MAY 20, 2016

# RULES COMMITTEE PRINT 114-55

# TEXT OF HOUSE AMENDMENT TO S. 2012, ENERGY POLICY MODERNIZATION ACT OF 2016

**[Showing the text of North American Energy Security and Infrastructure Act of 2016.]**

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

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# DIVISION A—NORTH AMERICAN ENERGY SECURITY AND INFRASTRUCTURE

**SEC. 1. SHORT TITLE.**

This division may be cited as the ''North American Energy Security and Infrastructure Act of 2016''.

# TITLE I—MODERNIZING AND PROTECTING INFRASTRUCTURE

## Subtitle A—Energy Delivery, Reliability, and Security

**SEC. 1101. FERC PROCESS COORDINATION.**

Section 15 of the Natural Gas Act (15 U.S.C. 717n) is amended—

(1) by amending subsection (b)(2) to read as follows:

"(2) OTHER AGENCIES.—

"(A) IN GENERAL.—Each Federal and State agency considering an aspect of an application for Federal authorization shall cooperate with the Commission and comply with the deadlines established by the Commission.

"(B) IDENTIFICATION.—The Commission shall identify, as early as practicable after it is notified by a prospective applicant of a potential project requiring Commission authorization, any Federal or State agency, local government, or Indian tribe that may consider an aspect of an application for that Federal authorization.

"(C) NOTIFICATION.—

"(i) IN GENERAL.—The Commission shall notify any agency identified under

subparagraph (B) of the opportunity to cooperate or participate in the review process.

"(ii) DEADLINE.—A notification issued under clause (i) shall establish a deadline by which a response to the notification shall be submitted, which may be extended by the Commission for good cause.";

(2) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by redesignating subparagraph (B) as subparagraph (C); and

(iii) by inserting after subparagraph (A) the following new subparagraph:

"(B) set deadlines for all such Federal authorizations; and";

(B) by striking paragraph (2); and

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

"(2) DEADLINE FOR FEDERAL AUTHORIZATIONS.—A final decision on a Federal authorization is due no later than 90 days after the Commission

issues its final environmental document, unless a schedule is otherwise established by Federal law.

"(3) CONCURRENT REVIEWS.—Each Federal and State agency considering an aspect of an application for a Federal authorization shall—

"(A) carry out the obligations of that agency under applicable law concurrently, and in conjunction, with the review required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the agency to conduct needed analysis or otherwise carry out those obligations;

"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of required Federal authorizations no later than 90 days after the Commission issues its final environmental document; and

"(C) transmit to the Commission a statement—

"(i) acknowledging receipt of the schedule established under paragraph (1); and

"(ii) setting forth the plan formulated under subparagraph (B) of this paragraph.

"(4) ISSUE IDENTIFICATION AND RESOLUTION.—

"(A) IDENTIFICATION.—Federal and State agencies that may consider an aspect of an application for Federal authorization shall identify, as early as possible, any issues of concern that may delay or prevent an agency from working with the Commission to resolve such issues and granting such authorization.

"(B) ISSUE RESOLUTION.—The Commission may forward any issue of concern identified under subparagraph (A) to the heads of the relevant agencies (including, in the case of a failure by the State agency, the Federal agency overseeing the delegated authority) for resolution.

"(5) FAILURE TO MEET SCHEDULE.—If a Federal or State agency does not complete a proceeding for an approval that is required for a Federal authorization in accordance with the schedule established by the Commission under paragraph (1)—

"(A) the applicant may pursue remedies under section 19(d); and

"(B) the head of the relevant Federal agency (including, in the case of a failure by a State agency, the Federal agency overseeing the delegated authority) shall notify Congress and the Commission of such failure and set forth a recommended implementation plan to ensure completion of the proceeding for an approval.";

(3) by redesignating subsections (d) through (f) as subsections (g) through (i), respectively; and

(4) by inserting after subsection (c) the following new subsections:

"(d) REMOTE SURVEYS.—If a Federal or State agency considering an aspect of an application for Federal authorization requires the applicant to submit environmental data, the agency shall consider any such data gathered by aerial or other remote means that the applicant submits. The agency may grant a conditional approval for Federal authorization, conditioned on the verification of such data by subsequent onsite inspection.

"(e) APPLICATION PROCESSING.—The Commission, and Federal and State agencies, may allow an applicant seeking Federal authorization to fund a third-party contractor to assist in reviewing the application.

"(f) ACCOUNTABILITY, TRANSPARENCY, EFFICIENCY.—For applications requiring multiple Federal au-

thorizations, the Commission, with input from any Federal or State agency considering an aspect of an application, shall track and make available to the public on the Commission's website information related to the actions required to complete permitting, reviews, and other actions required. Such information shall include the following:

"(1) The schedule established by the Commission under subsection (c)(1).

"(2) A list of all the actions required by each applicable agency to complete permitting, reviews, and other actions necessary to obtain a final decision on the Federal authorization.

