Secretary, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director, shall commence a program of methane hydrate research and development in accordance with this section.

"(2) DESIGNATIONS.—The Secretary, the Secretary of Commerce, the Secretary of Defense, the Sec-

retary of the Interior, and the Director shall designate individuals to carry out this section.

"(3) COORDINATION.—The individual designated by the Secretary shall coordinate all activities within the Department of Energy relating to methane hydrate research and development.

"(4) MEETINGS.—The individuals designated under paragraph (2) shall meet not later than 180 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005 and not less frequently than every 180 days thereafter to—

"(A) review the progress of the program under paragraph (1); and

"(B) coordinate interagency research and partnership efforts in carrying out the program.

"(b) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS, INTERAGENCY FUNDS TRANSFER AGREEMENTS, AND FIELD WORK PROPOSALS.—

"(1) ASSISTANCE AND COORDINATION.—In carrying out the program of methane hydrate research and development authorized by this section, the Secretary may award grants to, or enter into contracts or cooperative agreements with, institutions of higher

education, oceanographic institutions, and industrial enterprises to—

"(A) conduct basic and applied research to identify, explore, assess, and develop methane hydrate as a commercially viable source of energy;

"(B) identify methane hydrate resources through remote sensing;

"(C) acquire and reprocess seismic data suitable for characterizing methane hydrate accumulations;

"(D) assist in developing technologies required for efficient and environmentally sound development of methane hydrate resources;

"(E) promote education and training in methane hydrate resource research and resource development through fellowships or other means for graduate education and training;

"(F) conduct basic and applied research to assess and mitigate the environmental impact of hydrate degassing (including both natural degassing and degassing associated with commercial development);

"(G) develop technologies to reduce the risks of drilling through methane hydrates; and

"(H) conduct exploratory drilling, well testing, and production testing operations on permafrost and non-permafrost gas hydrates in support of the activities authorized by this paragraph, including drilling of 1 or more full-scale production test wells.

"(2) COMPETITIVE PEER REVIEW.—Funds made available under paragraph (1) shall be made available based on a competitive process using external scientific peer review of proposed research.

"(c) METHANE HYDRATES ADVISORY PANEL.—

"(1) IN GENERAL.—The Secretary shall establish an advisory panel (including the hiring of appropriate staff) consisting of representatives of industrial enterprises, institutions of higher education, oceanographic institutions, State agencies, and environmental organizations with knowledge and expertise in the natural gas hydrates field, to—

"(A) assist in developing recommendations and broad programmatic priorities for the methane hydrate research and development program carried out under subsection (a)(1);

"(B) provide scientific oversight for the methane hydrates program, including assessing progress toward program goals, evaluating pro-

gram balance, and providing recommendations to enhance the quality of the program over time; and

"(C) not later than 2 years after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, and at such later dates as the panel considers advisable, submit to Congress—

"(i) an assessment of the methane hydrate research program; and

"(ii) an assessment of the 5-year research plan of the Department of Energy.

"(2) CONFLICTS OF INTEREST.—In appointing each member of the advisory panel established under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that the appointment of the member does not pose a conflict of interest with respect to the duties of the member under this Act.

"(3) MEETINGS.—The advisory panel shall—

"(A) hold the initial meeting of the advisory panel not later than 180 days after the date of establishment of the advisory panel; and

"(B) meet biennially thereafter.

"(4) COORDINATION.—The advisory panel shall coordinate activities of the advisory panel with pro-

gram managers of the Department of Energy at appropriate national laboratories

"(d) CONSTRUCTION COSTS.—None of the funds made available to carry out this section may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

"(e) RESPONSIBILITIES OF THE SECRETARY.—In carrying out subsection (b)(1), the Secretary shall—

"(1) facilitate and develop partnerships among government, industrial enterprises, and institutions of higher education to research, identify, assess, and explore methane hydrate resources;

"(2) undertake programs to develop basic information necessary for promoting long-term interest in methane hydrate resources as an energy source;

"(3) ensure that the data and information developed through the program are accessible and widely disseminated as needed and appropriate;

"(4) promote cooperation among agencies that are developing technologies that may hold promise for methane hydrate resource development;

"(5) report annually to Congress on the results of actions taken to carry out this Act; and

"(6) ensure, to the maximum extent practicable, greater participation by the Department of Energy in international cooperative efforts.

"SEC. 5. NATIONAL RESEARCH COUNCIL STUDY.

"(a) AGREEMENT FOR STUDY.—The Secretary shall offer to enter into an agreement with the National Research Council under which the National Research Council shall—

"(1) conduct a study of the progress made under the methane hydrate research and development program implemented under this Act; and

"(2) make recommendations for future methane hydrate research and development needs.

"(b) REPORT.—Not later than September 30, 2009, the Secretary shall submit to Congress a report containing the findings and recommendations of the National Research Council under this section.

"SEC. 6. REPORTS AND STUDIES FOR CONGRESS.

"The Secretary shall provide to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate copies of any report or study that the Department of Energy prepares at the direction of any committee of Congress relating to the methane hydrate research and development program implemented under this Act.

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this Act, to remain available until expended—

"(1) $15,000,000 for fiscal year 2006;

"(2) $20,000,000 for fiscal year 2007;

"(3) $30,000,000 for fiscal year 2008;

"(4) $50,000,000 for fiscal year 2009; and

"(5) $50,000,000 for fiscal year 2010.".

(b) RECLASSIFICATION.—The Law Revision Counsel shall reclassify the Methane Hydrate Research and Development Act of 2000 (30 U.S.C. 1902 note; Public Law 106–193) to a new chapter at the end of title 30, United States Code.

SEC. 954. LOW-VOLUME GAS RESERVOIR RESEARCH PROGRAM.

(a) DEFINITIONS OF GIS.—In this section, the term "GIS" means geographic information systems technology that facilitates the organization and management of data with a geographic component.

(b) PROGRAM.—The Secretary shall establish a program of research, development, demonstration, and commercial application to maximize the productive capacity of marginal wells and reservoirs.

(c) DATA COLLECTION.—Under the program, the Secretary shall collect data on—

(1) the status and location of marginal wells and gas reservoirs;

(2) the production capacity of marginal wells and gas reservoirs;

(3) the location of low-pressure gathering facilities and pipelines; and

(4) the quantity of natural gas vented or flared in association with crude oil production.

(d) ANALYSIS.—Under the program, the Secretary shall—

(1) estimate the remaining producible reserves based on variable pipeline pressures; and

(2) recommend measures that will enable the continued production of those resources.

(e) STUDY.—

(1) IN GENERAL.—The Secretary may award a grant to an organization of States that contain significant numbers of marginal oil and natural gas wells to conduct an annual study of low-volume natural gas reservoirs.

(2) ORGANIZATION WITH NO GIS CAPABILITIES.—If an organization receiving a grant under paragraph (1) does not have GIS capabilities, the organization shall contract with an institution of higher education with GIS capabilities.

(3) STATE GEOLOGISTS.—The organization receiving a grant under paragraph (1) shall collaborate with the State geologist of each State being studied.

(f) PUBLIC INFORMATION.—The Secretary may use the data collected and analyzed under this section to produce maps and literature to disseminate to States to promote conservation of natural gas reserves.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $1,500,000 for fiscal year 2006; and

(2) $450,000 for each of fiscal years 2007 and 2008.

SEC. 955. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program for research and development on coal mining technologies.

(b) COOPERATION.—In carrying out the program, the Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(c) PROGRAM.—The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging, spectroscopic reservoir analysis technology, and techniques for horizontal drilling in order to—

(A) identify areas of high coal gas content;

(B) increase methane recovery efficiency;

(C) prevent spoilage of domestic coal reserves; and

(D) minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

SEC. 956. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the programs authorized under title IV, the Secretary shall conduct a pro-

gram of technology research, development, and demonstration and commercial application for coal and power systems, including programs to facilitate production and generation of coal-based power through—

(1) innovations for existing plants (including mercury removal);

(2) gasification systems;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived chemicals and transportation fuels;

(7) liquid fuels derived from low rank coal water;

(8) solid fuels and feedstocks;

(9) advanced coal-related research;

(10) advanced separation technologies; and

(11) fuel cells for the operation of synthesis gas derived from coal.

(b) COST AND PERFORMANCE GOALS.—

(1) IN GENERAL.—In carrying out programs authorized by this section, the Secretary shall identify cost and performance goals for coal-based technologies that would permit the continued cost-competitive use

of coal for the production of electricity, chemical feedstocks, and transportation fuels in 2008, 2010, 2012, and 2016, and each calendar year beginning after September 30, 2021.

(2) ADMINISTRATION.—In establishing the cost and performance goals, the Secretary shall—

(A) consider activities and studies undertaken as of the date of enactment of this Act by industry in cooperation with the Department in support of the identification of the goals;

(B) consult with interested entities, including—

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal and advanced coal technologies;

(iv) environmental organizations;

(v) organizations representing workers; and

(vi) organizations representing consumers;

(C) not later than 120 days after the date of enactment of this Act, publish in the Federal Register proposed draft cost and performance goals for public comments; and

(D) not later than 180 days after the date of enactment of this Act and every 4 years thereafter, submit to Congress a report describing the final cost and performance goals for the technologies that includes—

(i) a list of technical milestones; and

(ii) an explanation of how programs authorized in this section will not duplicate the activities authorized under the Clean Coal Power Initiative authorized under title IV.

(c) POWDER RIVER BASIN AND FORT UNION LIGNITE COAL MERCURY REMOVAL.—

(1) IN GENERAL.—In addition to the programs authorized by subsection (a), the Secretary may establish a program to test and develop technologies to control and remove mercury emissions from subbituminous coal mined in the Powder River Basin, and Fort Union lignite coals, that are used for the generation of electricity.

(2) EFFICACY OF MERCURY REMOVAL TECHNOLOGY.—In carrying out the program under paragraph (1), the Secretary shall examine the efficacy of mercury removal technologies on coals described in

that paragraph that are blended with other types of coal.

(d) FUEL CELLS.—

(1) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(2) DEMONSTRATIONS.—The demonstrations referred to in paragraph (1) shall include solid oxide fuel cell technology for commercial, residential, and transportation applications, and distributed generation systems, using improved manufacturing production and processes.

SEC. 957. CARBON CAPTURE RESEARCH AND DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a 10-year carbon capture research and development program to develop carbon dioxide capture technologies on combustion-based systems for use—

(1) in new coal utilization facilities; and

(2) on the fleet of coal-based units in existence on the date of enactment of this Act.

(b) OBJECTIVES.—The objectives of the program under subsection (a) shall be—

(1) to develop carbon dioxide capture technologies, including adsorption and absorption techniques and chemical processes, to remove the carbon dioxide from gas streams containing carbon dioxide potentially amenable to sequestration;

(2) to develop technologies that would directly produce concentrated streams of carbon dioxide potentially amenable to sequestration;

(3) to increase the efficiency of the overall system to reduce the quantity of carbon dioxide emissions released from the system per megawatt generated; and

(4) in accordance with the carbon dioxide capture program, to promote a robust carbon sequestration program and continue the work of the Department, in conjunction with the private sector, through regional carbon sequestration partnerships.

SEC. 958. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of 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—

(A) $35,000,000 for fiscal year 2006;

(B) $36,500,000 for fiscal year 2007; and

(C) $38,200,000 for fiscal year 2008.

(3) For activities under the Genomes to Life Program established under section 968—

(A) $170,000,000 for fiscal year 2006;

(B) $325,000,000 for fiscal year 2007; and

(C) $415,000,000 for fiscal year 2008.

(4) For construction and ancillary equipment for user facilities under section 968(d) for the Genomes to Life Program, of the amounts authorized under paragraph (3)—

(A) $70,000,000 for fiscal year 2006;

(B) $175,000,000 for fiscal year 2007; and

(C) $215,000,000 for fiscal year 2008.

(5) For activities under the Energy-Water Supply Technologies Program established under section 970, $30,000,000 for each of fiscal years 2006 through 2008.

(c) FUSION ENERGY SCIENCES PROGRAM.—In addition to the funds authorized under subsection (b)(1), there are authorized to be appropriated for construction costs associated with the Fusion Energy Sciences Program under section 962—

(1) $55,000,000 for fiscal year 2006;

(2) $95,000,000 for fiscal year 2007; and

(3) $115,000,000 for fiscal year 2008.

SEC. 962. FUSION ENERGY SCIENCES PROGRAM.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial applications to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other countries in providing fusion energy for its own needs and the needs of other countries, including by demonstrating electric power or hydrogen production for the United States energy grid using fusion energy at the earliest date.

(b) PLANNING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan (with proposed cost estimates, budgets, and lists of potential international partners) for the implementation of the policy described in subsection (a) in a manner that ensures that—

(A) existing fusion research facilities are more fully used;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation and cost effectiveness, and the potential of the facilities to advance the goal of practical fusion energy at the earliest date practicable;

(D) facilities that are selected are funded at a cost-effective rate;

(E) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(F) inertial confinement fusion facilities are used to the extent practicable for the purpose of inertial fusion energy research and development;

(G) attractive alternative inertial and magnetic fusion energy approaches are more fully explored; and

(H) to the extent practicable, the recommendations of the Fusion Energy Sciences Advisory Committee in the report on workforce

planning, dated March 2004, are carried out, including periodic reassessment of program needs.

(2) COSTS AND SCHEDULES.—The plan shall also address the status of and, to the extent practicable, costs and schedules for—

(A) the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

(c) UNITED STATES PARTICIPATION IN ITER.—

(1) DEFINITIONS.—In this subsection:

(A) CONSTRUCTION.—

(i) IN GENERAL.—The term "construction" means—

(I) the physical construction of the ITER facility; and

(II) the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility.

(ii) EXCLUSIONS.—The term "construction" does not include the design of the facility, equipment, or components.

(B) ITER.—The term "ITER" means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003, or any similar international project.

(2) PARTICIPATION.—The United States may participate in the ITER only in accordance with this subsection.

(3) AGREEMENT.—

(A) IN GENERAL.—The Secretary may negotiate an agreement for United States participation in the ITER.

(B) CONTENTS.—Any agreement for United States participation in the ITER shall, at a minimum—

(i) clearly define the United States financial contribution to construction and operating costs, as well as any other costs associated with a project;

(ii) ensure that the share of high-technology components of the ITER manufactured in the United States is at least proportionate to the United States financial contribution to the ITER;

(iii) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(iv) guarantee the United States full access to all data generated by the ITER;

(v) enable United States researchers to propose and carry out an equitable share of the experiments at the ITER;

(vi) provide the United States with a role in all collective decisionmaking related to the ITER; and

(vii) describe the process for discontinuing or decommissioning the ITER and any United States role in that process.

(4) PLAN.—

(A) DEVELOPMENT.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in the ITER that shall include—

(i) the United States research agenda for the ITER;

(ii) methods to evaluate whether the ITER is promoting progress toward making

fusion a reliable and affordable source of power; and

(iii) a description of how work at the ITER will relate to other elements of the United States fusion program.

(B) REVIEW.—The Secretary shall request a review of the plan by the National Academy of Sciences.

(5) LIMITATION.—No Federal funds shall be expended for the construction of the ITER until the Secretary has submitted to Congress—

(A) the agreement negotiated in accordance with paragraph (3) and 120 days have elapsed since that submission;

(B) a report describing the management structure of the ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of the ITER, and 120 days have elapsed since that submission;

(C) a report describing how United States participation in the ITER will be funded without reducing funding for other programs in the Office of Science (including other fusion programs), and 60 days have elapsed since that submission; and

(D) the plan required by paragraph (4) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that submission.

(6) ALTERNATIVE TO ITER.—

(A) IN GENERAL.—If at any time during the negotiations on the ITER, the Secretary determines that construction and operation of the ITER is unlikely or infeasible, the Secretary shall submit to Congress, along with the budget request of the President submitted to Congress for the following fiscal year, a plan for implementing a domestic burning plasma experiment such as the Fusion Ignition Research Experiment, including costs and schedules for the plan.

(B) ADMINISTRATION.—The Secretary shall—

(i) refine the plan in full consultation with the Fusion Energy Sciences Advisory Committee; and

(ii) transmit the plan to the National Academy of Sciences for review.

SEC. 963. SUPPORT FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.

(a) FACILITY AND INFRASTRUCTURE POLICY.—

(1) IN GENERAL.—The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy, Science and Technology Programs at all National Laboratories and single-purpose research facilities.

(2) STRATEGY.—The strategy shall provide cost-effective means for—

(A) maintaining existing facilities and infrastructure;

(B) closing unneeded facilities;

(C) making facility modifications; and

(D) building new facilities.

(b) REPORT.—

(1) IN GENERAL.—The Secretary shall prepare and submit, along with the budget request of the President submitted to Congress for fiscal year 2007, a report describing the strategy developed under subsection (a).

(2) CONTENTS.—For each National Laboratory and single-purpose research facility that is primarily used for science and energy research, the report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 964. CATALYSIS RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research and development in catalysis science consistent with the statutory authorities of the Department related to research and development.

(b) COMPONENTS.—The program shall include efforts to—

(1) enable catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and subnanometer scales in situ under actual operating conditions;

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(c) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators in collaboration with national user facilities, such as nanoscience and engineering centers;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other Federal agencies.

(d) TRIENNIAL ASSESSMENT.—Not later than 3 years after the date of enactment of this Act and every 3 years thereafter, the National Academy of Sciences shall—

(1) review the catalysis program to measure—

(A) gains made in the fundamental science of catalysis; and

(B) progress towards developing new fuels for energy production and material fabrication processes; and

(2) submit to Congress a report describing the results of the review.

SEC. 965. HYDROGEN.

(a) IN GENERAL.—The Secretary shall conduct a program of fundamental research and development in support of programs authorized under title VIII.

(b) METHODS.—The program shall include support for methods of generating hydrogen without the use of natural gas.

SEC. 966. SOLID STATE LIGHTING.

The Secretary shall conduct a program of fundamental research on advance solid state lighting in support of the Next Generation Lighting Initiative carried out under section 912.

SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) PROGRAM.—

(1) IN GENERAL.—The Secretary shall conduct an advanced scientific computing research and development program that includes activities related to applied mathematics and activities authorized by the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.).

(2) GOAL.—The Secretary shall carry out the program with the goal of supporting departmental missions, and providing the high-performance computational, networking, advanced visualization technologies, and workforce resources, that are required for world leadership in science.

(b) HIGH-PERFORMANCE COMPUTING.—Section 203 of the High-Performance Computing Act of 1991 (15 U.S.C. 5523) is amended to read as follows:

"SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.

"(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Energy shall—

"(1) conduct and support basic and applied research in high-performance computing and networking to support fundamental research in science

and engineering disciplines related to energy applications; and

"(2) provide computing and networking infrastructure support, including—

"(A) the provision of high-performance computing systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems; and

"(B) support for advanced software and applications development for science and engineering disciplines related to energy applications.

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

SEC. 968. GENOMES TO LIFE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a program of research, development, demonstration, and commercial application, to be known as the "Genomes to Life Program", in microbial and plant systems biology, protein science, and computational biology consistent with the statutory authorities of the Department.

(b) PLANNING.—

(1) IN GENERAL.—The Secretary shall prepare a program plan that describes how knowledge and capabilities would be developed by the program and ap-

plied to missions of the Department relating to energy security, environmental cleanup, and national security.

(2) CONSULTATION.—The Secretary shall prepare the program plan in consultation with the heads of other Federal agencies that carry out relevant technology programs.

(3) LONG-TERM GOALS.—In preparing the program plan, the Secretary shall focus on applying science and technology to achieve the long-term goals of the program, including—

(A) contributing to the independence of the United States from foreign energy sources, including production of hydrogen;

(B) converting carbon dioxide to organic carbon;

(C) advancing environmental cleanup;

(D) providing the science and technology for new biotechnology industries; and

(E) improving national security and combating bioterrorism.

(4) SHORT-TERM GOALS.—In preparing the program plan, the Secretary shall—

(A) establish specific short-term goals; and

(B) update the goals with the annual budget submission of the Secretary.

(c) ADMINISTRATION.—In carrying out the program, the Secretary shall—

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support technology transfer activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other Federal agencies.

(d) GENOMES TO LIFE USER FACILITIES AND ANCILLARY EQUIPMENT.—

(1) IN GENERAL.—Subject to the availability of funds to carry out this subsection, the amounts made available under section 961(b)(4) shall be available for—

(A) projects to develop, plan, construct, acquire, or operate special equipment, or instrumentation; or

(B) facilities at National Laboratories for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) PROJECTS.—Projects under paragraph (1)(A) may include—

(A) the identification and characterization of multiprotein complexes;

(B) characterization of gene regulatory networks;

(C) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(D) development of computational methods and capabilities to advance understanding of complex biological systems and predict their behavior.

(3) FACILITIES.—Facilities under paragraph (1)(B) may include facilities, equipment, or instrumentation for—

(A) the production and characterization of proteins;

(B) whole proteome analysis;

(C) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) FACILITIES LOCATION AND MISSION.—The number, location, and mission of facilities under paragraph (1)(B) shall be determined in a plan provided by the Secretary to Congress before the construction of any such facility.

(5) COLLABORATION.—

(A) IN GENERAL.—In carrying out this subsection, the Secretary shall encourage collaborations among institutions of higher education, National Laboratories, and industry at facilities.

(B) TECHNOLOGY TRANSFER.—All facilities under this subsection shall promote technology transfer to other institutions.

SEC. 969. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

(a) IN GENERAL.—Along with the budget request of the President submitted to Congress for fiscal year 2007, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the fusion energy program of the Department.

(b) ADMINISTRATION.—In carrying out the program, the Secretary shall develop—

(1) a catalog of material properties required for applications described in subsection (a);

(2) theoretical models for materials possessing the required properties;

(3) benchmark models against existing data; and

(4) a roadmap to guide further research and development in the area covered by the program.

SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) FOUNDATION.—The term "Foundation" means the American Water Works Association Research Foundation.

(2) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PROGRAM.—The term "Program" means the Energy-Water Supply Technologies Program established by subsection (b).

(b) ESTABLISHMENT.—There is established, within the Office of Biological and Environmental Research of the Of-

fice of Science, a program, to be known as the "Energy-Water Supply Technologies Program", to study—

(1) energy-related issues associated with water resources and municipal waterworks; and

(2) supply issues related to energy production.

(c) PROGRAM AREAS.—In carrying out the Program, the Secretary shall conduct research and development, including research and development relating to—

(1) the arsenic removal program under subsection (d);

(2) the desalination research program under subsection (e);

(3) the water and energy sustainability program under subsection (f); and

(4) other energy-intensive water supply and treatment technologies and other technologies selected by the Secretary.

(d) ARSENIC REMOVAL PROGRAM.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the Foundation to use the facilities, institutions, and relationships described in the matter under the heading "BIOLOGICAL AND ENVIRONMENTAL RESEARCH" of title III of Senate Report 107–220 to accompany the Consolidated Appropria-

tions Resolution, 2003 (Public Law 108–7) to carry out a research program to develop and demonstrate innovative arsenic removal technologies.

(2) RESEARCH.—In carrying out the arsenic removal program, the Foundation shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials, operating, and maintenance costs incurred in using arsenic removal technologies; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) DEMONSTRATION PROJECTS.—The Foundation shall carry out peer-reviewed research and demonstration projects to develop and demonstrate water purification technologies.

(4) ADMINISTRATION.—Under the arsenic removal program—

(A) demonstration projects shall be implemented with municipal water system partners to demonstrate the applicability of innovative arsenic removal technologies in areas with different

water chemistries representative of areas across the United States with arsenic levels near or exceeding the guidelines of the Environmental Protection Agency; and

(B) not less than 40 percent of the funds of the Department used for demonstration projects under the arsenic removal program shall be expended on projects focused on the needs of and in partnership with rural communities or Indian tribes.

(5) EVALUATIONS; TECHNOLOGY TRANSFER.—The Foundation shall develop evaluations of cost effectiveness of arsenic removal technologies used in the program and an education, training, and technology transfer component for the program.

(6) COORDINATION.—The Secretary shall consult with the Administrator of the Environmental Protection Agency to ensure that activities under the arsenic removal program are coordinated with appropriate programs of the Environmental Protection Agency and other Federal agencies, State programs, and academia.

(7) REPORTS.—Not later than 1 year after the date of commencement of the arsenic removal program and annually thereafter, the Secretary shall

submit to Congress a report on the results of the arsenic removal program.

(e) DESALINATION PROGRAM.—

(1) IN GENERAL.—The Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination research program in accordance with the desalination technology progress plan developed under the matter under the heading "WATER AND RELATED RESOURCES" under the heading "BUREAU OF RECLAMATION" of title II of the Energy and Water Development Appropriations Act, 2002 (115 Stat. 498) and described in Senate Report 107–39 to accompany S. 1171 (107th Congress).

(2) ADMINISTRATION.—The desalination program shall—

(A) draw on the national laboratory partnership established with the Bureau of Reclamation to develop the national Desalination and Water Purification Technology Roadmap for next-generation desalination technology released in January 2003;

(B) focus on research relating to, and development and demonstration of, technologies that are appropriate for use in desalinating brackish groundwater, wastewater, and other saline water

supplies and disposal of residual brine or salt; and

(C) consider the use of renewable energy sources.

(3) CONSTRUCTION PROJECTS.—Under the desalination program, funds made available for the program may be used for construction projects, including completion of the National Desalination Research Center for brackish groundwater and ongoing facility operational costs.

(4) STEERING COMMITTEE.—

(A) ESTABLISHMENT.—The Secretary and the Commissioner of Reclamation shall jointly establish a steering committee for the desalination program.

(B) CHAIR.—The steering committee shall be jointly chaired by—

(i) 1 representative from the Program; and

(ii) 1 representative from the Bureau of Reclamation.

(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a research program to develop technologies to assist in

ensuring that sufficient quantities of water are available to meet present and future requirements.

(2) ASSESSMENTS.—Under the program and in collaboration with other programs within the Department (including programs within the Offices of Fossil Energy and Energy Efficiency and Renewable Energy), the Secretary of the Interior, the Corps of Engineers, the Environmental Protection Agency, the Department of Commerce, the Department of Defense, State agencies, nongovernmental agencies, and academia, the Secretary shall assess the current state of knowledge and program activities concerning—

(A) future water resources needed to support energy production within the United States, including the water needs for hydropower and thermo-electric power generation;

(B) future energy resources needed to support development of water purification and treatment, including desalination and long-distance water conveyance;

(C) reuse and treatment of water produced as a byproduct of oil and gas extraction;

(D) use of impaired and nontraditional water supplies for energy production and other uses; and

(E) technologies to reduce water use in energy production.

(3) TOOLS.—In addition to the assessments conducted under paragraph (2), the Secretary shall—

(A) develop a research plan that defines the scientific and technology development needs and activities required to support—

(i) long-term water needs and planning for energy sustainability;

(ii) use of impaired water for energy production and other uses; and

(iii) reduction of water use in energy production;

(B) carry out the research plan required under subparagraph (A), including development of numerical models, decision analysis tools, economic analysis tools, databases, planning methodologies, and strategies;

(C) implement at least 3 planning demonstration projects using the models, tools, and planning approaches developed under subparagraph (B) and assess the viability of those tools on the scale of river basins with at least 1 demonstration involving an international border; and

(D) transfer those tools to other Federal agencies, State agencies, nonprofit organizations, industry, and academia for use in their energy and water sustainability efforts.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that—

(A) describes the research elements described under paragraph (2); and

(B) makes recommendations for a management structure that optimizes use of Federal resources and programs.

(g) COST SHARING.—

(1) RESEARCH PROJECTS.—A research project under this section shall not require cost-sharing.

(2) DEMONSTRATION PROJECTS.—Each demonstration project carried out under the Program shall be carried out in accordance with the cost-sharing requirements of section 1002.

SEC. 971. SPALLATION NEUTRON SOURCE.

(a) DEFINITIONS.—In this section:

(1) SING.—The term "SING" means the Spallation Neutron Source Instruments Next Generation major item of equipment.

(2) SNS POWER UPGRADE.—The term "SNS power upgrade" means the Spallation Neutron Source power upgrade described in the 20-year facilities plan of the Office of Science of the Department.

(3) SNS SECOND TARGET STATION.—The term "SNS second target station" the Spallation Neutron Source second target station described in the 20-year facilities plan of the Office of Science of the Department.

(4) SPALLATION NEUTRON SOURCE FACILITY.—The terms "Spallation Neutron Source Facility" and "Facility" mean the completed Spallation Neutron Source scientific user facility located at Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(5) SPALLATION NEUTRON SOURCE PROJECT.—The terms "Spallation Neutron Source Project" and "Project" means Department Project 99–E–334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) SPALLATION NEUTRON SOURCE PROJECT.—

(1) IN GENERAL.—The Secretary shall submit to Congress, as part of the annual budget request of the President submitted to Congress, a report on progress on the Spallation Neutron Source Project.

(2) CONTENTS.—The report shall include for the Project—

(A) a description of the achievement of milestones;

(B) a comparison of actual costs to estimated costs; and

(C) any changes in estimated Project costs or schedule.

(c) SPALLATION NEUTRON SOURCE FACILITY PLAN.—

(1) IN GENERAL.—The Secretary shall develop an operational plan for the Spallation Neutron Source Facility that ensures that the Facility is employed to the full capability of the Facility in support of the study of advanced materials, nanoscience, and other missions of the Office of Science of the Department.

(2) PLAN.—The operational plan shall—

(A) include a plan for the operation of an effective scientific user program that—

(i) is based on peer review of proposals submitted for use of the Facility;

(ii) includes scientific and technical support to ensure that external users, including researchers based at institutions of higher education, are able to make full use of a variety of high quality scientific instruments; and

(iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the Facility throughout the operating life of the Facility;

(B) include an ongoing program to develop new instruments that builds on the high performance neutron source and that allows neutron scattering techniques to be applied to a growing range of scientific problems and disciplines; and

(C) address the status of and, to the maximum extent practicable, costs and schedules for—

(i) full user mode operations of the Facility;

(ii) instrumentation built at the Facility during the operating phase through full use of the experimental hall, including the SING;

(iii) the SNS power upgrade; and

(iv) the SNS second target station.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) SPALLATION NEUTRON SOURCE PROJECT.—There is authorized to be appropriated to carry out the Spallation Neutron Source Project for the lifetime

of the Project $1,411,700,000 for total project costs, of which—

(A) $1,192,700,000 shall be used for the costs of construction; and

(B) $219,000,000 shall be used for other Project costs.

(2) SPALLATION NEUTRON SOURCE FACILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), there is authorized to be appropriated for the Spallation Neutron Source Facility for—

(i) the SING, $75,000,000 for fiscal year 2006; and

(ii) the SNS power upgrade, $160,000,000 for each of fiscal years 2007 and 2008.

(B) INSUFFICIENT STOCKPILES OF HEAVY WATER.—If stockpiles of heavy water of the Department are insufficient to meet the needs of the Facility, there is authorized to be appropriated for the Facility $172,000,000 for fiscal year 2007.

Subtitle G—International Cooperation

SEC. 981. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with countries of the Western Hemisphere.

(b) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with countries of the Western Hemisphere to—

(1) increase the production of energy supplies;

(2) improve energy efficiency; and

(3) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of institutions of higher education so as to take advantage of the acceptance of institutions of higher education by countries of the Western Hemisphere as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of institutions of higher education that involve the participation of minority students, such as—

(A) Hispanic-serving institutions; and

(B) part B institutions.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2006;

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

(3) $16,000,000 for fiscal year 2008.

SEC. 982. COOPERATION BETWEEN UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress finds that—

(1) on February 1, 1996, the United States and Israel signed the agreement entitled "Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation", (referred to in this section as the "Agreement") to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(2) the Agreement entered into force in February 2000;

(3) in February 2005, the Agreement was automatically renewed for 1 additional 5-year period pursuant to Article X of the Agreement; and

(4) under the Agreement, the United States and Israel may cooperate in energy research and development in a variety of alternative and advanced energy sectors.

(b) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate and the Committee on Energy and Commerce and the Committee on International Relations of the House of Representatives a report that describes—

(1) the ways in which the United States and Israel have cooperated on energy research and development activities under the Agreement;

(2) projects initiated pursuant to the Agreement; and

(3) plans for future cooperation and joint projects under the Agreement.

(c) SENSE OF CONGRESS.—It is the sense of Congress that energy cooperation between the Governments of the

United States and Israel is mutually beneficial in the development of energy technology.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

SEC. 1001. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this Act or an amendment made by this Act shall remain available until expended.

SEC. 1002. COST SHARING.

(a) APPLICABILITY.—Notwithstanding any other provision of law, in carrying out a research, development, demonstration, or commercial application activity that is initiated after the date of enactment of this section, the Secretary shall require cost-sharing in accordance with this section.

(b) RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and subsection (f), the Secretary shall require not less than 20 percent of the cost of a research or development activity described in subsection (a) to be provided by a non-Federal source.

(2) EXCLUSION.—Paragraph (1) shall not apply to a research or development activity described in subsection (a) that is of a basic or fundamental na-

ture, as determined by the appropriate officer of the Department.

(3) REDUCTION.—The Secretary may reduce or eliminate the requirement of paragraph (1) for a research and development activity of an applied nature if the Secretary determines that the reduction is necessary and appropriate.

(c) DEMONSTRATION AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the Secretary shall require that not less than 50 percent of the cost of a demonstration or commercial application activity described in subsection (a) to be provided by a non-Federal source.

(2) REDUCTION OF NON-FEDERAL SHARE.—The Secretary may reduce the non-Federal share required under paragraph (1) if the Secretary determines the reduction to be necessary and appropriate, taking into consideration any technological risk relating to the activity.

(d) CALCULATION OF AMOUNT.—In calculating the amount of a non-Federal contribution under this section, the Secretary—

(1) may include allowable costs in accordance with the applicable cost principles, including—

(A) cash;

(B) personnel costs;

(C) the value of a service, other resource, or third party in-kind contribution determined in accordance with the applicable circular of the Office of Management and Budget;

(D) indirect costs or facilities and administrative costs; or

(E) any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Acts); and

(2) shall not include—

(A) revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(B) proceeds from the prospective sale of an asset of an activity; or

(C) other appropriated Federal funds.

(e) REPAYMENT OF FEDERAL SHARE.—The Secretary shall not require repayment of the Federal share of a cost-

shared activity under this section as a condition of making an award.

(f) EXCLUSIONS.—This section shall not apply to—

(1) a cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1990 (15 U.S.C. 3701 et seq.);

(2) a fee charged for the use of a Department facility; or

(3) an award under—

(A) the small business innovation research program under section 9 of the Small Business Act (15 U.S.C. 638); or

(B) the small business technology transfer program under that section.

SEC. 1003. MERIT REVIEW OF PROPOSALS.

Awards of funds authorized under this Act or an amendment made by this Act shall be made only after an impartial review of the scientific and technical merit of the proposals for the awards has been carried out by or for the Department.

SEC. 1004. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) ESTABLISHMENT.—The Secretary shall establish 1 or more advisory boards to review research, development, demonstration, and commercial application programs of the Department in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) ALTERNATIVES.—The Secretary may—

(A) designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this section; and

(B) enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) USE OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) MEETINGS AND GOALS.—

(1) MEETINGS.—Each advisory board under this section shall meet at least semiannually to review and advise on the progress made by the respective 1 or

more research, development, demonstration, and commercial application programs.

(2) GOALS.—The advisory board shall review the measurable cost and performance-based goals for the programs as established under section 902, and the progress on meeting the goals.

(e) PERIODIC REVIEWS AND ASSESSMENTS.—

(1) IN GENERAL.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of—

(A) the programs authorized by this Act and amendments made by this Act;

(B) the measurable cost and performance-based goals for the programs as established under section 902, if any; and

(C) the progress on meeting the goals.

(2) TIMING.—The reviews and assessments shall be conducted every 5 years or more often as the Secretary considers necessary.

(3) REPORTS.—The Secretary shall submit to Congress reports describing the results of all the reviews and assessments.

SEC. 1005. IMPROVED TECHNOLOGY TRANSFER OF ENERGY TECHNOLOGIES.

(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall appoint a Technology Transfer Coordinator to be the principal advisor to the Secretary on all matters relating to technology transfer and commercialization.

(b) QUALIFICATIONS.—The Coordinator shall be an individual who, by reason of professional background and experience, is specially qualified to advise the Secretary on matters pertaining to technology transfer at the Department.

(c) DUTIES OF THE COORDINATOR.—The Coordinator shall oversee—

(1) the activities of the Technology Transfer Working Group established under subsection (d);

(2) the expenditure of funds allocated for technology transfer within the Department;

(3) the activities of each technology partnership ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c); and

(4) efforts to engage private sector entities, including venture capital companies.

(d) TECHNOLOGY TRANSFER WORKING GROUP.—The Secretary shall establish a Technology Transfer Working

Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including opportunities and procedures related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(e) TECHNOLOGY COMMERCIALIZATION FUND.—The Secretary shall establish an Energy Technology Commercialization Fund, using 0.5 percent of the amount made available to the Department for each fiscal year, to be used to provide matching funds with private partners to promote promising technologies for commercial purposes.

(f) TECHNOLOGY TRANSFER RESPONSIBILITY.—Nothing in this section affects the technology transfer respon-

sibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(g) PLANNING AND REPORTING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a technology transfer execution plan.

(2) UPDATES.—Each year after the submission of the plan under paragraph (1), the Secretary shall submit to Congress an updated execution plan and reports that describe progress toward meeting goals set forth in the execution plan and the funds expended under subsection (e).

SEC. 1006. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term "Program" means the Technology Infrastructure Program established under subsection (b).

(2) TECHNOLOGY CLUSTER.—The term "technology cluster" means a concentration of technology-related business concerns, institutions of higher education, or nonprofit institutions, that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(3) TECHNOLOGY-RELATED BUSINESS CONCERN.—The term "technology-related business concern" means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research;

(B) develops new technologies;

(C) manufactures products based on new technologies; or

(D) performs technological services.

(b) ESTABLISHMENT.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(c) PURPOSE.—The purpose of the Program shall be to improve the ability of National Laboratories and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage

and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between—

(A) National Laboratories or single-purpose research facilities; and

(B) entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as—

(i) institutions of higher education;

(ii) technology-related business concerns;

(iii) nonprofit institutions; and

(iv) agencies of State, tribal, or local governments.

(d) PROJECTS.—The Secretary shall authorize the director of each National Laboratory or single-purpose research facility to implement the Program at the National Laboratory or facility through 1 or more projects that meet the requirements of subsections (e) and (f).

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Each project funded under this section shall meet the requirements of this subsection.

(2) ENTITIES.—Each project shall include at least 1 of each of the following entities:

(A) A business.

(B) An institution of higher education.

(C) A nonprofit institution.

(D) An agency of a State, local, or tribal government.

(3) COST-SHARING.—

(A) IN GENERAL.—The costs of carrying out projects under this section shall be shared in accordance with section 1002.

(B) SOURCES.—The calculation of costs paid by the non-Federal sources for a project shall include cash, personnel, services, equipment, and other resources expended on the project after the commencement of the project.

(C) RESEARCH AND DEVELOPMENT EXPENSES.—Independent research and development expenses of Government contractors that qualify for reimbursement under section 31.205–18(e) of title 48, Code of Federal Regulations, issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), may be credited towards costs paid by non-Fed-

eral sources to a project, if the expenses meet the other requirements of this section.

(4) COMPETITIVE SELECTION.—A project under this section shall be competitively selected using procedures determined by the Secretary.

(5) ACCOUNTING.—Any participant that receives funds under this section may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(6) DURATION.—No Federal funds shall be made available under this section for a construction project or for any project with a duration of more than 5 years.

(f) SELECTION CRITERIA.—

(1) DEPARTMENTAL MISSIONS.—The Secretary shall allocate funds under this section only if the Director of the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to achieve technical success in meeting departmental missions.

(2) OTHER CRITERIA.—In selecting a project to receive Federal funds, the Secretary shall consider—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster following the period of investment by the Department, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or involves such small businesses substantively in the project; and

(E) such other criteria as the Secretary determines to be appropriate.

(g) ALLOCATION.—In allocating funds for projects approved under this section, the Secretary shall provide—

(1) the Federal share of the project costs; and

(2) additional funds to the National Laboratory or single-purpose research facility managing the project to permit the National Laboratory or single-purpose research facility to carry out activities relating to the project, and to coordinate the activities with the project.

(h) REPORT TO CONGRESS.—Not later than July 1, 2008, the Secretary shall submit to Congress a report on whether the Program should be continued and, if so, how the program should be managed.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2006 through 2008.

SEC. 1007. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4))), in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;

(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;

(3) make available to small business concerns training, mentoring, and information on how to participate in procurement and collaborative research activities;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the

capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of the program to the Director of the National Laboratory or single-purpose research facility.

(b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to establish a program to provide small business concerns with—

(1) assistance directed at making the small business concerns more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facilities; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the products or services of the small business concern.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to small business concerns.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for activities

under this section $5,000,000 for each of fiscal years 2006 through 2008.

SEC. 1008. OUTREACH.

The Secretary shall ensure that each program authorized by this Act or an amendment made by this Act includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

SEC. 1009. RELATIONSHIP TO OTHER LAWS.

Except as otherwise provided in this Act or an amendment made by this Act, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this Act or an amendment made by this Act in accordance with the applicable provisions of—

(1) the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.);

(4) the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.);

(5) chapter 18 of title 35, United States Code (commonly known as the "Bayh-Dole Act"); and

(6) any other Act under which the Secretary is authorized to carry out the programs, projects, and activities.

SEC. 1010. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is amended by striking subsection (b) and inserting the following:

"(b)(1) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(3) The Under Secretary for Energy and Science shall be appointed from among persons who—

"(A) have extensive background in scientific or engineering fields; and

"(B) are well qualified to manage the civilian research and development programs of the Department.

"(4) The Under Secretary for Energy and Science shall—

"(A) serve as the Science and Technology Advisor to the Secretary;

"(B) monitor the research and development programs of the Department in order to advise the Secretary with respect to any undesirable duplication or gaps in the programs;

"(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;

"(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;

"(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department;

"(F) bear primary responsibility for energy conservation; and

"(G) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology functions under sections 203 and 209, as well as other elements of the Department assigned by the Secretary.".

(b) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—

(1) IN GENERAL.—Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended to read as follows:

"OFFICE OF SCIENCE

"SEC. 209. (a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary for Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(b) The Assistant Secretary for Science shall be in addition to the Assistant Secretaries provided for under section 203.

"(c) It shall be the duty and responsibility of the Assistant Secretary for Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of the research, as well as other functions vested in

the Secretary that the Secretary may assign to the Assistant Secretary.".

(2) DIRECTOR OF THE OFFICE OF SCIENCE.—

(A) IN GENERAL.—Notwithstanding section 3345(b)(1) of title 5, United States Code, the President may designate the Director of the Office of Science who served immediately before the date of enactment of this Act to act in the office of the Assistant Secretary of Energy for Science until the office is filled as provided in section 209 of the Department of Energy Organization Act (as amended by paragraph (1)).

(B) COMPENSATION.—While so acting, the person shall receive compensation at the rate provided by section 209(a) of that Act (as amended by paragraph (1)) for the office of Assistant Secretary for Science.

(c) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

(1) IN GENERAL.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended in the first sentence by striking "There shall be in the Department six Assistant Secretaries" and inserting "Except as provided in sec-

tion 209, there shall be in the Department 7 Assistant Secretaries".

(2) ASSISTANT SECRETARY LEVEL.—It is the sense of Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) (as amended by subsection (b)(1)) is amended by adding at the end the following:

"(d)(1) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section.

"(2) The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(e)(1) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe.

"(2) The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

(2) Section 5314 of title 5, United States Code, is amended by striking "Under Secretaries of Energy (2)" and inserting "Under Secretaries of Energy (3)".

(3) Section 5315 of title 5, United States Code, is amended—

(A) by striking "Assistant Secretaries of Energy (6)" and inserting "Assistant Secretaries of Energy (8)"; and

(B) by striking "Director, Office of Science, Department of Energy.".

SEC. 1011. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

"(g)(1) In addition to other authorities granted to the Secretary under any other provision of law, the Secretary may enter into other transactions on such terms as the Secretary may consider appropriate in furtherance of research, development, or demonstration functions vested in the Secretary.

"(2) The other transactions shall not be subject to section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

"(3)(A) The Secretary shall ensure that—

"(i) to the maximum extent the Secretary determines practicable, no transaction entered into under paragraph (1) provides for research, development, or demonstration that duplicates research, development, or demonstration being conducted under existing projects carried out by the Department;

"(ii) to the extent the Secretary determines practicable, the funds provided by the Federal Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction; and

"(iii) to the extent the Secretary determines practicable, competitive, merit-based selection procedures shall be used when entering into transactions under paragraph (1).

"(B) A transaction authorized by paragraph (1) may be used for a research, development, or demonstration project only if the Secretary determines the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

"(4)(A) The Secretary shall protect from disclosure (including disclosure under section 552 of title 5, United States Code) for up to 5 years after the date the information is received by the Secretary—

"(i) a proposal, proposal abstract, and supporting documents submitted to the Department in a competitive or noncompetitive process having the potential for resulting in an award to the party submitting the information entering into a transaction under paragraph (1); and

"(ii) a business plan and technical information relating to a transaction authorized by paragraph (1) submitted to the Department as confidential business information.

"(B) The Secretary may protect from disclosure, for up to 5 years after the information was developed, any information developed pursuant to a transaction under paragraph (1) which developed information is of a character that it would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.

"(5)(A) Not later than 90 days after the date of enactment of this subsection, the Secretary shall prescribe guidelines for using other transactions authorized by paragraph (1).

"(B) The guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.

"(6) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate and may not be delegated to any other person.".

SEC. 1012. PRIZES FOR ACHIEVEMENT IN GRAND CHALLENGES OF SCIENCE AND TECHNOLOGY.

(a) AUTHORITY.—The Secretary may carry out a program to award cash prizes in recognition of breakthrough achievements in research, development, demonstration, and commercial application that have the potential for application to the performance of the mission of the Department.

(b) COMPETITION REQUIREMENTS.—The program under subsection (a) may include prizes for the achievement of goals articulated by the Secretary in a specific area through a widely advertised solicitation of submission of results for research, development, demonstration, or commercial application projects.

(c) RELATIONSHIP TO OTHER AUTHORITY.—The program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority of the Secretary to acquire, support, or stimulate re-

search, development, demonstration, or commercial application projects.

SEC. 1013. TECHNICAL CORRECTIONS.

(a) COAL RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—Public Law 86–599 (30 U.S.C. 661 et seq.) is amended—

(A) by striking the first section (30 U.S.C. 661) and inserting the following:

"SECTION 1. (a) This Act may be cited as the 'Coal Research and Development Act of 1960'.

"(b) In this Act:

"(1) The term 'research' means scientific, technical, and economic research and the practical application of that research.

"(2) The term 'Secretary' means the Secretary of Energy.";

(B) in section 2 (30 U.S.C. 662), by striking "shall establish within" and all that follows through "such Office";

(C) by striking sections 3, 4, and 7 (30 U.S.C. 663, 664, 667); and

(D) by redesignating sections 5, 6, and 8 (30 U.S.C. 665, 666, 668) as sections 3, 4, and 5, respectively.

(2) PATENTS.—Section 210(a)(8) of title 35, United States Code, is amended by striking "Coal Research Development Act of 1960" and inserting "Coal Research and Development Act of 1960".

(b) NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT.—

(1) SHORT TITLE; DEFINITIONS.—Section 1 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5902) is amended to read as follows:

"SHORT TITLE AND DEFINITIONS

"SECTION 1. (a) This Act may be cited as the 'Federal Nonnuclear Energy Research and Development Act of 1974".

"(b) In this Act:

"(1) The term 'Department' means the Department of Energy.

"(2) The term 'Secretary' means the Secretary of Energy.".

(2) STATEMENT OF POLICY.—Section 3(b) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5902(b)) is amended—

(A) in paragraph (1), by striking "Energy Research and Development Administration" and inserting "Department";

(B) in paragraph (2), by striking "Administrator of the Energy Research and Development Administration (hereinafter in this Act referred to as the 'Administrator')" and inserting "Secretary"; and

(C) in paragraph (3)—

(i) by striking "Administrator" and inserting "Secretary"; and

(ii) by inserting "Demonstration" after "Cooling".

(3) DUTIES AND AUTHORITIES.—Section 4 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5903) is amended—

(A) by striking the section heading and inserting the following:

"DUTIES AND AUTHORITIES OF THE SECRETARY"; and

(B) in the matter preceding subsection (a), by striking "Administrator" and inserting "Secretary".

(4) COMPREHENSIVE PLANNING AND PROGRAMMING.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(A) by striking "Administrator" each place it appears and inserting "Secretary"; and

(B) in subsection (b)(3)—

(i) in subparagraph (I), by inserting "Demonstration" after "Cooling"; and

(ii) in subparagraph (L), by inserting "Energy" after "Solar".

(5) FORMS OF FEDERAL ASSISTANCE.—Section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(A) by striking "Administrator" each place it appears and inserting "Secretary"; and

(B) in subsection (a)(4), by striking "of the section".

(6) DEMONSTRATIONS.—Section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5907) is amended—

(A) in subsections (a) through (c), by striking "Administrator" each place it appears and inserting "Secretary";

(B) in subsection (d)—

(i) in the first sentence of paragraph (1), by inserting "of the Energy Research and Development Administration" after "Administrator"; and

(ii) in paragraph (3), by striking "Administrator" and inserting "Secretary"; and

(C) in subsection (f)—

(i) by striking "Administrator" each place it appears and inserting "Secretary"; and

(ii) in the proviso of the first sentence, by striking "Administrator's" and inserting "Secretary's".

(7) PATENT POLICY.—Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) is amended—

(A) by striking "Administration" each place it appears and inserting "Department";

(B) by striking "Administrator" each place it appears and inserting "Secretary"; and

(C) in subsection (c)(3), by striking "Administration's" and inserting "Department's".

(8) ACQUISITION OF ESSENTIAL MATERIALS.—Section 12 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5911) is amended by striking subsection (b) and inserting the following:

"(b) A rule or order under subsection (a) shall be considered to be a major rule subject to chapter 8 of title 5, United States Code.".

(9) WATER RESOURCE EVALUATION.—Section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912) is amended by striking "Administrator" each place it appears and inserting "Secretary".

(10) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915) is amended—

(A) by striking the section heading and inserting the following:

"AUTHORIZATION OF APPROPRIATIONS";

(B) by striking "(a) There may be appropriated to the Administrator" and inserting "There may be appropriated to the Secretary"; and

(C) by striking subsections (b) and (c).

(11) CENTRAL SOURCE OF NONNUCLEAR ENERGY INFORMATION.—Section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5916) is amended—

(A) by striking "Administrator" each place it appears and inserting "Secretary";

(B) in the first sentence, by striking "Administrator's";

(C) in the second sentence, by striking "he" and inserting "the Secretary";

(D) in the third sentence—

(i) in paragraph (2) of the first proviso, by striking "section 1905 or title 18" and inserting "section 1905 of title 18"; and

(ii) in subparagraph (B) of the second proviso—

(I) by striking "the Federal Energy Administration,";

(II) by striking "the Federal Power Commission," and inserting "the Federal Energy Regulatory Commission"; and

(III) by striking "General Accounting Office" and inserting "Government Accountability Office"; and

(E) in the last sentence, by inserting "or ranking minority member" after "chairman".

(12) ENERGY INFORMATION, LOAN GUARANTEES, AND FINANCIAL SUPPORT.—Sections 18 through 20 of the Federal Nonnuclear Energy Research and Devel-

opment Act of 1974 (42 U.S.C. 5917 through 5920) are repealed.

(c) STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—Section 20 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3712) is amended by striking "and the National Science Foundation" and inserting ", the Secretary of Energy, and the Director of the National Science Foundation".

TITLE XI—PERSONNEL AND TRAINING

SEC. 1101. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) DEFINITIONS.—In this section:

(1) ENERGY TECHNOLOGY INDUSTRY.—The term "energy technology industry" includes—

(A) a renewable energy industry;

(B) a company that develops or commercializes a device to increase energy efficiency;

(C) the oil and gas industry;

(D) the nuclear power industry;

(E) the coal industry;

(F) the electric utility industry; and

(G) any other industrial sector, as the Secretary determines to be appropriate.

(2) SKILLED TECHNICAL PERSONNEL.—The term "skilled technical personnel" means—

(A) journey- and apprentice-level workers who are enrolled in, or have completed, a federally-recognized or State-recognized apprenticeship program; and

(B) other skilled workers in energy technology industries, as determined by the Secretary.

(b) WORKFORCE TRENDS.—

(1) MONITORING.—The Secretary, in consultation with, and using data collected by, the Secretary of Labor, shall monitor trends in the workforce of—

(A) skilled technical personnel that support energy technology industries; and

(B) electric power and transmission engineers.

(2) REPORT ON TRENDS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on current trends under paragraph (1), with recommendations (as appropriate) to meet the future labor requirements for the energy technology industries.

(3) REPORT ON SHORTAGE.—As soon as practicable after the date on which the Secretary identifies

or predicts a significant national shortage of skilled technical personnel in 1 or more energy technology industries, the Secretary shall submit to Congress a report describing the shortage.

(c) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—The Secretary, in consultation with the Secretary of Labor, may establish programs in the appropriate offices of the Department under which the Secretary provides grants to enhance training (including distance learning) for any workforce category for which a shortage is identified or predicted under subsection (b)(2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2008.

SEC. 1102. ENERGY RESEARCH FELLOWSHIPS.

(a) POSTDOCTORAL FELLOWSHIP PROGRAM.—The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice.

(b) SENIOR RESEARCH FELLOWSHIPS.—

(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary provides fellowships to allow outstanding senior researchers and

their research groups in energy research and development to explore research and development topics of their choosing for a period of not less than 3 years to be determined by the Secretary.

(2) CONSIDERATION.—In providing a fellowship under the program described in paragraph (1), the Secretary shall consider—

(A) the past scientific or technical accomplishment of a senior researcher; and

(B) the potential for continued accomplishment by the researcher during the period of the fellowship.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2006 through 2008.

SEC. 1103. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) SCIENCE EDUCATION ENHANCEMENT FUND.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end:

"(c) SCIENCE EDUCATION ENHANCEMENT FUND.—The Secretary shall use not less than 0.2 percent of the amount made available to the Department for fiscal year 2006 and

each fiscal year thereafter to carry out activities authorized by this part.".

(b) AUTHORIZED EDUCATION ACTIVITIES.—Section 3165 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381b) is amended by adding at the end the following:

"(14) Support competitive events for students under the supervision of teachers, designed to encourage student interest and knowledge in science and mathematics.

"(15) Support competitively-awarded, peer-reviewed programs to promote professional development for mathematics teachers and science teachers who teach in grades from kindergarten through grade 12 at Department research and development facilities.

"(16) Support summer internships at Department research and development facilities, for mathematics teachers and science teachers who teach in grades from kindergarten through grade 12.

"(17) Sponsor and assist in educational and training activities identified as critical skills needs for future workforce development at Department research and development facilities.".

(c) EDUCATIONAL PARTNERSHIPS.—Section 3166(b) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381c(b)) is amended—

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

"(1) loaning or transferring equipment to the institution;";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(7) providing funds to educational institutions to hire personnel to facilitate interactions between local school systems, Department research and development facilities, and corporate and governmental entities.".

(d) DEFINITION OF DEPARTMENT RESEARCH AND DEVELOPMENT FACILITIES.—Section 3167(3) of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381d(3)) is amended by striking "from the Office of Science of the Department of Energy" and inserting "by the Department of Energy".

(e) STUDY.—

(1) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Public Administration to conduct a study of the priorities, quality, local and regional flexibility, and plans for educational programs at Department research and development facilities.

(2) INCLUSION.—The study shall recommend measures that the Secretary may take to improve Department-wide coordination of educational, workforce development, and critical skills development activities.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this subsection.

SEC. 1104. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary and in conjunction with the electric industry and recognized employee representatives, shall develop model personnel training guidelines to support the reliability and safety of the electric system.

(b) REQUIREMENTS.—The training guidelines under subsection (a) shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, or

maintenance of electric generation, transmission, or distribution systems, including requirements relating to—

(A) competency;

(B) certification; and

(C) assessment, including—

(i) initial and continuous evaluation of workers;

(ii) recertification procedures; and

(iii) methods for examining or testing the qualification of an individual who performs a covered task; and

(2) consolidate training guidelines in existence on the date on which the guidelines under subsection (a) are developed relating to the construction, operation, maintenance, and inspection of electric generation, transmission, and distribution facilities, such as guidelines established by the National Electric Safety Code and other industry consensus standards.

SEC. 1105. NATIONAL CENTER FOR ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall support the ongoing activities of the National Center for Energy Management and Building Technologies to carry out research, education, and training activities to facilitate the improvement of energy efficiency,

indoor environmental quality, and security of industrial, commercial, residential, and public buildings.

SEC. 1106. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) (as amended by section 1103(a)) is amended by adding at the end the following:

"(d) PROGRAMS FOR STUDENTS FROM UNDER-REPRESENTED GROUPS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from under-represented groups to pursue scientific and technical careers.".

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and

(2) by inserting after section 3166 the following:

"SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

"(a) DEFINITIONS.—In this section:

"(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

"(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

"(3) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given the term in section 2 of the Energy Policy Act of 2005.

"(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 903 of the Energy Policy Act of 2005.

"(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College Assistance Act of 1978 (25 U.S.C. 1801(a)).

"(b) EDUCATION PARTNERSHIP.—The Secretary shall require the director of each National Laboratory, and may require the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in any activity that increases the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

"(c) ACTIVITIES.—An activity described in subsection (b) includes—

"(1) collaborative research;

"(2) equipment transfer;

"(3) training activities carried out at a National Laboratory or science facility; and

"(4) mentoring activities carried out at a National Laboratory or science facility.

"(d) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to Congress a report describing the activities carried out under this section.".

SEC. 1107. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATIONAL CENTER.

(a) ESTABLISHMENT.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (referred to in this section

as the "Center"), to address the need for training and educating certified operators and technicians for the electric power industry.

(b) LOCATION OF CENTER.—The Secretary shall support the establishment of the Center at an institution of higher education that has—

(1) expertise in providing degree programs in electric power generation, transmission, and distribution technologies;

(2) expertise in providing onsite and Internet-based training; and

(3) demonstrated responsiveness to workforce and training requirements in the electric power industry.

(c) TRAINING AND CONTINUING EDUCATION.—

(1) IN GENERAL.—The Center shall provide training and continuing education in electric power generation, transmission, and distribution technologies and operations.

(2) LOCATION.—The Center shall carry out training and education activities under paragraph (1)—

(A) at the Center; and

(B) through Internet-based information technologies that allow for learning at remote sites.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the "Electricity Modernization Act of 2005".

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY.

"(a) DEFINITIONS.—In this section:

"(1)(A) The term 'bulk-power system' means—

"(i) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion of such a network); and

"(ii) electric energy from generation facilities needed to maintain transmission system reliability.

"(B) The term 'bulk-power system' does not include facilities used in the local distribution of electric energy.

"(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of

which is to establish and enforce reliability standards for the bulk-power system, subject to review by the Commission.

"(3)(A) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system.

"(B) The term 'reliability standard' includes requirements for the operation of existing bulk-power system components and the design of planned additions or modifications to those components to the extent necessary to provide for reliable operation of the bulk-power system, except that the term does not include any requirement to enlarge those components or to construct new transmission capacity or generation capacity.

"(4) The term 'reliable operation' means operating the components of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of the system will not occur as a result of a sudden disturbance or unanticipated failure of system components.

"(5) The term 'interconnection' means a geographic area in which the operation of bulk-power

system components is synchronized such that the failure of 1 or more of the components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the portion of the system within their control.

"(6) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

"(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system (including the entities described in section 201(f)), for purposes of approving reliability standards established under this section and enforcing compliance with this section.

"(2) All users, owners, and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(3) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

"(c) CERTIFICATION.—(1) Following the issuance of a Commission rule under subsection (b)(3), any person may

submit an application to the Commission for certification as the Electric Reliability Organization.

"(2) The Commission may certify 1 such ERO if the Commission determines that the ERO—

"(A) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

"(B) has established rules that—

"(i) ensure the independence of the ERO from the users and owners and operators of the bulk-power system, while ensuring fair stakeholder representation in the selection of the directors of the ERO and balanced decisionmaking in any ERO committee or subordinate organizational structure;

"(ii) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

"(iii) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(iv) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising the duties of the ERO; and

"(v) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

"(d) RELIABILITY STANDARDS.—(1) The ERO shall file each reliability standard or modification to a reliability standard that the ERO proposes to be made effective under this section with the Commission.

"(2)(A) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if the Commission determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(B) The Commission—

"(i) shall give due weight to the technical expertise of the ERO with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an interconnection-wide basis with respect to a reliability standard to be applicable within that interconnection; but

"(ii) shall not defer with respect to the effect of a standard on competition.

"(C) A proposed standard or modification shall take effect on approval by the Commission.

"(3) The ERO shall rebuttably presume that a proposal from a regional entity organized on an interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an interconnection-wide basis is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission shall remand to the ERO for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

"(5) The Commission, on a motion of the Commission or on complaint, may order the ERO to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(6)(A) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement

accepted, approved, or ordered by the Commission applicable to a transmission organization.

"(B) The transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

"(i) the Commission finds a conflict exists between a reliability standard and any such provision;

"(ii) the Commission orders a change to the provision pursuant to section 206; and

"(iii) the ordered change becomes effective under this part.

"(C) If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, the Commission shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5).

"(e) ENFORCEMENT.—(1) Subject to paragraph (2), the ERO may impose a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

"(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(B) files notice and the record of the proceeding with the Commission.

"(2)(A) A penalty imposed under paragraph (1) may take effect not earlier than the day that is 31 days after the date on which the ERO files with the Commission notice of the penalty and the record of proceedings.

"(B) The penalty shall be subject to review by the Commission on—

"(i) a motion by the Commission; or

"(ii) application by the user, owner or operator that is the subject of the penalty filed not later than 30 days after the date on which the notice is filed with the Commission.

"(C) Application to the Commission for review, or the initiation of review by the Commission on a motion of the Commission, shall not operate as a stay of the penalty unless the Commission orders otherwise on a motion of the Commission or on application by the user, owner or operator that is the subject of the penalty.

"(D) In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order—

"(i) affirm, set aside, reinstate, or modify the penalty; and

"(ii) if appropriate, remand to the ERO for further proceedings.

"(E) The Commission shall implement expedited procedures for the hearings described in subparagraph (D).

"(3) On a motion of the Commission or on complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of a reliability standard.

"(4)(A) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

"(i) the regional entity is governed by—

"(I) an independent board;

"(II) a balanced stakeholder board; or

"(III) a combination independent and balanced stakeholder board;

"(ii) the regional entity otherwise meets the requirements of paragraphs (1) and (2) of subsection (c); and

"(iii) the agreement promotes effective and efficient administration of bulk-power system reliability.

"(B) The Commission may modify a delegation under this paragraph.

"(C) The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved.

"(D) The regulation issued under this paragraph may provide that the Commission may assign the authority of the ERO to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with this paragraph.

"(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

"(6) Any penalty imposed under this section shall—

"(A) bear a reasonable relation to the seriousness of the violation; and

"(B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner.

"(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—(1) The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of the basis and purpose of the rule and proposed rule change.

"(2) The Commission, upon a motion of the Commission or upon complaint, may propose a change to the rules of the ERO.

"(3) A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, and not unduly discriminatory or preferential, is in the public interest, and meets the requirements of subsection (c).

"(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

"(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and

the effectiveness of the ERO in the United States and Canada or Mexico.

"(i) SAVINGS PROVISIONS.—(1) The ERO may develop and enforce compliance with reliability standards for only the bulk-power system.

"(2) Nothing in this section authorizes the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

"(3) Nothing in this section preempts any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as the action is not inconsistent with any reliability standard.

"(4) Not later than 90 days after the date of application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

"(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of

any State action, pending the issuance by the Commission of a final order.

"(j) REGIONAL ADVISORY BODIES.—(1) The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of the electric load of the States served within the region.

"(2) A regional advisory body—

"(A) shall be composed of 1 member from each participating State in the region, appointed by the Governor of the State; and

"(B) may include representatives of agencies, States, and provinces outside the United States.

"(3) A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding—

"(A) the governance of an existing or proposed regional entity within the same region;

"(B) whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest;

"(C) whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

"(D) any other responsibilities requested by the Commission.

"(4) The Commission may give deference to the advice of a regional advisory body if that body is organized on an interconnection-wide basis.

"(k) ALASKA AND HAWAII.—This section does not apply to Alaska or Hawaii.".

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Commission under section 215(c) of the Federal Power Act (as added by subsection (a)) and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act (as so added) are not departments, agencies, or instrumentalities of the Federal Government.

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1211(a)) is amended by adding at the end the following:

"SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

"(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDORS.—(1) Not later than 1 year

after the date of enactment of this section and every 3 years thereafter, the Secretary of Energy (referred to in this section as the 'Secretary'), in consultation with affected States, shall conduct a study of electric transmission congestion.

"(2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

"(3) The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referred to in section 215.

"(4) In determining whether to designate a national interest electric transmission corridor under paragraph (2), the Secretary may consider whether—

"(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

"(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

"(ii) a diversification of supply is warranted;

"(C) the energy independence of the United States would be served by the designation;

"(D) the designation would be in the interest of national energy policy; and

"(E) the designation would enhance national defense and homeland security.

"(b) CONSTRUCTION PERMIT.—Except as provided in subsection (i), the Commission may, after notice and an opportunity for hearing, issue 1 or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

"(1)(A) a State in which the transmission facilities are to be constructed or modified does not have authority to—

"(i) approve the siting of the facilities; or

"(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

"(B) the applicant for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the pro-

posed project in a State because the applicant does not serve end-use customers in the State; or

"(C) a State commission or other entity that has authority to approve the siting of the facilities has—

"(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

"(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

"(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

"(3) the proposed construction or modification is consistent with the public interest;

"(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;

"(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence; and

"(6) the proposed modification will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures so as to minimize the environmental and visual impact of the proposed modification.

"(c) PERMIT APPLICATIONS.—(1) Permit applications under subsection (b) shall be made in writing to the Commission.

"(2) The Commission shall issue rules specifying—

"(A) the form of the application;

"(B) the information to be contained in the application; and

"(C) the manner of service of notice of the permit application on interested persons.

"(d) COMMENTS.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

"(e) RIGHTS-OF-WAY.—(1) In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located.

"(2) Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition.

"(3) The practice and procedure in any action or proceeding under this subsection in the district court of the United States shall conform as nearly as practicable to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

"(f) COMPENSATION.—(1) Any right-of-way acquired pursuant to subsection (e) shall be considered a taking of private property for which just compensation is due.

"(2) Just compensation shall be an amount equal to the fair market value (including applicable severance damages) of the property taken on the date of the exercise of eminent domain authority.

"(g) STATE LAW.—Nothing in this section precludes any person from constructing or modifying any transmission facility in accordance with State law.

"(h) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION FACILITIES.—(1) In this subsection:

"(A) The term 'Federal authorization' means any authorization required under Federal law in order to site a transmission facility.

"(B) The term 'Federal authorization' includes such permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law in order to site a transmission facility.

"(2) The Department of Energy shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility.

"(3) To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agen-

cies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

"(4)(A) As head of the lead agency, the Secretary, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multistate entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.

"(B) The Secretary shall ensure that, once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—

"(i) within 1 year; or

"(ii) if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.

"(C) The Secretary shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not

later than 60 days after the prospective applicant submits a request for such information concerning—

"(i) the likelihood of approval for a potential facility; and

"(ii) key issues of concern to the agencies and public.

"(5)(A) As lead agency head, the Secretary, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.

"(B) The Secretary and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.

"(C) The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.

"(6)(A) If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would

be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

"(B) Based on the overall record and in consultation with the affected agency, the President may—

"(i) issue the necessary authorization with any appropriate conditions; or

"(ii) deny the application.

"(C) The President shall issue a decision not later than 90 days after the date of the filing of the appeal.

"(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—

"(i) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

"(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

"(iii) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

"(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

"(7)(A) Not later than 18 months after the date of enactment of this section, the Secretary shall issue any regulations necessary to implement this subsection.

"(B)(i) Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.

"(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.

"(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.

"(8)(A) Each Federal land use authorization for an electricity transmission facility shall be issued—

"(i) for a duration, as determined by the Secretary, commensurate with the anticipated use of the facility; and

"(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

"(B) On the expiration of the authorization (including an authorization issued before the date of enactment of this section), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

"(9) In exercising the responsibilities under this section, the Secretary shall consult regularly with—

"(A) the Federal Energy Regulatory Commission;

"(B) electric reliability organizations (including related regional entities) approved by the Commission; and

"(C) Transmission Organizations approved by the Commission.

"(i) INTERSTATE COMPACTS.—(1) The consent of Congress is given for 3 or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to—

"(A) facilitate siting of future electric energy transmission facilities within those States; and

"(B) carry out the electric energy transmission siting responsibilities of those States.

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

"(3) The regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States).

"(4) The Commission shall have no authority to issue a permit for the construction or modification of an electric transmission facility within a State that is a party to a compact, unless the members of the compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

"(j) RELATIONSHIP TO OTHER LAWS.—(1) Except as specifically provided, nothing in this section affects any requirement of an environmental law of the United States, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) Subsection (h)(6) shall not apply to any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, or a National Monument.".

(b) REPORTS TO CONGRESS ON CORRIDORS AND RIGHTS OF WAY ON FEDERAL LANDS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, the Secretary, the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall submit to Congress a joint report identifying—

(1)(A) all existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.);

(B) the schedule for completing the work;

(C) any impediments to completing the work; and

(D) steps that Congress could take to expedite the process;

(2)(A) the number of pending applications to locate transmission facilities on Federal land;

(B) key information relating to each such facility;

(C) how long each application has been pending;

(D) the schedule for issuing a timely decision as to each facility; and

(E) progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or the equivalent of those plans; and

(3)(A) the number of existing transmission and distribution rights-of-way on Federal land that will come up for renewal within the following 5-, 10-, and 15-year periods; and

(B) a description of how the Secretaries plan to manage the renewals.

SEC. 1222. THIRD-PARTY FINANCE.

(a) EXISTING FACILITIES.—The Secretary, acting through the Administrator of the Western Area Power Administration (referred to in this section as "WAPA") or the Administrator of the Southwestern Power Administration (referred to in this section as "SWPA"), or both, may carry out a project to design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, an electric power transmission facility and related facilities needed to upgrade existing transmission facilities owned by the SWPA or WAPA if the Secretary, in consultation with the applicable Administrator, determines that the proposed project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)), if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid; and

(3) would be operated in conformance with prudent utility practice.

(b) NEW FACILITIES.—The Secretary, acting through the WAPA or SWPA, or both, may carry out a project to design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, a new electric power transmission facility and related facilities located within any State in which the WAPA or SWPA oper-

ates if the Secretary, in consultation with the applicable Administrator, determines that the proposed project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization, if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate—

(A) Transmission Organization, if any; or

(B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities that are the subject of ongoing or approved siting and related permitting proceedings.

(c) OTHER FUNDS.—

(1) IN GENERAL.—In carrying out a project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the project.

(2) AVAILABILITY.—The contributed funds shall be available for expenditure for the purpose of carrying out the project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for the project.

(3) ALLOCATION OF COSTS.—In carrying out a project under subsection (a) or (b), any costs of the project not paid for by contributions from another entity shall be—

(A) collected through rates charged to customers using the new transmission capability provided by the project; and

(B) allocated equitably among these project beneficiaries using the new transmission capability.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any authorizing law in effect on the date of enactment of this Act.

(e) SAVINGS CLAUSE.—Nothing in this section constrains or restricts an Administrator in the use of other authority delegated to the Administrator of the WAPA or SWPA.

(f) SECRETARIAL DETERMINATIONS.—Any determination made pursuant to subsection (a) or (b) shall be based on findings by the Secretary using the best available data.

(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than $100,000,000 under subsection (c)(1) for the period of fiscal years 2006 through 2013.

SEC. 1223. ADVANCED TRANSMISSION TECHNOLOGIES.

(a) DEFINITION OF ADVANCED TRANSMISSION TECHNOLOGY.—In this section, the term "advanced transmission technology" means a technology that increases the capacity,

efficiency, or reliability of an existing or new transmission facility, including—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;

(8) ultra-high voltage lines;

(9) high-voltage DC technology;

(10) flexible AC transmission systems;

(11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels, and batteries);

(12) controllable load;

(13) distributed generation (including PV, fuel cells, and microturbines);

(14) enhanced power device monitoring;

(15) direct system state sensors;

(16) fiber optic technologies;

(17) power electronics and related software (including real time monitoring and analytical software);

(18) mobile transformers and mobile substations; and

(19) any other technologies the Commission considers appropriate.

(b) AUTHORITY.—In carrying out the Federal Power Act (16 U.S.C. 791a et seq.) and the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the Commission shall encourage, as appropriate, the deployment of advanced transmission technologies.

SEC. 1224. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) QUALIFYING ADVANCED POWER SYSTEM TECHNOLOGY FACILITY.—The term "qualifying advanced power system technology facility" means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) QUALIFYING SECURITY AND ASSURED POWER FACILITY.—The term "qualifying security and as-

sured power facility" means a qualifying advanced power system technology facility determined by the Secretary, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(b) PROGRAM.—The Secretary may establish an advanced power system technology incentive program to—

(1) support the deployment of certain advanced power system technologies; and

(2) improve and protect certain critical governmental, industrial, and commercial processes.

(c) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance.

(2) APPLICATION.—Payments under this section may only be made on receipt by the Secretary of an incentive payment application establishing an applicant as—

(A) a qualifying advanced power system technology facility; or

(B) a qualifying security and assured power facility.

(3) PAYMENT RATES.—Subject to availability of funds—

(A) a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at the facility; and

(B) an additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at the facility.

(4) PAYMENT QUANTITY.—Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2006 through 2012.

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

"SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

"(a) DEFINITION OF UNREGULATED TRANSMITTING UTILITY.—In this section, the term 'unregulated transmitting utility' means an entity that—

"(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

"(2) is an entity described in section 201(f).

"(b) TRANSMISSION OPERATION IMPROVEMENTS.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

"(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

"(2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides trans-

mission services to itself and that are not unduly discriminatory or preferential.

"(c) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

"(1) sells not more than 4,000,000 megawatt hours of electricity per year;

"(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion of the system); or

"(3) meets other criteria the Commission determines to be in the public interest.

"(d) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (b) shall not apply to facilities used in local distribution.

"(e) EXEMPTION TERMINATION.—If the Commission, after an evidentiary hearing held on a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (c) unreasonably impairs the continued reliability of an interconnected transmission system, the Commission shall revoke the exemption granted to the transmitting utility.

"(f) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

"(g) REMAND.—In exercising authority under subsection (b)(1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision if necessary to meet the requirements of subsection (b).

"(h) OTHER REQUESTS.—The provision of transmission services under subsection (b) does not preclude a request for transmission services under section 211.

"(i) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986.

"(j) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to a Transmission Organization that is designated to provide nondiscriminatory transmission access.".

SEC. 1232. REGIONAL TRANSMISSION ORGANIZATIONS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1221(a)) is amended by adding at the end the following:

"SEC. 217. PROMOTION OF VOLUNTARY TRANSMISSION ORGANIZATIONS.

"(a) IN GENERAL.—The Commission may encourage and may approve the voluntary formation of RTOs, ISOs, or other similar organizations approved by the Commission for the purposes of—

"(1) promoting fair, open access to electric transmission service;

"(2) facilitating wholesale competition;

"(3) improving efficiencies in transmission grid management;

"(4) promoting grid reliability;

"(5) removing opportunities for unduly discriminatory or preferential transmission practices; and

"(6) providing for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets.

"(b) OPERATIONAL CONTROL.—No order issued under this Act shall be conditioned on or require a transmitting utility to transfer operational control of jurisdictional facilities to a Transmission Organization approved by the Commission.

"(c) ANNUAL AUDITS.—(1) Each Transmission Organization shall report to the Commission on a scheduled basis, as determined by the Commission, the means by which the Transmission Organization will ensure that the Transmission Organization will operate and perform the functions of the Transmission Organization in a cost effective manner that is also consistent with the obligations of the Transmission Organization under the Commission-approved tariffs and agreements of the Transmission Organization.

"(2) The Commission shall annually audit the compliance of the Transmission Organization with the filed plan and any additional Commission requirements concerning the performance, operations, and cost efficiencies of the Transmission Organization.

"(3) The Commission shall establish appropriate accounting procedures for recording costs to facilitate comparisons among Transmission Organizations and, to the extent practicable, among other transmitting utilities performing similar functions.".

SEC. 1233. FEDERAL UTILITY PARTICIPATION IN TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—In this section—

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term "appropriate Federal regulatory authority" means—

(A) in the case of a Federal power marketing agency, the Secretary, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of the Federal power marketing agency; and

(B) in the case of the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL POWER MARKETING AGENCY.—The term "Federal power marketing agency" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(3) FEDERAL UTILITY.—The term "Federal utility" means—

(A) a Federal power marketing agency; or

(B) the Tennessee Valley Authority.

(4) TRANSMISSION ORGANIZATION.—The term "Transmission Organization" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(5) TRANSMISSION SYSTEM.—The term "transmission system" means an electric transmission facility owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority may enter into a contract, agreement, or other arrangement transferring control and use of all or part of the transmission system of a Federal utility to a Transmission Organization.

(c) CONTENTS.—The contract, agreement, or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines are necessary or appropriate, including standards that ensure—

(A) recovery of all of the costs and expenses of the Federal utility related to the transmission facilities that are the subject of the contract, agreement, or other arrangement;

(B) consistency with existing contracts and third-party financing arrangements; and

(C) consistency with the statutory authorities, obligations, and limitations of the Federal utility;

(2) provisions for monitoring and oversight by the Federal utility of the Transmission Organization's terms and conditions of the contract, agreement, or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the Transmission Organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the Transmission Organization and terminate the contract, agreement, or other arrangement in accordance with its terms.

(d) COMMISSION.—Neither this section, actions taken pursuant to this section, nor any other transaction of a Federal utility participating in a Transmission Organization shall confer on the Commission jurisdiction or authority over—

(1) the electric generation assets, electric capacity, or energy of the Federal utility that the Federal utility is authorized by law to market; or

(2) the power sales activities of the Federal utility.

(e) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate, or maintain the transmission system of the Federal utility prohibits a transfer of control and use of the transmission system pursuant to, and subject to, the requirements of this section.

(2) OTHER OBLIGATIONS.—This subsection does not—

(A) suspend, or exempt any Federal utility from, any provision of Federal law in effect on the date of enactment of this Act, including any requirement or direction relating to the use of the transmission system of the Federal utility, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) CONFORMING AMENDMENT.—Section 311 of the Energy and Water Development Appropriations Act, 2001 (16 U.S.C. 824n) is repealed.

SEC. 1234. STANDARD MARKET DESIGN.

The proposed rulemaking of the Commission entitled "Remedying Undue Discrimination through Open Access

Transmission Service and Standard Electricity Market Design" (Docket No. RM01–12–000) (commonly known as "SMD NOPR") is terminated and shall not be reissued.

SEC. 1235. NATIVE LOAD SERVICE OBLIGATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1232) is amended by adding at the end the following:

"SEC. 218. NATIVE LOAD SERVICE OBLIGATION.

"(a) DEFINITIONS.—In this section:

"(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through 1 or more additional State utilities or electric cooperatives, provides electric service to end-users.

"(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

"(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State, or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

"(4) The term 'State utility' means a State or any political subdivision of a State, or any agency,

authority, or instrumentality of any 1 or more States or political subdivisions, or a corporation that is wholly owned, directly or indirectly, by any 1 or more of the States or political subdivisions, competent to carry on the business of developing, transmitting, using, or distributing power.

"(b) MEETING SERVICE OBLIGATIONS.—(1) Paragraph (2) applies to any load-serving entity that, as of the date of enactment of this section—

"(A) owns generation facilities, markets the output of Federal generation facilities, or holds rights under 1 or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation; and

"(B) by reason of ownership of transmission facilities, or 1 or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of the generation facilities or the purchased energy to meet the service obligation.

"(2) Any load-serving entity described in paragraph (1) is entitled to use the firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver the output or purchased energy, or the output of other generating facilities or purchased energy to the extent

deliverable using the rights, to the extent required to meet the service obligation of the load-serving entity.

"(3)(A) To the extent that all or a portion of the service obligation covered by the firm transmission rights or equivalent tradable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradable or financial transmission rights associated with the transferred service obligation.

"(B) Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

"(4) The Commission shall exercise the authority of the Commission under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long term basis for long term power supply arrangements made, or planned, to meet such needs.

"(c) ALLOCATION OF TRANSMISSION RIGHTS.—Nothing in subsections (b)(1), (b)(2) and (b)(3) of this section shall affect any existing or future methodology employed by a Transmission Organization for allocating or auctioning

transmission rights if such Transmission Organization was authorized by the Commission to allocate or auction financial transmission rights on its system as of January 1, 2005, and the Commission determines that any future allocation or auction is just, reasonable and not unduly discriminatory or preferential, provided, however, that if such a Transmission Organization never allocated financial transmission rights on its system that pertained to a period before January 1, 2005, with respect to any application by such Transmission Organization that would change its methodology the Commission shall exercise its authority in a manner consistent with the Act and that takes into account the policies expressed in subsections (b)(1), (b)(2) and (b)(3) as applied to firm transmission rights held by a load-serving entity as of January 1, 2005, to the extent the associated generation ownership or power purchase arrangements remain in effect.

"(d) CERTAIN TRANSMISSION RIGHTS.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (b) available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

"(e) OBLIGATION TO BUILD.—Nothing in this Act relieves a load-serving entity from any obligation under State

or local law to build transmission or distribution facilities adequate to meet the service obligations of the load-serving entity.

"(f) CONTRACTS.—Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection. If an ISO in the Western Interconnection had allocated financial transmission rights prior to the date of enactment of this section but had not done so with respect to one or more load-serving entities' firm transmission rights held under contracts to which the preceding sentence applies (or held by reason of ownership or future ownership of transmission facilities), such load-serving entities may not be required, without their consent, to convert such firm transmission rights to tradable or financial rights, except where the load-serving entity has voluntarily joined the ISO as a participating transmission owner (or its successor) in accordance with the ISO tariff.

"(g) WATER PUMPING FACILITIES.—The Commission shall ensure that any entity described in section 201(f) that owns transmission facilities used predominately to support its own water pumping facilities shall have, with respect to the facilities, protections for transmission service com-

parable to those provided to load-serving entities pursuant to this section.

"(h) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

"(i) JURISDICTION.—This section does not authorize the Commission to take any action not otherwise within the jurisdiction of the Commission.

"(j) TVA AREA.—(1) Subject to paragraphs (2) and (3), for purposes of subsection (b)(1)(B), a load-serving entity that is located within the service area of the Tennessee Valley Authority and that has a firm wholesale power supply contract with the Tennessee Valley Authority shall be considered to hold firm transmission rights for the transmission of the power provided.

"(2) Nothing in this subsection affects the requirements of section 212(j).

"(3) The Commission shall not issue an order on the basis of this subsection that is contrary to the purposes of section 212(j).".

(h) FERC RULEMAKING ON LONG-TERM TRANSMISSION RIGHTS IN ORGANIZED MARKETS.—Within one year after the date of enactment of this section and after notice and an opportunity for comment, the Commission shall by rule or order implement subsection (b)(4) in Transmission Organizations with organized electricity markets.

(i) EFFECT OF EXERCISING RIGHTS.—An entity that to the extent required to meet its service obligations exercises rights described in subsection (b) shall not be considered by such action as engaging in undue discrimination or preference under this Act.

SEC. 1236. PROTECTION OF TRANSMISSION CONTRACTS IN THE PACIFIC NORTHWEST.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1235) is amended by adding at the end the following:

"SEC. 219. PROTECTION OF TRANSMISSION CONTRACTS IN THE PACIFIC NORTHWEST.

"(a) DEFINITION OF ELECTRIC UTILITY OR PERSON.—In this section, the term 'electric utility or person' means an electric utility or person that—

"(1) as of the date of enactment of the Energy Policy Act of 2005 holds firm transmission rights pursuant to contract or by reason of ownership of transmission facilities; and

"(2) is located—

"(A) in the Pacific Northwest, as that region is defined in section 3 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a); or

"(B) in that portion of a State included in the geographic area proposed for a regional transmission organization in Commission Docket Number RT01–35 on the date on which that docket was opened.

"(b) PROTECTION OF TRANSMISSION CONTRACTS.—Nothing in this Act confers on the Commission the authority to require an electric utility or person to convert to tradable or financial rights—

"(1) firm transmission rights described in subsection (a)(1); or

"(2) firm transmission rights obtained by exercising contract or tariff rights associated with the firm transmission rights described in subsection (a)(1).".

Subtitle D—Transmission Rate Reform

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1236) is amended by adding at the end the following:

"SEC. 220. TRANSMISSION INFRASTRUCTURE INVESTMENT.

"(a) RULEMAKING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, the Commission shall establish, by rule, incentive-based (including per-

formance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

"(b) CONTENTS.—The rule shall—

"(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities;

"(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

"(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities; and

"(4) allow recovery of—

"(A) all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215; and

"(B) all prudently incurred costs related to transmission infrastructure development pursuant to section 216.

"(c) JUST AND REASONABLE RATES.—All rates approved under the rules adopted pursuant to this section, including any revisions to the rules, are subject to the requirements of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.".

SEC. 1242. FUNDING NEW INTERCONNECTION AND TRANSMISSION UPGRADES.

The Commission may approve a participant funding plan that allocates costs related to transmission upgrades or new generator interconnection, without regard to whether an applicant is a member of a Commission-approved Transmission Organization, if the plan results in rates that—

(1) are just and reasonable;

(2) are not unduly discriminatory or preferential; and

(3) are otherwise consistent with sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d, 824e).

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

"(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

"(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

"(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a

10-year plan to increase the efficiency of its fossil fuel generation.".

(b) COMPLIANCE.—

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

"(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

"(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16

U.S.C. 2622(c)) is amended by adding at the end the following:

"In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

(3) PRIOR STATE ACTIONS.—

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

"(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.".