"(3) The expected completion date for each such action.

"(4) A point of contact at the agency accountable for each such action.

"(5) In the event that an action is still pending as of the expected date of completion, a brief explanation of the reasons for the delay.".

**SEC. 1102. RESOLVING ENVIRONMENTAL AND GRID RELIABILITY CONFLICTS.**

(a) COMPLIANCE WITH OR VIOLATION OF ENVIRONMENTAL LAWS WHILE UNDER EMERGENCY ORDER.—Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) With respect to an order issued under this subsection that may result in a conflict with a requirement of any Federal, State, or local environmental law or regulation, the Commission shall ensure that such order requires generation, delivery, interchange, or transmission of electric energy only during hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable, is consistent with any applicable Federal, State, or local environmental law or regulation and minimizes any adverse environmental impacts.

"(3) To the extent any omission or action taken by a party, that is necessary to comply with an order issued under this subsection, including any omission or action taken to voluntarily comply with such order, results in noncompliance with, or causes such party to not comply with, any Federal, State, or local environmental law or regulation, such omission or action shall not be considered a violation of such environmental law or regulation, or subject such party to any requirement, civil or criminal liability, or a citizen suit under such environmental law or regulation.

"(4)(A) An order issued under this subsection that may result in a conflict with a requirement of any Federal,

State, or local environmental law or regulation shall expire not later than 90 days after it is issued. The Commission may renew or reissue such order pursuant to paragraphs (1) and (2) for subsequent periods, not to exceed 90 days for each period, as the Commission determines necessary to meet the emergency and serve the public interest.

"(B) In renewing or reissuing an order under subparagraph (A), the Commission shall consult with the primary Federal agency with expertise in the environmental interest protected by such law or regulation, and shall include in any such renewed or reissued order such conditions as such Federal agency determines necessary to minimize any adverse environmental impacts to the extent practicable. The conditions, if any, submitted by such Federal agency shall be made available to the public. The Commission may exclude such a condition from the renewed or reissued order if it determines that such condition would prevent the order from adequately addressing the emergency necessitating such order and provides in the order, or otherwise makes publicly available, an explanation of such determination.

"(5) If an order issued under this subsection is subsequently stayed, modified, or set aside by a court pursuant to section 313 or any other provision of law, any omission or action previously taken by a party that was necessary

to comply with the order while the order was in effect, including any omission or action taken to voluntarily comply with the order, shall remain subject to paragraph (3).''.

(b) TEMPORARY CONNECTION OR CONSTRUCTION BY MUNICIPALITIES.—Section 202(d) of the Federal Power Act (16 U.S.C. 824a(d)) is amended by inserting ''or municipality'' before ''engaged in the transmission or sale of electric energy''.

**SEC. 1103. EMERGENCY PREPAREDNESS FOR ENERGY SUPPLY DISRUPTIONS.**

(a) FINDING.—Congress finds that recent natural disasters have underscored the importance of having resilient oil and natural gas infrastructure and energy storage and effective ways for industry and government to communicate to address energy supply disruptions.

(b) AUTHORIZATION FOR ACTIVITIES TO ENHANCE EMERGENCY PREPAREDNESS FOR NATURAL DISASTERS.—The Secretary of Energy shall develop and adopt procedures to—

(1) improve communication and coordination between the Department of Energy's energy response team, Federal partners, and industry;

(2) leverage the Energy Information Administration's subject matter expertise within the Depart-

ment's energy response team to improve supply chain situation assessments;

(3) establish company liaisons and direct communication with the Department's energy response team to improve situation assessments;

(4) streamline and enhance processes for obtaining temporary regulatory relief to speed up emergency response and recovery;

(5) facilitate and increase engagement among States, the oil and natural gas industry, the energy storage industry, and the Department in developing State and local energy assurance plans;

(6) establish routine education and training programs for key government emergency response positions with the Department and States; and

(7) involve States, the energy storage industry, and the oil and natural gas industry in comprehensive drill and exercise programs.

(c) COOPERATION.—The activities carried out under subsection (b) shall include collaborative efforts with State and local government officials and the private sector.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report describing the effectiveness of the activities authorized under this section.

**SEC. 1104. CRITICAL ELECTRIC INFRASTRUCTURE SECURITY.**

(a) CRITICAL ELECTRIC INFRASTRUCTURE SECURITY.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding after section 215 the following new section:

**"SEC. 215A. CRITICAL ELECTRIC INFRASTRUCTURE SECURITY.**

"(a) DEFINITIONS.—For purposes of this section:

"(1) BULK-POWER SYSTEM; ELECTRIC RELIABILITY ORGANIZATION; REGIONAL ENTITY.—The terms 'bulk-power system', 'Electric Reliability Organization', and 'regional entity' have the meanings given such terms in paragraphs (1), (2), and (7) of section 215(a), respectively.

"(2) CRITICAL ELECTRIC INFRASTRUCTURE.—The term 'critical electric infrastructure' means a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters.