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).".

SEC. 1252. SMART METERING.

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

"(14) TIME-BASED METERING AND COMMUNICATIONS.—

"(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the

variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

"(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

"(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

"(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

"(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

"(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce the planned capacity obligations of a utility.

"(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

"(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

"(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).".

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

(1) By inserting in subsection (b) after the phrase "the standard for time-of-day rates established by section 111(d)(3)" the following: "and the standard for time-based metering and communications established by section 111(d)(14)".

(2) By inserting in subsection (b) after the phrase "are likely to exceed the metering" the following: "and communications".

(3) By adding at the end the following:

"(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.".

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking "and" at the end of paragraph (3), striking the period at the end

of paragraph (4) and inserting "; and", and by adding the following at the end thereof:

"(5) technologies, techniques, and rate-making methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.".

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

"(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

"(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

"(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

"(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.".

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

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

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

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

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response re-

sources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

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

(C) the annual resource contribution of demand resources;

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

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improved customer participation in demand response, peak reduction, and critical period pricing programs.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response,

whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity, and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

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

"(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

"(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory

authority (with respect to each electric utility for which it has ratemaking authority), and each non-regulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).".

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following: "In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

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

"(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

"(1) the State has implemented for such utility the standard concerned (or a comparable standard);

"(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

"(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.".

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: "In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).".

SEC. 1253. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

"(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

"(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

"(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

"(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying fa-

cility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

"(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

"(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.—(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

"(B) For the purposes of this paragraph, the term 'existing qualifying cogeneration facility' means a facility that—

"(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

"(ii) had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

"(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

"(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric

utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

"(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

"(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

"(B) the electric utility is not required by State law to sell electric energy in its service territory.

"(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

"(7) RECOVERY OF COSTS.—(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable ob-

ligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

"(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

"(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure—

"(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

"(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws applicable to sales of electric energy from a qualifying facility to its host facility; and

"(iii) continuing progress in the development of efficient electric energy generating technology.

"(B) The rule issued pursuant to section (n)(1)(A) shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in section (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

"(2) Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

"(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

"(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).".

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) QUALIFYING SMALL POWER PRODUCTION FACILITY.—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

"(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;".

(2) QUALIFYING COGENERATION FACILITY.—Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

"(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;".

SEC. 1254. INTERCONNECTION.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as amended by section 1252(a)) is amended by adding at the end the following:

"(15) INTERCONNECTION.—(A) In this paragraph, the term 'interconnection service' means service to an electric consumer by which an on-site generating facility on the premises of the electric consumer is connected to the local distribution facilities.

"(B)(i) Each electric utility shall make available, on request, interconnection service to any electric consumer that the electric utility serves.

"(ii) Interconnection services shall be made available under clause (i) based on the standards developed by the Institute of Electrical and Electronics Engineers, entitled "IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems" (or successor standards).

"(C)(i) Electric utilities shall establish agreements and procedures providing that the interconnection services made available under subparagraph (B) promote current best practices of interconnection for distributed generation, including practices stipulated in model codes adopted by associations of State regulatory agencies.

"(ii) Any agreements and procedures established under clause (i) shall be just and reasonable and not unduly discriminatory or preferential.".

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) (as amended by section 1252(g)) is amended by adding at the end the following:

"(5)(A) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State regulatory authority has ratemaking authority) and each nonregulated utility shall, with respect to the standard established by section 111(d)(15)—

"(i) commence the consideration under section 111(a); or

"(ii) set a hearing date for the consideration.

"(B) Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State regulatory authority has ratemaking authority) and each nonregulated electric utility shall, with respect to the standard established by section 111(d)(15), complete the consideration and make the determination under section 111(a).".

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) (as amended by section 1252(h)) is amended by adding at the end the following: "In the case of the standard established by paragraph (15), the reference contained in this subsection to the date

of enactment of this Act shall be considered to be a reference to the date of enactment of paragraph (15).".

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112(e) of the Public Utility Regulatory Policies Act of 1978 (as added by section 1252(i)(1)) is amended by striking "paragraph 14" and inserting "paragraph (14) or (15)".

(B) CONFORMING AMENDMENT.—Section 124 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2634) (as amended by section 1252(i)(2)) is amended by adding at the end the following: "In the case of each standard established by section 111(d)(15), the reference contained in this section to the date of enactment of the Act shall be considered to be a reference to the date of enactment of paragraph (15).".

Subtitle F—Market Transparency, Enforcement, and Consumer Protection

SEC. 1261. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1241) is amended by adding at the end the following:

"SEC. 221. MARKET TRANSPARENCY RULES.

"(a) IN GENERAL.—The Commission may issue such rules as the Commission considers to be appropriate to establish an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets for the sale in interstate commerce of electric energy at wholesale.

"(b) INFORMATION TO BE MADE AVAILABLE.—(1) The system under subsection (a) shall provide, on a timely basis, information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

"(2) In determining the information to be made available under the system and the time at which to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c) AUTHORITY TO OBTAIN INFORMATION.—The Commission shall have authority to obtain information described in subsections (a) and (b) from any electric utility

or transmitting utility (including any entity described in section 201(f)).

"(d) EXEMPTIONS.—The rules of the Commission, if adopted, shall exempt from disclosure information that the Commission determines would, if disclosed—

"(1) be detrimental to the operation of an effective market; or

"(2) jeopardize system security.

"(e) COMMODITY FUTURES TRADING COMMISSION.—(1) This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

"(2) Any request by the Commission for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving an account, agreement, contract, or transaction in a commodity (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission, which shall cooperate in responding to any information request by the Commission.

"(f) SAVINGS PROVISION.—In exercising authority under this section, the Commission shall not—

"(1) compete with, or displace from the market place, any price publisher (including any electronic price publisher); or

"(2) regulate price publishers (including any electronic price publisher) or impose any requirements on the publication of information by price publishers (including any electronic price publisher).

"(g) ERCOT.—This section shall not apply to a transaction for the purchase or sale of wholesale electric energy or transmission services within the area described in section 212(k)(2)(A).".

SEC. 1262. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1261) is amended by adding at the end the following:

"SEC. 222. PROHIBITION ON FILING FALSE INFORMATION.

"No entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to

fraudulently affect the data being compiled by the Federal agency.".

SEC. 1263. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1262) is amended by adding at the end the following:

"SEC. 223. PROHIBITION OF ENERGY MARKET MANIPULATION.

"It shall be unlawful for any entity (including an entity described in section 201(f)), directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b))), in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of electric ratepayers.".

SEC. 1264. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) by inserting "electric utility," after "Any person,"; and

(2) by inserting ", transmitting utility," after "licensee" each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended—

(1) by inserting ", electric utility, transmitting utility, or other entity" after "person" each place it appears; and

(2) in the first sentence, by inserting before the period at the end the following: ", or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce".

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825l) is amended by inserting "electric utility," after "person," in the first 2 places it appears and by striking "any person unless such person" and inserting "any entity unless such entity".

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a)—

(A) by striking "$5,000" and inserting "$1,000,000"; and

(B) by striking "two years" and inserting "5 years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) by striking "section 211, 212, 213, or 214" each place it appears and inserting "part II"; and

(2) in subsection (b), by striking "$10,000" and inserting "$1,000,000".

SEC. 1265. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended—

(1) by striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" in the second sentence and inserting "the date of the filing of such complaint nor later than 5 months after the filing of such complaint";

(2) by striking "60 days after" in the third sentence and inserting "of";

(3) by striking "expiration of such 60-day period" in the third sentence and inserting "publication date"; and

(4) by striking the fifth sentence and inserting the following: "If no final decision is rendered by the

conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.".

SEC. 1266. REFUND AUTHORITY.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(e)(1) In this subsection:

"(A) The term 'short-term sale' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 48 hours or less.

"(B) The term 'applicable Commission rule' means a Commission rule applicable to sales at wholesale by public utilities that the Commission determines after notice and comment should also be applicable to entities subject to this subsection.

"(2) If an entity described in section 201(f) voluntarily makes a short-term sale of electric energy through an organized market in which the rates for the sale are established by Commission-approved tariff (rather than by contract) and the sale violates the terms of the tariff or applicable Commission rules in effect at the time of the sale, the

entity shall be subject to the refund authority of the Commission under this section with respect to the violation.

"(3) This section shall not apply to—

"(A) any entity that sells in total (including affiliates of the entity) less than 8,000,000 megawatt hours of electricity per year; or

"(B) any electric cooperative.

"(4)(A) The Commission shall have refund authority under paragraph (2) with respect to a voluntary short-term sale of electric energy by the Bonneville Power Administration only if the sale is at an unjust and unreasonable rate.

"(B) The Commission may order a refund under subparagraph (A) only for short-term sales made by the Bonneville Power Administration at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by the Bonneville Power Administration.

"(5) In the case of any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or power under paragraph (2) other than the ordering of refunds to achieve a just and reasonable rate.".

SEC. 1267. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term "Commission" means the Federal Trade Commission.

(2) STATE REGULATORY AUTHORITY.—The term "State regulatory authority" has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(3) ELECTRIC CONSUMER; ELECTRIC UTILITY.—The terms "electric consumer" and "electric utility" have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

(b) PRIVACY.—The Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(c) SLAMMING.—The Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(d) CRAMMING.—The Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(e) RULEMAKING.—The Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(f) STATE AUTHORITY.—If the Commission determines that the regulations of a State provide equivalent or greater protection than the protection provided under this section, the regulations of the State shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1268. OFFICE OF CONSUMER ADVOCACY.

(a) DEFINITIONS.—In this section:

(1) ENERGY CUSTOMER.—The term "energy customer" means a residential customer or a small commercial customer that receives products or services from a public utility or natural gas company under the jurisdiction of the Commission.

(2) NATURAL GAS COMPANY.—The term "natural gas company" has the meaning given the term in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

(3) OFFICE.—The term "Office" means the Office of Consumer Advocacy established by subsection (b)(1).

(4) PUBLIC UTILITY.—The term "public utility" has the meaning given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(5) SMALL COMMERCIAL CUSTOMER.—The term "small commercial customer" means a commercial customer that has a peak demand of not more than 1,000 kilowatts per hour.

(b) OFFICE.—

(1) ESTABLISHMENT.—There is established within the Department the Office of Consumer Advocacy.

(2) DUTIES.—The Office may represent the interests of energy customers on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission—

(A) at hearings of the Commission;

(B) in civil actions brought in connection with any function carried out by the Commission, except as provided in section 518 of title 28, United States Code; and

(C) at hearings or proceedings of other Federal regulatory agencies and commissions.

SEC. 1269. AUTHORITY OF COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS, DIRECTORS, AND ENERGY TRADERS.

Section 314 of the Federal Power Act (16 U.S.C. 825m) is amended by adding at the end the following:

"(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any person who is engaged or has engaged in practices constituting a violation of section 222 (and related rules and regulations) from—

"(1) acting as an officer or director of an electric utility; or

"(2) engaging in the business of purchasing or selling—

"(A) electric energy; or

"(B) transmission services subject to the jurisdiction of the Commission.".

SEC. 1270. RELIEF FOR EXTRAORDINARY VIOLATIONS.

(a) APPLICATION.—This section applies to any contract entered into the Western Interconnection prior to June 20, 2001, with a seller of wholesale electricity that the Commission has—

(1) found to have manipulated the electricity market resulting in unjust and unreasonable rates; and

(2) revoked the seller's authority to sell any electricity at market-based rates.

(b) RELIEF.—Notwithstanding section 222 of the Federal Power Act (as added by section 1262), any provision of title 11, United States Code, or any other provision of law, in the case of a contract described in subsection (a), the Commission shall have exclusive jurisdiction under the Federal Power Act (16 U.S.C. 791a et seq.) to determine whether a requirement to make termination payments for power not delivered by the seller, or any successor in interest of the seller, is not permitted under a rate schedule (or contract under such a schedule) or is otherwise unlawful on the grounds that the contract is unjust and unreasonable or contrary to the public interest.

(c) APPLICABILITY.—This section applies to any proceeding pending on the date of enactment of this section involving a seller described in subsection (a) in which there is not a final, nonappealable order by the Commission or any other jurisdiction determining the respective rights of the seller.

Subtitle G—Repeal of PUHCA and Merger Reform

SEC. 1271. SHORT TITLE.

This subtitle may be cited as the "Public Utility Holding Company Act of 2005".

SEC. 1272. DEFINITIONS.

For purposes of this subtitle:

(1) AFFILIATE.—The term "affiliate" of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term "associate company" of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 32 and 33, respec-

tively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term "holding company" means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with 1 or more persons) such a controlling influence over the management or policies of any

public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term "holding company system" means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term "jurisdictional rates" means rates accepted or established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term "natural gas company" means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term "person" means an individual or company.

(13) PUBLIC UTILITY.—The term "public utility" means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC-UTILITY COMPANY.—The term "public-utility company" means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term "State commission" means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term "subsidiary company" of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by

such holding company (either alone or pursuant to an arrangement or understanding with 1 or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term "voting security" means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1273. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

SEC. 1274. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1275. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of 1 or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1276. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall issue a final rule to exempt from the requirements of section 1274 (relating to Federal access to books and records) any person that is a holding company, solely with respect to 1 or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 1274 (relating to Federal access to books and records)

if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 1277. AFFILIATE TRANSACTIONS.

(a) COMMISSION AUTHORITY UNAFFECTED.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any

costs of goods or services acquired by such public-utility company from an associate company.

SEC. 1278. APPLICABILITY.

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

SEC. 1279. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 1280. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act

(16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 1281. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms (other than an expiration date or termination date) of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

SEC. 1282. IMPLEMENTATION.

Not later than 4 months after the date of enactment of this subtitle, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle (other than section 1275, relating to State access to books and records); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal

law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1283. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 1284. EFFECTIVE DATE.

(a) IN GENERAL.—Except for section 1282 (relating to implementation), this subtitle shall take effect 6 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking modifying the standards of conduct governing entities that own, operate, or control facilities for transmission of electricity in interstate commerce or transportation of natural gas in interstate commerce prior to the effective date of this subtitle, any action taken by a public-utility company or utility holding company to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.).

SEC. 1285. SERVICE ALLOCATION.

(a) FERC REVIEW.—In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company in order to assure that each allocation is appropriate for the protection of investors and consumers of such public utility.

(b) COST ALLOCATION.—Nothing in this section shall preclude the Commission or a State commission from exercising its jurisdiction under other applicable law with respect to the review or authorization of any costs allocated to a public utility in a holding company system located in the affected State as a result of the acquisition of non-power goods or administrative and management services by such public utility from an associate company organized specifically for that purpose.

(c) RULES.—Not later than 6 months after the date of enactment of this Act, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this subtitle) to exempt from the requirements of

this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

(d) PUBLIC UTILITY.—As used in this section, the term "public utility" has the meaning given that term in section 201(e) of the Federal Power Act.

SEC. 1286. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.

SEC. 1287. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

(b) DEFINITIONS..—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824(g)(5)) is amended by striking "1935" and inserting "2005".

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking "1935" and inserting "2005".

SEC. 1288. MERGER REVIEW REFORM.

(a) IN GENERAL.—Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended to read as follows:

"(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

"(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000;

"(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other person, by any means whatsoever;

"(C) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility; or

"(D) purchase, lease, or otherwise acquire an existing generation facility—

"(i) that has a value in excess of $10,000,000; and

"(ii) that is used for interstate wholesale sales and over which the Commission has jurisdiction for ratemaking purposes.

"(2) No holding company in a holding company system that includes a transmitting utility or an electric utility shall purchase, acquire, or take any security with a value in excess of $10,000,000 of, or, by any means whatsoever, directly or indirectly, merge

or consolidate with, a transmitting utility, an electric utility company, or a gas utility company, or a holding company in a holding company system that includes a transmitting utility, an electric utility company, or a gas utility company with a value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

"(3) Upon receipt of an application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

"(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction—

"(A) will be consistent with the public interest, taking into account the effect of the transaction on competition in the electricity markets, electric rates, and effective regulation; and

"(B) shall not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless the Commission

determines that the cross-subsidization, pledge, or encumbrance would not be harmful.

"(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions, under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction not later than 180 days after the application is filed. If the Commission does not act within 180 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues an order tolling the time for acting on the application for not more than 180 days, at the end of which additional period the Commission shall grant or deny the application.

"(6) For purposes of this subsection, the terms 'associate company', 'holding company', and 'holding company system' have the meaning given those terms

in the Public Utility Holding Company Act of 2005.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of enactment of this Act.

Subtitle H—Definitions

SEC. 1291. DEFINITIONS.

(a) COMMISSION.—In this title, the term "Commission" means the Federal Energy Regulatory Commission.

(b) AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended—

(1) by striking paragraphs (22) and (23) and inserting the following:

"(22) ELECTRIC UTILITY.—(A) The term 'electric utility' means a person or Federal or State agency (including an entity described in section 201(f)) that sells electric energy.

"(B) The term 'electric utility' includes the Tennessee Valley Authority and each Federal power marketing administration.

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means an entity (including an entity described in section 201(f)) that owns, operates, or controls facilities used for the transmission of electric energy—

"(A) in interstate commerce;

"(B) for the sale of electric energy at wholesale."; and

(2) by adding at the end the following:

"(26) ELECTRIC COOPERATIVE.—The term 'electric cooperative' means a cooperatively owned electric utility.

"(27) RTO.—The term 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission—

"(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

"(B) to ensure nondiscriminatory access to the facilities.

"(28) ISO.—The term 'Independent System Operator' or 'ISO' means an entity approved by the Commission—

"(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

"(B) to ensure nondiscriminatory access to the facilities.

"(29) TRANSMISSION ORGANIZATION.—The term 'Transmission Organization' means a Regional

Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.".

(c) APPLICABILITY.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking "political subdivision of a state," and inserting "political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year,".

SEC. 1292. ENERGY POLICY AND CONSERVATION TECHNICAL CORRECTION.

Section 609(c)(4) of the Public Utility Regulatory Policies Act of 1978 (as added by section 291) is amended by striking "of 1954 (42 U.S.C. 6303)" and inserting "(42 U.S.C. 6303(d))".

Subtitle I—Technical and Conforming Amendments

SEC. 1295. CONFORMING AMENDMENTS.

(a) Section 201 of the Federal Power Act (16 U.S.C. 824) is amended—

(1) in subsection (b)(2)—

(A) in the first sentence—

(i) by striking "The" and inserting "Notwithstanding section 201(f), the"; and

(ii) by striking "210, 211, and 212" and inserting "203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, 222, and 223"; and

(B) in the second sentence—

(i) by inserting "or rule" after "any order"; and

(ii) by striking "210 or 211" and inserting "203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, 222, or 223"; and

(2) in subsection (e), by striking "210, 211, or 212" and inserting "206(e), 206(f), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, 222, or 223".

(b) Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended—

(1) in the first sentence of subsection (a), by striking "hearing had" and inserting "hearing held"; and

(2) in the seventh sentence of subsection (b), by striking "the public utility to make".

(c) Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended—

(1) in subsection (c)—

(A) by striking "(2)";

(B) by striking "(A)" and inserting "(1)"

(C) by striking "(B)" and inserting "(2)"; and

(D) by striking "termination of modification" and inserting "termination or modification"; and

(2) in the second sentence of subsection (d)(1), by striking "electric utility" the second place it appears and inserting "transmitting utility".

(d) Section 315(c) of the Federal Power Act (16 U.S.C. 825n(c)) is amended by striking "subsection" and inserting "section".

TITLE XIII—STUDIES

SEC. 1301. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—The Architect of the Capitol, as part of the process of updating the Master Plan Study for the Capitol complex, shall—

(A) carry out a study to evaluate the energy infrastructure of the Capitol complex to determine how to augment the infrastructure to become more energy efficient—

(i) by using unconventional and renewable energy resources;

(ii) by—

(I) incorporating new technologies to implement effective green building solutions;

(II) adopting computer-based building management systems; and

(III) recommending strategies based on end-user behavioral changes to implement low-cost environmental gains; and

(iii) in a manner that would enable the Capitol complex to have reliable utility service in the event of power fluctuations, shortages, or outages;

(B) carry out a study to explore the feasibility of installing energy and water conservation measures on the rooftop of the Dirksen Senate Office Building, including the area directly above the food service facilities in the center of the building, including the installation of—

(i) a vegetative covering area, using native species to the maximum extent practicable, to—

(I) insulate and increase the energy efficiency of the building;

(II) reduce precipitation runoff and conserve water for landscaping or other uses;

(III) increase, and provide more efficient use of, available outdoor space through management of the rooftop of the center of the building as a park or garden area for occupants of the building; and

(IV) improve the aesthetics of the building; and

(ii) onsite renewable energy and other state-of-the-art technologies to—

(I) improve the energy efficiency and energy security of the building or the Capitol complex by providing additional or backup sources of power in the event of a power shortage or other emergency;

(II) reduce the use of resources by the building; or

(III) enhance worker productivity; and

(C) not later than 180 days after the date of enactment of this Act, submit to Congress a report describing the findings and recommendations of the study under subparagraph (B).

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Architect of the Capitol to carry out this section $2,000,000 for each of fiscal years 2006 through 2010.

SEC. 1302. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior, in consultation with the Secretary of the Army, shall conduct a study of the potential for increasing electric power production capability, in accordance with applicable law, at federally owned or operated water regulation, storage, and conveyance facilities.

(2) CONTENTS.—The study under paragraph (1) shall include an identification and detailed description of each facility that is capable, with or without modification, of producing additional hydroelectric power, including an estimate of the potential of the facility to generate hydroelectric power.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretaries shall submit to the Committee on Energy and the Committee on Commerce, Resources, Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, a report describing the findings, conclusions, and recommendations of the study under subsection (a).

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) each identification, description, and estimate under subsection (a)(2);

(B) a description of any activity that is conducted or under consideration, or that could be considered, to produce additional hydroelectric power at an identified facility;

(C) a summary of actions taken by the Secretaries before the date on which the study was completed to produce additional hydroelectric power at an identified facility;

(D) a calculation of—

(i) the costs of installing, upgrading, modifying, or taking any other action relating to, equipment to produce additional hy-

droelectric power at an identified facility; and

(ii) the level of involvement of Federal power customers in the determination of the costs;

(E) a description of any benefit to be achieved by an installation, upgrade, modification, or other action under subparagraph (D), including a quantified estimate of any additional energy or capacity produced at an identified facility;

(F) a description of any action that is planned, is being carried out on the date on which the report is submitted, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, upgrading or rewinding generators, or constructing pumped storage facilities;

(G) a description of the effect of increased hydroelectric power production on—

(i) irrigation;

(ii) fish;

(iii) wildlife;

(iv) Indian land;

(v) river health;

(vi) water quality;

(vii) navigation;

(viii) recreation;

(ix) fishing; and

(x) flood control; and

(H) any additional recommendations of the Secretaries to increase hydroelectric power production, and reduce costs and improve efficiency, in accordance with applicable law, at federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 1303. ALASKA NATURAL GAS PIPELINE.

Not later than 180 days after the date of enactment of this Act, and every 180 days thereafter until the Alaska natural gas pipeline commences operation, the Federal Energy Regulatory Commission shall submit to Congress a report describing—

(1) the progress made in licensing and constructing the pipeline; and

(2) any issue impeding that progress.

SEC. 1304. RENEWABLE ENERGY ON FEDERAL LAND.

(a) NATIONAL ACADEMY OF SCIENCES STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall enter into a contract with

the National Academy of Sciences under which the National Academy of Sciences shall—

(1) study the potential of developing wind, solar, and ocean energy resources (including tidal, wave, and thermal energy) on Federal land available for those uses under current law and the outer Continental Shelf;

(2) assess any Federal law (including regulations) relating to the development of those resources that is in existence on the date of enactment of this Act; and

(3) recommend statutory and regulatory mechanisms for developing those resources.

(b) SUBMISSION TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress the results of the study under subsection (a).

SEC. 1305. COAL BED METHANE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior, in consultation with the Administrator of the Environmental Protection Agency, shall enter into an arrangement under which the National Academy of Sciences shall conduct a study on the effect of coalbed natural gas production on surface and ground water

resources, including ground water aquifiers, in the States of Montana, Wyoming, Colorado, New Mexico, North Dakota, and Utah.

(2) MATTERS TO BE ADDRESSED.—The study shall address the effectiveness of—

(A) the management of coal bed methane produced water;

(B) the use of best management practices; and

(C) various production techniques for coal bed methane natural gas in minimizing impacts on water resources.

(b) DATA ANALYSIS.—The study shall analyze available hydrologic, geologic and water quality data, along with—

(1) production techniques, produced water management techniques, best management practices, and other factors that can mitigate effects of coal bed methane development;

(2) the costs associated with mitigation techniques;

(3) effects on surface or ground water resources, including drinking water, associated with surface or subsurface disposal of waters produced during extraction of coal bed methane; and

(4) any other significant effects on surface or ground water resources associated with production of coal-bed methane.

(c) RECOMMENDATIONS.—The study shall analyze the effectiveness of current mitigation practices of coal bed methane produced water handling in relation to existing Federal and State laws and regulations, and make recommendations as to changes, if any, to Federal law necessary to address adverse impacts to surface or ground water resources associated with coal bed methane development.

(d) COMPLETION OF STUDY.—The National Academy of Sciences shall submit the findings and recommendations of the study to the Secretary of the Interior and the Administrator of the Environmental Protection Agency within 12 months after the date of enactment of this Act, and shall upon completion make the results of the study available to the public.

(e) REPORT TO CONGRESS.—The Secretary of the Interior and the Administrator of the Environmental Protection Agency, after consulting with States, shall report to the Congress within 6 months after receiving the results of the study on—

(1) the findings and recommendations of the study;

(2) the agreement or disagreement of the Secretary of the Interior and the Administrator of the Environmental Protection Agency with each of its findings and recommendations; and

(3) any recommended changes in funding to address the effects of coal bed methane production on surface and ground water resources.

SEC. 1306. BACKUP FUEL CAPABILITY STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the effect of obtaining and maintaining liquid and other fuel backup capability at—

(A) gas-fired power generation facilities; and

(B) other gas-fired industrial facilities.

(2) CONTENTS.—The study under paragraph (1) shall address—

(A) the costs and benefits of adding a different fuel capability to a power gas-fired power generating or industrial facility, taking into consideration regional differences;

(B) methods of the Federal Government and State governments to encourage gas-fired power generators and industries to develop the capability to power the facilities using a backup fuel;

(C) the effect on the supply and cost of natural gas of—

(i) a balanced portfolio of fuel choices in power generation and industrial applications; and

(ii) State regulations that permit agencies in the State to carry out policies that encourage the use of other backup fuels in gas-fired power generation; and

(D) changes required in the Clean Air Act (42 U.S.C. 7401 et seq.) to allow natural gas generators to add clean backup fuel capabilities.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a), including recommendations regarding future activity of the Federal Government relating to backup fuel capability.

SEC. 1307. INDIAN LAND RIGHTS-OF-WAY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior (referred to in this section as the "Secretaries") shall jointly conduct a study of issues regarding energy rights-of-way on tribal land (as defined in section 2601 of the Energy Policy Act

of 1992 (as amended by section 503)) (referred to in this section as "tribal land").

(2) CONSULTATION.—In conducting the study under paragraph (1), the Secretaries shall consult with Indian tribes, the energy industry, appropriate governmental entities, and affected businesses and consumers.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall submit to Congress a report on the findings of the study, including—

(1) an analysis of historic rates of compensation paid for energy rights-of-way on tribal land;

(2) recommendations for appropriate standards and procedures for determining fair and appropriate compensation to Indian tribes for grants, expansions, and renewals of energy rights-of-way on tribal land;

(3) an assessment of the tribal self-determination and sovereignty interests implicated by applications for the grant, expansion, or renewal of energy rights-of-way on tribal land; and

(4) an analysis of relevant national energy transportation policies relating to grants, expansions, and renewals of energy rights-of-way on tribal land.

SEC. 1308. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had during the period beginning on the date of enactment of those titles and ending on the date on which the study begins on—

(1) the development of alternative fueled vehicle technology;

(2) the availability of that technology in the market; and

(3) the cost of alternative fueled vehicles.

(b) TOPICS.—In conducting the study under subsection (a), the Secretary shall identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this Act.

(c) REPORT.—On the date on which the study under subsection (a) is completed, the Secretary shall submit to Congress a report that—

(1) describes the results of the study; and

(2) includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

SEC. 1309. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) STUDY.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a study of the feasibility and effects of reducing, by a significant percentage, by model year 2012, the amount of fuel consumed by automobiles.

(2) INCLUSIONS.—The study under paragraph (1) shall include an examination of—

(A) the Federal policy of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles the manufacturer produces (including recommendations of alternatives to that policy);

(B) methods by which automobile manufacturers could contribute toward achieving the reduction described in paragraph (1);

(C) the potential of using fuel cell technology in motor vehicles to determine the extent to which fuel cell technology contributes to achieving the reduction described in paragraph (1); and

(D) the effects of the reduction described in paragraph (1) on—

(i) gasoline supplies;

(ii) the automobile industry, including sales of automobiles manufactured in the United States;

(iii) motor vehicle safety;

(iv) air quality; and

(v) the consumer price for light duty trucks typically purchased for agricultural purposes, including by providing estimates for price differences for the years 2008 through 2012, comparing—

(I) light duty truck fuel economy if no legislative changes are made to average fuel economy standards; to

(II) light duty truck fuel economy under the reduction described in paragraph (1).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the findings, conclusions, and recommendations of the study under subsection (a).

SEC. 1310. HYBRID DISTRIBUTED POWER SYSTEMS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall develop, and submit to Congress a report on, a strategy for a comprehensive research, development, demonstration, and commercial application program to develop hybrid distributed power systems that combine—

(1) 1 or more renewable electric power generation technologies of 10 megawatts or less located near the site of electric energy use; and

(2) nonintermittent electric power generation technologies suitable for use in a distributed power system.

SEC. 1311. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit to Congress a report that—

(1) identifies any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary or permanent transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities; and

(2) provides recommendations for improving interlaboratory exchange of scientific and technical personnel.

SEC. 1312. NATIONAL ACADEMY OF SCIENCES REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences for the Academy to—

(1) conduct a study on—

(A) the obstacles to accelerating the research, development, demonstration, and commercial application cycle for energy technology; and

(B) the adequacy of Department policies and procedures for, and oversight of, technology transfer-related disputes between contractors of the Department and the private sector; and

(2) report to Congress on recommendations developed as a result of the study.

SEC. 1313. REPORT ON RESEARCH AND DEVELOPMENT PROGRAM EVALUATION METHODOLOGIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to investigate and report on the scientific and technical merits of any evaluation methodology currently in use or proposed for use in relation to the scientific and technical programs of the Department by the Secretary or other Federal official.

(b) REPORT.—Not later than 180 days after receiving the report of the National Academy of Sciences, the Secretary shall submit to Congress a report, along with any other views or plans of the Secretary with respect to the future use of the evaluation methodology.

SEC. 1314. TRANSMISSION SYSTEM MONITORING STUDY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary and the Chairperson of the Federal Energy Regulatory Commission shall conduct a study, and submit to Congress a report, on any action the Secretary determines to be necessary to establish a system that makes available to all transmission system owners and regional transmission organizations in the Eastern and Western Interconnections real-time information on the functional status of all transmission lines within those Interconnections.

(b) INCLUSIONS.—The study under this section shall include—

(1) an assessment of any technical method of implementing the information transmission system described in subsection (a); and

(2) an identification of any action the Secretary and the Chairperson shall carry out to implement the information transmission system.

SEC. 1315. INTERAGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.

(a) TASK FORCE.—There is established an inter-agency task force, to be known as the "Electric Energy Market Competition Task Force" (referred to in this section as the "task force"), consisting of 5 members—

(1) 1 of whom shall be an employee of the Department of Justice, to be appointed by the Attorney General of the United States;

(2) 1 of whom shall be an employee of the Federal Energy Regulatory Commission, to be appointed by the Chairperson of that Commission;

(3) 1 of whom shall be an employee of the Federal Trade Commission, to be appointed by the Chairperson of that Commission;

(4) 1 of whom shall be an employee of the Department, to be appointed by the Secretary; and

(5) 1 of whom shall be an employee of the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) STUDY AND REPORT.—

(1) STUDY.—The task force shall conduct a study and analysis of competition within the wholesale and retail market for electric energy in the United States.

(2) REPORT.—

(A) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act, the task force shall submit to Congress a final report on the findings of the task force under paragraph (1).

(B) PUBLIC COMMENT.—Not later than the date that is 60 days before a final report is submitted to Congress under subparagraph (A), the task force shall—

(i) publish in the Federal Register a draft of the report; and

(ii) provide an opportunity for public comment on the report.

(c) CONSULTATION.—In conducting the study under subsection (b), the task force shall consult with and solicit

comments from any advisory entity of the task force, the States, representatives of the electric power industry, and the public.

SEC. 1316. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) DEFINITION OF ECONOMIC DISPATCH.—In this section, the term "economic dispatch" means the operation of a generation facility to produce energy at the lowest cost in order to reliably serve consumers, taking into consideration any operational limit of a generation or transmission facility.

(b) STUDY.—The Secretary, in coordination and consultation with the States, shall conduct a study of—

(1) the procedures currently used by electric utilities to carry out economic dispatch;

(2) possible revisions to those procedures to improve the ability of nonutility generation resources to offer the output of the resources for sale for inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers, nationally and in each State, of revising economic dispatch procedures to improve the ability of nonutility generation resources to offer the output of the resources for inclusion in economic dispatch.

(c) REPORT TO CONGRESS AND THE STATES.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress and each State a report describing the results of the study under subsection (b), including recommendations of the Secretary for such legislative and administrative actions as the Secretary determines to be appropriate.

SEC. 1317. STUDY OF RAPID ELECTRICAL GRID RESTORATION.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the benefits of using mobile transformers and mobile substations to rapidly restore electrical service to areas subjected to blackouts as a result of—

(A) equipment failure;

(B) natural disasters;

(C) acts of terrorism; or

(D) war.

(2) CONTENTS.—The study under paragraph (1) shall contain an analysis of—

(A) the feasibility of using mobile transformers and mobile substations to reduce dependence on foreign entities for key elements of the electrical grid system of the United States;

(B) the feasibility of using mobile transformers and mobile substations to rapidly restore electrical power to—

(i) military bases;

(ii) the Federal Government;

(iii) communications industries;

(iv) first responders; and

(v) other critical infrastructures, as determined by the Secretary;

(C) the quantity of mobile transformers and mobile substations necessary—

(i) to eliminate dependence on foreign sources for key electrical grid components in the United States;

(ii) to rapidly deploy technology to fully restore full electrical service to prioritized Governmental functions; and

(iii) to identify manufacturing sources in existence on the date of enactment of this Act that have previously manufactured specialized mobile transformer or mobile substation products for Federal agencies.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall

submit to the President and Congress a report on the study under subsection (a).

(2) INCLUSION.—The report shall include a description of the results of the analysis under subsection (a)(2).

SEC. 1318. STUDY OF DISTRIBUTED GENERATION.

(a) STUDY.—

(1) IN GENERAL.—

(A) POTENTIAL BENEFITS.—The Secretary, in consultation with the Federal Energy Regulatory Commission, shall conduct a study of the potential benefits of cogeneration and small power production.

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

(i) an electricity distribution or transmission service provider;

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

(iii) the general public in the area served by the public utility in which the cogenerator or small power producer is located.

(2) INCLUSIONS.—The study shall include an analysis of—

(A) the potential benefits of—

(i) increased system reliability;

(ii) improved power quality;

(iii) the provision of ancillary services;

(iv) reduction of peak power requirements through onsite generation;

(v) the provision of reactive power or volt-ampere reactives;

(vi) an emergency supply of power;

(vii) offsets to investments in generation, transmission, or distribution facilities that would otherwise be recovered through rates;

(viii) diminished land use effects and right-of-way acquisition costs; and

(ix) reducing the vulnerability of a system to terrorism; and

(B) any rate-related issue that may impede or otherwise discourage the expansion of cogeneration and small power production facilities, including a review of whether rates, rules, or other requirements imposed on the facilities are comparable to rates imposed on customers of the

same class that do not have cogeneration or small power production.

(3) VALUATION OF BENEFITS.—In carrying out the study, the Secretary shall determine an appropriate method of valuing potential benefits under varying circumstances for individual cogeneration or small power production units.

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

(1) complete the study;

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

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

(A) the results of the study; and

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

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

SEC. 1319. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) DEFINITION OF PETROLEUM.—In this section, the term "petroleum" means—

(1) crude oil;

(2) motor gasoline;

(3) jet fuel;

(4) distillates; and

(5) propane.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(2) INCLUSIONS.—The study shall include an analysis of, for petroleum and natural gas—

(A) historical normal ranges of inventory levels;

(B) historical and projected storage capacity trends;

(C) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service, or other indicators of shortage begin to appear;

(D) explanations for inventory levels dropping below normal ranges; and

(E) the ability of industry to meet the demand of the United States for petroleum and natural gas without shortages or price spikes, if inventory levels are below normal ranges.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study, including—

(1) the findings of the study; and

(2) any recommendations of the Secretary for preventing future supply shortages.

SEC. 1320. NATURAL GAS SUPPLY SHORTAGE REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on natural gas supplies and demand.

(b) PURPOSE.—The purpose of the report under subsection (a) is to develop recommendations for achieving a balance between natural gas supply and demand in order to—

(1) provide residential consumers with natural gas at reasonable and stable prices;

(2) accommodate long-term maintenance and growth of domestic natural gas-dependent industrial, manufacturing, and commercial enterprises;

(3) facilitate the attainment of national ambient air quality standards under the Clean Air Act (43 U.S.C. 7401 et seq.);

(4) achieve continued progress in reducing the emissions associated with electric power generation; and

(5) support the development of the preliminary phases of hydrogen-based energy technologies.

(c) COMPREHENSIVE ANALYSIS.—The report shall include a comprehensive analysis of, for the period beginning on January 1, 2004, and ending on December 31, 2015, natural gas supply and demand in the United States, including—

(1) estimates of annual domestic demand for natural gas, taking into consideration the effect of Federal policies and actions that are likely to increase or decrease the demand for natural gas;

(2) projections of annual natural gas supplies, from domestic and foreign sources, under Federal policies in existence on the date of enactment of this Act;

(3) an identification of estimated natural gas supplies that are not available under those Federal policies;

(4) scenarios for decreasing natural gas demand and increasing natural gas supplies that compare the relative economic and environmental impacts of Federal policies that—

(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

(D) encourage or require the use of energy conservation and demand side management practices; and

(E) affect access to domestic natural gas supplies; and

(5) recommendations for Federal actions to achieve the purposes described in subsection (b), including recommendations that—

(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(B) encourage or require the use of energy conservation or demand side management practices;

(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

(D) would improve access to domestic natural gas supplies.

(d) CONSULTATION.—In preparing the report under subsection (a), the Secretary shall consult with—

(1) experts in natural gas supply and demand; and

(2) representatives of—

(A) State and local governments;

(B) tribal organizations; and

(C) consumer and other organizations.

(e) HEARINGS.—In preparing the report under subsection (a), the Secretary may hold public hearings and provide other opportunities for public comment, as the Secretary considers appropriate.

SEC. 1321. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES.

(a) REVIEW.—

(1) IN GENERAL.—In consultation with affected private surface owners, representatives of the oil and gas industry, and other interested parties, the Secretary of the Interior shall undertake a review of the current policies and practices with respect to management of Federal subsurface oil and gas development activities and the effects of those activities on the privately owned surface.

(2) INCLUSIONS.—The review shall include—

(A) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a Federal mineral lease, the private surface owners and the Department;

(B) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304) concerning surface mining of Federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane production;

(C) an analysis and comparison of existing State laws addressing surface owner protection on split estates in which the surface estate is privately held and the subsurface estate is federally owned, or other split estate situations; and

(D) recommendations for administrative or legislative action necessary to facilitate reasonable access for Federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) REPORT.—The Secretary of the Interior shall report the results of such review to Congress not later than 180 days after the date of enactment of this Act.

SEC. 1322. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

(a) REVIEW.—The Secretary of the Interior shall review Federal and State laws in existence on the date of enactment of this Act in order to resolve any conflict relating to the Powder River Basin in Wyoming and Montana between—

(1) the development of Federal coal; and

(2) the development of Federal and non-Federal coalbed methane.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that—

(1) describes methods of resolving a conflict described in subsection (a); and

(2) identifies a method preferred by the Secretary of the Interior, including proposed legislative language, if any, required to implement the method.

SEC. 1323. STUDY OF ENERGY EFFICIENCY STANDARDS.

(a) STUDY.—The Secretary shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences, not later than 1 year after the date of enactment of this Act, shall conduct a study of whether the goals of energy efficiency standards are best served—

(1) by measuring energy consumed, and efficiency improvements, at the site of energy consumption; or

(2) through the full fuel cycle, beginning at the source of energy production.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study under subsection (a).

SEC. 1324. TELECOMMUTING STUDY.

(a) DEFINITIONS.—In this section:

(1) FEDERAL EMPLOYEE.—The term "Federal employee" has the meaning given the term "employee" in section 2105 of title 5, United States Code.

(2) TELECOMMUTING.—The term 'telecommuting" means the performance of work functions using communications technologies, which eliminates or substantially reduces the need to commute to and from traditional worksites.

(b) STUDY REQUIRED.—The Secretary, in consultation with the Chairperson of the Federal Energy Regulatory Commission, the Director of the Office of Personnel Management, the Administrator of General Services, and the Administrator of National Telecommunications and Information Administration, shall conduct a study of the energy

conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(c) INCLUSIONS.—The study under subsection (b) shall include an analysis of the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the President and Congress a report on the study under subsection (b), including a description of the results of the analysis of each of subject referred to in subsection (c).

SEC. 1325. OIL BYPASS FILTRATION TECHNOLOGY.

The Secretary and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in—

(A) reducing demand for oil; and

(B) protecting the environment;

(2) evaluate various products and manufacturers with respect to oil bypass filtration technology; and

(3) after conducting the evaluation under paragraph (2), examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets.

SEC. 1326. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary shall—

(1) conduct a study of the benefits of total integrated thermal systems in—

(A) reducing demand for oil; and

(B) protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Federal motor vehicle fleets (including the motor vehicle fleet of the Department of Defense).

SEC. 1327. UNIVERSITY COLLABORATION.

(a) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that examines the feasibility of promoting collaborations between large institutions of higher education and small institutions of higher education (as determined

by the Secretary) through grants, contracts, and cooperative agreements made by the Secretary for energy projects.

(b) CONSIDERATION.—In preparing the report under subsection (a), the Secretary shall take into consideration the feasibility of providing incentives for including small institutions of higher education (including institutions that primarily serve minorities), as determined by the Secretary, in—

(1) energy research grants;

(2) contracts; and

(3) cooperative agreements.

SEC. 1328. HYDROGEN PARTICIPATION STUDY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report evaluating methodologies to ensure the widest participation practicable in setting goals and milestones under the hydrogen program of the Department, including international participants.

SEC. 1329. OVERALL EMPLOYMENT IN A HYDROGEN ECONOMY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall carry out a study of the likely effects of a transition to a hydrogen economy on overall employment in the United States.

(2) CONTENTS.—In completing the study, the Secretary shall take into consideration—

(A) the replacement effects of new goods and services;

(B) international competition;

(C) workforce training requirements;

(D) multiple possible fuel cycles, including usage of raw materials;

(E) rates of market penetration of technologies; and

(F) regional variations based on geography.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the findings, conclusions, and recommendations of the study under subsection (a).

SEC. 1330. STUDY OF BEST MANAGEMENT PRACTICES FOR ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Public Administration under which the Academy shall conduct a study to assess management practices for research, development, and demonstration programs at the Department.

(b) SCOPE OF THE STUDY.—The study shall consider—

(1) management practices that act as barriers between the Office of Science and offices conducting mission-oriented research;

(2) recommendations for management practices that would improve coordination and bridge the innovation gap between the Office of Science and offices conducting mission-oriented research;

(3) the applicability of the management practices used by the Department of Defense Advanced Research Programs Agency to research programs at the Department;

(4) the advisability of creating an agency within the Department modeled after the Department of Defense Advanced Research Projects Agency;

(5) recommendations for management practices that could best encourage innovative research and efficiency at the Department; and

(6) any other relevant considerations.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study conducted under this section.

SEC. 1331. EFFECT OF ELECTRICAL CONTAMINANTS ON RELIABILITY OF ENERGY PRODUCTION SYSTEMS.

Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall determine the effect that electrical contaminants (such as tin whiskers) may have on the reliability of energy production systems, including nuclear energy.

SEC. 1332. ALTERNATIVE FUELS REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress reports on the potential for each of biodiesel and hythane to become major, sustainable, alternative fuels.

(b) BIODIESEL REPORT.—The report relating to biodiesel submitted under subsection (a) shall—

(1) provide a detailed assessment of—

(A) potential biodiesel markets and manufacturing capacity; and

(B) environmental and energy security benefits with respect to the use of biodiesel;

(2) identify any impediments, especially in infrastructure needed for production, distribution, and storage, to biodiesel becoming a substantial source of

fuel for conventional diesel and heating oil applications;

(3) identify strategies to enhance the commercial deployment of biodiesel; and

(4) include an examination and recommendations, as appropriate, of the ways in which biodiesel may be modified to be a cleaner-burning fuel.

(c) HYTHANE REPORT.—The report relating to hythane submitted under subsection (a) shall—

(1) provide a detailed assessment of potential hythane markets and the research and development activities that are necessary to facilitate the commercialization of hythane as a competitive, environmentally-friendly transportation fuel;

(2) address—

(A) the infrastructure necessary to produce, blend, distribute, and store hythane for widespread commercial purposes; and

(B) other potential market barriers to the commercialization of hythane;

(3) examine the viability of producing hydrogen using energy-efficient, environmentally friendly methods so that the hydrogen can be blended with natural gas to produce hythane; and

(4) include an assessment of the modifications that would be required to convert compressed natural gas vehicle engines to engines that use hythane as fuel.

(d) GRANTS FOR REPORT COMPLETION.—The Secretary may use such sums as are available to the Secretary to provide, to 1 or more colleges or universities selected by the Secretary, grants for use in carrying out research to assist the Secretary in preparing the reports required to be submitted under subsection (a).

SEC. 1333. FINAL ACTION ON REFUNDS FOR EXCESSIVE CHARGES.

(a) FINDINGS.—Congress finds that—

(1) The state of California experienced an energy crisis;

(2) FERC issued an order requiring a refund of the portion of charges on the sale of electric energy that was unjust or unreasonable during that crisis;

(3) As of the date of enactment of this act, none of the refunds ordered to date have been received by the state of California; and

(4) the Commission has ruled that the state of California is entitled to approximately $3 billion in refunds; the state of California maintains that that $8.9 billion in refunds is owed.

(b) FERC shall—

(1) seek to conclude its investigation into the unjust or unreasonable charges incurred by California during the 2000–2001 electricity crisis as soon as possible;

(2) seek to ensure that refunds the Commission determines are owed to the State of California are paid to the state of California; and

(3) submit to Congress a report by December 31, 2005 describing the actions taken by the Commission to date under this section and timetables for further actions.

SEC. 1334. FUEL CELL AND HYDROGEN TECHNOLOGY STUDY.

(a) FINDINGS.—Congress finds that—

(1) according to the National Academy of Sciences, "Greenhouse gases are accumulating in Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise . . . Human-induced warming and associated sea level rises are expected to continue through the 21st century.";

(2) in 2001, the Intergovernmental Panel on Climate Change (IPCC) concluded that the average temperature of the Earth can be expected to rise between

2.5 and 10.4 degrees Fahrenheit in this century and "there is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities";

(3) the National Academy of Sciences has stated that "the IPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue" and that "there is general agreement that the observed warming is real and particularly strong within the past twenty years";

(4) a significant Federal investment toward the development of fuel cell technologies and the transition from petroleum to hydrogen in vehicles could significantly contribute to the reduction of carbon dioxide emissions by reducing fuel consumption;

(5) a massive infusion of resources and leadership from the Federal Government would be needed to create the necessary fuel cell technologies that provide alternatives to petroleum and the more efficient use of energy; and

(6) the Federal Government would need to commit to developing, in conjunction with private indus-

try and academia, advanced vehicle technologies and the necessary hydrogen infrastructure to provide alternatives to petroleum.

(b) STUDY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences and the National Research Council to carry out a study of fuel cell technologies that provides a budget roadmap for the development of fuel cell technologies and the transition from petroleum to hydrogen in a significant percentage of the vehicles sold by 2020.

(2) REQUIREMENTS.—In carrying out the study, the National Academy of Sciences and the National Research Council shall—

(A) establish as a goal the maximum percentage practicable of vehicles that the National Academy of Sciences and the National Research Council determines can be fueled by hydrogen by 2020;

(B) determine the amount of Federal and private funding required to meet the goal established under subparagraph (A);

(C) determine what actions are required to meet the goal established under subparagraph (A);

(D) examine the need for expanded and enhanced Federal research and development programs, changes in regulations, grant programs, partnerships between the Federal Government and industry, private sector investments, infrastructure investments by the Federal Government and industry, educational and public information initiatives, and Federal and State tax incentives to meet the goal established under subparagraph (A);

(E) consider whether other technologies would be less expensive or could be more quickly implemented than fuel cell technologies to achieve significant reductions in carbon dioxide emissions;

(F) take into account any reports relating to fuel cell technologies and hydrogen-fueled vehicles, including—

(i) the report prepared by the National Academy of Engineering and the National Research Council in 2004 entitled "Hydro-

gen Economy: Opportunities, Costs, Barriers, and R&D Needs"; and

(ii) the report prepared by the U.S. Fuel Cell Council in 2003 entitled "Fuel Cells and Hydrogen: The Path Forward";

(G) consider the challenges, difficulties, and potential barriers to meeting the goal established under subparagraph (A); and

(H) with respect to the budget roadmap—

(i) specify the amount of funding required on an annual basis from the Federal Government and industry to carry out the budget roadmap; and

(ii) specify the advantages and disadvantages to moving toward the transition to hydrogen in vehicles in accordance with the timeline established by the budget roadmap.

SEC. 1335. PASSIVE SOLAR TECHNOLOGIES.

(a) DEFINITION OF PASSIVE SOLAR TECHNOLOGY.—In this section, the term "passive solar technology" means a passive solar technology, including daylighting, that—

(1) is used exclusively to avoid electricity use; and

(2) can be metered to determine energy savings.

(b) STUDY.—The Secretary shall conduct a study to determine—

(1) the range of levelized costs of avoided electricity for passive solar technologies;

(2) the quantity of electricity displaced using passive solar technologies in the United States as of the date of enactment of this Act; and

(3) the projected energy savings from passive solar technologies in 5, 10, 15, 20, and 25 years after the date of enactment of this Act if—

(A) incentives comparable to the incentives provided for electricity generation technologies were provided for passive solar technologies; and

(B) no new incentives for passive solar technologies were provided.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study under subsection (b).

SEC. 1336. STUDY OF LINK BETWEEN ENERGY SECURITY AND INCREASES IN VEHICLE MILES TRAVELED.

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to assess the im-

plications on energy use and efficiency of land development patterns in the United States.

(b) SCOPE.—The study shall consider—

(1) the correlation, if any, between land development patterns and increases in vehicle miles traveled;

(2) whether petroleum use in the transportation sector can be reduced through changes in the design of development patterns;

(3) the potential benefits of—

(A) information and education programs for State and local officials (including planning officials) on the potential for energy savings through planning, design, development, and infrastructure decisions;

(B) incorporation of location efficiency models in transportation infrastructure planning and investments; and

(C) transportation policies and strategies to help transportation planners manage the demand for the number and length of vehicle trips, including trips that increase the viability of other means of travel; and

(4) such other considerations relating to the study topic as the National Academy of Sciences finds appropriate.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to the Secretary and Congress a report on the study conducted under this section.

SEC. 1337. STUDY OF AVAILABILITY OF SKILLED WORKERS.

(a) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study of the short-term and long-term availability of skilled workers to meet the energy and mineral security requirements of the United States.

(b) INCLUSIONS.—The study shall include an analysis of—

(1) the need for and availability of workers for the oil, gas, and mineral industries;

(2) the availability of skilled labor at both entry level and more senior levels; and

(3) recommendations for future actions needed to meet future labor requirements.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study.

SEC. 1338. SCIENCE STUDY ON CUMULATIVE IMPACTS OF MULTIPLE OFFSHORE LIQUEFIED NATURAL GAS FACILITIES.

(a) IN GENERAL.—The Secretary (in consultation with the National Oceanic Atmospheric Administration, the Commandant of the Coast Guard, affected recreational and commercial fishing industries and affected energy and transportation stakeholders) shall carry out a study and compile existing science (including studies and data) to determine the risks or benefits presented by cumulative impacts of multiple offshore liquefied natural gas facilities reasonably assumed to be constructed in an area of the Gulf of Mexico using the open-rack vaporization system.

(b) ACCURACY.—In carrying out subsection (a), the Secretary shall verify the accuracy of available science and develop a science-based evaluation of significant short-term and long-term cumulative impacts, both adverse and beneficial, of multiple offshore liquefied natural gas facilities reasonably assumed to be constructed in an area of the Gulf of Mexico using or proposing the open-rack vaporization system on the fisheries and marine populations in the vicinity of the facility.

TITLE XIV—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

SEC. 1401. DEFINITIONS.

In this title:

(1) COMMERCIAL TECHNOLOGY.—

(A) IN GENERAL.—The term "commercial technology" means a technology in general use in the commercial marketplace.

(B) INCLUSIONS.—The term "commercial technology" does not include a technology solely by use of the technology in a demonstration project funded by the Department.

(2) COST.—The term "cost" has the meaning given the term "cost of a loan guarantee" within the meaning of section 502(5)(C) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

(3) ELIGIBLE PROJECT.—The term "eligible project" means a project described in section 1403.

(4) GUARANTEE.—

(A) IN GENERAL.—The term "guarantee" has the meaning given the term "loan guarantee" in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(B) INCLUSION.—The term "guarantee" includes a loan guarantee commitment (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(5) OBLIGATION.—The term "obligation" means the loan or other debt obligation that is guaranteed under this section.

SEC. 1402. TERMS AND CONDITIONS.

(a) IN GENERAL.—Except for division C of Public Law 108–324, the Secretary shall make guarantees under this or any other Act for projects on such terms and conditions as the Secretary determines, after consultation with the Secretary of the Treasury, only in accordance with this section.

(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—No guarantee shall be made unless—

(1) an appropriation for the cost has been made; or

(2) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury.

(c) AMOUNT.—Unless otherwise provided by law, a guarantee by the Secretary shall not exceed an amount equal to 80 percent of the project cost of the facility that is the subject of the guarantee, as estimated at the time at which the guarantee is issued.

(d) REPAYMENT.—

(1) IN GENERAL.—No guarantee shall be made unless the Secretary determines that there is reason-

able prospect of repayment of the principal and interest on the obligation by the borrower.

(2) AMOUNT.—No guarantee shall be made unless the Secretary determines that the amount of the obligation (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project.

(3) SUBORDINATION.—The obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(e) INTEREST RATE.—An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(f) TERM.—The term of an obligation shall require full repayment over a period not to exceed the lesser of—

(1) 30 years; or

(2) 90 percent of the projected useful life of the physical asset to be financed by the obligation (as determined by the Secretary).

(g) DEFAULTS.—

(1) PAYMENT BY SECRETARY.—

(A) IN GENERAL.—If a borrower defaults on the obligation (as defined in regulations promul-

gated by the Secretary and specified in the guarantee contract), the holder of the guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(B) PAYMENT REQUIRED.—Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the guarantee the unpaid interest on, and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(C) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

(2) SUBROGATION.—

(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements including, where appropriate,

the authority (notwithstanding any other provision of law) to—

(i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements; or

(ii) permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines this to be in the public interest.

(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

(C) TERMS AND CONDITIONS.—A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to—

(i) protect the interests of the United States in the case of default; and

(ii) have available all the patents and technology necessary for any person selected,

including the Secretary, to complete and operate the project.

(3) PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the borrower, from funds appropriated for that purpose, the principal and interest payments which become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(A)(i) the borrower is unable to meet the payments and is not in default;

(ii) it is in the public interest to permit the borrower to continue to pursue the purposes of the project; and

(iii) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(B) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the borrower is obligated to pay under the agreement being guaranteed; and

(C) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(4) ACTION BY ATTORNEY GENERAL.—

(A) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(B) RECOVERY.—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(i) such assets of the defaulting borrower as are associated with the obligation; or

(ii) any other security pledged to secure the obligation.

(h) FEES.—

(1) IN GENERAL.—The Secretary shall charge and collect fees for guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

(2) AVAILABILITY.—Fees collected under this subsection shall—

(A) be deposited by the Secretary into the Treasury; and

(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(i) RECORDS; AUDITS.—

(1) IN GENERAL.—A recipient of a guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(2) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

(j) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

SEC. 1403. ELIGIBLE PROJECTS.

(a) IN GENERAL.—The Secretary may make guarantees under this section only for projects that—

(1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and

(2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.

(b) CATEGORIES.—Projects from the following categories shall be eligible for a guarantee under this section:

(1) Renewable energy systems.

(2) Advanced fossil energy technology (including coal gasification meeting the criteria in subsection (d)).

(3) Hydrogen fuel cell technology for residential, industrial or transportation applications.

(4) Advanced nuclear energy facilities.

(5) Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon.

(6) Efficient electrical generation, transmission, and distribution technologies.

(7) Efficient end-use energy technologies.

(8) Notwithstanding subsection (a)(2), production facilities for fuel efficient vehicles.

(c) GASIFICATION PROJECTS.—The Secretary may make guarantees for the following gasification projects:

(1) INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—Integrated gasification combined cycle

plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

(i) for which, during the term of the guarantee—

(I) coal, biomass, petroleum coke, or a combination of coal, biomass, and petroleum coke will account for at least 65 percent of annual heat input; and

(II) electricity will account for at least 65 percent of net useful annual energy output;

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantee) that is approved by the Secretary and the relevant State public utility commission; and

(iv) on which construction commences not later than the date that is 3 years after the date of the issuance of the guarantee;

(B) a project to produce energy from coal (of not more than 13,000 Btu/lb and mined in the western United States) using appropriate advanced integrated gasification combined cycle technology that minimizes and offers the potential to sequester carbon dioxide emissions and that—

(i) may include repowering of existing facilities;

(ii) may be built in stages;

(iii) shall have a combined output of at least 100 megawatts;

(iv) shall be located in a western State at an altitude greater than 4,000 feet; and

(v) shall demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb;

(C) a project located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State public utility commis-

sion to sell at least 450 megawatts of output to a utility; and

(D) facilities that—

(i) generate 1 or more hydrogen-rich and carbon monoxide-rich product streams from the gasification of coal or coal waste; and

(ii) use those streams to facilitate the production of ultra clean premium fuels through the Fischer-Tropsch process.

(2) INDUSTRIAL GASIFICATION PROJECTS.—Facilities that gasify coal, biomass, or petroleum coke in any combination to produce synthesis gas for use as a fuel or feedstock and for which electricity accounts for less than 65 percent of the useful energy output of the facility.

(3) PETROLEUM COKE GASIFICATION PROJECTS.—The Secretary is encouraged to make loan guarantees under this title available for petroleum coke gasification projects.

(d) EMISSION LEVELS.—In addition to any other applicable Federal or State emission limitation requirements, a project shall attain at least—

(1) total sulfur dioxide emissions in flue gas from the project that do not exceed 0.05 lb/mmBTU;

(2) a 90-percent removal rate (including any fuel pretreatment) of mercury from the coal-derived gas, and any other fuel, combusted by the project;

(3) total nitrogen oxide emissions in the flue gas from the project that do not exceed 0.08 lb/mmBTU; and

(4) total particulate emissions in the flue gas from the project that do not exceed 0.01 lb/mmBTU.

(e) QUALIFICATION OF FACILITIES RECEIVING TAX CREDITS.—A project that receives tax credits for clean coal technology shall not be disqualified from receiving a guarantee under this title.

SEC. 1404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees under this title.

TITLE XV—ENERGY POLICY TAX INCENTIVES

SEC. 1500. SHORT TITLE; AMENDMENT OF 1986 CODE.

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

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be

considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Electricity Infrastructure

SEC. 1501. EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION CREDIT.

(a) 3-YEAR EXTENSION FOR CERTAIN FACILITIES.—Section 45(d) (relating to qualified facilities) is amended—

(1) by striking "January 1, 2006" each place it appears in paragraphs (1), (2), (3), (5), (6), and (7) and inserting "January 1, 2009", and

(2) by striking "January 1, 2006" in paragraph (4) and inserting "January 1, 2009 (January 1, 2006, in the case of a facility using solar energy)".

(b) INCREASE IN CREDIT PERIOD.—Section 45(b)(4)(B) (relating to credit period) is amended—

(1) by inserting "or clause (iii)" after "clause (ii)" in clause (i), and

(2) by adding at the end the following:

"(iii) TERMINATION.—Clause (i) shall not apply to any facility placed in service after the date of the enactment of this clause.".

(c) EXPANSION OF QUALIFIED RESOURCES TO INCLUDE FUEL CELLS.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended by striking "and" at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting ", and", and by adding at the end the following new subparagraph:

"(H) fuel cells.".

(2) FUEL CELL FACILITY.—Section 45(d) (relating to qualified facilities) is amended by adding at the end the following new paragraph:

"(9) FUEL CELL FACILITY.—In the case of a facility using an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means, the term 'qualified facility' means any facility owned by the taxpayer which—

"(A) is originally placed in service after December 31, 2005, and before January 1, 2009,

"(B) has a nameplate capacity rating of at least 0.5 megawatt of electricity, and

"(C) has an electricity-only generation efficiency greater than 30 percent.".

(3) CONFORMING AMENDMENTS RELATING TO COORDINATION WITH ENERGY CREDIT.—

(A) IN GENERAL.—Section 45(e) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(10) COORDINATION WITH ENERGY CREDIT.—The term 'qualified facility' shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.".

(B) CONFORMING AMENDMENT.—Section 45(d)(4) is amended by striking the last sentence.

(d) EXPANSION OF QUALIFIED RESOURCES TO CERTAIN HYDROPOWER.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting ", and", and by adding at the end the following new subparagraph:

"(I) qualified hydropower production.".

(2) CREDIT RATE.—Section 45(b)(4)(A) (relating to credit rate) is amended by striking "or (7)" and inserting "(7), or (10)".

(3) DEFINITION OF RESOURCES.—Section 45(c) (relating to qualified energy resources and refined

coal) is amended by adding at the end the following new paragraph:

"(8) QUALIFIED HYDROPOWER PRODUCTION.—

"(A) IN GENERAL.—The term 'qualified hydropower production' means—

"(i) in the case of any hydroelectric dam which was placed in service on or before the date of the enactment of this paragraph, the incremental hydropower production for the taxable year, and

"(ii) in the case of any nonhydroelectric dam described in subparagraph (C), the hydropower production from the facility for the taxable year.

"(B) DETERMINATION OF INCREMENTAL HYDROPOWER PRODUCTION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), incremental hydropower production for any taxable year shall be equal to the percentage of average annual hydropower production at the facility attributable to the efficiency improvements or additions of capacity placed in service after the date of the enactment of this paragraph, determined by using the same water flow

information used to determine an historic average annual hydropower production baseline for such facility. Such percentage and baseline shall be certified by the Federal Energy Regulatory Commission.

"(ii) OPERATIONAL CHANGES DISREGARDED.—For purposes of clause (i), the determination of incremental hydropower production shall not be based on any operational changes at such facility not directly associated with the efficiency improvements or additions of capacity.

"(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

"(i) the facility is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

"(ii) the facility was placed in service before the date of the enactment of this paragraph and did not produce hydroelectric power on the date of the enactment of this paragraph, and

"(iii) turbines or other generating devices are to be added to the facility after such date to produce hydroelectric power, but only if there is not any enlargement of the diversion structure, or construction or enlargement of a bypass channel, or the impoundment or any withholding of any additional water from the natural stream channel.

(4) FACILITIES.—Section 45(d) (relating to qualified facilities), as amended by this Act, is amended by adding at the end the following new paragraph:

"(10) QUALIFIED HYDROPOWER FACILITY.—In the case of a facility producing qualified hydroelectric production described in subsection (c)(8), the term 'qualified facility' means—

"(A) in the case of any facility producing incremental hydropower production, such facility but only to the extent of its incremental hydropower production attributable to efficiency improvements or additions to capacity described in subsection (c)(8)(B) placed in service after the date of the enactment of this paragraph and before January 1, 2009, and

"(B) any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2009.

"(C) CREDIT PERIOD.—In the case of a qualified facility described in subparagraph (A), the 10-year period referred to in subsection (a) shall be treated as beginning on the date the efficiency improvements or additions to capacity are placed in service.".

(e) TECHNICAL AMENDMENT RELATED TO TRASH COMBUSTION FACILITIES.—Section 45(d)(7) (relating to trash combustion facilities) is amended by adding at the end the following: "Such term shall include a new unit placed in service in connection with a facility placed in service on or before the date of the enactment of this paragraph, but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.".

(f) ADDITIONAL TECHNICAL AMENDMENTS RELATED TO SECTION 710 OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) Clause (ii) of section 45(b)(4)(B) is amended by striking "the date of the enactment of this Act" and inserting "January 1, 2005,".

(2) Clause (ii) of section 45(c)(3)(A) is amended by inserting "or any nonhazardous lignin waste material" after "cellulosic waste material".

(3) Subsection (e) of section 45 is amended by striking paragraph (6).

(4)(A) Paragraph (9) of section 45(e) is amended to read as follows:

"(9) COORDINATION WITH CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.—

"(A) IN GENERAL.—The term 'qualified facility' shall not include any facility which produces electricity from gas derived from the biodegradation of municipal solid waste if such biodegradation occurred in a facility (within the meaning of section 29) the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.

"(B) REFINED COAL FACILITIES.—The term 'refined coal production facility' shall not include any facility the production from which is allowed as a credit under section 29 for the taxable year or any prior taxable year.".

(B) Subparagraph (C) of section 45(e)(8) is amended by striking "and (9)".

(5) Subclause (I) of section 168(e)(3)(B)(vi) is amended to read as follows:

"(I) is described in subparagraph (A) of section 48(a)(3) (or would be so described if 'solar and wind' were substituted for 'solar' in clause (i) thereof and the last sentence of such section did not apply to such subparagraph),".

(6) Paragraph (4) of section 710(g) of the American Jobs Creation Act of 2004 is amended by striking "January 1, 2004" and inserting "January 1, 2005".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect of the date of the enactment of this Act.

(2) TECHNICAL AMENDMENTS.—The amendments made by subsections (e) and (f) shall take effect as if included in the amendments made by section 710 of the American Jobs Creation Act of 2004.

SEC. 1502. APPLICATION OF SECTION 45 CREDIT TO AGRICULTURAL COOPERATIVES.

(a) IN GENERAL.—Section 45(e) (relating to definitions and special rules), as amended by this Act, is amended by adding at the end the following:

"(11) ALLOCATION OF CREDIT TO PATRONS OF AGRICULTURAL COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of an eligible cooperative organization, any portion of the credit determined under subsection (a) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the amount of business done by the patrons during the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to any patrons under subparagraph (A)—

"(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

"(ii) shall be included in the amount determined under subsection (a) for the taxable year of the patrons with or within which the taxable year of the organization ends.

"(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

"(i) such reduction, over

"(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year, shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.

"(D) ELIGIBLE COOPERATIVE DEFINED.—For purposes of this section the term 'eligible cooperative' means a cooperative organization de-

scribed in section 1381(a) which is owned more than 50 percent by agricultural producers or by entities owned by agricultural producers. For this purpose an entity owned by an agricultural producer is one that is more than 50 percent owned by agricultural producers.

"(E) WRITTEN NOTICE TO PATRONS.—If any portion of the credit available under subsection (a) is allocated to patrons under subparagraph (A), the eligible cooperative shall provide any patron receiving an allocation written notice of the amount of the allocation. Such notice shall be provided before the date on which the return described in subparagraph (B)(ii) is due.".

SEC. 1503. EXPANSION OF RESOURCES TO WAVE, CURRENT, TIDAL, AND OCEAN THERMAL ENERGY.

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking "and" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", and", and by adding at the end the following new subparagraph:

"(J) wave, current, tidal, and ocean thermal energy."

(b) DEFINITION OF RESOURCES.—Section 45(c), as amended by this Act, is amended by adding at the end the following new paragraph:

"(9) WAVE, CURRENT, TIDAL, AND OCEAN THERMAL ENERGY.—The term 'wave, current, tidal, and ocean thermal energy' means electricity produced from any of the following:

"(A) Free flowing ocean water derived from tidal currents, ocean currents, waves, or estuary currents.

"(B) Ocean thermal energy.

"(C) Free flowing water in rivers, lakes, man made channels, or streams."

(c) FACILITIES.—Section 45(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(11) WAVE, CURRENT, TIDAL, AND OCEAN THERMAL FACILITY.—In the case of a facility using resources described in subparagraph (A), (B), or (C) of subsection (c)(9) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this paragraph and before January 1, 2009, but such term shall not include a

facility which includes impoundment structures or a small irrigation power facility.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1504. CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

''Subpart H—Nonrefundable Credit to Holders of Certain Bonds

''Sec. 54. Credit to holders of clean renewable energy bonds.

''SEC. 54. CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

''(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a clean renewable energy bond on 1 or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a clean renewable energy

bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any clean renewable energy bond is the product of—

"(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

"(B) the outstanding face amount of the bond.

"(3) DETERMINATION.—For purposes of paragraph (2), with respect to any clean renewable energy bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of clean renewable energy bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term also includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(2) the sum of the credits allowable under this part (other than subpart C thereof (relating to refundable credits) and this subpart) and section 1397E.

"(d) CLEAN RENEWABLE ENERGY BOND.—For purposes of this section—

"(1) IN GENERAL.—The term 'clean renewable energy bond' means any bond issued as part of an issue if—

"(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national clean renewable energy bond limitation under subsection (f)(2),

"(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred by qualified borrowers for 1 or more qualified projects,

"(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

"(D) the issue meets the requirements of subsection (h).

"(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

"(A) IN GENERAL.—The term 'qualified project' means any qualified facility (as determined under section 45(d) without regard to any

placed in service date) owned by a qualified borrower.

"(B) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a clean renewable energy bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

"(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), a clean renewable energy bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

"(i) prior to the payment of the original expenditure, the qualified borrower declared its intent to reimburse such expenditure with the proceeds of a clean renewable energy bond,

"(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reim-

burse the original expenditure with such proceeds, and

"(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

"(D) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean renewable energy bond.

"(e) MATURITY LIMITATIONS.—

"(1) DURATION OF TERM.—A bond shall not be treated as a clean renewable energy bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

"(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum

term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

"(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean renewable energy bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

"(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) NATIONAL LIMITATION.—There is a national clean renewable energy bond limitation of $1,000,000,000.

"(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in para-

graph (1) among qualified projects in such manner as the Secretary determines appropriate.

"(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(h) SPECIAL RULES RELATING TO EXPENDITURES.—

"(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

"(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond,

"(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the clean energy bond or, in the case of a clean energy bond the proceeds of which are to be loaned to 2 or more qualified borrowers, such binding commitment will be incurred with-

in the 6-month period beginning on the date of the loan of such proceeds to a qualified borrower, and

"(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

"(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

"(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

"(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a clean renewable energy bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

"(j) COOPERATIVE ELECTRIC COMPANY; QUALIFIED ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL BODY; QUALIFIED BORROWER.—For purposes of this section—

"(1) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

"(2) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

"(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State, territory, possession of

the United States, the District of Columbia, Indian tribal government, and any political subdivision thereof.

"(4) QUALIFIED ISSUER.—The term 'qualified issuer' means—

"(A) a clean renewable energy bond lender,

"(B) a cooperative electric company,

"(C) a governmental body, or

"(D) the Tennessee Valley Authority.

"(5) QUALIFIED BORROWER.—The term 'qualified borrower' means—

"(A) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C),

"(B) a governmental body, or

"(C) the Tennessee Valley Authority.

"(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to any loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

"(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

"(3) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(B) NO BASIS ADJUSTMENT.—Rules similar to the rules under section 1397E(i)(2) shall apply.

"(4) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any clean renewable energy bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(5) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a clean renewable energy bond on a credit allowance date shall be treated as if it

were a payment of estimated tax made by the taxpayer on such date.

"(6) REPORTING.—Issuers of clean renewable energy bonds shall submit reports similar to the reports required under section 149(e).

"(m) TERMINATION.—This section shall not apply with respect to any bond issued after December 31, 2008.".

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(8) REPORTING OF CREDIT ON CLEAN RENEWABLE ENERGY BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(c) CONFORMING AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"SUBPART H. NONREFUNDABLE CREDIT TO HOLDERS OF CERTAIN BONDS.".

(2) Section 1397E(c)(2) is amended by inserting ", and subpart H thereof" after "refundable credits".

(3) Section 6401(b)(1) is amended by striking "and G" and inserting "G, and H".

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54 of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2005.

SEC. 1505. TREATMENT OF INCOME OF CERTAIN ELECTRIC COOPERATIVES.

(a) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMIS-

SIONING TRANSACTIONS.—Section 501(c)(12)(C) is amended by striking the last sentence.

(b) ELIMINATION OF SUNSET ON TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Section 501(c)(12)(H) is amended by striking clause (x).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1506. DISPOSITIONS OF TRANSMISSION PROPERTY TO IMPLEMENT FERC RESTRUCTURING POLICY.

(a) IN GENERAL.—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking "2007" and inserting "2008".

(b) TECHNICAL AMENDMENT RELATED TO SECTION 909 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Clause (ii) of section 451(i)(4)(B) is amended by striking "the close of the period applicable under subsection (a)(2)(B) as extended under paragraph (2)" and inserting "December 31, 2007".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

(2) TECHNICAL AMENDMENT.—The amendment made by subsection (b) shall take effect as if included

in the amendments made by section 909 of the American Jobs Creation Act of 2004.

SEC. 1507. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding after section 45I the following new section:

"SEC. 45J. CREDIT FOR PRODUCTION FROM ADVANCED NUCLEAR POWER FACILITIES.

"(a) GENERAL RULE.—For purposes of section 38, the advanced nuclear power facility production credit of any taxpayer for any taxable year is equal to the product of—

"(1) 1.8 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer at an advanced nuclear power facility during the 8-year period beginning on the date the facility was originally placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) NATIONAL LIMITATION.—

"(1) IN GENERAL.—The amount of credit which would (but for this subsection and subsection (c)) be allowed with respect to any facility for any taxable

year shall not exceed the amount which bears the same ratio to such amount of credit as—

"(A) the national megawatt capacity limitation allocated to the facility, bears to

"(B) the total megawatt nameplate capacity of such facility.

"(2) AMOUNT OF NATIONAL LIMITATION.—The national megawatt capacity limitation shall be 6,000 megawatts.

"(3) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation in such manner as the Secretary may prescribe.

"(4) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations shall provide a certification process under which the Secretary, after consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation.

"(c) OTHER LIMITATIONS.—

"(1) ANNUAL LIMITATION.—The amount of the credit allowable under subsection (a) (after the appli-

cation of subsection (b)) for any taxable year with respect to any facility shall not exceed an amount which bears the same ratio to $125,000,000 as—

"(A) the national megawatt capacity limitation allocated under subsection (b) to the facility, bears to

"(B) 1,000.

"(2) OTHER LIMITATIONS.—Rules similar to the rules of section 45(b)(1) shall apply for purposes of this section.

"(d) ADVANCED NUCLEAR POWER FACILITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'advanced nuclear power facility' means any advanced nuclear facility—

"(A) which is owned by the taxpayer and which uses nuclear energy to produce electricity, and

"(B) which is placed in service after the date of the enactment of this paragraph and before January 1, 2021.

"(2) ADVANCED NUCLEAR FACILITY.—For purposes of paragraph (1), the term 'advanced nuclear facility' means any nuclear facility the reactor design for which is approved after December 31, 1993, by the

Nuclear Regulatory Commission (and such design or a substantially similar design of comparable capacity was not approved on or before such date).

"(e) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (1), (2), (3), (4), and (5) of section 45(e) shall apply for purposes of this section."

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and by adding at the end the following:

"(20) the advanced nuclear power facility production credit determined under section 45J(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following:

"Sec. 45J. Credit for production from advanced nuclear power facilities.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.

SEC. 1508. CREDIT FOR INVESTMENT IN CLEAN COAL FACILITIES.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of para-

graph (1), by striking the period at the end of paragraph (2), and by adding at the end the following new paragraphs:

"(3) the qualifying advanced coal project credit, and

"(4) the qualifying gasification project credit.".

(b) AMOUNT OF CREDITS.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new sections:

"SEC. 48A. QUALIFYING ADVANCED COAL PROJECT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying advanced coal project credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

"(b) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of property placed in service by the taxpayer during such taxable year which is part of a qualifying advanced coal project—

"(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(2) APPLICABLE RULES.—For purposes of this section, rules similar to the rules of subsection (a)(4) and (b) of section 48 shall apply.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFYING ADVANCED COAL PROJECT.—The term 'qualifying advanced coal project' means a project which meets the requirements of subsection (e).

"(2) ADVANCED COAL-BASED GENERATION TECHNOLOGY.—The term 'advanced coal-based generation technology' means a technology which meets the requirements of subsection (g).

"(3) COAL.—The term 'coal' means any carbonized or semicarbonized matter, including peat.

"(4) GREENHOUSE GAS CAPTURE CAPABILITY.—The term 'greenhouse gas capture capability' means an integrated gasification combined cycle technology facility capable of adding components which can capture, separate on a long-term basis, isolate, remove,

and sequester greenhouse gases which result from the generation of electricity.

"(5) ELECTRIC GENERATION UNIT.—The term 'electric generation unit' means any facility at least 50 percent of the total annual net output of which is electrical power, including an otherwise eligible facility which is used in an industrial application.

"(6) INTEGRATED GASIFICATION COMBINED CYCLE.—The term 'integrated gasification combined cycle' means an electric generation unit which produces electricity by converting coal to synthesis gas which is used to fuel a combined-cycle plant which produces electricity from both a combustion turbine (including a combustion turbine/fuel cell hybrid) and a steam turbine.

"(d) QUALIFYING ADVANCED COAL PROJECT PROGRAM.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Energy, shall establish a qualifying advanced coal project program for the deployment of advanced coal-based generation technologies.

"(2) CERTIFICATION.—

"(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1).

"(B) REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION.—An application under subparagraph (A) shall contain such information as the Secretary may require in order to make a determination to accept or reject an application for certification as meeting the requirements under subsection (e)(1). Any information contained in the application shall be protected as provided in section 552(b)(4) of title 5, United States Code.

"(C) TIME TO ACT UPON APPLICATIONS FOR CERTIFICATION.—The Secretary shall issue a determination as to whether an applicant has met the requirements under subsection (e)(1) within 60 days following the date of submittal of the application for certification.

"(D) TIME TO MEET CRITERIA FOR CERTIFICATION.—Each applicant for certification

shall have 2 years from the date of acceptance by the Secretary of the application during which to provide to the Secretary evidence that the criteria set forth in subsection (e)(2) have been met.

"(E) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the project in service and if such project is not placed in service by that time period then the certification shall no longer be valid.".

"(3) AGGREGATE GENERATING CAPACITY.—

"(A) IN GENERAL.—The aggregate generating capacity of projects certified by the Secretary under paragraph (2) may not exceed 7,500 megawatts.

"(B) PARTICULAR PROJECTS.—Of the total megawatts of capacity which the Secretary is authorized to certify—

"(i) 4,125 megawatts shall be available only for use for integrated gasification combined cycle projects, and

"(ii) 3,375 megawatts shall be available only for use for projects which use other advanced coal-based generation technologies.

"(C) DETERMINATION OF CAPACITY.—In determining capacity under this paragraph in the case of a retrofitted or repowered plant, capacity shall be determined based on total design capacity after the retrofit or repowering of the existing facility is accomplished.

"(5) REVIEW AND REDISTRIBUTION.—

"(A) REVIEW.—Not later than 6 years after the date of enactment of this section, the Secretary shall review the projects certified and megawatts allocated under this section as of the date which is 6 years after the date of enactment of this section.

"(B) REDISTRIBUTION.—The Secretary may reallocate the megawatts available under clauses (i) and (ii) of paragraph (3)(B) if the Secretary determines that—

"(i) capacity cannot be used because there is an insufficient quantity of qualifying applications for certification pending for any available capacity at the time of the review, or

"(ii) any certification made pursuant to subsection paragraph (2) has not been revoked pursuant to subsection paragraph

(2)(D) because the project subject to the certification has been delayed as a result of third party opposition or litigation to the proposed project.

"(C) REALLOCATION.—If the Secretary determines that megawatts under clause (i) or (ii) of paragraph (3)(B) are available for reallocation pursuant to the requirements set forth in paragraph (2), the Secretary is authorized to conduct an additional program for applications for certification.".

"(e) QUALIFYING ADVANCED COAL PROJECTS.—

"(1) REQUIREMENTS.—For purposes of subsection (c)(1), a project shall be considered a qualifying advanced coal project that the Secretary may certify under subsection (d)(2) if the Secretary determines that, at a minimum—

"(A) the project uses an advanced coal-based generation technology—

"(i) to power a new electric generation unit, or

"(ii) to retrofit or repower an existing electric generation unit (including an existing natural gas-fired combined cycle unit),

"(B) the fuel input for the project, when completed, is at least 75 percent coal,

"(C) the project, consisting of one or more electric generation units at one site, will have a total nameplate generating capacity of at least 400 megawatts;

"(D) the applicant demonstrates that there is a letter of intent signed by an officer of an entity willing to purchase the majority of the output of the project or signed by an officer of a utility indicating that the electricity capacity addition is consistent with that utility's integrated resource plan as approved by the regulatory or governing body that oversees electricity capacity allocations of the utility;

"(E) there is evidence of ownership or control of a site of sufficient size to allow the proposed project to be constructed and to operate on a long-term basis; and

"(F) the project will be located in the United States.

"(2) REQUIREMENTS FOR CERTIFICATION.—For the purpose of subsection (d)(2)(D), a project shall be eligible for certification only if the Secretary determines that—

"(A) the applicant for certification has received all Federal and State environmental authorizations or reviews necessary to commence construction of the project; and

"(B) the applicant for certification, except in the case of a retrofit or repower of an existing electric generation unit, has purchased or entered into a binding contract for the purchase of the main steam turbine or turbines for the project, except that such contract may be contingent upon receipt of a certification under subsection (d)(2).".

"(3) PRIORITY FOR INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—In determining which qualifying advanced coal projects to certify under subsection (d)(2), the Secretary shall—

"(A) certify capacity, in accordance with the procedures set forth in subsection (d), in relatively equal amounts to—

"(i) projects using bituminous coal as a primary feedstock,

"(ii) projects using subbituminous coal as a primary feedstock, and

"(iii) projects using lignite as a primary 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—*

"(A) be measured in Btu per kilowatt hour (higher heating value),

"(B) be based on the design annual heat input to the unit and the rated net electrical power, fuels, and chemicals output of the unit (determined without regard to the cogeneration of steam by the unit),

"(C) be adjusted for the heat content of the design coal to be used by the unit—

"(i) if the heat content is less than 13,500 Btu per pound, but greater than 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x [1–{((13,500-design coal heat content, Btu per pound)/1,000) 0.013}], and*

"(ii) if the heat content is less than or equal to 7,000 Btu per pound, according to the following formula: design net heat rate = unit net heat rate x [1–{((13,500-design coal heat content, Btu per pound)/1,000) 0.018}], and*

"(D) be corrected for the site reference conditions of—

"(i) elevation above sea level of 500 feet,

"(ii) air pressure of 14.4 pounds per square inch absolute,

"(iii) temperature, dry bulb of 63/o/F,

"(iv) temperature, wet bulb of 54/o/F, and

"(v) relative humidity of 55 percent.

(3) EXISTING UNITS.—In the case of any electric generation unit in existence on the date of the enactment of this section, such unit uses advanced coal-based generation technology if, in lieu of the requirements under paragraph (1)(A)(ii), such unit achieves a minimum efficiency of 35 percent and an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percentage points for coal of more than 9,000 Btu,

(B) 6 percentage points for coal of 7,000 to 9,000 Btu, or

(C) 4 percentage points for coal of less than 7,000 Btu.

"(h) APPLICABILITY.—No use of technology (or level of emission reduction solely by reason of the use of the tech-

nology), and no achievement of any emission reduction by the demonstration of any technology or performance level, by or at one or more facilities with respect to which a credit is allowed under this section, shall be considered to indicate that the technology or performance level is—

"(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S. C. 7411);

"(2) achievable for purposes of section 169 of that Act (42 U.S. C. 7479); or

"(3) achievable in practice for purposes of section 171 of such Act (42 U.S.C. 7501).

"SEC. 48B. QUALIFYING GASIFICATION PROJECT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying gasification project credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

"(b) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of property placed in service by the taxpayer during such taxable year which is part of a qualifying gasification project—

"(A)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer, and

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

"(2) APPLICABLE RULES.—For purposes of this section, rules similar to the rules of subsection (a)(4) and (b) of section 48 shall apply.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFYING GASIFICATION PROJECT.—The term 'qualifying gasification project' means any project which—

"(A) employs gasification technology,

"(B) will be carried out by an eligible entity, and

"(C) any portion of the qualified investment in which is certified under the qualifying gasification program as eligible for credit under this section in an amount (not to exceed $1,000,000,000) determined by the Secretary.

"(2) GASIFICATION TECHNOLOGY.—The term 'gasification technology' means any process which converts a solid or liquid product from coal, petroleum residue, biomass, or other materials which are

recovered for their energy or feedstock value into a synthesis gas composed primarily of carbon monoxide and hydrogen for direct use or subsequent chemical or physical conversion.

"(3) BIOMASS.—

"(A) IN GENERAL.—The term 'biomass' means any—

"(i) agricultural or plant waste,

"(ii) byproduct of wood or paper mill operations, including lignin in spent pulping liquors, and

"(iii) other products of forestry maintenance.

"(B) EXCLUSION.—The term 'biomass' does not include paper which is commonly recycled.