"(3) CRITICAL ELECTRIC INFRASTRUCTURE INFORMATION.—The term 'critical electric infrastructure information' means information related to critical electric infrastructure, or proposed critical elec-

trical infrastructure, generated by or provided to the Commission or other Federal agency, other than classified national security information, that is designated as critical electric infrastructure information by the Commission under subsection (d)(2). Such term includes information that qualifies as critical energy infrastructure information under the Commission's regulations.

"(4) DEFENSE CRITICAL ELECTRIC INFRASTRUCTURE.—The term 'defense critical electric infrastructure' means any electric infrastructure located in the United States (including the territories) that serves a facility designated by the Secretary pursuant to subsection (c), but is not owned or operated by the owner or operator of such facility.

"(5) ELECTROMAGNETIC PULSE.—The term 'electromagnetic pulse' means 1 or more pulses of electromagnetic energy emitted by a device capable of disabling or disrupting operation of, or destroying, electronic devices or communications networks, including hardware, software, and data, by means of such a pulse.

"(6) GEOMAGNETIC STORM.—The term 'geomagnetic storm' means a temporary disturbance of

the Earth's magnetic field resulting from solar activity.

"(7) GRID SECURITY EMERGENCY.—The term 'grid security emergency' means the occurrence or imminent danger of—

"(A)(i) a malicious act using electronic communication or an electromagnetic pulse, or a geomagnetic storm event, that could disrupt the operation of those electronic devices or communications networks, including hardware, software, and data, that are essential to the reliability of critical electric infrastructure or of defense critical electric infrastructure; and

"(ii) disruption of the operation of such devices or networks, with significant adverse effects on the reliability of critical electric infrastructure or of defense critical electric infrastructure, as a result of such act or event; or

"(B)(i) a direct physical attack on critical electric infrastructure or on defense critical electric infrastructure; and

"(ii) significant adverse effects on the reliability of critical electric infrastructure or of defense critical electric infrastructure as a result of such physical attack.

"(8) GRID SECURITY VULNERABILITY.—The term 'grid security vulnerability' means a weakness that, in the event of a malicious act using an electromagnetic pulse, would pose a substantial risk of disruption to the operation of those electrical or electronic devices or communications networks, including hardware, software, and data, that are essential to the reliability of the bulk-power system.

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

"(b) AUTHORITY TO ADDRESS GRID SECURITY EMERGENCY.—

"(1) AUTHORITY.—Whenever the President issues and provides to the Secretary a written directive or determination identifying a grid security emergency, the Secretary may, with or without notice, hearing, or report, issue such orders for emergency measures as are necessary in the judgment of the Secretary to protect or restore the reliability of critical electric infrastructure or of defense critical electric infrastructure during such emergency. As soon as practicable but not later than 180 days after the date of enactment of this section, the Secretary shall, after notice and opportunity for comment, es-

tablish rules of procedure that ensure that such authority can be exercised expeditiously.

"(2) NOTIFICATION OF CONGRESS.—Whenever the President issues and provides to the Secretary a written directive or determination under paragraph (1), the President shall promptly notify congressional committees of relevant jurisdiction, including the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, of the contents of, and justification for, such directive or determination.

"(3) CONSULTATION.—Before issuing an order for emergency measures under paragraph (1), the Secretary shall, to the extent practicable in light of the nature of the grid security emergency and the urgency of the need for action, consult with appropriate governmental authorities in Canada and Mexico, entities described in paragraph (4), the Electricity Sub-sector Coordinating Council, the Commission, and other appropriate Federal agencies regarding implementation of such emergency measures.

"(4) APPLICATION.—An order for emergency measures under this subsection may apply to—

"(A) the Electric Reliability Organization;

"(B) a regional entity; or

"(C) any owner, user, or operator of critical electric infrastructure or of defense critical electric infrastructure within the United States.

"(5) EXPIRATION AND REISSUANCE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an order for emergency measures issued under paragraph (1) shall expire no later than 15 days after its issuance.

"(B) EXTENSIONS.—The Secretary may reissue an order for emergency measures issued under paragraph (1) for subsequent periods, not to exceed 15 days for each such period, provided that the President, for each such period, issues and provides to the Secretary a written directive or determination that the grid security emergency identified under paragraph (1) continues to exist or that the emergency measure continues to be required.

"(6) COST RECOVERY.—

"(A) CRITICAL ELECTRIC INFRASTRUCTURE.—If the Commission determines that owners, operators, or users of critical electric infrastructure have incurred substantial costs to comply with an order for emergency measures

issued under this subsection and that such costs were prudently incurred and cannot reasonably be recovered through regulated rates or market prices for the electric energy or services sold by such owners, operators, or users, the Commission shall, consistent with the requirements of section 205, after notice and an opportunity for comment, establish a mechanism that permits such owners, operators, or users to recover such costs.