"(4) CARBON CAPTURE CAPABILITY.—The term 'carbon capture capability' means a gasification plant design which is determined by the Secretary to reflect reasonable consideration for, and be capable of, accommodating the equipment likely to be necessary to capture carbon dioxide from the gaseous stream, for later use or sequestration, which would otherwise be emitted in the flue gas from a project which uses a nonrenewable fuel.

"(5) COAL.—The term 'coal' means any carbonized or semicarbonized matter, including peat.

"(6) ELIGIBLE ENTITY.—The term 'eligible entity' means any person whose application for certification is principally intended for use in a domestic project which employs domestic gasification applications related to—

"(A) chemicals,

"(B) fertilizers,

"(C) glass,

"(D) steel,

"(E) petroleum residues,

"(F) forest products, and

"(G) agriculture, including feedlots and dairy operations.

"(7) PETROLEUM RESIDUE.—The term 'petroleum residue' means the carbonized product of high-boiling hydrocarbon fractions obtained in petroleum processing.

"(d) QUALIFYING GASIFICATION PROJECT PROGRAM.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall establish a qualifying gasification project program to consider and award certifications for qualified investment eli-

gible for credits under this section to qualifying gasification project sponsors under this section. The total qualified investment which may be awarded eligibility for credit under the program shall not exceed $4,000,000,000.

"(2) PERIOD OF ISSUANCE.—A certificate of eligibility under paragraph (1) may be issued only during the 10-fiscal year period beginning on October 1, 2005.

"(3) SELECTION CRITERIA.—The Secretary shall not make a competitive certification award for qualified investment for credit eligibility under this section unless the recipient has documented to the satisfaction of the Secretary that—

"(A) the award recipient is financially viable without the receipt of additional Federal funding associated with the proposed project,

"(B) the recipient will provide sufficient information to the Secretary for the Secretary to ensure that the qualified investment is spent efficiently and effectively,

"(C) a market exists for the products of the proposed project as evidenced by contracts or written statements of intent from potential customers,

"(D) the fuels identified with respect to the gasification technology for such project will comprise at least 90 percent of the fuels required by the project for the production of chemical feedstocks, liquid transportation fuels, or coproduction of electricity,

"(E) the award recipient's project team is competent in the construction and operation of the gasification technology proposed, with preference given to those recipients with experience which demonstrates successful and reliable operations of the technology on domestic fuels so identified, and

"(F) the award recipient has met other criteria established and published by the Secretary.".

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) is amended by striking "and" at the end of clause (ii), by striking clause (iii), and by adding after clause (ii) the following new clauses:

"(iii) the basis of any property which is part of a qualifying advanced coal project under section 48A, and

"(iv) the basis of any property which is part of a qualifying gasification project under section 48B.".

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new items:

"48A. Qualifying advanced coal project credit.
"48B. Qualifying gasification project credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1509. CLEAN ENERGY COAL BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax), as added by this Act, is amended by adding at the end the following new section:

"SEC. 54A. CREDIT TO HOLDERS OF CLEAN ENERGY COAL BONDS.

"(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a clean energy coal bond on 1 or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chap-

ter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a clean energy coal bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any clean energy coal bond is the product of—

"(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

"(B) the outstanding face amount of the bond.

"(3) DETERMINATION.—For purposes of paragraph (2), with respect to any clean energy coal bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will per-

mit the issuance of clean energy coal bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

"(A) March 15,

"(B) June 15,

"(C) September 15, and

"(D) December 15.

Such term also includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(2) the sum of the credits allowable under this part (other than subpart C thereof (relating to refundable credits) and this section) and section 1397E.

"(d) CLEAN ENERGY COAL BOND.—For purposes of this section—

"(1) IN GENERAL.—The term 'clean energy coal bond' means any bond issued as part of an issue if—

"(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national clean energy coal bond limitation under subsection (f)(2),

"(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred by qualified borrowers for 1 or more qualified projects,

"(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

"(D) the issue meets the requirements of subsection (h).

"(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

"(A) IN GENERAL.—The term 'qualified project' means a qualifying advanced coal project (as defined in section 48A(c)(1)) placed in service by a qualified borrower.

"(B) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a clean energy coal bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

"(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), a clean energy coal bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

"(i) prior to the payment of the original expenditure, the qualified borrower declared its intent to reimburse such expenditure with the proceeds of a clean energy coal bond,

"(ii) not later than 60 days after payment of the original expenditure, the quali-

fied issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

"(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

"(D) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean energy coal bond.

"(e) MATURITY LIMITATIONS.—

"(1) DURATION OF TERM.—A bond shall not be treated as a clean energy coal bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

"(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

"(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a clean energy coal bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

"(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

"(1) NATIONAL LIMITATION.—There is a national clean energy coal bond limitation of $1,000,000,000.

"(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

"(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(h) SPECIAL RULES RELATING TO EXPENDITURES.—

"(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

"(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond,

"(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the clean energy bond or, in the case of a clean energy bond the proceeds of which are

to be loaned to 2 or more qualified borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a qualified borrower, and

"(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

"(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

"(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be re-

deemed shall be determined in the same manner as under section 142.

"(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a clean energy coal bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

"(j) COOPERATIVE ELECTRIC COMPANY; QUALIFIED ENERGY TAX CREDIT BOND LENDER; GOVERNMENTAL BODY; QUALIFIED BORROWER.—For purposes of this section—

"(1) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

"(2) CLEAN ENERGY BOND LENDER.—The term 'clean energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

"(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State, territory, possession of the United States, the District of Columbia, Indian tribal government, and any political subdivision thereof.

"(4) QUALIFIED ISSUER.—The term 'qualified issuer' means—

"(A) a clean energy bond lender,

"(B) a cooperative electric company,

"(C) a governmental body, or

"(D) the Tennessee Valley Authority.

"(5) QUALIFIED BORROWER.—The term 'qualified borrower' means—

"(A) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C),

"(B) a governmental body, or

"(C) the Tennessee Valley Authority.

"(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to any loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

"(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

"(3) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

"(B) NO BASIS ADJUSTMENT.—Rules similar to the rules under section 1397E(i)(2) shall apply.

"(4) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any clean energy coal bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(5) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer

by reason of holding a clean energy coal bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

"(6) REPORTING.—Issuers of clean energy coal bonds shall submit reports similar to the reports required under section 149(e).

"(m) TERMINATION.—This section shall not apply with respect to any bond issued after December 31, 2010.".

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest), as amended by this Act, is amended by adding at the end the following new paragraph:

"(9) REPORTING OF CREDIT ON CLEAN ENERGY COAL BONDS.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(b)(4)).

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied

without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

"(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.".

(c) CLERICAL AMENDMENT.—The table of sections for subpart H of part IV of subchapter A of chapter 1, as added by this Act, is amended by adding at the end the following new item:

"Sec. 54A. Credit to holders of clean energy coal bonds.".

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2005.

Subtitle B—Domestic Fossil Fuel Security

SEC. 1511. CREDIT FOR INVESTMENT IN CLEAN COKE/COGENERATION MANUFACTURING FACILITIES.

(a) ALLOWANCE OF CLEAN COKE/COGENERATION MANUFACTURING FACILITIES CREDIT.—Section 46 (relating to

amount of credit), as amended by this Act, is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4), and inserting ", and", and by adding at the end the following new paragraph:

"(5) the clean coke/cogeneration manufacturing facilities credit.".

(b) AMOUNT OF CLEAN COKE/COGENERATION MANUFACTURING FACILITIES CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48B the following new section:

"SEC. 48C. CLEAN COKE/COGENERATION MANUFACTURING FACILITIES CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the clean coke/cogeneration manufacturing facilities credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

"(b) QUALIFIED INVESTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of each clean coke/cogeneration manufacturing facilities property placed in service by the taxpayer during such taxable year.

"(2) CLEAN COKE/COGENERATION MANUFACTURING FACILITIES PROPERTY.—For purposes of this

section, the term 'clean coke/cogeneration manufacturing facilities property' means real and tangible personal property which—

"(A) is depreciable under section 167,

"(B) is located in the United States,

"(C) is used for the manufacture of metallurgical coke or for the production of steam or electricity from waste heat generated during the production of metallurgical coke, and

"(D) does not exceed any of the following emission limitations—

"(i) 0.0 percent leaking for any coke oven doors unless the operation of ovens is under negative pressure,

"(ii) 0.0 percent leaking for any topside port lids,

"(iii) 0.0 percent leaking for any offtake system,

determined as provided for in section 63.303(b)(1)(ii) or 63.309(d)(1) of title 40, Code of Federal Regulations.

"(c) TERMINATION.—This subsection shall not apply to property for periods after December 31, 2009.".

(c) TECHNICAL AMENDMENT.—Section 50(c) is amended by adding at the end the following new paragraph:

"(6) SPECIAL RULE FOR COKE/COGENERATION FACILITIES.—Paragraphs (1) and (2) shall not apply to any property with respect to the credit determined under section 48C.".

(d) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following new clause:

"(v) the basis of any clean coke/cogeneration manufacturing facilities property."

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48B the following new item:

"48C. Clean coke/cogeneration manufacturing facilities credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2004, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1512. TEMPORARY EXPENSING FOR EQUIPMENT USED IN REFINING OF LIQUID FUELS.

(A) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179B the following new section:

"SEC. 179C. ELECTION TO EXPENSE CERTAIN REFINERIES.

"(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat the cost of any qualified refinery property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified refinery is placed in service.

"(b) ELECTION.—

"(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall be made in such manner as the Secretary may by regulations prescribe.

"(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

"(c) QUALIFIED REFINERY PROPERTY.—The term 'qualified refinery property' means any refinery or portion of a refinery—

"(1) the original use of which commences with the taxpayer,

"(2) the construction of which—

"(A) except as provided in subparagraph (B), is subject to a binding construction contract entered into after June 14, 2005, and before January 1, 2008, but only if there was no written binding construction contract entered into on or before June 14, 2005, or

"(B) in the case of self-constructed property, began after June 14, 2005,

"(3) which is placed in service by the taxpayer after the date of the enactment of this section and before January 1, 2012,

"(4) in the case of any portion of a refinery, which meets the requirements of subsection (d), and

"(5) which meets all applicable environmental laws in effect on the date such refinery or portion thereof was placed in service.

A waiver under the Clean Air Act shall not be taken into account in determining whether the requirements of paragraph (5) are met.

"(d) PRODUCTION CAPACITY.—The requirements of this subsection are met if the portion of the refinery—

"(1) increases the rated capacity of the existing refinery by 5 percent or more over the capacity of

such refinery as reported by the Energy Information Agency on January 1, 2005, or

"(2) enables the existing refinery to process qualified fuels (as defined in section 29(c)) at a rate which is equal to or greater than 25 percent of the total throughput of such refinery on an average daily basis.

"(e) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—If—

"(1) a taxpayer to which subsection (a) applies is an organization to which part I of subchapter T applies, and

"(2) one or more persons directly holding an ownership interest in the taxpayer are organizations to which part I of subchapter T apply,

the taxpayer may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person's ratable share of the total amount allocated, determined on the basis of the person's ownership interest in the taxpayer. The taxable income of the taxpayer shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

"(f) INELIGIBLE REFINERIES.—No deduction shall be allowed under subsection (a) for any qualified refinery property—

"(1) the primary purpose of which is for use as a topping plant, asphalt plant, lube oil facility, crude or product terminal, or blending facility, or

"(2) which is built solely to comply with Federally mandated projects or consent decrees.

"(g) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the refineries of the taxpayer as the Secretary shall require.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1245(a) is amended by inserting "179C," after "179B," both places it appears in paragraphs (2)(C) and (3)(C).

(2) Section 263(a)(1) is amended by striking "or" at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting ", or", and by inserting after subparagraph (I) the following new subparagraph:

"(J) expenditures for which a deduction is allowed under section 179C.".

(3) Section 312(k)(3)(B) is amended by striking "179 179A, or 179B" each place it appears in the heading and text and inserting "179, 179A, 179B, or 179C".

(4) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179B the following new item:

"Sec. 179C. Election to expense certain refineries.".

(c) EFFECTIVE DATE.— The amendments made by this section shall apply to properties placed in service after the date of the enactment of this Act.

SEC. 1513. PASS THROUGH TO OWNERS OF DEDUCTION FOR CAPITAL COSTS INCURRED BY SMALL REFINER COOPERATIVES IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—Section 179B (relating to deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations) is amended by adding at the end the following new subsection:

"(e) ELECTION TO ALLOCATE DEDUCTION TO COOPERATIVE OWNER.—If—

"(1) a small business refiner to which subsection (a) applies is an organization to which part I of subchapter T applies, and

"(2) one or more persons directly holding an ownership interest in the refiner are organizations to which part I of subchapter T apply,

the refiner may elect to allocate all or a portion of the deduction allowable under subsection (a) to such persons. Such allocation shall be equal to the person's ratable share of the total amount allocated, determined on the basis of the person's ownership interest in the taxpayer. The taxable income of the refiner shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 338(a) of the American Jobs Creation Act of 2004.

SEC. 1514. MODIFICATIONS TO ENHANCED OIL RECOVERY CREDIT.

(a) ENHANCED CREDIT FOR CARBON DIOXIDE INJECTIONS.—Section 43 is amended by adding at the end the following new subsection:

"(f) ENHANCED CREDIT FOR PROJECTS USING QUALIFIED CARBON DIOXIDE.—

"(1) IN GENERAL.—In the case of any qualified enhanced oil recovery project described in paragraph

(2), subsection (a) shall be applied by substituting '20 percent' for '15 percent'.

"(2) SPECIFIED QUALIFIED ENHANCED OIL RECOVERY PROJECT.—

"(A) IN GENERAL.—A qualified enhanced oil recovery project is described in this paragraph if—

"(i) the project begins or is substantially expanded after December 31, 2005, and

"(ii) the project uses qualified carbon dioxide in an oil recovery method which involves flooding or injection.

"(B) QUALIFIED CARBON DIOXIDE.—For purposes of this subsection, the term 'qualified carbon dioxide' means carbon dioxide that is—

"(i) from an industrial source, or

"(ii) separated from natural gas and natural gas liquids at a natural gas processing plant.

"(3) TERMINATION.—This subsection shall not apply to costs paid or incurred for any qualified enhanced oil recovery project after December 31, 2009.".

(b) DEEP GAS WELL PROJECTS.—Section 43(c) is amended by adding at the end the following new paragraph:

"(6) APPLICATION OF SECTION TO QUALIFIED DEEP GAS WELL PROJECTS.—

"(A) IN GENERAL.—For purposes of this section, the taxpayer's qualified deep gas well project costs for any taxable year shall be treated in the same manner as if they were qualified enhanced oil recovery costs.

"(B) QUALIFIED DEEP GAS WELL PROJECT COSTS.—For purposes of this paragraph, the term 'qualified deep gas well project costs' shall be the costs determined under paragraph (1) by substituting 'qualified deep gas well project' for 'qualified enhanced oil recovery project' each place it appears.

"(C) QUALIFIED DEEP GAS WELL PROJECT.—For purposes of this paragraph, the term 'qualified deep gas well project' means any project—

"(i) which involves the production of natural gas from onshore formations deeper than 20,000 feet, and

"(ii) which is located in the United States.

"(D) TERMINATION.—This paragraph shall not apply to qualified deep gas well project costs paid or incurred after December 31, 2009.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years ending after December 31, 2005.

SEC. 1515. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.

(a) IN GENERAL.—Section 168(e)(3)(E) (defining 15-year property) is amended by striking "and" at the end of clause (v), by striking the period at the end of clause (vi) and by inserting ", and", and by adding at the end the following new clause:

"(vii) any natural gas distribution line the original use of which commences with the taxpayer and which is placed in service before January 1, 2008.".

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) (relating to special rule for certain property assigned to classes) is amended by adding after the item relating to subparagraph (E)(vi) the following new item:

"(E)(vii) ..... 35".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property with respect to which the taxpayer or a related party has entered into a binding contract for the construction thereof on or before June 14, 2005, or, in the case of self-constructed property, has started construction on or before such date.

Subtitle C—Conservation and Energy Efficiency Provisions

SEC. 1521. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

"SEC. 179D. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year.

"(b) MAXIMUM AMOUNT OF DEDUCTION.—The deduction under subsection (a) with respect to any building for any taxable year shall not exceed the excess (if any) of—

"(1) the product of—

"(A) $2.25, and

"(B) the square footage of the building, over

"(2) the aggregate amount of the deductions under subsection (a) with respect to the building for all prior taxable years.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—The term 'energy efficient commercial building property' means property—

"(A) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(B) which is installed on or in any building which is—

"(i) located in the United States, and

"(ii) within the scope of Standard 90.1–2001,

"(C) which is installed as part of—

"(i) the interior lighting systems,

"(ii) the heating, cooling, ventilation, and hot water systems, or

"(iii) the building envelope, and

"(D) which is certified in accordance with subsection (d)(6) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1–2001 using methods of calculation under subsection (d)(2).

"(2) STANDARD 90.1–2001.—The term 'Standard 90.1–2001' means Standard 90.1–2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

"(d) SPECIAL RULES.—

"(1) PARTIAL ALLOWANCE.—

"(A) IN GENERAL.—Except as provided in subsection (f), if—

"(i) the requirement of subsection (c)(1)(D) is not met, but

"(ii) there is a certification in accordance with paragraph (6) that any system

referred to in subsection (c)(1)(C) satisfies the energy-savings targets established by the Secretary under subparagraph (B) with respect to such system,

then the requirement of subsection (c)(1)(D) shall be treated as met with respect to such system, and the deduction under subsection (a) shall be allowed with respect to energy efficient commercial building property installed as part of such system and as part of a plan to meet such targets, except that subsection (b) shall be applied to such property by substituting '$.75' for '$2.25'.

"(B) REGULATIONS.—The Secretary, after consultation with the Secretary of Energy, shall establish a target for each system described in subsection (c)(1)(C) which, if such targets were met for all such systems, the building would meet the requirements of subsection (c)(1)(D).

"(2) METHODS OF CALCULATION.—The Secretary, after consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, based on the provi-

sions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual.

"(3) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—Any calculation under paragraph (2) shall be prepared by qualified computer software.

"(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

"(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

"(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

"(iii) which provides a notice form which documents the energy efficiency features of the building and its projected annual energy costs.

"(4) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commer-

cial building property installed on or in property owned by a Federal, State, or local government or a political subdivision thereof, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

"(5) NOTICE TO OWNER.—Each certification required under this section shall include an explanation to the building owner regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (3)(B)(iii).

"(6) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall prescribe the manner and method for the making of certifications under this section.

"(B) PROCEDURES.—The Secretary shall include as part of the certification process procedures for inspection and testing by qualified individuals described in subparagraph (C) to ensure compliance of buildings with energy-savings plans and targets. Such procedures shall be comparable, given the difference between commercial

and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

"(C) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

"(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(f) INTERIM RULES FOR LIGHTING SYSTEMS.—Until such time as the Secretary issues final regulations under subsection (d)(1)(B) with respect to property which is part of a lighting system—

"(1) IN GENERAL.—The lighting system target under subsection (d)(1)(A)(ii) shall be a reduction in lighting power density of 25 percent (50 percent in the case of a warehouse) of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 (not including additional interior lighting power allowances) of Standard 90.1–2001.

"(2) REDUCTION IN DEDUCTION IF REDUCTION LESS THAN 40 PERCENT.—

"(A) IN GENERAL.—If, with respect to the lighting system of any building other than a warehouse, the reduction in lighting power density of the lighting system is not at least 40 percent, only the applicable percentage of the amount of deduction otherwise allowable under this section with respect to such property shall be allowed.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is the number of percentage points (not greater than 100) equal to the sum of—

"(i) 50, and

"(ii) the amount which bears the same ratio to 50 as the excess of the reduction of lighting power density of the lighting system over 25 percentage points bears to 15.

"(C) EXCEPTIONS.—This subsection shall not apply to any system—

"(i) the controls and circuiting of which do not comply fully with the mandatory and prescriptive requirements of Standard 90.1–2001 and which do not in-

clude provision for bilevel switching in all occupancies except hotel and motel guest rooms, store rooms, restrooms, and public lobbies, or

"(ii) which does not meet the minimum requirements for calculated lighting levels as set forth in the Illuminating Engineering Society of North America Lighting Handbook, Performance and Application, Ninth Edition, 2000.

"(g) COORDINATION WITH OTHER TAX BENEFITS.—In any case in which a deduction under section 200 or a credit under section 25C has been allowed with respect to property in connection with a building for which a deduction is allowable under subsection (a)—

"(1) the annual energy and power costs of the reference building referred to in subsection (c)(1)(D) shall be determined assuming such reference building contains the property for which such deduction or credit has been allowed, and

"(2) any cost of such property taken into account under such sections shall not be taken into account under this section.

"(h) REGULATIONS.—The Secretary shall promulgate such regulations as necessary—

"(1) to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section, and

"(2) to provide for a recapture of the deduction allowed under this section if the plan described in subsection (c)(1)(D) or (d)(1)(A) is not fully implemented.

"(i) TERMINATION.—This section shall not apply with respect to property placed in service after December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting ", and", and by adding at the end the following new paragraph:

"(32) to the extent provided in section 179D(e).".

(2) Section 1245(a), as amended by this Act, is amended by inserting "179D," after "179C," both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence "or by section 179D".

(4) Section 263(a)(1), as amended by this Act, is amended by striking "or" at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting ", or", and by inserting after subparagraph (J) the following new subparagraph:

"(K) expenditures for which a deduction is allowed under section 179D.".

(5) Section 312(k)(3)(B), as amended by this Act, is amended by striking "179, 179A, 179B, or 179C" each place it appears in the heading and text and inserting "179, 179A, 179B, 179C, or 179D".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

"Sec. 179D. Energy efficient commercial buildings deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.

SEC. 1522. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. NEW ENERGY EFFICIENT HOME CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the new energy efficient home credit for the taxable year is the applicable amount for each qualified new energy efficient home which is—

"(A) constructed by the eligible contractor, and

"(B) acquired by a person from such eligible contractor for use as a residence during the taxable year.

"(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to—

"(i) in the case of a dwelling unit described in paragraph (1) or (3) of subsection (c), $1,000, and

"(ii) in the case of a dwelling unit described in paragraph (2) or (4) of subsection (c), $2,000.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means—

"(A) the person who constructed the qualified new energy efficient home, or

"(B) in the case of a qualified new energy efficient home which is a manufactured home, the manufactured home producer of such home.

"(2) QUALIFIED NEW ENERGY EFFICIENT HOME.—The term 'qualified new energy efficient home' means a dwelling unit—

"(A) located in the United States,

"(B) the construction of which is substantially completed after the date of the enactment of this section, and

"(C) which meets the energy saving requirements of subsection (c).

"(3) CONSTRUCTION.—The term 'construction' includes substantial reconstruction and rehabilitation.

"(4) ACQUIRE.—The term 'acquire' includes purchase.

"(c) ENERGY SAVING REQUIREMENTS.—A dwelling unit meets the energy saving requirements of this subsection if such unit is—

"(1) certified—

"(A) to have a level of annual heating and cooling energy consumption which is at least 30 percent below the annual level of heating and cooling energy consumption of a comparable dwelling unit—

"(i) which is constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and

"(ii) for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction, and

"(B) to have building envelope component improvements account for at least 1/3 of such 30 percent,

"(2) certified—

"(A) to have a level of annual heating and cooling energy consumption which is at least 50 percent below such annual level, and

"(B) to have building envelope component improvements account for at least 1/5 of such 50 percent,

"(3) a manufactured home which conforms to Federal Manufactured Home Construction and Safety

Standards (section 3280 of title 24, Code of Federal Regulations) and which—

"(A) meets the requirements of clause (i), or

"(B) meets the requirements established by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program, or

"(4) a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (section 3280 of title 24, Code of Federal Regulations) and which meets the requirements of clause (ii).

"(d) CERTIFICATION.—

"(1) METHOD OF CERTIFICATION.—A certification described in paragraphs (1) and (2) of subsection (c) shall be made in accordance with guidance prescribed by the Secretary, after consultation with the Secretary of Energy. Such guidance shall specify procedures and methods for calculating energy and cost savings.

"(2) FORM.—Any certification described in subsection (c) shall be made in writing in a manner which specifies in readily verifiable fashion the energy efficient building envelope components and energy ef-

ficient heating or cooling equipment installed and their respective rated energy efficiency performance.

"(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section in connection with any expenditure for any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so determined.

"(f) COORDINATION WITH OTHER CREDITS AND DEDUCTIONS.—

"(1) SPECIAL RULE WITH RESPECT TO BUILDINGS WITH ENERGY EFFICIENT PROPERTY.—In the case of property which is described in section 200 which is installed in connection with a dwelling unit, the level of annual heating and cooling energy consumption of the comparable dwelling unit referred to in paragraphs (1) and (2) of subsection (c) shall be determined assuming such comparable dwelling unit contains the property for which such deduction or credit has been allowed.

"(2) COORDINATION WITH INVESTMENT CREDIT.—For purposes of this section, expenditures taken into account under section 47 or 48(a) shall not be taken into account under this section.

"(g) APPLICATION OF SECTION.—

"(1) 50 PERCENT HOMES.—In the case of any dwelling unit described in paragraph (2) or (4) of subsection (c), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section and ending on December 31, 2009.

"(2) 30 PERCENT HOMES.—In the case of any dwelling unit described in paragraph (1) or (3) of subsection (c), subsection (a) shall apply to qualified new energy efficient homes acquired during the period beginning on the date of the enactment of this section and ending on December 31, 2007.".

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", plus", and by adding at the end the following new paragraph:

"(21) the new energy efficient home credit determined under section 45K(a).".

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting ", and", and by adding at the end the following new paragraph:

"(33) to the extent provided in section 45K(e), in the case of amounts with respect to which a credit has been allowed under section 45K.".

(d) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Section 196(c) (defining qualified business credits) is amended by striking "and" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", and", and by adding after paragraph (12) the following new paragraph:

"(13) the new energy efficient home credit determined under section 45K(a).".

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45K. New energy efficient home credit.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1523. DEDUCTION FOR BUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

"SEC. 200. ENERGY PROPERTY DEDUCTION.

"(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the greater of—

"(1) the amount determined under subsection (b) for each energy property of the taxpayer placed in service during such taxable year, or

"(2) the energy efficient residential rental building property deduction determined under subsection (e).

"(b) AMOUNT FOR ENERGY PROPERTY.—The amount determined under this subsection for the taxable year shall be—

"(1) $150 for any advanced main air circulating fan,

"(2) $450 for any qualified natural gas, propane, or oil furnace or hot water boiler, and

"(2) $900 for any energy efficient building property.

"(c) ENERGY PROPERTY DEFINED.—

"(1) IN GENERAL.—For purposes of this part, the term 'energy property' means any property—

"(A) which is—

"(i) energy-efficient building property,

"(ii) a qualified natural gas, propane, or oil furnace or hot water boiler, or

"(iii) an advanced main air circulating fan,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(D) which meets the performance and quality standards, and the certification requirements (if any), which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

"(ii) in the case of the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

"(I) require measurements to be based on published data which is tested

by manufacturers at 95 degrees Fahrenheit, and

"(II) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency,

"(iii) in the case of geothermal heat pumps—

"(I) shall be based on testing under the conditions of ARI/ISO Standard 13256–1 for Water Source Heat Pumps or ARI 870 for Direct Expansion GeoExchange Heat Pumps (DX), as appropriate, and

"(II) shall include evidence that water heating services have been provided through a desuperheater or integrated water heating system connected to the storage water heater tank, and

"(iv) are in effect at the time of the acquisition of the property, or at the time of the completion of the construction, reconstruction, or erection of the property, as the case may be.

"(2) EXCEPTION.—Such term shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

"(d) DEFINITIONS RELATING TO TYPES OF ENERGY PROPERTY.—For purposes of this section—

"(1) ENERGY-EFFICIENT BUILDING PROPERTY.—The term 'energy-efficient building property' means—

"(A) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure,

"(B) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13,

"(C) a geothermal heat pump which—

"(i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3,

"(ii) in the case of an open loop product, has an energy efficiency ratio (EER) of

at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and

"(iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5,

"(D) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 13, and

"(E) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80.

"(2) QUALIFIED NATURAL GAS, PROPANE, OR OIL FURNACE OR HOT WATER BOILER.—The term 'qualified natural gas, propane, or oil furnace or hot water boiler' means a natural gas, propane, or oil furnace or hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 95.

"(3) ADVANCED MAIN AIR CIRCULATING FAN.—The term 'advanced main air circulating fan' means a fan used in a natural gas, propane, or oil furnace originally placed in service by the taxpayer during the taxable year and which has an annual electricity use of no more than 2 percent of the total annual en-

ergy use of the furnace (as determined in the standard Department of Energy test procedures).

"(e) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY DEDUCTION.—

"(1) DEDUCTION ALLOWED.—For purposes of subsection (a)—

"(A) IN GENERAL.—The energy efficient residential rental building property deduction determined under this subsection is an amount equal to energy efficient residential rental building property expenditures made by a taxpayer for the taxable year.

"(B) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient residential rental building property expenditures taken into account under subparagraph (A) with respect to each dwelling unit shall not exceed—

"(i) $6,000 in the case of a percentage reduction of 50 percent or more as determined under paragraph (2)(B)(ii), and

"(ii) $12,000 times the percentage reduction in the case of a percentage reduction which is less than 50 percent as determined under paragraph (2)(B)(ii).

"(C) YEAR DEDUCTION ALLOWED.—The deduction under subparagraph (A) shall be allowed in the taxable year in which the construction, reconstruction, erection, or rehabilitation of the property is completed.

"(2) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY EXPENDITURES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'energy efficient residential rental building property expenditures' means an amount paid or incurred for energy efficient residential rental building property—

"(i) in connection with construction, reconstruction, erection, or rehabilitation of residential rental property (as defined in section 168(e)(2)(A)) other than property for which a deduction is allowable under section 179D,

"(ii) for which depreciation is allowable under section 167,

"(iii) which is located in the United States, and

"(iv) the construction, reconstruction, erection, or rehabilitation of which is completed by the taxpayer.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(B) ENERGY EFFICIENT RESIDENTIAL RENTAL BUILDING PROPERTY.—

"(i) IN GENERAL.—The term 'energy efficient residential rental building property' means any property which, individually or in combination with other property, reduces total annual energy and power costs with respect to heating and cooling of the building by 20 percent or more when compared to—

"(I) in the case of an existing building, the original condition of the building, and

"(II) in the case of a new building, the standards for residential buildings of the same type which are built in compliance with the applicable building construction codes.

"(ii) PROCEDURES.—

"(I) IN GENERAL.—For purposes of clause (i), energy usage and costs shall be demonstrated by performance-based compliance in accordance with the requirements of clause (iv).

"(II) COMPUTER SOFTWARE.—Computer software shall be used in support of performance-based compliance under subclause (I) and such software shall meet all of the procedures and methods for calculating energy savings reductions which are promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2005 California Residential Alternative Calculation Method Approval Manual.

"(III) CALCULATION REQUIREMENTS.—In calculating tradeoffs and energy performance, the regulations prescribed under this clause shall prescribe for the taxable year the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil,

and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code prior to the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

"(IV) APPROVAL OF SOFTWARE SUBMISSIONS.—The Secretary shall approve software submissions which comply with the requirements of subclause (II).

"(V) PROCEDURES FOR INSPECTION AND TESTING OF HOMES.—The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under subclause (III) of this clause and clause (iv).

"(iii) DETERMINATIONS OF COMPLIANCE.—A determination of compliance with respect to energy efficient residential rental building property made for the purposes of this subparagraph shall be filed with the Secretary not later than 1 year after the date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed with the Secretary shall be available for inspection by the Secretary of Energy.

"(iv) COMPLIANCE.—

"(I) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards.

"(II) INDIVIDUALS QUALIFIED TO DETERMINE COMPLIANCE.—The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), a home inspector certified by the Secretary of Energy as trained to perform an energy inspection for purposes of this section, or an accredited home energy rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

"(C) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient residential rental building property which is property owned by a Federal, State, or local government or a political subdivision thereof, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the improve-

ments to the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

"(f) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any property, the basis of such property shall be reduced by the amount of the deduction so allowed.

"(g) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(h) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2008.".

(b) CONFORMING AMENDMENT.—Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ", and", and by inserting the following new paragraph:

"(34) for amounts allowed as a deduction under section 200(a).".

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end the following new item:

"Sec. 200. Energy property deduction.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1524. CREDIT FOR CERTAIN NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

"SEC. 25C. NONBUSINESS ENERGY PROPERTY.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(A) the amount of residential energy property expenditures made by the taxpayer during such taxable year, or

"(B) the amount specified in paragraph (2) for any building owned by the taxpayer which is certified as a highly energy-efficient principal residence during such taxable year.

"(2) CREDIT AMOUNT.—For purposes of paragraph (1)(B), the credit amount with respect to a highly energy-efficient principal residence is—

"(A) $2,000 in the case of a percentage reduction of 50 percent or more as determined under subsection (c)(4)(C), and

"(B) $4,000 times the percentage reduction in the case of a percentage reduction which is 20 percent or more but less than 50 percent as determined under subsection (c)(4)(C).

"(b) LIMITATION.—The amount of the credit allowed under this section by reason of subsection (a)(1)(A) shall not exceed—

"(1) $50 for any advanced main air circulating fan,

"(2) $150 for any qualified natural gas, propane, or oil furnace or hot water boiler, and

"(3) $300 for any item of energy efficient property.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RESIDENTIAL ENERGY PROPERTY EXPENDITURES.—The term 'residential energy property expenditures' means expenditures made by the taxpayer for qualified energy property installed on or in connection with a dwelling unit which—

"(A) is located in the United States, and

"(B) is used as a principal residence.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

"(2) QUALIFIED ENERGY PROPERTY.—

"(A) IN GENERAL.—The term 'qualified energy property' means—

"(i) energy-efficient building property,

"(ii) a qualified natural gas, propane, or oil furnace or hot water boiler, or

"(iii) an advanced main air circulating fan.

"(B) REQUIRED STANDARDS.—Property described under subparagraph (A) shall meet the performance and quality standards and certification standards of section 200(c)(1)(D).

"(3) ENERGY-EFFICIENT BUILDING PROPERTY; QUALIFIED NATURAL GAS, PROPANE, OR OIL FURNACE OR HOT WATER BOILER; ADVANCED MAIN AIR CIRCULATING FAN.—The terms 'energy-efficient building property', 'qualified natural gas, propane, or oil furnace or hot water boiler', and 'advanced main air circulating fan' have the meanings given such terms in section 200.

"(4) HIGHLY ENERGY-EFFICIENT PRINCIPAL RESIDENCE.—

"(A) IN GENERAL.—A building is a highly energy-efficient principal residence if—

"(i) such building is located in the United States,

"(ii) the building is used as a principal residence,

"(iii) in the case of a new building, the building is not acquired from an eligible contractor (within the meaning of section 45K(b)(1)), and

"(iv) the building is certified in accordance with subparagraph (D) as meeting the requirements of subparagraph (C).

"(B) PRINCIPAL RESIDENCE.—

"(i) IN GENERAL.—The term 'principal residence' has the same meaning as when used in section 121, except that—

"(I) no ownership requirement shall be imposed, and

"(II) the period for which a building is treated as used as a principal residence shall also include the 60-day period ending on the 1st day on which it would (but for this subparagraph)

first be treated as used as a principal residence.

"(ii) MANUFACTURED HOUSING.—The term 'residence' shall include a dwelling unit which is a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

"(C) REQUIREMENTS.—The requirements of this subparagraph are met if the projected heating and cooling energy usage of the building, measured in terms of average annual energy cost to taxpayer, is reduced by 20 percent or more in comparison to—

"(i) in the case of an existing building, the original condition of the building, and

"(ii) in the case of a new building, a comparable building—

"(I) which is constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section, and

"(II) for which the heating and cooling equipment efficiencies correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction.

"(D) CERTIFICATION PROCEDURES.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(iv), energy usage shall be demonstrated by performance-based compliance in accordance with the requirements of subsection (d)(2).

"(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of performance-based compliance under clause (i) and such software shall meet all of the procedures and methods for calculating energy savings reductions which are promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2005 California Residential Alternative Calculation Method Approval Manual.

"(iii) CALCULATION REQUIREMENTS.—In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage. If a State has developed annual energy usage and cost calculation procedures based on time of usage costs for use in the performance standards of the State's building energy code before the effective date of this section, the State may use those annual energy usage and cost calculation procedures in lieu of those adopted by the Secretary.

"(iv) APPROVAL OF SOFTWARE SUBMISSIONS.—The Secretary shall approve software submissions which comply with the calculation requirements of clause (ii).

"(v) PROCEDURES FOR INSPECTION AND TESTING OF DWELLING UNITS.—The Secretary shall ensure that procedures for the inspection and testing for compliance comply with the calculation requirements under clause (iii) and subsection (d)(2).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DETERMINATIONS OF COMPLIANCE.—A determination of compliance made for the purposes of this section shall be filed with the Secretary within 1 year of the date of such determination and shall include the TIN of the certifier, the address of the building in compliance, and the identity of the person for whom such determination was performed. Determinations of compliance filed with the Secretary shall be available for inspection by the Secretary of Energy.

"(2) COMPLIANCE.—

"(A) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Home Energy Rating Standards.

"(B) INDIVIDUALS QUALIFIED TO DETERMINE COMPLIANCE.—The determination of compliance may be provided by a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or an accredited home energy

rating system provider. All providers shall be accredited, or otherwise authorized to use approved energy performance measurement methods, by the Residential Energy Services Network (RESNET).

"(3) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals, the following rules shall apply:

"(A) The amount of the credit allowable under subsection (a) by reason of expenditures made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of

such expenditures made by all of such individuals during such calendar year.

"(4) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation and such credit shall be allocated pro rata to such individual.

"(5) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association and any credit shall be allocated appropriately.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condo-

minium project substantially all of the units of which are used as principal residences.

"(6) JOINT OWNERSHIP OF ENERGY ITEMS.—

"(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure under this section shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

"(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

"(7) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(8) YEAR CREDIT ALLOWED.—The credit under subsection (a)(2) shall be allowed in the taxable year in which the percentage reduction with respect to the principal residence is certified.

"(9) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction of a structure, such expenditure shall be treated as made when the original use of the constructed structure by the taxpayer begins.

"(10) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

"(A) REDUCTION OF EXPENDITURES.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), for purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing.

"(ii) SUBSIDIZED ENERGY FINANCING.—For purposes of clause (i), the term 'subsidized energy financing' has the same

meaning given such term in section 48(a)(4)(C).

"(B) DOLLAR LIMITS REDUCED.—The dollar amounts in subsection (b)(3) with respect to each property purchased for such dwelling unit for any taxable year of such taxpayer shall be reduced proportionately by an amount equal to the sum of—

"(i) the amount of the expenditures made by the taxpayer during such taxable year with respect to such dwelling unit and not taken into account by reason of subparagraph (A), and

"(ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year which is used to make residential energy property expenditures with respect to the dwelling unit and is not included in the gross income of such taxpayer.

"(C) EXCEPTION FOR STATE PROGRAMS.—Subparagraphs (A) and (B) shall not apply to expenditures made with respect to property for which the taxpayer has received a loan, State tax

credit, or grant under any State energy program.

"(11) COORDINATION WITH SECTION 25D.—In any case in which a credit under section 25D has been allowed with respect to property in connection with a building for which a credit is allowable under this section by reason of subsection (a)(1)(B)—

"(A) for purposes of subsection (c)(4)(C), the average annual energy cost with respect to heating and cooling of—

"(i) for purposes of subsection (c)(4)(C)(i), the original condition of the building, and

"(ii) for purposes of subsection (c)(4)(C)(ii), the comparable building,

shall be determined assuming such building contains the property for which such credit has been allowed, and

"(B) any cost of such property taken into account under such section shall not be taken into account under this section.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection)

result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

"(g) TERMINATION.—This section shall not apply with respect to any property placed in service after December 31, 2008.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting ", and", and by adding at the end the following new paragraph:

"(35) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Nonbusiness energy property.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to property placed in service after December 31, 2005.

SEC. 1525. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is by striking "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by adding at the end the following new clause:

"(iii) combined heat and power system property,".

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 (relating to energy credit; reforestation credit) is amended by adding at the end the following new subsection:

"(c) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(iii)—

"(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

"(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or

other forms of useful thermal energy (including heating and cooling applications),

"(B) which has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of not more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,

"(C) which produces—

"(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

"(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

"(D) the energy efficiency percentage of which exceeds 60 percent, and

"(E) which is placed in service before January 1, 2008.

"(2) SPECIAL RULES.—

"(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

"(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

"(ii) the denominator of which is the lower heating value of the fuel sources for the system.

"(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(C) shall be determined on a Btu basis.

"(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

"(D) CERTAIN EXCEPTION NOT TO APPLY.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to combined heat and power system property.

"(3) SYSTEMS USING BAGASSE.—If a system is designed to use bagasse for at least 90 percent of the energy source—

"(A) paragraph (1)(D) shall not apply, but

"(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1526. CREDIT FOR ENERGY EFFICIENT APPLIANCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45L. ENERGY EFFICIENT APPLIANCE CREDIT.

"(a) GENERAL RULE.—

"(1) IN GENERAL.—For purposes of section 38, the energy efficient appliance credit determined under this section for any taxable year is an amount equal

to the sum of the credit amounts determined under paragraph (2) for each type of qualified energy efficient appliance produced by the taxpayer during the calendar year ending with or within the taxable year.

"(2) CREDIT AMOUNTS.—The credit amount determined for any type of qualified energy efficient appliance is—

"(A) the applicable amount determined under subsection (b) with respect to such type, multiplied by

"(B) the eligible production for such type.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)—

"(A) DISHWASHERS.—The applicable amount is the energy savings amount in the case of a dishwasher which—

"(i) is manufactured in calendar year 2006 or 2007, and

"(ii) meets the requirements of the Energy Star program which are in effect for dishwashers in 2007.

"(B) CLOTHES WASHERS.—The applicable amount is—

"(i) $50, in the case of a clothes washer which—

"(I) is manufactured in calendar year 2005, and

"(II) has an MEF of at least 1.42,

"(ii) $100, in the case of a clothes washer which—

"(I) is manufactured in calendar year 2005, 2006, or 2007, and

"(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2007, and

"(iii) the energy and water savings amount, in the case of a clothes washer which—

"(I) is manufactured in calendar year 2008, 2009, or 2010, and

"(II) meets the requirements of the Energy Star program which are in effect for clothes washers in 2010.

"(C) REFRIGERATORS.—

"(i) 15 PERCENT SAVINGS.—The applicable amount is $75 in the case of a refrigerator which—

"(I) is manufactured in calendar year 2005 or 2006, and

"(II) consumes at least 15 percent but not more than 20 percent less kilowatt hours per year than the 2001 energy conservation standard.

"(ii) 20 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 20 percent but not more than 25 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

"(I) $125 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

"(II) $100 for a refrigerator which is manufactured in calendar year 2008.

"(iii) 25 PERCENT SAVINGS.—In the case of a refrigerator which consumes at least 25 percent less kilowatt hours per year than the 2001 energy conservation standards, the applicable amount is—

"(I) $175 for a refrigerator which is manufactured in calendar year 2005, 2006, or 2007, and

"(II) $150 for a refrigerator which is manufactured in calendar year 2008, 2009, or 2010.