"(B) DEFENSE CRITICAL ELECTRIC INFRASTRUCTURE.—To the extent the owner or operator of defense critical electric infrastructure is required to take emergency measures pursuant to an order issued under this subsection, the owners or operators of a critical defense facility or facilities designated by the Secretary pursuant to subsection (c) that rely upon such infrastructure shall bear the full incremental costs of the measures.

"(7) TEMPORARY ACCESS TO CLASSIFIED INFORMATION.—The Secretary, and other appropriate Federal agencies, shall, to the extent practicable and consistent with their obligations to protect classified information, provide temporary access to classified

information related to a grid security emergency for which emergency measures are issued under paragraph (1) to key personnel of any entity subject to such emergency measures to enable optimum communication between the entity and the Secretary and other appropriate Federal agencies regarding the grid security emergency.

''(c) DESIGNATION OF CRITICAL DEFENSE FACILITIES.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with other appropriate Federal agencies and appropriate owners, users, or operators of infrastructure that may be defense critical electric infrastructure, shall identify and designate facilities located in the United States (including the territories) that are—

''(1) critical to the defense of the United States; and

''(2) vulnerable to a disruption of the supply of electric energy provided to such facility by an external provider.

The Secretary may, in consultation with appropriate Federal agencies and appropriate owners, users, or operators of defense critical electric infrastructure, periodically revise the list of designated facilities as necessary.

"(d) PROTECTION AND SHARING OF CRITICAL ELECTRIC INFRASTRUCTURE INFORMATION.—

"(1) PROTECTION OF CRITICAL ELECTRIC INFRASTRUCTURE INFORMATION.—Critical electric infrastructure information—

"(A) shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code; and

"(B) shall not be made available by any Federal, State, political subdivision or tribal authority pursuant to any Federal, State, political subdivision or tribal law requiring public disclosure of information or records.

"(2) DESIGNATION AND SHARING OF CRITICAL ELECTRIC INFRASTRUCTURE INFORMATION.—Not later than one year after the date of enactment of this section, the Commission, in consultation with the Secretary of Energy, shall promulgate such regulations and issue such orders as necessary to—

"(A) designate information as critical electric infrastructure information;

"(B) prohibit the unauthorized disclosure of critical electric infrastructure information;

"(C) ensure there are appropriate sanctions in place for Commissioners, officers, em-

ployees, or agents of the Commission who knowingly and willfully disclose critical electric infrastructure information in a manner that is not authorized under this section; and

"(D) taking into account standards of the Electric Reliability Organization, facilitate voluntary sharing of critical electric infrastructure information with, between, and by—

"(i) Federal, State, political subdivision, and tribal authorities;

"(ii) the Electric Reliability Organization;

"(iii) regional entities;

"(iv) information sharing and analysis centers established pursuant to Presidential Decision Directive 63;

"(v) owners, operators, and users of critical electric infrastructure in the United States; and

"(vi) other entities determined appropriate by the Commission.

"(3) CONSIDERATIONS.—In promulgating regulations and issuing orders under paragraph (2), the Commission shall take into consideration the role of State commissions in reviewing the prudence and

cost of investments, determining the rates and terms of conditions for electric services, and ensuring the safety and reliability of the bulk-power system and distribution facilities within their respective jurisdictions.

"(4) PROTOCOLS.—The Commission shall, in consultation with Canadian and Mexican authorities, develop protocols for the voluntary sharing of critical electric infrastructure information with Canadian and Mexican authorities and owners, operators, and users of the bulk-power system outside the United States.

"(5) NO REQUIRED SHARING OF INFORMATION.—Nothing in this section shall require a person or entity in possession of critical electric infrastructure information to share such information with Federal, State, political subdivision, or tribal authorities, or any other person or entity.

"(6) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this section shall permit or authorize the withholding of information from Congress, any committee or subcommittee thereof, or the Comptroller General.

"(7) DISCLOSURE OF PROTECTED INFORMATION.—In implementing this section, the Commis-

sion shall segregate critical electric infrastructure information or information that reasonably could be expected to lead to the disclosure of the critical electric infrastructure information within documents and electronic communications, wherever feasible, to facilitate disclosure of information that is not designated as critical electric infrastructure information.

"(8) DURATION OF DESIGNATION.—Information may not be designated as critical electric infrastructure information for longer than 5 years, unless specifically re-designated by the Commission.

"(9) REMOVAL OF DESIGNATION.—The Commission shall remove the designation of critical electric infrastructure information, in whole or in part, from a document or electronic communication if the Commission determines that the unauthorized disclosure of such information could no longer be used to impair the security or reliability of the bulk-power system or distribution facilities.

"(10) JUDICIAL REVIEW OF DESIGNATIONS.—Notwithstanding section 313(b), any determination by the Commission concerning the designation of critical electric infrastructure information under this subsection shall be subject to review under chapter

7 of title 5, United States Code, except that such review shall be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in the District of Columbia. In such a case the court shall examine in camera the contents of documents or electronic communications that are the subject of the determination under review to determine whether such documents or any part thereof were improperly designated or not designated as critical electric infrastructure information.