"(2) ENERGY SAVINGS AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The energy savings amount is the lesser of—

"(i) the product of—

"(I) $3, and

"(II) 100 multiplied by the energy savings percentage, or

"(ii) $100.

"(B) ENERGY SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy savings percentage is the ratio of—

"(i) the EF required by the Energy Star program for dishwashers in 2007 minus the EF required by the Energy Star program for dishwashers in 2005, to

"(ii) the EF required by the Energy Star program for dishwashers in 2007.

"(3) ENERGY AND WATER SAVINGS AMOUNT.—For purposes of paragraph (1)(B)(iii)—

"(A) IN GENERAL.—The energy and water savings amount is the lesser of—

"(i) the product of—

"(I) $10, and

"(II) 100 multiplied by the energy and water savings percentage, or

"(ii) $200.

"(B) ENERGY AND WATER SAVINGS PERCENTAGE.—For purposes of subparagraph (A), the energy and water savings percentage is the average of the MEF savings percentage and the WF savings percentage.

"(C) MEF SAVINGS PERCENTAGE.—For purposes of this paragraph, the MEF savings percentage is the ratio of—

"(i) the MEF required by the Energy Star program for clothes washers in 2010 minus the MEF required by the Energy Star program for clothes washers in 2007, to

"(ii) the MEF required by the Energy Star program for clothes washers in 2010.

"(D) WF SAVINGS PERCENTAGE.—For purposes of this paragraph, the WF savings percentage is the ratio of—

"(i) the WF required by the Energy Star program for clothes washers in 2007 minus the WF required by the Energy Star program for clothes washers in 2010, to

"(ii) the WF required by the Energy Star program for clothes washers in 2007.

"(c) ELIGIBLE PRODUCTION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the eligible production in a calendar year with respect to each type of energy efficient appliance is the excess of—

"(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

"(B) the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

"(2) SPECIAL RULE FOR REFRIGERATORS.—The eligible production in a calendar year with respect to each type of refrigerator described in subsection (b)(1)(C) is the excess of—

"(A) the number of appliances of such type which are produced by the taxpayer in the United States during such calendar year, over

"(B) 110 percent of the average number of appliances of such type which were produced by the taxpayer (or any predecessor) in the United States during the preceding 3-calendar year period.

"(3) SPECIAL RULE FOR 2005 PRODUCTION.—For purposes of determining eligible production for calendar year 2005—

"(A) only production after the date of enactment of this section shall be taken into account under paragraphs (1)(A) and (2)(A), and

"(B) the amount taken into account under paragraphs (1)(B) and (2)(B) shall be an amount which bears the same ratio to the amount which would (but for this paragraph) be taken into account under such paragraph as—

"(i) the number of days in calendar year 2005 after the date of enactment of this section, bears to

"(ii) 365.

"(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

"(1) dishwashers described in subsection (b)(1)(A),

"(2) clothes washers described in subsection (b)(1)(B)(i),

"(3) clothes washers described in subsection (b)(1)(B)(ii),

"(4) clothes washers described in subsection (b)(1)(B)(iii),

"(5) refrigerators described in subsection (b)(1)(C)(i),

"(6) refrigerators described in subsection (b)(1)(C)(ii)(I),

"(7) refrigerators described in subsection (b)(1)(C)(ii)(II),

"(8) refrigerators described in subsection (b)(1)(C)(iii)(I), and

"(9) refrigerators described in subsection (b)(1)(C)(iii)(II).

"(e) LIMITATIONS.—

"(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable

year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years.

"(2) AMOUNT ALLOWED FOR CERTAIN APPLIANCES.—

"(A) IN GENERAL.—In the case of appliances described in subparagraph (C), the aggregate amount of the credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $20,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

"(B) ELECTION TO INCREASE ALLOWABLE CREDIT.—In the case of any taxpayer who makes an election under this subparagraph—

"(i) subparagraph (A) shall be applied by substituting '$25,000,000' for '$20,000,000', and

"(ii) the aggregate amount of the credit allowed under subsection (a) with respect to such taxpayer for any taxable year for appliances described in subparagraph (C) and

the additional appliances described in subparagraph (D) shall not exceed $50,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years with respect to such appliances.

"(C) APPLIANCES DESCRIBED.—The appliances described in this subparagraph are—

"(i) clothes washers described in subsection (b)(1)(B)(i), and

"(ii) refrigerators described in subsection (b)(1)(C)(i).

"(D) ADDITIONAL APPLIANCES.—The additional appliances described in this subparagraph are—

"(i) refrigerators described in subsection (b)(1)(C)(ii)(I), and

"(ii) refrigerators described in subsection (b)(1)(C)(ii)(II).

"(3) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years pre-

ceding the taxable year in which the credit is determined.

"(4) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(f) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

"(A) any dishwasher described in subsection (b)(1)(A),

"(B) any clothes washer described in subsection (b)(1)(B), and

"(C) any refrigerator described in subsection (b)(1)(C).

"(2) DISHWASHER.—The term 'dishwasher' means a residential dishwasher subject to the energy conservation standards established by the Department of Energy.

"(3) CLOTHES WASHER.—The term 'clothes washer' means a residential model clothes washer, including a residential style coin operated washer.

"(4) REFRIGERATOR.—The term 'refrigerator' means a residential model automatic defrost refrig-

erator-freezer which has an internal volume of at least 16.5 cubic feet.

"(5) MEF.—The term 'MEF' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

"(6) EF.—The term 'EF' means the energy factor established by the Department of Energy for compliance with the Federal energy conservation standards.

"(7) WF.—The term 'WF' means Water Factor (as determined by the Secretary of Energy).

"(8) PRODUCED.—The term 'produced' includes manufactured.

"(9) 2001 ENERGY CONSERVATION STANDARD.—The term '2001 energy conservation standard' means the energy conservation standards promulgated by the Department of Energy and effective July 1, 2001.

"(g) SPECIAL RULES.—For purposes of this section—

"(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.

"(2) CONTROLLED GROUP.—

"(A) IN GENERAL.—All persons treated as a single employer under subsection (a) or (b) of

section 52 or subsection (m) or (o) of section 414 shall be treated as a single producer.

"(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

"(3) VERIFICATION.—No amount shall be allowed as a credit under subsection (a) with respect to which the taxpayer has not submitted such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary.".

(b) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking "plus" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", plus", and by adding at the end the following new paragraph:

"(22) the energy efficient appliance credit determined under section 45L(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45L. Energy efficient appliance credit".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1527. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

"SEC. 25D. RESIDENTIAL ENERGY EFFICIENT PROPERTY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 30 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

"(2) 30 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

"(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) for any taxable year shall not exceed—

"(A) $2,000 with respect to any qualified solar water heating property expenditures,

"(B) $2,000 with respect to any qualified photovoltaic property expenditures, and

"(C) $500 with respect to each half kilowatt of capacity of qualified fuel cell property (as defined in section 48(d)(1)) for which qualified fuel cell property expenditures are made,

"(2) CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

"(A) in the case of solar water heating property, such property is certified for performance by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed, and

"(B) in the case of a photovoltaic property or a fuel cell property such property meets appropriate fire and electric code requirements.

"(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation

imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

"(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property which uses solar energy to generate electricity for use in a dwelling unit located in the United States and used as a residence by the taxpayer.

"(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it con-

stitutes a structural component of the structure on which it is installed.

"(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(d)(1)) installed on or in connection with a dwelling unit located in the United States and used as a principal residence (within the meaning of section 121) by the taxpayer.

"(5) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

"(6) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is

jointly occupied and used during any calendar year as a residence by 2 or more individuals the following rules shall apply:

"(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

"(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated

as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

"(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

"(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(4)(C)).

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the

basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(g) TERMINATION.—The credit allowed under this section shall not apply to property placed in service after December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 23(c) is amended by striking "this section and section 1400C" and inserting "this section, section 25D, and section 1400C".

(2) Section 25(e)(1)(C) is amended by striking "this section and sections 23 and 1400C" and inserting "other than this section, section 23, section 25D, and section 1400C".

(3) Section 1400C(d) is amended by striking "this section" and inserting "this section and section 25D".

(4) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting ", and", and by adding at the end the following new paragraph:

"(36) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

"Sec. 25D. Residential energy efficient property.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1528. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.

(a) IN GENERAL.—Section 48(a)(3)(A) (defining energy property), as amended by this Act, is amended by striking "or" at the end of clause (ii), by adding "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause:

"(iv) qualified fuel cell property or qualified microturbine property,".

(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Section 48 (relating to energy credit) is amended by adding at the end the following new subsection:

"(d) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—

"(1) QUALIFIED FUEL CELL PROPERTY.—

"(A) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

"(i) has a nameplate capacity of at least 0.5 kilowatt of electricity using an electrochemical process, and

"(ii) has an electricity-only generation efficiency greater than 30 percent.

"(B) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to $500 for each 0.5 kilowatt of capacity of such property.

"(C) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components which converts a fuel into electricity using electrochemical means.

"(D) SPECIAL RULE.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified fuel cell property which is used pre-

dominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

"(E) TERMINATION.—The term 'qualified fuel cell property' shall not include any property for any period after December 31, 2009.

"(2) QUALIFIED MICROTURBINE PROPERTY.—

"(A) IN GENERAL.—The term 'qualified microturbine property' means a stationary microturbine power plant which—

"(i) has a nameplate capacity of less than 2,000 kilowatts, and

"(ii) has an electricity-only generation efficiency of not less than 26 percent at International Standard Organization conditions.

"(B) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit otherwise determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal $200 for each kilowatt of capacity of such property.

"(C) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant' means an integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

"(D) SPECIAL RULE.—The first sentence of the matter in subsection (a)(3) which follows subparagraph (D) thereof shall not apply to qualified microturbine property which is used predominantly in the trade or business of the furnishing or sale of telephone service, telegraph service by means of domestic telegraph operations, or other telegraph services (other than international telegraph services).

"(E) TERMINATION.—The term 'qualified microturbine property' shall not include any

property for any period after December 31, 2008.".

(c) ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(d) CONFORMING AMENDMENT.— Section 48(a)(1) is amended by inserting "except as provided in paragraph (1)(B) or (2)(B) of subsection (d)," before "the energy".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1529. BUSINESS SOLAR INVESTMENT TAX CREDIT.

(a) INCREASE IN ENERGY PERCENTAGE.—Section 48(a)(2)(A) (relating to energy percentage), as amended by this Act, is amended to read as follows:

"(A) IN GENERAL.—The energy percentage is—

"(i) in the case of energy property described in paragraph (3)(A)(i) and qualified fuel cell property, 30 percent, and

"(ii) in the case of any other energy property, 10 percent.".

(b) HYBRID SOLAR LIGHTING SYSTEMS.—Clause (i) of section 48(a)(3)(A) is amended to read as follows:

"(i) equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, to illuminate the inside of a structure using fiber-optic distributed sunlight or to provide solar process heat, excepting property used to generate energy for the purposes of heating a swimming pool,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2005, in taxable years ending after such date, and periods before January 1, 2012, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

Subtitle D—Alternative Motor Vehicles and Fuels Incentives

SEC. 1531. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

"(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

"(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

"(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

"(A) $8,000 ($4,000 in the case of a vehicle placed in service after December 31, 2009), if

such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(2) INCREASE FOR FUEL EFFICIENCY.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

"(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 per-

cent of the 2002 model year city fuel economy,

"(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2002 model year city fuel economy,

"(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2002 model year city fuel economy,

"(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2002 model year city fuel economy, and

"(vii) $4,000, if such vehicle achieves at least 300 percent of the 2002 model year city fuel economy.

"(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

"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*

"If vehicle inertia weight class is:	*The 2002 model year city fuel economy is:*
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:*

"If vehicle inertia weight class is:	*The 2002 model year city fuel economy is:*
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—*

"(A) which is propelled by power derived from 1 or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

"(B) which, in the case of a passenger automobile or light truck, has received on or after the date of the enactment of this section a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer,

"(D) which is acquired for use or lease by the taxpayer and not for resale, and

"(E) which is made by a manufacturer.

"(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

"(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new

qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2) or (3).

"(2) CREDIT AMOUNT FOR LIGHTER VEHICLES.—

"(A) IN GENERAL.—In the case of a new qualified hybrid motor vehicle which is a passenger automobile, medium duty passenger vehicle, or light truck, the credit amount determined under this paragraph shall be—

"(i) $400, if such vehicle achieves at least 125 percent but less than 150 percent of the 2002 model year city fuel economy,

"(ii) $800, if such vehicle achieves at least 150 percent but less than 175 percent of the 2002 model year city fuel economy,

"(iii) $1,200, if such vehicle achieves at least 175 percent but less than 200 percent of the 2002 model year city fuel economy,

"(iv) $1,600, if such vehicle achieves at least 200 percent but less than 225 percent of the 2002 model year city fuel economy,

"(v) $2,000, if such vehicle achieves at least 225 percent but less than 250 percent

of the 2002 model year city fuel economy, and

"(vi) $2,400, if such vehicle achieves at least 250 percent of the 2002 model year city fuel economy.

"(B) 2002 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2002 model year city fuel economy with respect to a vehicle shall be determined on a gasoline gallon equivalent basis as determined by the Administrator of the Environmental Protection Agency using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

"(3) CREDIT AMOUNT FOR HEAVIER VEHICLES.—

"(A) IN GENERAL.—In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle, the credit amount determined under this paragraph is an amount equal to the applicable percentage of the incremental cost of such vehicle placed in service by the taxpayer during the taxable year.

"(B) INCREMENTAL COST.—For purposes of this paragraph, the incremental cost of any heavy duty hybrid motor vehicle is equal to the

amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a comparable gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(i) $7,500, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(ii) $15,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(iii) $30,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with 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.*

"(4) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

"(i) which draws propulsion energy from onboard sources of stored energy which are both—

"(I) an internal combustion or heat engine using consumable fuel, and

"(II) a rechargeable energy storage system,

"(ii) which, in the case of a passenger automobile, medium duty passenger vehicle, or light truck—

"(I) has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

"(II) has a maximum available power of at least 5 percent,

"(iii) which, in the case of a heavy duty hybrid motor vehicle—

"(I) which has a gross vehicle weight rating of more than 8,500 but not more than 14,000 pounds, has a

maximum available power of at least 10 percent, and

"(II) which has a gross vehicle weight rating of more than 14,000 pounds, has a maximum available power of at least 15 percent,

"(iv) the original use of which commences with the taxpayer,

"(v) which is acquired for use or lease by the taxpayer and not for resale, and

"(vi) which is made by a manufacturer.

"(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

"(C) MAXIMUM AVAILABLE POWER.—

"(i) PASSENGER AUTOMOBILE, MEDIUM DUTY PASSENGER VEHICLE, OR LIGHT TRUCK.—For purposes of subparagraph (A)(ii)(II), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse

power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

"(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(iii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

"(4) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 8,500 pounds. Such term does not include a medium duty passenger vehicle.

"(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

"(A) 50 percent, plus

"(B) 30 percent, if such vehicle—

"(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

"(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds

the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which weighs more than 14,000 pounds gross vehicle weight rating, the most stringent standard available shall be such standard available for certification on the date of the enactment of the Energy Tax Incentives Act.

"(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

"(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

"(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

"(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

"(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

"(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

"(i) which is only capable of operating on an alternative fuel,

"(ii) the original use of which commences with the taxpayer,

"(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

"(iv) which is made by a manufacturer.

"(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydro-

gen, and any liquid at least 85 percent of the volume of which consists of methanol.

"(5) CREDIT FOR MIXED-FUEL VEHICLES.—

"(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

"(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

"(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

"(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

"(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

"(ii) either—

"(I) has received a certificate of conformity under the Clean Air Act, or

"(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

"(iii) the original use of which commences with the taxpayer,

"(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

"(v) which is made by a manufacturer.

"(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

"(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10

mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

"(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

"(2) the tentative minimum tax for the taxable year.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

"(2) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

"(3) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'medium duty passenger vehi-

cle', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(4) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

"(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

"(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is

not subject to a lease, the person who sold such vehicle to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (e)).

"(7) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

"(9) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

"(10) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this section. The preceding sentence shall not apply to any credit carryback if such credit carryback is attributable to property for which a deduction for depreciation is not allowable.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

"(11) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall

not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2014,

"(2) in the case of a new qualified hybrid motor vehicle (as described in subsection (c)), December 31, 2009, and

"(3) in the case of a new qualified alternative fuel vehicle (as described in subsection (d)), December 31, 2010.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting ", and", and by adding at the end the following new paragraph:

"(37) to the extent provided in section 30B(f)(4).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30B(e)," after "30(b)(2),".

(3) Section 6501(m) is amended by inserting "30B(f)(9)," after "30(d)(4),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting

after the item relating to section 30A the following new item:

"Sec. 30B. Alternative motor vehicle credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1532. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Paragraph (1) of section 30(b) (relating to limitations) is amended to read as follows:

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle with a gross vehicle weight rating not exceeding 8,500 pounds—

"(i) except as provided in clause (ii) or (iii), $4,000,

"(ii) $6,000, if such vehicle is—

"(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

"(II) capable of a payload capacity of at least 1,000 pounds, and

"(iii) if such vehicle is a low-speed vehicle which conforms to Standard 500 prescribed by the Secretary of Transportation (49 C.F.R. 571.500), as in effect on the date of the enactment of the Energy Tax Incentives Act, the lesser of—

"(I) 10 percent of the manufacturer's suggested retail price of the vehicle, or

"(II) $1,500.

"(B) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

"(D) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.".

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

"(A) which is—

"(i) operated solely by use of a battery or battery pack, or

"(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,".

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting "or lease" after "use".

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting "battery" after "qualified" each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting "BATTERY" after "QUALIFIED".

*(C) The heading of section 30 is amended by inserting "**BATTERY**" after "**QUALIFIED**".*

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting "battery" after "qualified".

(E) Section 179A(c)(3) is amended by inserting "battery" before "electric".

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting "BATTERY" before "ELECTRIC".

(c) ADDITIONAL SPECIAL RULES.—

(1) IN GENERAL.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

"(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(6) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of a vehicle whose use is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such vehicle

to the person or entity using such vehicle shall be treated as the taxpayer that placed such vehicle in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such vehicle (determined without regard to subsection (b)(3)).

"(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to each of the 3 taxable years preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year, except that no excess may be carried to a taxable year beginning before the date of the enactment of this paragraph. The preceding sentence shall not apply to any credit carryback if such credit carryback is attributable to property for which a deduction for depreciation is not allowable.

"(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).".

(2) CONFORMING AMENDMENTS.—Section 30(d)(3) is amended—

(A) by striking "section 50(b)" and inserting "section 50(b)(1)", and

(B) by striking ", ETC.," in the heading thereof.

(d) TERMINATION.—Section 30(e) (relating to termination) is amended by striking "2006" and inserting "2009".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1533. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer during the taxable year.

"(b) LIMITATION.—The credit allowed under subsection (a) with respect to any alternative fuel vehicle refueling property shall not exceed—

"(1) $30,000 in the case of a property of a character subject to an allowance for depreciation, and

"(2) $1,000 in any other case.

"(c) QUALIFIED ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified alternative fuel vehicle refueling property' has the meaning given to such term by section 179A(d), but only with respect to any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied petroleum gas, and hydrogen or any mixture of biodiesel (as defined in section 40A(d)(1)) and diesel fuel (as defined in section 4083(a)(3)), determined without regard to any use of kerosene and containing at least 20 percent biodiesel.

"(2) RESIDENTIAL PROPERTY.—In the case of any property installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer, paragraph (1) of section 179A(d) shall not apply.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

"(2) the tentative minimum tax for the taxable year.

"(e) CARRYFORWARD ALLOWED.—

"(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (d) for such taxable year, such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

"(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

"(f) SPECIAL RULES.—For purposes of this section—

"(1) BASIS REDUCTION.—The basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(2) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

"(3) PROPERTY USED BY TAX-EXEMPT ENTITY.—In the case of any qualified alternative fuel vehicle refueling property the use of which is described in paragraph (3) or (4) of section 50(b) and which is not subject to a lease, the person who sold such property to the person or entity using such property shall be treated as the taxpayer that placed such property in service, but only if such person clearly discloses to such person or entity in a document the amount of any credit allowable under subsection (a) with respect to such property (determined without regard to subsection (d)).

"(4) PROPERTY USED OUTSIDE UNITED STATES NOT QUALIFIED.—No credit shall be allowable under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

"(5) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

"(6) RECAPTURE RULES.—Rules similar to the rules of section 179A(e)(4) shall apply.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(h) TERMINATION.—This section shall not apply to any property placed in service—

"(1) in the case of property relating to hydrogen, after December 31, 2014, and

"(2) in the case of any other property, after December 31, 2009.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking "and" at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting ", and", and by adding at the end the following new paragraph:

"(38) to the extent provided in section 30C(f).".

(2) Section 55(c)(2), as amended by this Act, is amended by inserting "30C(e)," after "30B(e),".

(3) Section 6501(m) is amended by inserting "30C(f)(5)," after "30B(f)(9),".

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

"Sec. 30C. Clean-fuel vehicle refueling property credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1534. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

(a) IMPOSITION OF TAX.—

(1) IN GENERAL.—Section 4041(a)(2)(B) (relating to rate of tax) is amended—

(A) by adding "and" at the end of clause (i),

(B) by striking clauses (ii) and (iii),

(C) by striking the last sentence, and

(D) by adding after clause (i) the following new clause:

"(ii) in the case of liquefied natural gas, any liquid fuel (other than ethanol and methanol) derived from coal (including peat), and liquid hydrocarbons derived from

biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.".

(2) TREATMENT OF COMPRESSED NATURAL GAS.—Section 4041(a)(3) (relating to compressed natural gas) is amended—

(A) by striking "48.54 cents per MCF (determined at standard temperature and pressure)" in subparagraph (A) and inserting "18.3 cents per energy equivalent of a gallon of gasoline", and

(B) by striking "MCF" in subparagraph (C) and inserting "energy equivalent of a gallon of gasoline".

(3) ZERO RATE FOR HYDROGEN.—Section 4041(a)(2)(A) is amended by inserting "liquefied hydrogen," after "fuel oil,".

(4) NEW REFERENCE.—The heading for paragraph (2) of section 4041(a) is amended by striking "SPECIAL MOTOR FUELS" and inserting "ALTERNATIVE FUELS".

(b) CREDIT FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—

(1) IN GENERAL.—Section 6426(a) (relating to allowance of credits) is amended to read as follows:

"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit—

"(1) against the tax imposed by section 4081 an amount equal to the sum of the credits described in subsections (b), (c), and (e), and

"(2) against the tax imposed by section 4041 an amount equal to the sum of the credits described in subsection (d).

No credit shall be allowed in the case of the credits described in subsections (d) and (e) unless the taxpayer is registered under section 4101.

(2) ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsections:

"(d) ALTERNATIVE FUEL CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a fuel in a motor vehicle or motorboat, or so used by the taxpayer.

"(2) ALTERNATIVE FUEL.—For purposes of this section, the term 'alternative fuel' means—

"(A) liquefied petroleum gas,

"(B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code),

"(C) compressed or liquefied natural gas,

"(D) hydrogen,

"(E) any liquid fuel derived from coal (including peat) through the Fischer-Tropsch process,

"(F) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).

Such term does not include ethanol, methanol, or biodiesel.

"(3) GASOLINE GALLON EQUIVALENT.—For purposes of this subsection, the term 'gasoline gallon equivalent' means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

"(4) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after September 30, 2009.

"(e) ALTERNATIVE FUEL MIXTURE CREDIT.—

"(1) IN GENERAL.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.

"(2) ALTERNATIVE FUEL MIXTURE.—For purposes of this section, the term 'alternative fuel mixture' means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—

"(A) is sold by the taxpayer producing such mixture to any person for use as fuel, or

"(B) is used as a fuel by the taxpayer producing such mixture.

"(3) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after September 30, 2009.".

(3) CONFORMING AMENDMENTS.—

*(A) The section heading for section 6426 is amended by striking "**ALCOHOL FUEL AND BIODIESEL**" and inserting "**ALCOHOL FUEL, BIODIESEL, AND ALTERNATIVE FUEL**".*

(B) The table of sections for subchapter B of chapter 65 is amended by striking "alcohol fuel

and biodiesel" in the item relating to section 6426 and inserting "alcohol fuel, biodiesel, and alternative fuel".

(C) Section 6427(e) is amended—

(i) by inserting "or the alternative fuel mixture credit" after "biodiesel mixture credit" in paragraph (1),

(ii) by redesignating paragraph (2) as paragraph (3) and paragraph (4) as paragraph (5),

(iii) by inserting after paragraph (1) the following new paragraph:

"(2) ALTERNATIVE FUEL.—If any person sells or uses an alternative fuel (as defined in section 6426(d)(2)) for a purpose described in section 6426(d)(1) in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.",

(iv) by striking "under paragraph (1) with respect to any mixture" in paragraph (3) (as redesignated by clause (ii)) and inserting "under paragraph (1) or (2) with respect to any mixture or alternative fuel",

(v) by inserting after paragraph (3) (as so redesignated) the following new paragraph:

"(4) REGISTRATION REQUIREMENT FOR ALTERNATIVE FUELS.—The Secretary shall not make any payment under this subsection to any person with respect to any alternative fuel credit or alternative fuel mixture credit unless the person is registered under section 4101.",

(vi) by striking "and" at the end of paragraph (5)(A) (as redesignated by clause (ii)),

(vii) by striking the period at the end of paragraph (5)(B) (as so redesignated) and inserting a comma,

(viii) by adding at the end of paragraph (4) (as so redesignated) the following new subparagraphs:

"(C) except as provided in subparagraph (D), any alternative fuel or alternative fuel mixture (as defined in section 6426 (d)(2) or (e)(3)) sold or used after September 30, 2009, and

"(D) any alternative fuel or alternative fuel mixture (as so defined) involving hydrogen sold or used after December 31, 2014.", and

(ix) by striking "OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES" in the heading and inserting ", BIODIESEL, OR ALTERNATIVE FUEL".

(c) ADDITIONAL REGISTRATION REQUIREMENTS.—Section 4101(a)(1) (relating to registration) is amended—

(1) by striking "4041(a)(1)" and inserting "4041(a)", and

(2) by inserting "or hydrogen" before "shall register".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale, use, or removal for any period after September 30, 2006.

SEC. 1535. EXTENSION OF EXCISE TAX PROVISIONS AND INCOME TAX CREDIT FOR BIODIESEL.

(a) IN GENERAL.—Sections 40A(e), 6426(c)(6), and 6427(e)(4)(B) are each amended by striking "2006" and inserting "2010".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle E—Additional Energy Tax Incentives

SEC. 1541. 10-YEAR RECOVERY PERIOD FOR UNDERGROUND NATURAL GAS STORAGE FACILITY PROPERTY.

(a) IN GENERAL.—Subparagraph (D) of section 168(e)(3) (relating to 10-year property) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end the following new clause:

"(iii) any qualified underground natural gas storage facility property.".

(b) DEFINITION.—Section 168(i) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(17) QUALIFIED UNDERGROUND NATURAL GAS STORAGE FACILITY PROPERTY.—

"(A) IN GENERAL.—The term 'qualified underground natural gas storage facility property' means any underground natural gas storage facility and any equipment related to such facility, including any nonrecoverable cushion gas, the original use of which commences with the taxpayer.

"(B) CUSHION GAS.—The term 'cushion gas' means the minimum volume of natural gas

necessary to provide the pressure to facilitate the flow of natural gas from a storage reservoir, aquifer, or cavern to a pipeline.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 1542. EXPANSION OF RESEARCH CREDIT.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE ENERGY RESEARCH CONSORTIA.—

(1) IN GENERAL.—Section 41(a) (relating to credit for increasing research activities) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred by the taxpayer in carrying on any trade or business of the taxpayer during the taxable year (including as contributions) to an energy research consortium.".

(2) ENERGY RESEARCH CONSORTIUM DEFINED.—Section 41(f) (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) ENERGY RESEARCH CONSORTIUM.—

"(A) IN GENERAL.—The term 'energy research consortium' means any organization—

"(i) which is—

"(I) described in section 501(c)(3) and is exempt from tax under section 501(a) and is organized and operated primarily to conduct energy research, or

"(II) organized and operated primarily to conduct energy research in the public interest (within the meaning of section 501(c)(3)),

"(ii) which is not a private foundation,

"(iii) to which at least 5 unrelated persons paid or incurred during the calendar year in which the taxable year of the organization begins amounts (including as contributions) to such organization for energy research, and

"(iv) to which no single person paid or incurred (including as contributions) during such calendar year an amount equal to more than 50 percent of the total amounts

received by such organization during such calendar year for energy research.

"(B) TREATMENT OF PERSONS.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraph (A)(iii) and as a single person for purposes of subparagraph (A)(iv).".

(3) CONFORMING AMENDMENT.—Section 41(b)(3)(C) is amended by inserting "(other than an energy research consortium)" after "organization".

(b) REPEAL OF LIMITATION ON CONTRACT RESEARCH EXPENSES PAID TO SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—Section 41(b)(3) (relating to contract research expenses) is amended by adding at the end the following new subparagraph:

"(D) AMOUNTS PAID TO ELIGIBLE SMALL BUSINESSES, UNIVERSITIES, AND FEDERAL LABORATORIES.—

"(i) IN GENERAL.—In the case of amounts paid by the taxpayer to—

"(I) an eligible small business,

"(II) an institution of higher education (as defined in section 3304(f)), or

"(III) an organization which is a Federal laboratory,

for qualified research which is energy research, subparagraph (A) shall be applied by substituting '100 percent' for '65 percent'.

"(ii) ELIGIBLE SMALL BUSINESS.—For purposes of this subparagraph, the term 'eligible small business' means a small business with respect to which the taxpayer does not own (within the meaning of section 318) 50 percent or more of—

"(I) in the case of a corporation, the outstanding stock of the corporation (either by vote or value), and

"(II) in the case of a small business which is not a corporation, the capital and profits interests of the small business.

"(iii) SMALL BUSINESS.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'small business' means, with respect to any calendar year, any person if the annual average number of employees

employed by such person during either of the 2 preceding calendar years was 500 or fewer. For purposes of the preceding sentence, a preceding calendar year may be taken into account only if the person was in existence throughout the year.

"(II) STARTUPS, CONTROLLED GROUPS, AND PREDECESSORS.—Rules similar to the rules of subparagraphs (B) and (D) of section 220(c)(4) shall apply for purposes of this clause.

"(iv) FEDERAL LABORATORY.—For purposes of this subparagraph, the term 'Federal laboratory' has the meaning given such term by section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)), as in effect on the date of the enactment of the Energy Tax Incentives Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 1543. SMALL AGRI-BIODIESEL PRODUCER CREDIT.

(a) IN GENERAL.—Subsection (a) of section 40A (relating to biodiesel used as a fuel) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

"(1) the biodiesel mixture credit, plus

"(2) the biodiesel credit, plus

"(3) in the case of an eligible small agri-biodiesel producer, the small agri-biodiesel producer credit.".

(b) SMALL AGRI-BIODIESEL PRODUCER CREDIT DEFINED.—Section 40A(b) (relating to definition of biodiesel mixture credit and biodiesel credit) is amended by adding at the end the following new paragraph:

"(5) SMALL AGRI-BIODIESEL PRODUCER CREDIT.—

"(A) IN GENERAL.—The small agri-biodiesel producer credit of any eligible small agri-biodiesel producer for any taxable year is 10 cents for each gallon of qualified agri-biodiesel production of such producer.

"(B) QUALIFIED AGRI-BIODIESEL PRODUCTION.—For purposes of this paragraph, the term 'qualified agri-biodiesel production' means any agri-biodiesel which is produced by an eligible

small agri-biodiesel producer, and which during the taxable year—

"(i) is sold by such producer to another person—

"(I) for use by such other person in the production of a qualified biodiesel mixture in such other person's trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business, or

"(III) who sells such agri-biodiesel at retail to another person and places such agri-biodiesel in the fuel tank of such other person, or

"(ii) is used or sold by such producer for any purpose described in clause (i).

"(C) LIMITATION.—The qualified agri-biodiesel production of any producer for any taxable year shall not exceed 15,000,000 gallons.".

(c) DEFINITIONS AND SPECIAL RULES.—Section 40A is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) DEFINITIONS AND SPECIAL RULES FOR SMALL AGRI-BIODIESEL PRODUCER CREDIT.—For purposes of this section—

"(1) ELIGIBLE SMALL AGRI-BIODIESEL PRODUCER.—The term 'eligible small agri-biodiesel producer' means a person who, at all times during the taxable year, has a productive capacity for agri-biodiesel not in excess of 60,000,000 gallons.

"(2) AGGREGATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(5)(C) and the 60,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

"(3) PARTNERSHIP, S CORPORATION, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(5)(C) and paragraph (1) shall be applied at the entity level and at the partner or similar level.

"(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than

1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

"(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary—

"(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 60,000,000 gallons of agri-biodiesel during the taxable year, or

"(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year.

"(6) ALLOCATION OF SMALL AGRI-BIODIESEL CREDIT TO PATRONS OF COOPERATIVE.—

"(A) ELECTION TO ALLOCATE.—

"(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

"(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year. Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).

"(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—

"(i) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under subsection (a)(3) for the taxable year of the organization.

"(ii) PATRONS.—The amount of the credit apportioned to patrons pursuant to subparagraph (A) shall be included in the amount determined under such subsection for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for

the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.

"(iii) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of the organization determined under such subsection for a taxable year is less than the amount of such credit shown on the return of the organization for such year, an amount equal to the excess of—

"(I) such reduction, over

"(II) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.".

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 40A(b) is amended by striking "this section" and inserting "paragraph (1) or (2) of subsection (a)".

(2) The heading of subsection (b) of section 40A is amended by striking "AND BIODIESEL CREDIT" and inserting ", BIODIESEL CREDIT, AND SMALL AGRI-BIODIESEL PRODUCER CREDIT".

(3) Paragraph (3) of section 40A(d) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) PRODUCER CREDIT.—If—

"(i) any credit was determined under subsection (a)(3), and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(5)(B),

then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such agri-biodiesel.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1544. IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.

(a) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking "30,000,000" each place it appears and inserting "60,000,000".

(b) WRITTEN NOTICE OF ELECTION TO ALLOCATE CREDIT TO PATRONS.—Section 40(g)(6)(A)(ii) (relating to form and effect of election) is amended by adding at the end the following new sentence: "Such election shall not take effect unless the organization designates the apportionment as such in a written notice mailed to its patrons during the payment period described in section 1382(d).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 1545. CREDIT FOR EQUIPMENT FOR PROCESSING OR SORTING MATERIALS GATHERED THROUGH RECYCLING.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. CREDIT FOR QUALIFIED RECYCLING EQUIPMENT.

"(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the qualified recycling equipment credit determined under this section for the taxable year is an amount equal to the amount paid or incurred during the taxable year for the cost of qualified recycling equipment placed in service or leased by the taxpayer.

"(b) LIMITATION.—The amount allowable as a credit under subsection (a) with respect to any qualified recycling equipment shall not exceed—

"(1) in the case of such equipment described in subsection (c)(1)(A)(i), 15 percent of the cost of such equipment, and

"(2) in the case of such equipment described in subsection (c)(1)(A)(ii), 15 percent of so much of the cost of each piece of equipment as exceeds $400,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED RECYCLING EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified recycling equipment' means equipment, including connecting piping—

"(i) employed in sorting or processing residential and commercial qualified recyclable materials described in paragraph (2)(A) for the purpose of converting such

materials for use in manufacturing tangible consumer products, including packaging, or

"(ii) the primary purpose of which is the shredding and processing of qualified recyclable materials described in paragraph (2)(B).

"(B) EQUIPMENT AT COMMERCIAL OR PUBLIC VENUES INCLUDED.—For purposes of subparagraph (A)(i), such term includes equipment which is utilized at commercial or public venues, including recycling collection centers, where the equipment is utilized to sort or process qualified recyclable materials for such purpose.

"(C) EXCLUSION.—Such term does not include rolling stock or other equipment used to transport recyclable materials.

"(2) QUALIFIED RECYCLABLE MATERIALS.—The term 'qualified recyclable materials' means—

"(A) any packaging or printed material which is glass, paper, plastic, steel, or aluminum, and

"(B) any electronic waste (including any cathode ray tube, flat panel screen, or similar video display device with a screen size greater

than 4 inches measured diagonally, or a central processing unit),

generated by an individual or business and which has been separated from solid waste for the purposes of collection and recycling.

"(3) PROCESSING.—The term 'processing' means the preparation of qualified recyclable materials into feedstock for use in manufacturing tangible consumer products.

"(d) AMOUNT PAID OR INCURRED.—For purposes of this section—

"(1) IN GENERAL.—The term 'amount paid or incurred' includes installation costs.

"(2) LEASE PAYMENTS.—In the case of the leasing of qualified recycling equipment by the taxpayer, the term 'amount paid or incurred' means the amount of the lease payments due to be paid during the term of the lease occurring during the taxable year other than such portion of such lease payments attributable to interest, insurance, and taxes.

"(3) GRANTS, ETC. EXCLUDED.—The term 'amount paid or incurred' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

"(e) OTHER TAX DEDUCTIONS AND CREDITS AVAILABLE FOR PORTION OF COST NOT TAKEN INTO ACCOUNT FOR CREDIT UNDER THIS SECTION.—No deduction or other credit under this chapter shall be allowed with respect to the amount of the credit determined under this section.

"(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any amount paid or incurred with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.".

(b) CONFORMING AMENDMENTS.—

(1) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38, as amended by this Act, is amended by striking "plus" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", plus", and by adding at the end the following new paragraph:

"(23) the qualified recycling equipment credit determined under section 45M(a).".

(2) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (37), by striking the period at the end of paragraph (38) and inserting "; and", and by adding at the end the following new paragraph:

"(39) to the extent provided in section 45M(f), in the case of amounts with respect to which a credit has been allowed under section 45M.".

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 45L the following new item:

"Sec. 45M. Credit for qualified recycling equipment.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 1546. 5-YEAR NET OPERATING LOSS CARRYOVER IF ANY RESULTING REFUND IS USED FOR ELECTRIC TRANSMISSION EQUIPMENT.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by adding at the end the following new subparagraph:

"(I) TRANSMISSION PROPERTY INVESTMENT.—

"(i) IN GENERAL.—In the case of a net operating loss in a taxable year ending after December 31, 2002, and before January 1, 2006, there shall be a net operating loss carryback to each of the 5 years preceding the taxable year of such loss to the

extent that any refund resulting from such carryback is used for electric transmission property capital expenditures or pollution control facility capital expenditures.

"(ii) REFUND CLAIM.—Any refund resulting from the application of clause (i) may be claimed by the taxpayer during any taxable year ending after December 31, 2005, and before January 1, 2009, except that the portion of such refund which may be claimed during any taxable year shall not exceed the sum of the taxpayer's electric transmission property capital expenditures and pollution control facility capital expenditures made in the preceding taxable year.

"(iii) CARRYOVER OF EXCESS REFUNDS.—Any portion of such refund that exceeds the sum of the taxpayer's electric transmission property capital expenditures and pollution control facility capital expenditures made during the preceding taxable year shall, subject to clause (ii), be considered a refund due to the taxpayer and claimed in the succeeding taxable year if

such taxable year begins before January 1, 2009.

"(iv) DEFINITIONS.—For purposes of this subparagraph—

"(I) ELECTRIC TRANSMISSION PROPERTY CAPITAL EXPENDITURES.—The term 'electric transmission property capital expenditures' means any expenditure, chargeable to capital account, made by the taxpayer which is attributable to electric transmission property used in the transmission at 69 or more kilovolts of electricity for sale.

"(II) POLLUTION CONTROL FACILITY CAPITAL EXPENDITURES.—The term 'pollution control facility capital expenditures' means any expenditure, chargeable to capital account, made by an electric utility company (as defined in section 2(3) of the Public Utility Holding Company Act (15 U.S.C. 79b(3)) which is attributable to a facility which will qualify as a certified pollution control facility as determined

under section 169(d)(1) by striking 'before January 1, 1976,' and by substituting 'an identifiable' for 'a new identifiable'."

(b) ELECTION TO DISREGARD CARRYBACK.—Section 172(j) (relating to disregard 5-year carryback for certain net operating losses) is amended by inserting "or (b)(1)(I)" after "(b)(1)(H)" both places it appears.

(c) APPLICATION.—In the case of a net operating loss described in section 172(b)(1)(I) of the Internal Revenue Code of 1986 (as added by subsection (a)) for a taxable year ending in 2003, 2004, or 2005, any election made under section 172(j) of such Code (as amended by subsection (b)) shall be treated as timely made if made before January 1, 2009.

SEC. 1547. CREDIT FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.

(a) ALLOWANCE OF QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.—Section 46 (relating to amount of credit), as amended by this Act, is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the qualifying pollution control equipment credit.".

(b) AMOUNT OF QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48C the following new section:

"SEC. 48D. QUALIFYING POLLUTION CONTROL EQUIPMENT CREDIT.

"(a) IN GENERAL.—For purposes of section 46, the qualifying pollution control equipment credit for any taxable year is an amount equal to 15 percent of the basis of the qualifying pollution control equipment placed in service at a qualifying facility during such taxable year.

"(b) QUALIFYING POLLUTION CONTROL EQUIPMENT.—For purposes of this section, the term 'qualifying pollution control equipment' means any technology installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act, including thermal oxidizers, regenerative thermal oxidizers, scrubber systems, evaporative control systems, vapor recovery systems, flair systems, bag houses, cyclones, continuous emissions monitoring systems, and low nitric oxide burners.

"(c) QUALIFYING FACILITY.—For purposes of this section, the term 'qualifying facility' means any facility which

produces not less than 1,000,000 gallons of ethanol during the taxable year.

"(d) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

"(e) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.".

(c) RECAPTURE OF CREDIT WHERE EMISSIONS REDUCTION OFFSET IS SOLD.—Paragraph (1) of section 50(a) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULE FOR QUALIFYING POLLUTION CONTROL EQUIPMENT.—For purposes of subparagraph (A), any investment property which is qualifying pollution control equipment (as defined in section 48D(b)) shall cease to be investment credit property with respect to a taxpayer if such taxpayer receives a payment in exchange for a credit for emission reductions attributable to such qualifying pollution control

equipment for purposes of an offset requirement under part D of title I of the Clean Air Act.".

(d) SPECIAL RULE FOR BASIS REDUCTION; RECAPTURE OF CREDIT.—Paragraph (3) of section 50(c) (relating to basis adjustment to investment credit property), as amended by this Act, is amended by inserting "or qualifying pollution control equipment credit" after "energy credit".

(e) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking "and" at the end of clause (iv), by striking the period at the end of clause (v) and inserting ", and", and by adding at the end the following new clause:

"(vi) the basis of any qualifying pollution control equipment."

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48C the following new item:

"48D. Qualifying pollution control equipment.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the

date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 1548. CREDIT FOR PRODUCTION OF COAL OWNED BY INDIAN TRIBES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45N. CREDIT FOR PRODUCTION OF COAL OWNED BY INDIAN TRIBES.