''(e) MEASURES TO ADDRESS GRID SECURITY VULNERABILITIES.—

''(1) COMMISSION AUTHORITY.—

''(A) RELIABILITY STANDARDS.—If the Commission, in consultation with appropriate Federal agencies, identifies a grid security vulnerability that the Commission determines has not adequately been addressed through a reliability standard developed and approved under section 215, the Commission shall, after notice and opportunity for comment and after consultation with the Secretary, other appropriate Federal agencies, and appropriate governmental authorities in Canada and Mexico, issue an

order directing the Electric Reliability Organization to submit to the Commission for approval under section 215, not later than 30 days after the issuance of such order, a reliability standard requiring implementation, by any owner, operator, or user of the bulk-power system in the United States, of measures to protect the bulk-power system against such vulnerability. Any such standard shall include a protection plan, including automated hardware-based solutions. The Commission shall approve a reliability standard submitted pursuant to this subparagraph, unless the Commission determines that such reliability standard does not adequately protect against such vulnerability or otherwise does not satisfy the requirements of section 215.

"(B) MEASURES TO ADDRESS GRID SECURITY VULNERABILITIES.—If the Commission, after notice and opportunity for comment and after consultation with the Secretary, other appropriate Federal agencies, and appropriate governmental authorities in Canada and Mexico, determines that the reliability standard submitted by the Electric Reliability Organiza-

tion to address a grid security vulnerability identified under subparagraph (A) does not adequately protect the bulk-power system against such vulnerability, the Commission shall promulgate a rule or issue an order requiring implementation, by any owner, operator, or user of the bulk-power system in the United States, of measures to protect the bulk-power system against such vulnerability. Any such rule or order shall include a protection plan, including automated hardware-based solutions. Before promulgating a rule or issuing an order under this subparagraph, the Commission shall, to the extent practicable in light of the urgency of the need for action to address the grid security vulnerability, request and consider recommendations from the Electric Reliability Organization regarding such rule or order. The Commission may establish an appropriate deadline for the submission of such recommendations.

"(2) RESCISSION.—The Commission shall approve a reliability standard developed under section 215 that addresses a grid security vulnerability that is the subject of a rule or order under paragraph (1)(B), unless the Commission determines that such

reliability standard does not adequately protect against such vulnerability or otherwise does not satisfy the requirements of section 215. Upon such approval, the Commission shall rescind the rule promulgated or order issued under paragraph (1)(B) addressing such vulnerability, effective upon the effective date of the newly approved reliability standard.

"(3) GEOMAGNETIC STORMS AND ELECTROMAGNETIC PULSE.—Not later than 6 months after the date of enactment of this section, the Commission shall, after notice and an opportunity for comment and after consultation with the Secretary and other appropriate Federal agencies, issue an order directing the Electric Reliability Organization to submit to the Commission for approval under section 215, not later than 6 months after the issuance of such order, reliability standards adequate to protect the bulk-power system from any reasonably foreseeable geomagnetic storm or electromagnetic pulse event. The Commission's order shall specify the nature and magnitude of the reasonably foreseeable events against which such standards must protect. Such standards shall appropriately balance the risks to the bulk-power system associated with such

events, including any regional variation in such risks, the costs of mitigating such risks, and the priorities and timing associated with implementation. If the Commission determines that the reliability standards submitted by the Electric Reliability Organization pursuant to this paragraph are inadequate, the Commission shall promulgate a rule or issue an order adequate to protect the bulk-power system from geomagnetic storms or electromagnetic pulse as required under paragraph (1)(B).

"(4) LARGE TRANSFORMER AVAILABILITY.—Not later than 1 year after the date of enactment of this section, the Commission shall, after notice and an opportunity for comment and after consultation with the Secretary and other appropriate Federal agencies, issue an order directing the Electric Reliability Organization to submit to the Commission for approval under section 215, not later than 1 year after the issuance of such order, reliability standards addressing availability of large transformers. Such standards shall require entities that own or operate large transformers to ensure, individually or jointly, adequate availability of large transformers to promptly restore the reliable operation of the bulk-power system in the event that any such

transformer is destroyed or disabled as a result of a geomagnetic storm event or electromagnetic pulse event. The Commission's order shall specify the nature and magnitude of the reasonably foreseeable events that shall provide the basis for such standards. Such standards shall—

"(A) provide entities subject to the standards with the option of meeting such standards individually or jointly; and

"(B) appropriately balance the risks associated with a reasonably foreseeable event, including any regional variation in such risks, and the costs of ensuring adequate availability of spare transformers.

"(5) CERTAIN FEDERAL ENTITIES.—For the 11-year period commencing on the date of enactment of this section, the Tennessee Valley Authority and the Bonneville Power Administration shall be exempt from any requirement under this subsection.

"(f) SECURITY CLEARANCES.—The Secretary shall facilitate and, to the extent practicable, expedite the acquisition of adequate security clearances by key personnel of any entity subject to the requirements of this section, to enable optimum communication with Federal agencies regarding threats to the security of the critical electric infra-

structure. The Secretary, the Commission, and other appropriate Federal agencies shall, to the extent practicable and consistent with their obligations to protect classified and critical electric infrastructure information, share timely actionable information regarding grid security with appropriate key personnel of owners, operators, and users of the critical electric infrastructure.

"(g) CLARIFICATIONS OF LIABILITY.—

"(1) COMPLIANCE WITH OR VIOLATION OF THIS ACT.—Except as provided in paragraph (4), to the extent any action or omission taken by an entity that is necessary to comply with an order for emergency measures issued under subsection (b)(1), including any action or omission taken to voluntarily comply with such order, results in noncompliance with, or causes such entity not to comply with any rule, order, regulation, or provision of this Act, including any reliability standard approved by the Commission pursuant to section 215, such action or omission shall not be considered a violation of such rule, order, regulation, or provision.

"(2) RELATION TO SECTION 202(c).—Except as provided in paragraph (4), an action or omission taken by an owner, operator, or user of critical electric infrastructure or of defense critical electric in-

frastructure to comply with an order for emergency measures issued under subsection (b)(1) shall be treated as an action or omission taken to comply with an order issued under section 202(c) for purposes of such section.

"(3) SHARING OR RECEIPT OF INFORMATION.—No cause of action shall lie or be maintained in any Federal or State court for the sharing or receipt of information under, and that is conducted in accordance with, subsection (d).

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require dismissal of a cause of action against an entity that, in the course of complying with an order for emergency measures issued under subsection (b)(1) by taking an action or omission for which they would be liable but for paragraph (1) or (2), takes such action or omission in a grossly negligent manner.".

(b) CONFORMING AMENDMENTS.—

(1) JURISDICTION.—Section 201(b)(2) of the Federal Power Act (16 U.S.C. 824(b)(2)) is amended by inserting "215A," after "215," each place it appears.

(2) PUBLIC UTILITY.—Section 201(e) of the Federal Power Act (16 U.S.C. 824(e)) is amended by inserting ''215A,'' after ''215,''.

**SEC. 1105. STRATEGIC TRANSFORMER RESERVE.**

(a) FINDING.—Congress finds that the storage of strategically located spare large power transformers and emergency mobile substations will reduce the vulnerability of the United States to multiple risks facing electric grid reliability, including physical attack, cyber attack, electromagnetic pulse, geomagnetic disturbances, severe weather, and seismic events.

(b) DEFINITIONS.—In this section:

(1) BULK-POWER SYSTEM.—The term ''bulk-power system'' has the meaning given such term in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

(2) CRITICALLY DAMAGED LARGE POWER TRANSFORMER.—The term ''critically damaged large power transformer'' means a large power transformer that—

(A) has sustained extensive damage such that—

(i) repair or refurbishment is not economically viable; or

(ii) the extensive time to repair or refurbish the large power transformer would create an extended period of instability in the bulk-power system; and

(B) prior to sustaining such damage, was part of the bulk-power system.

(3) CRITICAL ELECTRIC INFRASTRUCTURE.—The term ''critical electric infrastructure'' has the meaning given that term in section 215A of the Federal Power Act.

(4) ELECTRIC RELIABILITY ORGANIZATION.—The term ''Electric Reliability Organization'' has the meaning given such term in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

(5) EMERGENCY MOBILE SUBSTATION.—The term ''emergency mobile substation'' means a mobile substation or mobile transformer that is—

(A) assembled and permanently mounted on a trailer that is capable of highway travel and meets relevant Department of Transportation regulations; and

(B) intended for express deployment and capable of being rapidly placed into service.

(6) LARGE POWER TRANSFORMER.—The term ''large power transformer'' means a power trans-

former with a maximum nameplate rating of 100 megavolt-amperes or higher, including related critical equipment, that is, or is intended to be, a part of the bulk-power system.

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

(8) SPARE LARGE POWER TRANSFORMER.—The term ''spare large power transformer'' means a large power transformer that is stored within the Strategic Transformer Reserve to be available to temporarily replace a critically damaged large power transformer.

(c) STRATEGIC TRANSFORMER RESERVE PLAN.—

(1) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Office of Electricity Delivery and Energy Reliability, shall, in consultation with the Federal Energy Regulatory Commission, the Electricity Sub-sector Coordinating Council, the Electric Reliability Organization, and owners and operators of critical electric infrastructure and defense and military installations, prepare and submit to Congress a plan to establish a Strategic Transformer Reserve for the storage, in strategically located facilities, of spare large power transformers and emergency mo-

bile substations in sufficient numbers to temporarily replace critically damaged large power transformers and substations that are critical electric infrastructure or serve defense and military installations.