"(a) ALLOWANCE OF CREDIT.—For purposes of section 38, the Indian coal production credit determined under this section for the taxable year is an amount equal to the product of—

"(1) the applicable dollar amount for the calendar year in which the taxable year begins, and

"(2) the number of tons of Indian coal—

"(A) the production of which is attributable to the taxpayer (determined under rules similar to the rules under section 29(d)(3)), and

"(B) which is sold by the taxpayer to an unrelated person during the taxable year.

"(b) INDIAN COAL.—For purposes of this section—

"(1) IN GENERAL.—The term 'Indian coal' means coal which is produced from coal reserves which, on June 14, 2005—

"(A) were owned by an Indian tribe, or

"(B) were held in trust by the United States for the benefit of an Indian tribe or its members.

"(2) INDIAN TRIBE.—For purposes of this subsection, the term 'Indian tribe' has the meaning given such term by section 7871(c)(3)(E)(ii).

"(c) OTHER TERMS.—For purposes of this section—

"(1) APPLICABLE DOLLAR AMOUNT.—

"(A) IN GENERAL.—The term 'applicable dollar amount' means—

"(i) $1.50 in the case of calendar years 2006 through 2009, and

"(ii) $2.00 in the case of calendar years beginning after 2009.

"(B) INFLATION ADJUSTMENT.—In the case of any calendar year after 2006, each of the dollar amounts under subparagraph (A) shall be equal to the product of such dollar amount and the inflation adjustment factor determined under section 45(e)(2)(B) for the calendar year, except that such section shall be applied by substituting '2005' for '1992'.

"(2) UNRELATED PERSON.—The term 'unrelated person' has the same meaning as when such term is used in section 45.

"(d) TERMINATION.—This section shall not apply to sales after December 31, 2012."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38, as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph:

"(24) the Indian coal production credit determined under section 45N(a).".

(c) ALLOWANCE AGAINST MINIMUM TAX.—Section 38(c)(4) (relating to specified credits) is amended by striking the period at the end of clause (ii) and inserting ", or" and by adding at the end the following:

"(iii) the credit determined under section 45N.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 2005.

SEC. 1549. CREDIT FOR REPLACEMENT STOVES MEETING ENVIRONMENTAL STANDARDS IN NON-ATTAINMENT AREAS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25D the following new section:

"SEC. 25E. REPLACEMENT STOVES IN AREAS WITH POOR AIR QUALITY.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser—

"(1) the qualified stove replacement expenditures of the taxpayer for the taxable year, or

"(2) $500 multiplied by the number of noncompliant wood stoves replaced by the taxpayer during the taxable year.

"(b) QUALIFIED STOVE REPLACEMENT EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified stove replacement expenditures' means expenditures made by the taxpayer for the installation of a compliant stove which—

"(A) is installed in a dwelling unit which—

"(i) is located in the United States in an area which, at the time of the installation, is designated by the Environmental Protection Agency as a non-attainment area for particulate matter less than 2.5 micrometers in diameter or a non-attainment area for particulate matter less than 10 micrometers in diameter, and

"(ii) is used as a residence, and

"(B) replaces a noncompliant wood stove used in the dwelling unit.

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the compliant stove.

"(2) COMPLIANT STOVE.—The term 'compliant stove' means a solid fuel burning stove which meets the requirements set forth in the 'Standards of Performance for Residential Wood Heaters' issued by the Environmental Protection Agency.

"(3) NONCOMPLIANT WOOD STOVE.—The term 'noncompliant wood stove' means any wood stove other than a compliant stove.

"(c) OTHER RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 25C(d) shall apply for purposes of this section.

"(d) BASIS ADJUSTMENT.—If an expenditure to which this section applies results in an increase in basis in any property, the increase shall be reduced by the amount of the credit allowed under this section with respect to the expenditure.

"(e) TERMINATION.—This section shall not apply to expenditures made after December 31, 2008."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 1016, as amended by this Act, is amended by striking "and" at the end of paragraph (38), by striking the period at the end of paragraph (39) and inserting ", and", and by adding at the end the following new paragraph:

"(40) to the extent provided in section 25E(e), in the case of amounts with respect to which a credit has been allowed under section 25E.".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25D the following new item:

"Sec. 25E. Replacement stoves in areas with poor air quality.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to expenditures for stoves purchased after the date of the enactment of this Act.

SEC. 1550. EXEMPTION FOR EQUIPMENT FOR TRANSPORTING BULK BEDS OF FARM CROPS FROM EXCISE TAX ON RETAIL SALE OF HEAVY TRUCKS AND TRAILERS.

(a) IN GENERAL.—Section 4053 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new paragraph:

"(9) BULK BEDS FOR TRANSPORTING FARM CROPS.—Any box, container, receptacle, bin, or other similar article the length of which does not exceed 26 feet, which is mounted or placed on an automobile truck, and which is sold to a person who certifies to the seller that—

"(A) such person is actively engaged in the trade or business of farming, and

"(B) the primary use of the article is to haul to farms (and on farms) farm crops grown in connection with such trade or business.".

(b) RECAPTURE OF TAX UPON RESALE OR NONEXEMPT USE.—Section 4052 (relating to definitions and special rules) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF BULK BEDS FOR TRANSPORTING FARM CROPS PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under section 4051 on the first retail sale of any article described in section 4053(9) by reason of its exempt use, and

"(B) within 2 years after the date of such first retail sale, such article is resold by the purchaser or such purchaser makes a substantial nonexempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the first retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article described in section 4053(9) if the first retail sale of such article is not taxable under section 4051 by reason of such use.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 2005.

SEC. 1551. NATIONAL ACADEMY OF SCIENCES STUDY AND REPORT.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall enter into an agreement with the National Academy

of Sciences under which the National Academy of Sciences shall conduct a study to define and evaluate the health, environmental, security, and infrastructure external costs and benefits associated with the production and consumption of energy that are not or may not be fully incorporated into the market price of such energy, or into the Federal tax or fee or other applicable revenue measure related to such production or consumption.

(b) REPORT.—Not later than 2 years after the date on which the agreement under subsection (a) is entered into, the National Academy of Sciences shall submit to Congress a report on the study conducted under subsection (a).

SEC. 1552. INCOME TAX EXCLUSION FOR CERTAIN FUEL COSTS OF RURAL CARPOOLS.

(a) IN GENERAL.—Section 132(f)(1) of the Internal Revenue Code of 1986 (defining qualified transportation fringe) is amended by adding at the end the following new subparagraph:

"(D) Fuel expenses for a highway vehicle of any employee who meets the rural carpool requirements of paragraph (8).".

(b) LIMITATION ON EXCLUSION.—Section 132(f)(2) of such Code (relating to limitation on exclusion) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting

", and", and by adding at the end the following new subparagraph:

"(C) $50 per month in the case of the benefit described in subparagraph (D).".

(c) RURAL CARPOOL REQUIREMENTS.—Section 132(f) of such Code is amended by adding at the end the following new paragraph:

"(8) REQUIREMENTS FOR EMPLOYEES PARTICIPATING IN RURAL CARPOOLS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if an employee—

"(i) is an employee of an employer described in subparagraph (B),

"(ii) certifies to such employer that—

"(I) such employee resides in a rural area (as defined by the Bureau of the Census),

"(II) such employee is not eligible to claim any qualified transportation fringe described in subparagraph (A) or (B) of paragraph (1) if provided by such employer,

"(III) such employee uses the employee's highway vehicle when trav-

eling between the employee's residence and place of employment, and

"(IV) for at least 75 percent of the total mileage of such travel, the employee is accompanied by 1 or more employees of such employer, and

"(iii) agrees to notify such employer when any subclause of clause (ii) no longer applies.

"(B) EMPLOYER DESCRIBED.—An employer is described in this subparagraph if the business premises of such employer which serve as the place of employment of the employee are located in an area which is not accessible by a transit system designed primarily to provide daily work trips within a local commuting area.".

(d) NO EXCLUSION FOR EMPLOYMENT TAXES.—Section 3121(a)(20) of such Code (defining wages) is amended by inserting "(except by reason of subsection (f)(1)(D) thereof)" after "or 132".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred on and after the date of the enactment of this Act and before January 1, 2007.

SEC. 1553. 3-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) IN GENERAL.—Section 168(e)(3)(A) (defining 3-year property) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by adding at the end the following new clause:

"(iv) any qualified energy management device.".

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

"(18) QUALIFIED ENERGY MANAGEMENT DEVICE.—

"(A) IN GENERAL.—The term 'qualified energy management device' means any energy management device—

"(1) which is placed in service before January 1, 2008, by a taxpayer who is a supplier of electric energy or a provider of electric energy services,

"(2) the original use of which commences with the taxpayer, and

"(3) the purchase of which is subject to a binding contract entered into after June 23, 2005, but

only if there was no written binding contract entered into on or before such date.

"(B) ENERGY MANAGEMENT DEVICE.—For purposes of subparagraph (A), the term 'energy management device' means any meter or metering device which is used by the taxpayer—

"(i) to measure and record electricity usage data on a time-differentiated basis in at least 4 separate time segments per day, and

"(ii) to provide such data on at least a monthly basis to both consumers and the taxpayer.".

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (A)(iii) the following:

"(A)(iv) ..... 20".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2005, in taxable years ending after such date.

SEC. 1554. EXCEPTION FROM VOLUME CAP FOR CERTAIN COOLING FACILITIES.

(a) IN GENERAL.—Section 146 (relating to volume cap) is amended by redesignating subsections (i) through (n) as subsections (j) through (o), respectively, and by inserting after subsection (h) the following:

"(i) EXCEPTION FOR FACILITIES USED TO COOL STRUCTURES WITH OCEAN WATER, ETC..—

"(1) IN GENERAL.—Only for purposes of this section, the term 'private activity bond' shall not include any exempt facility bond described in section 142(a)(9) which is issued as part of an issue to finance any project which is designed to access deep water renewable thermal energy for district cooling to provide building air conditioning (including any distribution piping, pumping, and chiller facilities).

"(2) LIMITATION.—Paragraph (1) shall apply only to bonds issued as part of an issue the aggregate authorized face amount of which is not more than $75,000,000 with respect to any project described in such paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to projects placed in service after the date of enactment of this Act and before July 1, 2008.

Subtitle F—Revenue Raising Provisions

SEC. 1561. TREATMENT OF KEROSENE FOR USE IN AVIATION.

(a) ALL KEROSENE TAXED AT HIGHEST RATE.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended by adding "and" at

the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

(2) EXCEPTION FOR USE IN AVIATION.—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

"(C) TAXES IMPOSED ON FUEL USED IN AVIATION.—In the case of kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in aviation, the rate of tax under subparagraph (A)(iii) shall be—

"(i) in the case of use for commercial aviation by a person registered for such use under section 4101, 4.3 cents per gallon, and

"(ii) in the case of use for aviation not described in clause (i), 21.8 cents per gallon.".

(3) APPLICABLE RATE IN CASE OF CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS.—Section 4081(a)(3) (relating to certain refueler trucks, tankers, and tank wagons treated as terminals) is amended—

(A) by striking "a secured area of" in subparagraph (A)(i), and

(B) by adding at the end the following new subparagraph:

"(D) APPLICABLE RATE.—For purposes of paragraph (2)(C), in the case of any kerosene treated as removed from a terminal by reason of this paragraph—

"(i) the rate of tax specified in paragraph (2)(C)(i) in the case of use described in such paragraph shall apply if such terminal is located within a secured area of an airport, and

"(ii) the rate of tax specified in paragraph (2)(C)(ii) shall apply in all other cases.".

(4) CONFORMING AMENDMENTS.—

(A) Sections 4081(a)(3)(A) and 4082(b) are amended by striking "aviation-grade" each place it appears.

(B) Section 4081(a)(4) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(C)(i)".

(C) The heading for paragraph (4) of section 4081(a) is amended by striking "AVIATION-GRADE".

(D) Section 4081(d)(2) is amended by striking so much as precedes subparagraph (A) and inserting the following:

"(2) AVIATION FUELS.—The rates of tax specified in subsections (a)(2)(A)(ii) and (a)(2)(C)(ii) shall be 4.3 cents per gallon—".

(E) Subsection (e) of section 4082 is amended—

(i) by striking "aviation-grade",

(ii) by striking "section 4081(a)(2)(A)(iv)" and inserting "section 4081(a)(2)(A)(iii)",

(iii) by adding at the end the following new sentence: "For purposes of this subsection, any removal described in section 4081(a)(3)(A) shall be treated as a removal from a terminal but only if such terminal is located within a secured area of an airport.", and

(iv) by striking "Aviation-Grade Kerosene" in the heading thereof and inserting "Kerosene Removed Into an Aircraft".

(b) REDUCED RATE FOR USE OF CERTAIN LIQUIDS IN AVIATION.—

(1) IN GENERAL.—Subsection (c) of section 4041 (relating to imposition of tax) is amended—

(A) by striking "aviation-grade kerosene" in paragraph (1) and inserting "any liquid for use as a fuel other than aviation gasoline",

(B) by striking "aviation-grade kerosene" in paragraph (2) and inserting "liquid for use as a fuel other than aviation gasoline",

(C) by striking paragraph (3) and inserting the following new paragraph:

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be 21.8 cents per gallon (4.3 cents per gallon with respect to any sale or use for commercial aviation).", and

(D) by striking "Aviation-Grade Kerosene" in the heading thereof and inserting "Certain Liquids Used as a Fuel in Aviation".

(2) PARTIAL REFUND OF FULL RATE.—

(A) IN GENERAL.—Paragraph (2) of section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended to read as follows:

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.".

(B) REFUNDS FOR NONCOMMERCIAL AVIATION.—Section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) REFUNDS FOR KEROSENE USED IN NONCOMMERCIAL AVIATION.—

"(A) IN GENERAL.—In the case of kerosene used in aviation not described in paragraph (4)(A) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does

not exceed the rate specified in section 4081(a)(2)(C)(ii).

"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—The amount which would be paid under paragraph (1) with respect to any kerosene shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

"(i) is registered under section 4101, and

"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".

(3) CONFORMING AMENDMENTS.—

(A) Section 4041(a)(1)(B) is amended by striking the last sentence.

(B) The heading for subsection (l) of section 6427 is amended by striking ", Kerosene and Aviation Fuel" and inserting "and Kerosene".

(C) Section 4082(d)(2)(B) is amended by striking "section 6427(l)(5)(B)" and inserting "section 6427(l)(6)(B)".

(D) Section 6427(i)(4)(A) is amended—

(i) by striking "paragraph (4)(B) or (5)" both places it appears and inserting "paragraph (4)(B), (5), or (6)", and

(ii) by striking "subsection (b)(4) and subsection (l)(5)" in the last sentence and inserting "subsections (b)(4), (l)(5), and (l)(6)".

(E) Paragraph (4) of section 6427(l) is amended—

(i) by striking "aviation-grade" in subparagraph (A),

(ii) by striking "section 4081(a)(2)(A)(iv)" and inserting "section 4081(a)(2)(iii)",

(iii) by striking "aviation-grade kerosene" in subparagraph (B) and inserting "kerosene used in commercial aviation as described in subparagraph (A)", and

(iv) by striking "AVIATION-GRADE KEROSENE" in the heading thereof and inserting "KEROSENE USED IN COMMERCIAL AVIATION".

(F) Section 6427(l)(6)(B), as redesignated by paragraph (2)(B), is amended by striking

"aviation-grade kerosene" and inserting "kerosene used in aviation".

(c) TRANSFERS FROM HIGHWAY TRUST FUND OF TAXES ON FUELS USED IN AVIATION TO AIRPORT AND AIRWAY TRUST FUND.—

(1) IN GENERAL.—Section 9503(c) (relating to expenditures from Highway Trust Fund) is amended by adding at the end the following new paragraph:

"(7) TRANSFERS FROM THE TRUST FUND FOR CERTAIN AVIATION FUEL TAXES.—The Secretary shall pay at least monthly from the Highway Trust Fund into the Airport and Airway Trust Fund amounts (as determined by the Secretary) equivalent to the taxes received on or after October 1, 2005, and before October 1, 2011, under section 4081 with respect to so much of the rate of tax as does not exceed—

"(A) 4.3 cents per gallon of kerosene with respect to which a payment has been made by the Secretary under section 6427(l)(4), and

"(B) 21.8 cents per gallon of kerosene with respect to which a payment has been made by the Secretary under section 6427(l)(5).

Transfers under the preceding sentence shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in the amounts subse-

quently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.".

(2) CONFORMING AMENDMENTS.—

(A) Section 9502(a) is amended by striking "appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b)" and inserting "appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(7), or section 9602(b)".

(B) Section 9502(b)(1) is amended—

(i) by striking "subsections (c) and (e) of section 4041" in subparagraph (A) and inserting "section 4041(c)", and

(ii) by striking "and aviation-grade kerosene" in subparagraph (C) and inserting "and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C)".

(C) Section 9503(b) is amended by striking paragraph (3).

(d) CERTAIN REFUNDS NOT TRANSFERRED FROM AIRPORT AND AIRWAY TRUST FUND.—Section 9502(d)(2) (relating to transfers from Airport and Airway Trust Fund

on account of certain refunds) is amended by inserting "(other than subsections (l)(4) and (l)(5) thereof)" after "or 6427 (relating to fuels not used for taxable purposes)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels or liquids removed, entered, or sold after September 30, 2005.

SEC. 1562. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

(a) IN GENERAL.—Subparagraph (A) of section 6427(l)(6) (relating to registered vendors to administer claims for refund of diesel fuel or kerosene sold to farmers and State and local governments), as redesignated by section 1561, is amended to read as follows:

"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.".

(b) CONFORMING AMENDMENT.—The heading of paragraph (6) of section 6427(l), as so redesignated, is amended by striking "FARMERS AND".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 2005.

SEC. 1563. REFUNDS OF EXCISE TAXES ON EXEMPT SALES OF FUEL BY CREDIT CARD.

(a) REGISTRATION OF PERSON EXTENDING CREDIT ON CERTAIN EXEMPT SALES OF FUEL.—Section 4101(a) (re-

lating to registration) is amended by adding at the end the following new paragraph:

"(4) REGISTRATION OF PERSONS EXTENDING CREDIT ON CERTAIN EXEMPT SALES OF FUEL.—The Secretary shall require registration by any person which—

"(A) extends credit by credit card to any ultimate purchaser described in subparagraph (C) or (D) of section 6416(b)(2) for the purchase of taxable fuel upon which tax has been imposed under section 4041 or 4081, and

"(B) does not collect the amount of such tax from such ultimate purchaser.".

(b) REFUNDS OF TAX ON GASOLINE.—

(1) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to condition to allowance) is amended—

(A) by inserting "except as provided in subparagraph (B)," after "For purposes of this subsection," in subparagraph (A),

(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) CREDIT CARD ISSUER.—For purposes of this subsection, if the purchase of gasoline de-

scribed in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—

"(i) is registered under section 4101(a)(4), and

"(ii) has established, under regulations prescribed by the Secretary, that such person—

"(I) has not collected the amount of the tax from the person who purchased such article, or

"(II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and

"(iii) has so established that such person—

"(I) has repaid or agreed to repay the amount of the tax to the ultimate vendor,

"(II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or

"(III) has otherwise made arrangements which directly or indirectly assure the ultimate vendor of reimbursement of such tax.

If clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such credit or refund.",

(C) by striking "subparagraph (A)" in subparagraph (C), as redesignated by paragraph (2), and inserting "subparagraph (A) or (B)",

(D) by inserting "or credit card issuer" after "vendor" in subparagraph (C), as so redesignated, and

(E) by inserting "OR CREDIT CARD ISSUER" after "VENDOR" in the heading thereof.

(2) CONFORMING AMENDMENT.—Section 6416(b)(2) is amended by adding at the end the following new sentence: "Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on

gasoline under section 4081 if the requirements of subsection (a)(4) are not met.''

(c) DIESEL FUEL OR KEROSENE.—Paragraph (6) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene), as redesignated by section 1561, is amended—

(1) by striking ''The amount'' in subparagraph (C) and inserting ''Except as provided in subparagraph (D), the amount'', and

(2) by adding at the end the following new subparagraph:

''(D) CREDIT CARD ISSUER.—For purposes of this paragraph, if the purchase of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B). If such clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall

collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such amount.".

(d) CONFORMING PENALTY AMENDMENTS.—

(1) Section 6206 (relating to special rules applicable to excessive claims under sections 6420, 6421, and 6427) is amended—

(A) by striking "Any portion" in the first sentence and inserting "Any portion of a refund made under section 6416(a)(4) and any portion",

(B) by striking "payments under sections 6420" in the first sentence and inserting "refunds under section 6416(a)(4) and payments under sections 6420",

(C) by striking "section 6420" in the second sentence and inserting "section 6416(a)(4), 6420", and

*(D) by striking "**SECTIONS 6420, 6421, AND 6427**" in the heading thereof and inserting "**CERTAIN SECTIONS**".*

(2) Section 6675(a) is amended by inserting "section 6416(a)(4) (relating to certain sales of gasoline)," after "made under".

(3) Section 6675(b)(1) is amended by inserting "6416(a)(4)," after "under section".

(4) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking "sections 6420, 6421, and 6427" and inserting "certain sections".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 2005.

SEC. 1564. ADDITIONAL REQUIREMENT FOR EXEMPT PURCHASES.

(a) STATE AND LOCAL GOVERNMENTS.—

(1) Subparagraph (C) of section 6416(b)(2) (relating to specified uses and resales) is amended to read as follows:

"(C) sold to a State or local government for the exclusive use of a State or local government (as defined in section 4221(d)(4) and certified as such by the State) or sold to a qualified volunteer fire department (as defined in section 150(e)(2) and certified as such by the State) for its exclusive use;".

(2) Section 4041(g)(2) (relating to other exemptions) is amended by striking "or the District of Columbia" and inserting "the District of Columbia, or a qualified volunteer fire department (as defined in

section 150(e)(2)) (and certified as such by the State or the District of Columbia)".

(b) NONPROFIT EDUCATIONAL ORGANIZATIONS.—

(1) Section 6416(b)(2)(D) is amended by inserting "(as defined in section 4221(d)(5) and certified to be in good standing by the State in which such organization is providing educational services)" after "organization".

(2) Section 4041(g)(4) is amended—

(A) by inserting "(certified to be in good standing by the State in which such organization is providing educational services)" after "organization" the first place it appears, and

(B) by striking "use by a" and inserting "use by such a".

(c) NONAPPLICATION OF CERTIFICATION REQUIREMENTS FOR THE REFUND OF CERTAIN TAXES.—Section 6416(b)(2) is amended by adding at the end the following new sentence: "With respect to any tax paid under subchapter D of chapter 32, the certification requirements under subparagraphs (C) and (D) shall not apply.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 2005.

SEC. 1565. REREGISTRATION IN EVENT OF CHANGE IN OWNERSHIP.

(a) IN GENERAL.—Section 4101(a) (relating to registration) is amended by adding at the end the following new paragraph:

"(4) REREGISTRATION IN EVENT OF CHANGE IN OWNERSHIP.—Under regulations prescribed by the Secretary, a person (other than a corporation the stock of which is regularly traded on an established securities market) shall be required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions).".

(b) CONFORMING AMENDMENTS.—

(1) CIVIL PENALTY.—Section 6719 (relating to failure to register) is amended—

(A) by inserting "or reregister" after "register" each place it appears,

(B) by inserting "OR REREGISTER" after "REGISTER" in the heading for subsection (a), and

*(C) by inserting "**OR REREGISTER**" after "**REGISTER**" in the heading thereof.*

(2) CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended—

(A) by inserting "or reregister" after "register",

(B) by inserting "or reregistration" after "registration", and

*(C) by inserting "**OR REREGISTER**" after "**REGISTER**" in the heading thereof.*

(3) ADDITIONAL CIVIL PENALTY.—Section 7272 (relating to penalty for failure to register) is amended—

(A) by inserting "or reregister" after "failure to register" in subsection (a),

*(B) by inserting "**OR REREGISTER**" after "**REGISTER**" in the heading thereof.*

(3) CLERICAL AMENDMENTS.—The item relating to section 6719 in the table of sections for part I of subchapter B of chapter 68, the item relating to section 7232 in the table of sections for part II of subchapter A of chapter 75, and the item relating to section 7272 in the table of sections for subchapter B of

chapter 75 are each amended by inserting "or reregister" after "register".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions, or failures to act, after the date of the enactment of this Act.

SEC. 1566. TREATMENT OF DEEP-DRAFT VESSELS.

(a) IN GENERAL.—On and after the date of the enactment of this Act, the Secretary of the Treasury shall require that a vessel described in section 4042(c)(1) of the Internal Revenue Code of 1986 be considered a vessel for purposes of the registration of the operator of such vessel under section 4101 of such Code, unless such operator uses such vessel exclusively for purposes of the entry of taxable fuel.

(b) EXEMPTION FOR DOMESTIC BULK TRANSFERS BY DEEP-DRAFT VESSELS.—

(1) IN GENERAL.—Subparagraph (B) of section 4081(a)(1) (relating to tax on removal, entry, or sale) is amended to read as follows:

"(B) EXEMPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.—

"(i) IN GENERAL.—The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk by pipeline or vessel to a terminal or refinery if the person removing or enter-

ing the taxable fuel, the operator of such pipeline or vessel (except as provided in clause (ii)), and the operator of such terminal or refinery are registered under section 4101.

"(ii) NONAPPLICATION OF REGISTRATION TO VESSEL OPERATORS ENTERING BY DEEP-DRAFT VESSEL.—For purposes of clause (i), a vessel operator is not required to be registered with respect to the entry of a taxable fuel transferred in bulk by a vessel described in section 4042(c)(1).".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.

SEC. 1567. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.

(a) IN GENERAL.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:

"(4) TRANSMISSION OF DATA.—Pursuant to paragraph (2), not later than 1 year after the date of enactment of this paragraph, the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic

data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of the Internal Revenue Code of 1986) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after the date of enactment of this paragraph, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 1568. TAXATION OF GASOLINE BLENDSTOCKS AND KEROSENE.

With respect to fuel entered or removed after September 30, 2005, the Secretary of the Treasury shall, in applying section 4083 of the Internal Revenue Code of 1986—

(1) prohibit the nonbulk entry or removal of any gasoline blend stock without the imposition of tax under section 4081 of such Code, and

(2) shall not exclude mineral spirits from the definition of kerosene.

SEC. 1569. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: "Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: "Paragraph (3) shall not apply to the sale of a liquid for delivery into a fuel tank of a motor vehicle which is shipped or driven out of the United States.".

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting "or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)" after "section 4101".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

SEC. 1570. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

"SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.

"(a) IN GENERAL.—Any person who knowingly transfers for resale, sells for resale, or holds out for resale any liquid for use in a diesel-powered highway vehicle or a diesel-powered train which does not meet applicable EPA regulations (as defined in section 45H(c)(3)), shall pay a penalty of $10,000 for each such transfer, sale, or holding out for resale, in addition to the tax on such liquid (if any).

"(b) PENALTY IN THE CASE OF RETAILERS.—Any person who knowingly holds out for sale (other than for resale) any liquid described in subsection (a), shall pay a penalty of $10,000 for each such holding out for sale, in addition to the tax on such liquid (if any).".

(b) DEDICATION OF REVENUE.—Paragraph (5) of section 9503(b) (relating to certain penalties) is amended by inserting "6720A," after "6719,".

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:

"Sec. 6720A. Penalty with respect to certain adulterated fuels.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any transfer, sale, or holding out for sale or resale occurring after the date of the enactment of this Act.

SEC. 1571. OIL SPILL LIABILITY TRUST FUND FINANCING RATE.

Section 4611(f) (relating to application of oil spill liability trust fund financing rate) is amended to read as follows:

"(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply on and after April 1, 2006, or if later, the date which is 30 days after the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust Fund is less than $2,000,000,000.

"(2) FUND BALANCE.—The Oil Spill Liability Trust Fund financing rate shall not apply during a

calendar quarter if the Secretary estimates that, as of the close of the preceding calendar quarter, the unobligated balance in the Oil Spill Liability Trust Fund exceeds $3,000,000,000.

"(3) TERMINATION.—The Oil Spill Liability Trust Fund financing rate shall not apply after December 31, 2014.".

SEC. 1572. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

(a) IN GENERAL.—Paragraph (3) of section 4081(d) (relating to Leaking Underground Storage Tank Trust Fund financing rate) is amended by striking "2005" and inserting "2011".

(b) NO EXEMPTIONS FROM TAX EXCEPT FOR EXPORTS.—

(1) IN GENERAL.—Section 4082(a) (relating to exemptions for diesel fuel and kerosene) is amended by inserting "(other than such tax at the Leaking Underground Storage Tank Trust Fund financing rate imposed in all cases other than for export)" after "section 4081".

(2) AMENDMENTS RELATING TO SECTION 4041.—

(A) Subsections (a)(1)(B), (a)(2)(A), and (c)(2) of section 4041 are each amended by inserting "(other than such tax at the Leaking Un-

derground Storage Tank Trust Fund financing rate)" after "section 4081".

(B) Section 4041(b)(1)(A) is amended by striking "or (d)(1))".

(C) Section 4041(d) is amended by adding at the end the following new paragraph:

"(5) NONAPPLICATION OF EXEMPTIONS OTHER THAN FOR EXPORTS.—For purposes of this section, the tax imposed under this subsection shall be determined without regard to subsections (f), (g) (other than with respect to any sale for export under paragraph (3) thereof), (h), and (l).".

(3) NO REFUND.—

(A) IN GENERAL.—Subchapter B of chapter 65 is amended by adding at the end the following new section:

"SEC. 6430. TREATMENT OF TAX IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.

"No refunds, credits, or payments shall be made under this subchapter for any tax imposed at the Leaking Underground Storage Tank Trust Fund financing rate, except in the case of fuels destined for export.".

(B) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is

amended by adding at the end the following new item:

"Sec. 6430. Treatment of tax imposed at Leaking Underground Storage Tank Trust Fund financing rate.

(c) CERTAIN REFUNDS AND CREDITS NOT CHARGED TO LUST TRUST FUND.—Subsection (c) of section 9508 (relating to Leaking Underground Storage Tank Trust Fund) is amended to read as follows:

"(c) EXPENDITURES.—Amounts in the Leaking Underground Storage Tank Trust Fund shall be available, as provided in appropriation Acts, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of the enactment of the Superfund Amendments and Reauthorization Act of 1986.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on October 1, 2005.

(2) NO EXEMPTION.—The amendments made by subsection (b) shall apply to fuel entered, removed, or sold after September 30, 2005.

SEC. 1573. TIRE EXCISE TAX MODIFICATION.

(a) IN GENERAL.—Section 4071(a) (relating to imposition and rate of tax) is amended by inserting "8.0 cents in the case of a" before "super single tire".

(b) DEFINITION OF SUPER SINGLE TIRE.—Section 4072(e) (defining super single tire) is amended by striking "13 inches" and inserting "17.5 inches".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 2005.

TITLE XVI—CLIMATE CHANGE

Subtitle A—National Climate Change Technology Deployment

SEC. 1601. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY STRATEGIES.

Title XVI of the Energy Policy Act of 1992 (42 U.S.C. 13381 et seq.) is amended by adding at the end the following:

"SEC. 1610. GREENHOUSE GAS INTENSITY REDUCING STRATEGIES.

"(a) DEFINITIONS.—In this section:

"(1) CARBON SEQUESTRATION.—The term 'carbon sequestration' means the capture of carbon dioxide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

"(2) COMMITTEE.—The term 'Committee' means the Interagency Coordinating Committee on Climate Change Technology established under subsection (c)(1).

"(3) DEVELOPING COUNTRY.—The term 'developing country' has the meaning given the term in section 1608(m).

"(4) GREENHOUSE GAS.—The term 'greenhouse gas' means—

"(A) carbon dioxide;

"(B) methane;

"(C) nitrous oxide;

"(D) hydrofluorocarbons;

"(E) perfluorocarbons; and

"(F) sulfur hexafluoride.

"(5) GREENHOUSE GAS INTENSITY.—The term 'greenhouse gas intensity' means the ratio of greenhouse gas emissions to economic output.

"(6) NATIONAL LABORATORY.—The term 'National Laboratory' means a laboratory owned by the Department of Energy.

"(7) WORKING GROUP.—The term 'Working Group' means the Climate Change Technology Working Group established under subsection (f)(1).

"(b) OFFICE OF SCIENCE AND TECHNOLOGY POLICY STRATEGY.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy

shall, based on applicable Federal climate reports, submit to the Secretary and the President a national strategy to promote the deployment and commercialization of greenhouse gas intensity reducing technologies and practices developed through research and development programs conducted by the National Laboratories, other Federal research facilities, universities, and the private sector.

"(2) AVAILABILITY OF STRATEGY; UPDATES.—The President shall—

"(A) on submission of the strategy to the President under paragraph (1), make the strategy available to the public; and

"(B) update the strategy as the President determines to be necessary.

"(c) INTERAGENCY COORDINATING COMMITTEE ON CLIMATE CHANGE TECHNOLOGY.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish an Interagency Coordinating Committee on Climate Change Technology to—

"(A) integrate current Federal climate reports; and

"(B) coordinate Federal climate change activities and programs carried out in furtherance of the strategy developed under subsection (b)(1).

"(2) MEMBERSHIP.—The Committee shall be composed of at least 6 members, including—

"(A) the Secretary;

"(B) the Secretary of Commerce;

"(C) the Chairman of the Council on Environmental Quality;

"(D) the Secretary of Agriculture;

"(E) the Administrator of the Environmental Protection Agency; and

"(F) the Secretary of Transportation.

"(3) STAFF.—The Secretary shall provide such personnel as are necessary to enable the Committee to perform the duties of the Committee.

"(d) CLIMATE CHANGE SCIENCE PROGRAM AND CLIMATE CHANGE TECHNOLOGY PROGRAM.—

"(1) CLIMATE CHANGE SCIENCE PROGRAM.—Not later than 180 days after the date on which the strategy is submitted under subsection (b)(1), the Secretary of Commerce, in cooperation with the Committee, shall permanently establish within the Department of Commerce the Climate Change Science Program to assist the Committee in the interagency co-

ordination of climate change science research and related activities, including—

"(A) assessments of the state of knowledge on climate change; and

"(B) carrying out supporting studies, planning, and analyses of the science of climate change.

"(2) CLIMATE CHANGE TECHNOLOGY PROGRAM.—Not later than 180 days after the date on which the strategy is submitted under subsection (b)(1), the Secretary, in cooperation with the Committee, shall permanently establish within the Department of Energy, the Climate Change Technology Program to assist the Committee in the interagency coordination of climate change technology research, development, demonstration, and deployment to reduce greenhouse gas intensity.

"(e) TECHNOLOGY INVENTORY.—

"(1) IN GENERAL.—The Secretary shall conduct an inventory and evaluation of greenhouse gas intensity reducing technologies that have been developed, or are under development, by the National Laboratories, other Federal research facilities, universities, and the private sector to determine which technologies are suitable for commercialization and deployment.

"(2) REPORT.—Not later than 180 days after the completion of the inventory under paragraph (1), the Secretary shall submit to the Secretary of Commerce and Congress a report that includes the results of the completed inventory and any recommendations of the Secretary.

"(3) USE.—The Secretary, in consultation with the Secretary of Commerce, shall use the results of the inventory as guidance in the commercialization and deployment of greenhouse gas intensity reducing technologies.

"(4) UPDATED INVENTORY.—The Secretary shall—

"(A) periodically update the inventory under paragraph (1); and

"(B) make the updated inventory available to the public.

"(f) CLIMATE CHANGE TECHNOLOGY WORKING GROUP.—

"(1) IN GENERAL.—The Secretary, in consultation with the Committee, shall establish within the Department of Energy a Climate Change Technology Working Group to identify statutory, regulatory, economic, and other barriers to the commercialization

and deployment of greenhouse gas intensity reducing technologies and practices in the United States.

"(2) COMPOSITION.—The Working Group shall be composed of the following members, to be appointed by the Secretary, in consultation with the Committee:

"(A) 1 representative shall be appointed from each National Laboratory.

"(B) 3 members shall be representatives of energy-producing trade organizations.

"(C) 3 members shall represent energy-intensive trade organizations.

"(D) 3 members shall represent groups that represent end-use energy and other consumers.

"(E) 3 members shall be employees of the Federal Government who are experts in energy technology, intellectual property, and tax.

"(F) 3 members shall be representatives of universities with expertise in energy technology development that are recommended by the National Academy of Engineering.

"(3) REPORT.—Not later than 1 year after the date of enactment of this section and annually thereafter, the Working Group shall submit to the Committee a report that describes—

"(A) the findings of the Working Group; and

"(B) any recommendations of the Working Group for the removal or reduction of barriers to commercialization, deployment, and increasing the use of greenhouse gas intensity reducing technologies and practices.

"(4) COMPENSATION OF MEMBERS.—

"(A) NON-FEDERAL EMPLOYEES.—A member of the Working Group who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Working Group.

"(B) FEDERAL EMPLOYEES.—A member of the Working Group who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

"(C) TRAVEL EXPENSES.—A member of the Working Group shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

"(g) GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY DEPLOYMENT.—

"(1) IN GENERAL.—Based on the strategy developed under subsection (b)(1), the technology inventory conducted under subsection (e)(1), and the greenhouse gas intensity reducing technology study report submitted under subsection (e)(2), the Committee shall develop a program for implementation by the Climate Credit Board established under section 1611(b)(2)(A) that would provide for the removal of domestic barriers to the commercialization and deployment of greenhouse gas intensity reducing technologies and practices.

"(2) REQUIREMENTS.—In developing the program under paragraph (1), the Committee shall consider in the aggregate—

"(A) the cost-effectiveness of the technology;

"(B) fiscal and regulatory barriers;

"(C) statutory and other barriers; and

"(D) intellectual property issues.

"(3) REPORT.—Not later than 18 months after the date of enactment of this section, the Committee shall submit to the President and Congress a report that—

"(A) identifies, based on the report submitted under subsection (f)(3), any barriers to, and commercial risks associated with, the deployment of greenhouse gas intensity reducing technologies; and

"(B) includes a plan for carrying out eligible projects with Federal financial assistance under section 1611.

"(h) PROCEDURES FOR CALCULATING, MONITORING, AND ANALYZING GREENHOUSE GAS INTENSITY.—

"(1) IN GENERAL.—The Committee, in collaboration with the Administrator of the Energy Information Administration and the National Institute of Standards and Technology, shall develop and propose standards and best practices for calculating, monitoring, and analyzing greenhouse gas intensity.

"(2) CONTENT.—The standards and best practices shall address measurement of greenhouse gas intensity by industry sector.

"(3) PUBLICATION.—To provide the public with an opportunity to comment on the standards and best practices proposed under paragraph (1), the standards and best practices shall be published in the Federal Register.

"(4) APPLICABLE LAW.—To ensure that high quality information is produced, the standards and best practices developed under paragraph (1) shall conform to the guidelines established under section 515 of the Treasury and General Government Appropriations Act, 2001 (commonly known as the 'Data Quality Act') (44 U.S.C. 3516 note; 114 Stat. 2763A–1543), as enacted into law by section 1(a)(3) of Public Law 106–554.

"(i) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretary shall, subject to availability of appropriations, conduct and participate in demonstration projects recommended for approval by the Committee, including demonstration projects relating to—

"(A) coal gasification and coal liquefaction;

"(B) carbon sequestration;

"(C) cogeneration technology initiatives;

"(D) advanced nuclear power projects;

"(E) lower emission transportation;

"(F) renewable energy; and

"(G) transmission upgrades.

"(2) CRITERIA.—The Committee shall recommend a demonstration project under paragraph (1) if the proposed demonstration project would—

"(A) increase the reduction of the greenhouse gas intensity to levels below that which would be achieved by technologies being used in the United States as of the date of enactment of this section;

"(B) maximize the potential return on Federal investment;

"(C) demonstrate distinct roles in public-private partnerships;

"(D) produce a large-scale reduction of greenhouse gas intensity if commercialization occurred; and

"(E) support a diversified portfolio to mitigate the uncertainty associated with a single technology.

"(j) COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.—In carrying out greenhouse gas intensity

reduction research and technology deployment, the Secretary may enter into cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

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

SEC. 1602. CLIMATE INFRASTRUCTURE CREDIT.

Title XVI of the Energy Policy Act of 1992 (42 (U.S.C. 13381 et seq.) (as amended by section 1601) is amended by adding at the end the following:

"SEC. 1611. CLIMATE INFRASTRUCTURE CREDIT.

"(a) DEFINITIONS.—In this section:

"(1) ADVANCED CLIMATE TECHNOLOGY OR SYSTEM.—The term 'advanced climate technology or system' means a climate technology or system that is not in general usage as of the date of enactment of this section.

"(2) BOARD.—The term 'Board' means the Climate Credit Board established under subsection (b)(2)(A).

"(3) DIRECT LOAN.—The term 'direct loan' has the meaning given the term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

"(4) ELIGIBLE PROJECT.—The term 'eligible project' means a demonstration project that is recommended for approval under section 1610(i)(1).

"(5) ELIGIBLE PROJECT COST.—The term 'eligible project cost' means any amount incurred for an eligible project that is paid by, or on behalf of, an obligor, including the costs of—

"(A) construction activities, including—

"(i) the acquisition of capital equipment; and

"(ii) construction management;

"(B) acquiring land (including any improvements to the land) relating to the eligible project; and

"(C) financing the eligible project, including—

"(i) providing capitalized interest necessary to meet market requirements;

"(ii) capital issuance expenses; and

"(iii) other carrying costs during construction.

"(6) FEDERAL FINANCIAL ASSISTANCE.—The term 'Federal financial assistance' means any credit-based financial assistance, including a direct loan, loan guarantee, a line of credit (which serves as

standby default coverage or standby interest coverage), production incentive payment under subsection (g)(1)(B), or other credit-based financial assistance mechanism for an eligible project that is—

"(A) authorized to be made available by the Secretary for an eligible project under this section; and

"(B) provided in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(7) INVESTMENT-GRADE RATING.—The term 'investment-grade rating' means a rating category of BBB minus, Baa3, or higher assigned by a rating agency for eligible project obligations offered into the capital markets.

"(8) LENDER.—The term 'lender' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

"(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code

of 1986) that is a qualified institutional buyer; and

"(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

"(9) LOAN GUARANTEE.—The term 'loan guarantee' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation that is issued by an obligor and funded by a lender.

"(10) OBLIGOR.—The term 'obligor' means a person or entity (including a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality) that is primarily liable for payment of the principal of, or interest on, a Federal credit instrument.

"(11) PROJECT OBLIGATION.—The term 'project obligation' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of an eligible project, other than a Federal credit instrument.

"(12) RATING AGENCY.—The term 'rating agency' means a bond rating agency identified by the Securities and Exchange Commission as a Nationally Recognized Statistical Rating Organization.

"(13) REGULATORY FAILURE.—The term 'regulatory failure' means a situation in which the Secretary determines that, because of a breakdown in a regulatory process or an indefinite delay caused by a judicial challenge to the regulatory consideration of a specific eligible project, the Federal or State regulatory or licensing process governing the siting, construction, or commissioning of an eligible project does not produce a definitive determination that the eligible project may go forward or stop within a predetermined and prescribed time period.

"(14) SECURED LOAN.—The term 'secured loan' means a loan or other secured debt obligation issued by an obligor and funded by the Secretary in connection with the financing of an eligible project.