(2) INCLUSIONS.—The Strategic Transformer Reserve plan shall include a description of—

(A) the appropriate number and type of spare large power transformers necessary to provide or restore sufficient resiliency to the bulk-power system, critical electric infrastructure, and defense and military installations to mitigate significant impacts to the electric grid resulting from—

(i) physical attack;

(ii) cyber attack;

(iii) electromagnetic pulse attack;

(iv) geomagnetic disturbances;

(v) severe weather; or

(vi) seismic events;

(B) other critical electric grid equipment for which an inventory of spare equipment, including emergency mobile substations, is necessary to provide or restore sufficient resiliency to the bulk-power system, critical electric infra-

structure, and defense and military installations;

(C) the degree to which utility sector actions or initiatives, including individual utility ownership of spare equipment, joint ownership of spare equipment inventory, sharing agreements, or other spare equipment reserves or arrangements, satisfy the needs identified under subparagraphs (A) and (B);

(D) the potential locations for, and feasibility and appropriate number of, strategic storage locations for reserve equipment, including consideration of—

(i) the physical security of such locations;

(ii) the protection of the confidentiality of such locations; and

(iii) the proximity of such locations to sites of potentially critically damaged large power transformers and substations that are critical electric infrastructure or serve defense and military installations, so as to enable efficient delivery of equipment to such sites;

(E) the necessary degree of flexibility of spare large power transformers to be included in the Strategic Transformer Reserve to conform to different substation configurations, including consideration of transformer—

(i) power and voltage rating for each winding;

(ii) overload requirements;

(iii) impedance between windings;

(iv) configuration of windings; and

(v) tap requirements;

(F) an estimate of the direct cost of the Strategic Transformer Reserve, as proposed, including—

(i) the cost of storage facilities;

(ii) the cost of the equipment; and

(iii) management, maintenance, and operation costs;

(G) the funding options available to establish, stock, manage, and maintain the Strategic Transformer Reserve, including consideration of fees on owners and operators of bulk-power system facilities, critical electric infrastructure, and defense and military installations relying on the Strategic Transformer Reserve, use of Fed-

eral appropriations, and public-private cost-sharing options;

(H) the ease and speed of transportation, installation, and energization of spare large power transformers to be included in the Strategic Transformer Reserve, including consideration of factors such as—

(i) transformer transportation weight;

(ii) transformer size;

(iii) topology of critical substations;

(iv) availability of appropriate transformer mounting pads;

(v) flexibility of the spare large power transformers as described in subparagraph (E); and

(vi) ability to rapidly transition a spare large power transformer from storage to energization;

(I) eligibility criteria for withdrawal of equipment from the Strategic Transformer Reserve;

(J) the process by which owners or operators of critically damaged large power transformers or substations that are critical electric infrastructure or serve defense and military in-

stallations may apply for a withdrawal from the Strategic Transformer Reserve;

(K) the process by which equipment withdrawn from the Strategic Transformer Reserve is returned to the Strategic Transformer Reserve or is replaced;

(L) possible fees to be paid by users of equipment withdrawn from the Strategic Transformer Reserve;

(M) possible fees to be paid by owners and operators of large power transformers and substations that are critical electric infrastructure or serve defense and military installations to cover operating costs of the Strategic Transformer Reserve;

(N) the domestic and international large power transformer supply chain;

(O) the potential reliability, cost, and operational benefits of including emergency mobile substations in any Strategic Transformer Reserve established under this section; and

(P) other considerations for designing, constructing, stocking, funding, and managing the Strategic Transformer Reserve.

(d) ESTABLISHMENT.—The Secretary may establish a Strategic Transformer Reserve in accordance with the plan prepared pursuant to subsection (c) after the date that is 6 months after the date on which such plan is submitted to Congress.

(e) DISCLOSURE OF INFORMATION.—Any information included in the Strategic Transformer Reserve plan, or shared in the preparation and development of such plan, the disclosure of which the agency reasonably foresees would cause harm to critical electric infrastructure, shall be deemed to be critical electric infrastructure information for purposes of section 215A(d) of the Federal Power Act.

**SEC. 1106. CYBER SENSE.**

(a) IN GENERAL.—The Secretary of Energy shall establish a voluntary Cyber Sense program to identify and promote cyber-secure products intended for use in the bulk-power system, as defined in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

(b) PROGRAM REQUIREMENTS.—In carrying out subsection (a), the Secretary of Energy shall—

(1) establish a Cyber Sense testing process to identify products and technologies intended for use in the bulk-power system, including products relat-

ing to industrial control systems, such as supervisory control and data acquisition systems;

(2) for products tested and identified under the Cyber Sense program, establish and maintain cybersecurity vulnerability reporting processes and a related database;

(3) promulgate regulations regarding vulnerability reporting processes for products tested and identified under the Cyber Sense program;

(4) provide technical assistance to utilities, product manufacturers, and other electric sector stakeholders to develop solutions to mitigate identified vulnerabilities in products tested and identified under the Cyber Sense program;

(5) biennially review products tested and identified under the Cyber Sense program for vulnerabilities and provide analysis with respect to how such products respond to and mitigate cyber threats;

(6) develop procurement guidance for utilities for products tested and identified under the Cyber Sense program;

(7) provide reasonable notice to the public, and solicit comments from the public, prior to establishing or revising the Cyber Sense testing process;

(8) oversee Cyber Sense testing carried out by third parties; and

(9) consider incentives to encourage the use in the bulk-power system of products tested and identified under the Cyber Sense program.