"(15) STANDBY DEFAULT COVERAGE.—The term 'standby default coverage' means a pledge by the Secretary to pay all or part of the debt obligation issued by an obligor and funded by a lender, plus all or part of obligor equity, if an eligible project fails to receive an operating license in a period of time established by the Secretary because of a regulatory failure or other specific issue identified by the Secretary.

"(16) STANDBY INTEREST COVERAGE.—The term 'standby interest coverage' means a pledge by the Sec-

retary to provide to an obligor, at a future date and on the occurrence of 1 or more events, a direct loan, the proceeds of which shall be used by the obligor to maintain the current status of the obligor on interest payments due on 1 or more loans or other project obligations issued by an obligor and funded by a lender for an eligible project.

"(17) SUBSIDY AMOUNT.—The term 'subsidy amount' means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument issued by the Secretary to an eligible project, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(18) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means that an eligible project has been determined by the Board to be in, or capable of, commercial operation.

"(b) DUTIES OF THE SECRETARY.—

"(1) IN GENERAL.—The Secretary shall make available to eligible project developers and eligible project owners, in accordance with this section, such

financial assistance as is necessary to supplement private sector financing for eligible projects.

"(2) CLIMATE CREDIT BOARD.—

"(A) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish within the Department of Energy a Climate Credit Board composed of—

"(i) the Under Secretary of Energy, who shall serve as Chairperson;

"(ii) the Chief Financial Officer of the Department of Energy;

"(iii) the Assistant Secretary of Energy for Policy and International Affairs;

"(iv) the Assistant Secretary of Energy for Energy Efficiency and Renewable Energy; and

"(v) such other individuals as the Secretary determines to have the experience and expertise (including expertise in corporate and project finance and the energy sector) necessary to carry out the duties of the Board.

"(B) DUTIES.—The Board shall—

"(i) implement the program developed under section 1610(g)(1) in accordance with paragraph (3);

"(ii) issue regulations and criteria in accordance with paragraph (4);

"(iii) conduct negotiations with individuals and entities interested in obtaining assistance under this section;

"(iv) recommend to the Secretary potential recipients and amounts of grants of assistance under this section; and

"(v) establish metrics to indicate the progress of the greenhouse gas intensity reducing technology deployment program and individual projects carried out under the program toward meeting the criteria established by section 1610(i)(2).

"(3) GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY DEPLOYMENT PROGRAM.—Not later than 1 year after the date of enactment of this section, the Board, with the approval of the Secretary, shall implement the greenhouse gas intensity reducing technology deployment program developed under section 1610(g)(1).

"(4) REGULATIONS AND CRITERIA.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Board, in coordination with the Secretary and after an opportunity for public comment, shall issue such regulations and criteria as are necessary to implement this section.

"(B) REQUIREMENTS.—The regulations and criteria shall provide for, at a minimum—

"(i) a competitive process and the general terms and conditions for the provision of assistance under this section;

"(ii) the procedures by which eligible project owners and eligible project developers may request financial assistance under this section; and

"(iii) the collection of any other information necessary for the Secretary to carry out this section, including a process for negotiating the terms and conditions of assistance provided under this section.

"(C) ELIGIBILITY AND CRITERIA.—The determination of eligibility of, and criteria for selecting, eligible projects to receive assistance under this section shall be carried out in accord-

ance with subsection (c) and the regulations issued under subparagraph (A).

"(D) CONDITIONS FOR PROVISION OF ASSISTANCE.—The Board shall not provide assistance under this section unless the Board determines, in accordance with the regulations issued under subparagraph (A), that the terms, conditions, maturity, security, schedule, and amounts of repayments of the assistance are reasonable and appropriate to protect the financial interests of the United States.

"(5) CONFIDENTIALITY.—In accordance with section 552 of title 5, United States Code, and any related regulations applicable to the Department of Energy, the Board shall protect the confidentiality of any information provided by an applicant for assistance under this section that the applicant certifies to be commercially sensitive or that is protected intellectual property.

"(c) DETERMINATION OF ELIGIBILITY; PROJECT SELECTION.—

"(1) ELIGIBILITY.—To be eligible to receive assistance under this section, an eligible project shall, as determined by the Board—

"(A) be supported by an application that contains all information required to be included by, and is submitted to and approved by the Board in accordance with, the regulations and criteria issued by the Board under subsection (b)(4);

"(B) be nationally or regionally significant by—

"(i) reducing greenhouse gas intensity;

"(ii) contributing to energy security; and

"(iii) contributing to energy and technology diversity in the energy economy of the United States;

"(C) contain an advanced climate technology or system that could—

"(i) significantly improve the efficiency, security, reliability, and environmental performance of the energy economy of the United States; and

"(ii) reduce greenhouse gas emissions;

"(D) have revenue sources dedicated to repayment of credit support-based project financing, such as revenue—

"(i) from the sale of sequestered carbon;

"(ii) from the sale of energy, electricity, or other products from eligible projects that employ advanced climate technologies and systems;

"(iii) from the sale of electricity or generating capacity, in the case of electricity infrastructure; or

"(iv) associated with energy efficiency gains, in the case of other energy projects;

"(E) include a project proposal and agreement for project financing repayment that demonstrates to the satisfaction of the Board that the dedicated revenue sources described in subparagraph (D) will be adequate to repay project financing provided under this section; and

"(F) reduce greenhouse gas intensity on a national, regional, or company basis.

"(2) LIMITATIONS.—Except as otherwise provided in this section—

"(A) the total cost of an eligible project provided Federal financial assistance under this section shall be at least $40,000,000;

"(B) the Federal share of an eligible project provided Federal financial assistance under this

section shall be not more than 25 percent of eligible project costs;

"(C) not more than $200,000,000 in Federal financial assistance shall be provided to any individual eligible project; and

"(D) an eligible project shall not be eligible for financial assistance from any other Federal grant program during any period that Federal financial assistance (other than a Federal loan or loan guarantee) is provided to the eligible project under this section.

"(3) SELECTION AMONG ELIGIBLE PROJECTS.—

"(A) ESTABLISHMENT OF SELECTION CRITERIA.—The Board, in consultation with the Secretary and [the Interagency Coordinating Committee on Climate Change Technology established under section 1610(c)(1)], shall, in accordance with the regulations issued under subsection (b)(4)(A), establish criteria for selecting which eligible projects will receive assistance under this section.

"(B) REQUIREMENTS.—The selection criteria shall include a determination by the Board of the extent to which—

"(i) the eligible project reduces greenhouse gas intensity beyond reductions achieved by technology available as of October 15, 1992;

"(ii) financing for the eligible project has appropriate security features, such as a rate covenant, to ensure repayment;

"(iii) assistance under this section for the eligible project would foster innovative public-private partnerships and attract private debt or equity investment;

"(iv) assistance under this section for an eligible project would enable the eligible project to proceed at an earlier date than would otherwise be practicable; and

"(v) the eligible project uses new technologies that enhance the efficiency, reduce greenhouse gas intensity, improve the reliability, or improve the safety, of the eligible project.

"(C) FINANCIAL INFORMATION.—An application for assistance for an eligible project under this section shall include such information as the Secretary determines to be necessary concerning—

"(i) the amount of budget authority required to fund the Federal credit instrument requested for the eligible project;

"(ii) the estimated construction costs of the proposed eligible project;

"(iii) estimates of construction and operating costs of the eligible project;

"(iv) projected revenues from the eligible project; and

"(v) any other financial aspects of the eligible project, including assurances, that the Board determines to be appropriate.

"(D) PRELIMINARY RATING OPINION LETTER.—The Board shall require each applicant seeking assistance for an eligible project under this section to provide a preliminary rating opinion letter from at least 1 credit rating agency indicating that the senior obligations of the eligible project have the potential to achieve an investment-grade rating.

"(E) RISK ASSESSMENT.—Before entering into any agreement to provide assistance for an eligible project under this section, the Board, in consultation with the Secretary, the Director of the Office of Management and Budget, and each

credit rating agency providing a preliminary rating opinion letter under subparagraph (D), shall determine and maintain an appropriate capital reserve subsidy amount for each line of credit established for the eligible project, taking into account the information contained in the preliminary rating opinion letter.

"(F) INVESTMENT-GRADE RATING REQUIREMENT.—

"(i) IN GENERAL.—The funding of any assistance under this section shall be contingent on the senior obligations of the eligible project receiving an investment-grade rating from at least 1 credit rating agency.

"(ii) CONSIDERATIONS.—In determining whether an investment-grade rating is appropriate under clause (i), the credit rating agency shall take into account the availability of Federal financial assistance under this section.

"(4) MAXIMUM AVAILABLE CLIMATE CREDIT SUPPORT.—Notwithstanding any assistance limitation under any other provision of this section, the Secretary shall not provide energy credit support to any eligible project in the form of a secured loan or loan

guarantee under subsection (f), production incentive payments under subsection (g), or other credit-based financial assistance under subsection (h), the combined total of which exceeds 25 percent of eligible project costs, excluding the value of standby default coverage under subsection (d) and standby interest coverage under subsection (e), as determined by the Secretary.

"(d) STANDBY DEFAULT COVERAGE.—

"(1) AGREEMENTS; USE OF PROCEEDS.—

"(A) AGREEMENTS.—

"(i) IN GENERAL.—Subject to subparagraph (B), the Board, in consultation with the Secretary, may enter into agreements to provide standby default coverage for advanced climate technologies or systems of an eligible project.

"(ii) RECIPIENTS.—Coverage under clause (i) may be provided to 1 or more obligors and debt holders to be triggered at future dates on the occurrence of certain events for any eligible project selected under subsection (c).

"(B) USE OF PROCEEDS.—The proceeds of standby default coverage made available under

this subsection shall be available to reimburse all or part of the debt obligation for an eligible project issued by an obligor and funded by a lender, plus all or part of obligor equity, in the event that, because of a regulatory failure or other event specified by the Secretary pursuant to this section, an eligible advanced climate technology or system for an eligible project fails to receive an operating license in a period of time specified by the Board in accordance with this subsection.

"(2) TERMS AND LIMITATIONS.—

"(A) IN GENERAL.—Standby default coverage under this subsection with respect to an eligible project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Board determines to be appropriate.

"(B) MAXIMUM AMOUNTS.—The total amount of standby default coverage provided for an eligible project shall not exceed 25 percent of the reasonably anticipated eligible project costs, including debt and equity.

"(C) EXERCISE.—Any exercise on the standby default coverage shall be made only if a facility involved with the eligible project fails, because of regulatory failure or other specific issues specified by the Secretary, to receive an operating license by such deadline as the Secretary shall establish.

"(D) COST OF COVERAGE.—The cost of standby default coverage shall be assumed by the Secretary subject to the risk assessment calculation required under subsection (c)(4)(E) and the availability of funds for that purpose.

"(E) FEES.—In carrying out this section, the Secretary may—

"(i) establish fees at a level sufficient to cover all or a portion of the administrative costs incurred by the Federal Government in providing standby default coverage under this subsection; and

"(ii) require that the fees be paid upon application for a standby default coverage agreement under this subsection.

"(F) PERIOD OF AVAILABILITY.—In the event that regulatory approval to operate a facility is suspended as a result of regulatory failure

or other circumstances specified by the Secretary, standby default coverage shall be available beginning on the date of substantial completion and ending not later than 5 years after the date on which operation of the facility is scheduled to commence.

"(G) RIGHTS OF THIRD-PARTY CREDITORS.—

"(i) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of an obligor shall not have any right against the Federal Government with respect to any amounts other than those specified in clause (ii).

"(ii) ASSIGNMENT.—An obligor may assign all or part of the standby default coverage for an eligible project to 1 or more lenders or to a trustee on behalf of the lenders.

"(H) RESULT OF EXERCISE OF STANDBY DEFAULT COVERAGE.—If standby default coverage is exercised by the obligor of an eligible project—

"(i) the Federal Government shall become the sole owner of the eligible project,

with all rights and appurtenances to the eligible project; and

"(ii) in accordance with applicable provisions of law, the Board shall dispose of the assets of the eligible project on terms that are most favorable to the Federal Government, which may include continuing to licensing and commercial operation or resale of the eligible project, in whole or in part, if that is the best course of action in the judgment of the Board.

"(I) ESTIMATE OF ASSETS AT TIME OF TERMINATION.—If standby default coverage is exercised and an eligible project is terminated, the Board, in making a determination of whether to dispose of the assets of the eligible project or continue the eligible project to licensing and commercial operation, shall obtain a fair and impartial estimate of the eligible project assets at the time of termination.

"(J) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—An eligible project that receives standby default coverage under this subsection may receive a secured loan or loan guarantee under subsection (f), production incentive pay-

ments under subsection (g), or assistance through a credit-based financial assistance mechanism under subsection (h).

"(K) OTHER CONDITIONS AND REQUIREMENTS.—The Secretary may impose such other conditions and requirements in connection with any insurance provided under this subsection (including requirements for audits) as the Secretary determines to be appropriate.

"(e) STANDBY INTEREST COVERAGE.—

"(1) IN GENERAL.—

"(A) AGREEMENTS.—Subject to subparagraph (B), the Board, in consultation with the Secretary, may enter into agreements to make standby interest coverage available to 1 or more obligors in the form of loans for advanced climate or energy technologies or systems to be made by the Board at future dates on the occurrence of certain events for any eligible project selected under subsection (c)(4).

"(B) USE OF PROCEEDS.—Subject to subsection (c)(3), the proceeds of standby interest coverage made available under this subsection shall be available to pay the debt service on project obligations issued to finance eligible

project costs of an eligible project if a delay in commercial operations occurs due to a regulatory failure or other condition determined by the Secretary.

"(2) TERMS AND LIMITATIONS.—

"(A) IN GENERAL.—Standby interest coverage under this subsection with respect to an eligible project shall be made on such terms and conditions (including a requirement for an audit) as the Secretary determines appropriate.

"(B) MAXIMUM AMOUNTS.—

"(i) TOTAL AMOUNT.—The total amount of standby interest coverage for an eligible project under this subsection shall not exceed 25 percent of the reasonably anticipated eligible project costs of the eligible project.

"(ii) 1-YEAR DRAWS.—The amount drawn in any 1 year for an eligible project under this subsection shall not exceed 25 percent of the total amount of the standby interest coverage for the eligible project.

"(C) PERIOD OF AVAILABILITY.—The standby interest coverage for an eligible project shall be available during the period—

"(i) beginning on a date following substantial completion of the eligible project that regulatory approval to operate a facility under the eligible project is suspended as a result of regulatory failure or other condition determined by the Secretary; and

"(ii) ending on a date that is not later than 5 years after the eligible project is scheduled to commence commercial operations.

"(D) COST OF COVERAGE.—Subject to subsection (c)(4)(E), the cost of standby interest coverage for an eligible project under this subsection shall be borne by the Secretary.

"(E) DRAWS.—Any draw on the standby interest coverage for an eligible project shall—

"(i) represent a loan;

"(ii) be made only if there is a delay in commercial operations after the substantial completion of the eligible project; and

"(iii) be subject to the overall credit support limitations established under subsection (c)(5).

"(F) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate on a loan resulting from a draw on standby interest coverage under this subsection shall be established by the Secretary.

"(ii) MINIMUM RATE.—The interest rate on a loan resulting from a draw on standby interest coverage under this subsection shall not be less than the current average market yield on outstanding marketable obligations of the United States with a maturity of 10 years, as of the date on which the standby interest coverage is obligated.

"(G) SECURITY.—The standby interest coverage for an eligible project—

"(i) shall be payable, in whole or in part, from dedicated revenue sources generated by the eligible project;

"(ii) shall require security for the project obligations; and

"(iii) may have a lien on revenues described in clause (i), subject to any lien securing project obligations.

"(H) RIGHTS OF THIRD-PARTY CREDITORS.—

"(i) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on standby interest coverage under this subsection.

"(ii) ASSIGNMENT.—An obligor may assign the standby interest coverage to 1 or more lenders or to a trustee on behalf of the lenders.

"(I) SUBORDINATION.—A secured loan for an eligible project made under this subsection shall be subordinate to senior private debt issued by a lender for the eligible project.

"(J) NONRECOURSE STATUS.—A secured loan for an eligible project under this subsection shall be nonrecourse to the obligor in the event of bankruptcy, insolvency, or liquidation of the eligible project.

"(K) FEES.—The Board may impose fees at a level sufficient to cover all or part of the costs to the Federal Government of providing standby

interest coverage for an eligible project under this subsection.

"(3) REPAYMENT.—

"(A) TERMS AND CONDITIONS.—The Secretary shall establish a repayment schedule and terms and conditions for each loan for an eligible project under this subsection based on the projected cash flow from revenues for the eligible project.

"(B) REPAYMENT SCHEDULE.—Scheduled repayments of principal or interest on a loan under this subsection shall—

"(i) commence not later than 5 years after the end of the period of availability specified in paragraph (2)(C); and

"(ii) be completed, with interest, not later than 10 years after the end of the period of availability.

"(C) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this subsection shall include—

"(i) the sale of electricity or generating capacity;

"(ii) the sale or transmission of energy;

"(iii) revenues associated with energy efficiency gains; or

"(iv) other dedicated revenue sources, such as carbon use.

"(D) PREPAYMENT.—

"(i) USE OF EXCESS REVENUES.—At the discretion of the obligor, any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan, and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations, may be applied annually to prepay the secured loan without penalty.

"(ii) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

"(f) SECURED LOANS AND LOAN GUARANTEES.—

"(1) IN GENERAL.—

"(A) AGREEMENTS.—Subject to subparagraph (B), the Board, in consultation with the Secretary, may enter into agreements with 1 or

more obligors to make secured loans for eligible projects involving advanced climate technologies or systems.

"(B) USE OF PROCEEDS.—Subject to paragraph (2), the proceeds of a secured loan for an eligible project made available under this subsection shall be available, in conjunction with the equity of the obligor and senior debt financing for the eligible project, to pay for eligible project costs.

"(2) TERMS AND LIMITATIONS.—

"(A) IN GENERAL.—A secured loan under this subsection with respect to an eligible project shall be made on such terms and conditions (including requirements for an audit) as the Board, in consultation with the Secretary, determines appropriate.

"(B) MAXIMUM AMOUNT.—Subject to subsection (c)(5), the total amount of the secured loan for an eligible project under this subsection shall not exceed 25 percent of the reasonably anticipated eligible project costs of the eligible project.

"(C) PERIOD OF AVAILABILITY.—The Board may enter into a contract with the owner or op-

erator of an eligible project to provide a secured loan during the period—

"(i) beginning on the date that the financial structure of the eligible project is established; and

"(ii) ending on the date of the start of construction of the eligible project.

"(D) COST OF COVERAGE.—Subject to subsection (c)(4)(E), the cost of a secured loan for an eligible project under this subsection shall be borne by the Secretary.

"(E) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate on a secured loan under this subsection shall be established by the Secretary.

"(ii) MINIMUM RATE.—The interest rate on a loan resulting from a secured loan under this subsection shall not be less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, as of the date of the execution of the loan agreement.

"(F) SECURITY.—The secured loan—

"(i) shall be payable, in whole or in part, from dedicated revenue sources generated by the eligible project;

"(ii) shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

"(iii) may have a lien on revenues described in clause (i), subject to any lien securing project obligations.

"(G) RIGHTS OF THIRD-PARTY CREDITORS.—

"(i) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any payments due to the Federal Government under this subsection.

"(ii) ASSIGNMENT.—An obligor may assign the secured loan to 1 or more lenders or to a trustee on behalf of the lenders.

"(H) SUBORDINATION.—A secured loan for an eligible project made under this subsection shall be subordinate to senior private debt issued by a lender for the eligible project.

"(I) NONRECOURSE STATUS.—A secured loan for an eligible project under this subsection shall be non-recourse to the obligor in the event of bankruptcy, insolvency, or liquidation of the eligible project.

"(J) FEES.—The Board may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making secured loans for an eligible project under this subsection.

"(3) REPAYMENT.—

"(A) SCHEDULE AND TERMS.—The Board shall establish a repayment schedule and terms and conditions for each secured loan for an eligible project under this subsection based on the projected cash flow from revenues for the eligible project.

"(B) REPAYMENT SCHEDULE.—Scheduled repayments on a secured loan for an eligible project under this subsection shall—

"(i) commence not later than 5 years after the scheduled start of commercial operations of the eligible project; and

"(ii) be completed, with interest, not later than 35 years after the scheduled date

of the start of commercial operations of the eligible project.

"(C) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this subsection shall include—

"(i) the sale of carbon or carbon compounds;

"(ii) the sale of electricity or generating capacity;

"(iii) the sale of sequestration services;

"(iv) the sale or transmission of energy;

"(v) revenues associated with energy efficiency gains; or

"(vi) other dedicated revenue sources.

"(D) DEFERRED PAYMENTS.—

"(i) AUTHORIZATION.—If, at any time during the 10-year period beginning on the date of the scheduled start of commercial operation of an eligible project, the eligible project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal or interest on the secured loan, the Secretary may, subject to clause (iii), allow the obligor to add unpaid principal

or interest to the outstanding balance of the secured loan.

"(ii) INTEREST.—Any payment deferred under clause (i) shall—

"(I) continue to accrue interest in accordance with paragraph (2)(E) until fully repaid; and

"(II) be scheduled to be amortized over the number of years remaining in the term of the loan in accordance with subparagraph (B).

"(iii) CRITERIA.—

"(I) IN GENERAL.—Any payment deferral under clause (i) shall be contingent on the eligible project meeting criteria established by the Secretary.

"(II) REPAYMENT STANDARDS.—The criteria established under subclause (I) shall include standards for reasonable assurance of repayment.

"(E) PREPAYMENT.—

"(i) USE OF EXCESS REVENUES.—At the discretion of the obligor, any excess revenues that remain after satisfying scheduled debt service requirements on the project obli-

gations and secured loan, and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations, may be applied annually to prepay the secured loan without penalty.

"(ii) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

"(4) SALE OF SECURED LOANS.—

"(A) IN GENERAL.—Subject to subparagraph (B), as soon as practicable after substantial completion of an eligible project and after notifying the obligor, the Board may sell to another entity or reoffer into the capital markets a secured loan for the eligible project if the Board determines that the sale or reoffering can be made on favorable terms.

"(B) CONSENT OF OBLIGOR.—In making a sale or reoffering under subparagraph (A), the Board may not change the original terms and conditions of the secured loan without the written consent of the obligor.

"(5) LOAN GUARANTEES.—

"(A) IN GENERAL.—The Board may provide a loan guarantee to a lender, in lieu of making a secured loan, under this subsection if the Board determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

"(B) TERMS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the terms of a guaranteed loan shall be consistent with the terms for a secured loan under this subsection.

"(ii) INTEREST RATE; PREPAYMENT.—The interest rate on the guaranteed loan and any prepayment features shall be established by negotiations between the obligor and the lender, with the consent of the Board.

"(g) PRODUCTION INCENTIVE PAYMENTS.—

"(1) SECURED LOAN.—

"(A) IN GENERAL.—The Secretary may enter into an agreement with 1 or more obligors to make a secured loan for an eligible project selected under subsection (c)(4) that employs 1 or more advanced climate technologies or systems.

"(B) PRODUCTION INCENTIVE PAYMENTS.—

"(i) IN GENERAL.—Amounts loaned to an obligor under subparagraph (A) shall be made available in the form of a series of production incentive payments provided by the Board to the obligor during a period of not more than 10 years, as determined by the Board, beginning after the date on which commercial project operations start at the eligible project.

"(ii) AMOUNT.—Production incentive payments under clause (i) shall be for an amount equal to 25 percent of the value of—

"(I) the energy produced or transmitted by the eligible project during the applicable year; or

"(II) any gains in energy efficiency achieved by the eligible project during the applicable year.

"(2) TERMS AND LIMITATIONS.—

"(A) IN GENERAL.—A secured loan under this subsection shall be subject to such terms and conditions, including any covenant, representation, warranty, and requirement (including a re-

quirement for an audit) that the Secretary determines to be appropriate.

"(B) AGREEMENT COSTS.—Subject to subsection (c)(4), the cost of carrying out an agreement entered into under paragraph (1)(A) shall be paid by the Secretary.

"(C) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate on a secured loan under this subsection shall be established by the Secretary.

"(ii) MINIMUM RATE.—The interest rate on a secured loan under this subsection shall not be less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, as of the date on which the agreement under paragraph (1)(A) is executed.

"(D) SECURITY.—The secured loan—

"(i) shall be payable, in whole or in part, from dedicated revenue sources generated by the eligible project;

"(ii) shall include a rate covenant, coverage requirement, or similar security fea-

ture supporting the eligible project obligations; and

"(iii) may have a lien on revenues described in clause (i), subject to any lien securing eligible project obligations.

"(E) RIGHTS OF THIRD-PARTY CREDITORS.—

"(i) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any payments due to the Federal Government under the agreement entered into under paragraph (1)(A).

"(ii) ASSIGNMENT.—An obligor may assign production incentive payments to 1 or more lenders or to a trustee on behalf of the lenders.

"(F) SUBORDINATION.—A secured loan under this subsection shall be subordinate to senior private debt issued by a lender for the eligible project.

"(G) NONRECOURSE STATUS.—A secured loan under this subsection shall be nonrecourse to

the obligor in the event of bankruptcy, insolvency, or liquidation of the eligible project.

"(H) FEES.—The Secretary may impose fees at a level sufficient to cover all or part of the costs to the Federal Government of providing production incentive payments under this subsection.

"(3) REPAYMENT.—

"(A) SCHEDULE, TERMS, AND CONDITIONS.—The Secretary shall establish a repayment schedule and terms and conditions for each secured loan under this subsection based on the projected cash flow from revenues of the eligible project.

"(B) REPAYMENT SCHEDULE.—Scheduled repayments of principal or interest on a secured loan under this subsection shall—

"(i) commence not later than 5 years after the date on which the last production incentive payment is made by the Board under paragraph (1)(B); and

"(ii) be completed, with interest, not later than 10 years after the date on which the last production incentive payment is made.

"(C) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this subsection include—

"(i) the sale of electricity or generating capacity,

"(ii) the sale or transmission of energy;

"(iii) revenues associated with energy efficiency gains; or

"(iv) other dedicated revenue sources.

"(D) DEFERRED PAYMENTS.—

"(i) AUTHORIZATION.—If, at any time during the 10-year period beginning on the date on which commercial operations of the eligible project start, the eligible project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal or interest on a secured loan under this subsection, the Secretary may, subject to criteria established by the Secretary (including standards for reasonable assurances of repayment), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

"(ii) INTEREST.—Any payment deferred under clause (i) shall—

"(I) continue to accrue interest in accordance with paragraph (2)(C) until fully repaid; and

"(II) be scheduled to be amortized over the number of years remaining in the term of the loan in accordance with subparagraph (B).

"(E) PREPAYMENT.—

"(i) USE OF EXCESS REVENUES.—At the discretion of the obligor, any excess revenues that remain after satisfying scheduled debt service requirements on the eligible project obligations and the secured loan, and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing eligible project obligations, may be applied annually to prepay loans pursuant to an agreement entered into under paragraph (1)(A) without penalty.

"(ii) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

"(4) SALE OF SECURED LOANS.—

"(A) IN GENERAL.—Subject to subparagraph (B), as soon as practicable after the date on which the last production incentive payment is made to the obligor under paragraph (1)(B) and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the eligible project if the Secretary determines that the sale or reoffering can be made on favorable terms.

"(B) CONSENT REQUIRED.—In making a sale or reoffering under subparagraph (A), the Board may not change the original terms and conditions of the secured loan without the written consent of the obligor.

"(h) OTHER CREDIT-BASED FINANCIAL ASSISTANCE MECHANISMS FOR ELIGIBLE PROJECTS.—

"(1) IN GENERAL.—

"(A) AGREEMENTS.—The Board may enter into an agreement with 1 or more obligors to make a secured loan to the obligors for eligible projects selected under subsection (c) that employ advanced technologies or systems, the proceeds of which shall be used to—

"(i) finance eligible project costs; or

"(ii) enhance eligible project revenues.

"(B) CREDIT-BASED FINANCIAL ASSISTANCE.—Amounts made available as a secured loan under subparagraph (A) shall be provided by the Board to the obligor in the form of credit-based financial assistance mechanisms that are not otherwise specifically provided for in subsections (d) through (g), as determined to be appropriate by the Secretary.

"(2) TERMS AND LIMITATIONS.—

"(A) IN GENERAL.—A secured loan under this subsection shall be subject to such terms and conditions (including any covenants, representations, warranties, and requirements (including a requirement for an audit)) as the Secretary determines to be appropriate.

"(B) MAXIMUM AMOUNT.—Subject to subsection (c)(5), the total amount of the secured loan under this subsection shall not exceed 50 percent of the reasonably anticipated eligible project costs.

"(C) PERIOD OF AVAILABILITY.—The Board may enter into a contract with the obligor to provide credit-based financial assistance to an eligible project during the period—

"(i) beginning on the date that the financial structure of the eligible project is established; and

"(ii) ending on the date of the start of construction of the eligible project.

"(D) AGREEMENT COSTS.—Subject to subsection (c)(4)(E), the cost of carrying out an agreement entered into under paragraph (1)(A) shall be paid by the Board.

"(E) INTEREST RATE.—

"(i) IN GENERAL.—Subject to clause (ii), the interest rate on a secured loan under this subsection shall be established by the Board.

"(ii) MINIMUM RATE.—The interest rate on a secured loan under this subsection shall not be less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, as of the date of the execution of the secured loan agreement.

"(F) SECURITY.—The secured loan—

"(i) shall be payable, in whole or in part, from dedicated revenue sources generated by the eligible project;

"(ii) shall include a rate covenant, coverage requirement, or similar security feature supporting the eligible project obligations; and

"(iii) may have a lien on revenues described in clause (i), subject to any lien securing eligible project obligations.

"(G) RIGHTS OF THIRD-PARTY CREDITORS.—

"(i) AGAINST FEDERAL GOVERNMENT.—A third-party creditor of the obligor shall not have any right against the Federal Government with respect to any payments due to the Federal Government under this subsection.

"(ii) ASSIGNMENT.—An obligor may assign payments made pursuant to an agreement to provide credit-based financial assistance under this subsection to 1 or more lenders or to a trustee on behalf of the lenders.

"(H) SUBORDINATION.—A secured loan under this subsection shall be subordinate to senior private debt issued by a lender for the eligible project.

"(I) NONRECOURSE STATUS.—A secured loan under this subsection shall be nonrecourse to the obligor in the event of bankruptcy, insolvency, or liquidation of the eligible project.

"(J) FEES.—The Board may establish fees at a level sufficient to cover all or part of the costs to the Federal Government of providing credit-based financial assistance under this subsection.

"(3) REPAYMENT.—

"(A) SCHEDULE AND TERMS AND CONDITIONS.—The Board shall establish a repayment schedule and terms and conditions for each secured loan under this subsection based on the projected cash flow from eligible project revenues.

"(B) REPAYMENT SCHEDULE.—Scheduled loan repayments of principal or interest on a secured loan under this subsection shall—

"(i) commence not later than 5 years after the date of substantial completion of the eligible project; and

"(ii) be completed, with interest, not later than 35 years after the date of substantial completion of the eligible project.

"(C) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this subsection shall include—

"(i) the sale of electricity or generating capacity;

"(ii) the sale or transmission of energy;

"(iii) revenues associated with energy efficiency gains; or

"(iv) other dedicated revenue sources, such as carbon sequestration.

"(D) DEFERRED PAYMENTS.—

"(i) AUTHORIZATION.—If, at any time during the 10-year period beginning on the date of the start of commercial operations of the eligible project, the eligible project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal or interest on a secured loan under this subsection, the Secretary may, subject to criteria established by the Secretary (including standards for reasonable assurances of repayment), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

"(ii) INTEREST.—Any payment deferred under clause (i) shall—

"(I) continue to accrue interest in accordance with paragraph (2)(E) until fully repaid; and

"(II) be scheduled to be amortized over the number of years remaining in the term of the loan in accordance with subparagraph (B).

"(E) PREPAYMENT.—

"(i) USE OF EXCESS REVENUES.—At the discretion of the obligor, any excess revenues that remain after satisfying scheduled debt service requirements on the eligible project obligations and secured loan, and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing eligible project obligations, may be applied annually to prepay a secured loan under this subsection without penalty.

"(ii) USE OF PROCEEDS OF REFINANCING.—A secured loan under this subsection may be prepaid at any time without

penalty from the proceeds of refinancing from non-Federal funding sources.

"(4) SALE OF SECURED LOANS.—

"(A) IN GENERAL.—Subject to subparagraph (B), as soon as practicable after the start of commercial operations of an eligible project and after notifying the obligor, the Board may sell to another entity or reoffer into the capital markets a secured loan for the eligible project under this subsection if the Secretary determines that the sale or reoffering can be made on favorable terms.

"(B) CONSENT OF OBLIGOR.—In making a sale or reoffering under subparagraph (A), the Board may not change the original terms and conditions of the secured loan without the written consent of the obligor.

"(i) FEDERAL, STATE, AND LOCAL REGULATORY REQUIREMENTS.—The provision of Federal financial assistance to an eligible project under this section shall not—

"(1) relieve any recipient of the assistance of any obligation to obtain any required Federal, State, or local regulatory requirement, permit, or approval with respect to the eligible project;

"(2) limit the right of any unit of Federal, State, or local government to approve or regulate any rate of return on private equity invested in the eligible project; or

"(3) otherwise supersede any Federal, State, or local law (including any regulation) applicable to the construction or operation of the eligible project.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010, to remain available until expended.".

Subtitle B—Climate Change Technology Deployment in Developing Countries

SEC. 1611. CLIMATE CHANGE TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES.

The Global Environmental Protection Assistance Act of 1989 (Public Law 101–240; 103 Stat. 2521) is amending by adding at the end the following:

"PART C—TECHNOLOGY DEPLOYMENT IN DEVELOPING COUNTRIES

"SEC. 731. DEFINITIONS.

"In this part:

"(1) CARBON SEQUESTRATION.—The term 'carbon sequestration' means the capture of carbon diox-

ide through terrestrial, geological, biological, or other means, which prevents the release of carbon dioxide into the atmosphere.

"(2) GREENHOUSE GAS.—The term 'greenhouse gas' means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

"(3) GREENHOUSE GAS INTENSITY.—The term 'greenhouse gas intensity' means the ratio of greenhouse gas emissions to economic output.

"SEC. 732. REDUCTION OF GREENHOUSE GAS INTENSITY.

"(a) LEAD AGENCY.—

"(1) IN GENERAL.—The Department of State shall act as the lead agency for integrating into United States foreign policy the goal of reducing greenhouse gas intensity in developing countries.

"(2) REPORTS.—

"(A) INITIAL REPORT.—Not later than 180 days after the date of enactment of this part, the Secretary of State shall submit to the appropriate authorizing and appropriating committees of Congress an initial report, based on the most recent information available to the Secretary from reliable public sources, that identifies the 25 developing countries that are the

greenhouse gas emitters, including for each country—

"(i) an estimate of the quantity and types of energy used;

"(ii) an estimate of the greenhouse gas intensity of the energy, manufacturing, agricultural, and transportation sectors;

"(iii) a description the progress of any significant projects undertaken to reduce greenhouse gas intensity;

"(iv) a description of the potential for undertaking projects to reduce greenhouse gas intensity;

"(v) a description of any obstacles to the reduction of greenhouse gas intensity; and

"(vi) a description of the best practices learned by the Agency for International Development from conducting previous pilot and demonstration projects to reduce greenhouse gas intensity.

"(B) UPDATE.—Not later than 18 months after the date on which the initial report is submitted under subparagraph (A), the Secretary shall submit to the appropriate authorizing and

appropriating committees of Congress, based on the best information available to the Secretary, an update of the information provided in the initial report.

"(C) USE.—

"(i) INITIAL REPORT.—The Secretary of State shall use the initial report submitted under subparagraph (A) to establish baselines for the developing countries identified in the report with respect to the information provided under clauses (i) and (ii) of that subparagraph.

"(ii) ANNUAL REPORTS.—The Secretary of State shall use the annual reports prepared under subparagraph (B) and any other information available to the Secretary to track the progress of the developing countries with respect to reducing greenhouse gas intensity.

"(b) PROJECTS.—The Secretary of State, in coordination with Administrator of the United States Agency for International Development, shall (directly or through agreements with the World Bank, the International Monetary Fund, the Overseas Private Investment Corporation, and other development institutions) provide assistance to devel-

oping countries specifically for projects to reduce greenhouse gas intensity, including projects to—

"(1) leverage, through bilateral agreements, funds for reduction of greenhouse gas intensity;

"(2) increase private investment in projects and activities to reduce greenhouse gas intensity; and

"(3) expedite the deployment of technology to reduce greenhouse gas intensity.

"(c) FOCUS.—In providing assistance under subsection (b), the Secretary of State shall focus on—

"(1) promoting the rule of law, property rights, contract protection, and economic freedom; and

"(2) increasing capacity, infrastructure, and training.

"(d) PRIORITY.—In providing assistance under subsection (b), the Secretary of State shall give priority to projects in the 25 developing countries identified in the report submitted under subsection (a)(2)(A).

"SEC. 733. TECHNOLOGY INVENTORY FOR DEVELOPING COUNTRIES.

"(a) IN GENERAL.—The Secretary of State, in coordination with the Secretary of Energy and the Secretary of Commerce, shall conduct an inventory of greenhouse gas intensity reducing technologies that are developed, or under development in the United States, to identify technologies

that are suitable for transfer to, deployment in, and commercialization in the developing countries identified in the report submitted under section 732(a)(2)(A).

"(b) REPORT.—Not later than 180 days after the completion of the inventory under subsection (a), the Secretary of State and the Secretary of Energy shall jointly submit to Congress a report that—

"(1) includes the results of the completed inventory;

"(2) identifies obstacles to the transfer, deployment, and commercialization of the inventoried technologies;

"(3) includes results from previous Federal reports related to the inventoried technologies; and

"(4) includes an analysis of market forces related to the inventoried technologies.

"SEC. 734. TRADE-RELATED BARRIERS TO EXPORT OF GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGIES.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of this part, the United States Trade Representative shall (as appropriate and consistent with applicable bilateral, regional, and mutual trade agreements)—

"(1) identify trade-relations barriers maintained by foreign countries to the export of greenhouse gas

intensity reducing technologies and practices from the United States to the developing countries identified in the report submitted under section 732(a)(2)(A); and

"(2) negotiate with foreign countries for the removal of those barriers.

"(b) ANNUAL REPORT.—Not later than 1 year after the date on which a report is submitted under subsection (a)(1) and annually thereafter, the United States Trade Representative shall submit to Congress a report that describes any progress made with respect to removing the barriers identified by the United States Trade Representative under subsection (a)(1).

"SEC. 735. GREENHOUSE GAS INTENSITY REDUCING TECHNOLOGY EXPORT INITIATIVE.

"(a) IN GENERAL.—There is established an interagency working group to carry out a Greenhouse Gas Intensity Reducing Technology Export Initiative to—

"(1) promote the export of greenhouse gas intensity reducing technologies and practices from the United States;

"(2) identify developing countries that should be designated as priority countries for the purpose of exporting greenhouse gas intensity reducing technologies and practices, based on the report submitted under section 732(a)(2)(A);

"(3) identify potential barriers to adoption of exported greenhouse gas intensity reducing technologies and practices based on the reports submitted under section 734; and

"(4) identify previous efforts to export energy technologies to learn best practices.

"(b) COMPOSITION.—The working group shall be composed of—

"(1) the Secretary of State, who shall act as the head of the working group;

"(2) the Administrator of the United States Agency for International Development;

"(3) the United States Trade Representative;

"(4) a designee of the Secretary of Energy; and

"(5) a designee of the Secretary of Commerce.

"(c) PERFORMANCE REVIEWS AND REPORTS.—Not later than 180 days after the date of enactment of this part and each year thereafter, the interagency working group shall—

"(1) conduct a performance review of actions taken and results achieved by the Federal Government (including each of the agencies represented on the interagency working group) to promote the export of greenhouse gas intensity reducing technologies and practices from the United States; and

"(2) submit to the appropriate authorizing and appropriating committees of Congress a report that describes the results of the performance reviews and evaluates progress in promoting the export of greenhouse gas intensity reducing technologies and practices from the United States, including any recommendations for increasing the export of the technologies and practices.

"SEC. 736. TECHNOLOGY DEMONSTRATION PROJECTS.

"(a) IN GENERAL.—The Secretary of State, in coordination with the Secretary of Energy and the Administrator of the United States Agency for International Development, shall promote the adoption of technologies and practices that reduce greenhouse gas intensity in developing countries in accordance with this section.

"(b) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—The Secretaries and the Administrator shall plan, coordinate, and carry out, or provide assistance for the planning, coordination, or carrying out of, demonstration projects under this section in at least 10 eligible countries, as determined by the Secretaries and the Administrator.

"(2) ELIGIBILITY.—A country shall be eligible for assistance under this subsection if the Secretaries

and the Administrator determine that the country has demonstrated a commitment to—

"(A) just governance, including—

"(i) promoting the rule of law;

"(ii) respecting human and civil rights;

"(iii) protecting private property rights; and

"(iv) combating corruption; and

"(B) economic freedom, including economic policies that—

"(i) encourage citizens and firms to participate in global trade and international capital markets;

"(ii) promote private sector growth and the sustainable management of natural resources; and

"(iii) strengthen market forces in the economy.

"(3) SELECTION.—In determining which eligible countries to provide assistance to under paragraph (1), the Secretaries and the Administrator shall consider—

"(A) the opportunity to reduce greenhouse gas intensity in the eligible country; and

"(B) the opportunity to generate economic growth in the eligible country.

"(4) TYPES OF PROJECTS.—Demonstration projects under this section may include—

"(A) coal gasification, coal liquefaction, and clean coal projects;

"(B) carbon sequestration projects;

"(C) cogeneration technology initiatives;

"(D) renewable projects; and

"(E) lower emission transportation.

"SEC. 737. FELLOWSHIP AND EXCHANGE PROGRAMS.

"The Secretary of State, in coordination with the Secretary of Energy, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall carry out fellowship and exchange programs under which officials from developing countries visit the United States to acquire expertise and knowledge of best practices to reduce greenhouse gas intensity in their countries.

"SEC. 738. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as are necessary to carry out this part (other than section 736).

"SEC. 739. EFFECTIVE DATE.

"Except as otherwise provided in this part, this part takes effect on October 1, 2005.".

SEC. 1612. SENSE OF THE SENATE ON CLIMATE CHANGE.

(a) FINDINGS.—Congress finds that—

(1) greenhouse gases accumulating in the atmosphere are causing average temperatures to rise at a rate outside the range of natural variability and are posing a substantial risk of rising sea-levels, altered patterns of atmospheric and oceanic circulation, and increased frequency and severity of floods and droughts;

(2) there is a growing scientific consensus that human activity is a substantial cause of greenhouse gas accumulation in the atmosphere; and

(3) mandatory steps will be required to slow or stop the growth of greenhouse gas emissions into the atmosphere.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should enact a comprehensive and effective national program of mandatory, market-based limits and incentives on emissions of greenhouse gases that slow, stop, and reverse the growth of such emissions at a rate and in a manner that—

(1) will not significantly harm the United States economy; and

(2) will encourage comparable action by other nations that are major trading partners and key contributors to global emissions.

Attest:

Secretary.

109th CONGRESS
1st Session

H. R. 6

AMENDMENT