(c) DISCLOSURE OF INFORMATION.—Any vulnerability reported pursuant to regulations promulgated under subsection (b)(3), the disclosure of which the agency reasonably foresees would cause harm to critical electric infrastructure (as defined in section 215A of the Federal Power Act), shall be deemed to be critical electric infrastructure information for purposes of section 215A(d) of the Federal Power Act.

(d) FEDERAL GOVERNMENT LIABILITY.—Consistent with other voluntary Federal Government certification programs, nothing in this section shall be construed to authorize the commencement of an action against the United States Government with respect to the testing and identification of a product under the Cyber Sense program.

**SEC. 1107. STATE COVERAGE AND CONSIDERATION OF PURPA STANDARDS FOR ELECTRIC UTILITIES.**

(a) STATE CONSIDERATION OF RESILIENCY AND ADVANCED ENERGY ANALYTICS TECHNOLOGIES AND RELIABLE GENERATION.—

(1) CONSIDERATION.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding the following at the end:

"(20) IMPROVING THE RESILIENCE OF ELECTRIC INFRASTRUCTURE.—

"(A) IN GENERAL.—Each electric utility shall develop a plan to use resiliency-related technologies, upgrades, measures, and other approaches designed to improve the resilience of electric infrastructure, mitigate power outages, continue delivery of vital services, and maintain the flow of power to facilities critical to public health, safety, and welfare, to the extent practicable using the most current data, metrics, and frameworks related to current and future threats, including physical and cyber attacks, electromagnetic pulse attacks, geomagnetic disturbances, seismic events, and severe weather and other environmental stressors.

"(B) RESILIENCY-RELATED TECHNOLOGIES.—For purposes of this paragraph, examples of resiliency-related technologies, upgrades, measures, and other approaches include—

"(i) hardening, or other enhanced protection, of utility poles, wiring, cabling, and other distribution components, facilities, or structures;

"(ii) advanced grid technologies capable of isolating or repairing problems remotely, such as advanced metering infrastructure, high-tech sensors, grid monitoring and control systems, and remote reconfiguration and redundancy systems;

"(iii) cybersecurity products and components;

"(iv) distributed generation, including back-up generation to power critical facilities and essential services, and related integration components, such as advanced inverter technology;

"(v) microgrid systems, including hybrid microgrid systems for isolated communities;

"(vi) combined heat and power;

"(vii) waste heat resources;

"(viii) non-grid-scale energy storage technologies;

"(ix) wiring, cabling, and other distribution components, including submersible distribution components, and enclosures;

"(x) electronically controlled reclosers and similar technologies for power restoration, including emergency mobile substations, as defined in section 1105 of the North American Energy Security and Infrastructure Act of 2016;

"(xi) advanced energy analytics technology, such as Internet-based and cloud-based computing solutions and subscription licensing models;

"(xii) measures that enhance resilience through planning, preparation, response, and recovery activities;

"(xiii) operational capabilities to enhance resilience through rapid response recovery; and

"(xiv) measures to ensure availability of key critical components through contracts, cooperative agreements, stockpiling and prepositioning, or other measures.

"(C) RATE RECOVERY.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) shall consider authorizing each such electric utility to recover any capital, operating expenditure, or other costs of the electric utility related to the procurement, deployment, or use of resiliency-related technologies, including a reasonable rate of return on the capital expenditures of the electric utility for the procurement, deployment, or use of resiliency-related technologies.

"(21) PROMOTING INVESTMENTS IN ADVANCED ENERGY ANALYTICS TECHNOLOGY.—

"(A) IN GENERAL.—Each electric utility shall develop and implement a plan for deploying advanced energy analytics technology.

"(B) RATE RECOVERY.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) shall consider confirming and clarifying, if necessary, that each such electric utility is authorized to recover the costs of the electric utility relating to the procurement, deployment, or use of advanced energy analytics technology, includ-

ing a reasonable rate of return on all such costs incurred by the electric utility for the procurement, deployment, or use of advanced energy analytics technology, provided such technology is used by the electric utility for purposes of realizing operational efficiencies, cost savings, enhanced energy management and customer engagement, improvements in system reliability, safety, and cybersecurity, or other benefits to ratepayers.

"(C) ADVANCED ENERGY ANALYTICS TECHNOLOGY.—For purposes of this paragraph, examples of advanced energy analytics technology include Internet-based and cloud-based computing solutions and subscription licensing models, including software as a service that uses cyber-physical systems to allow the correlation of data aggregated from appropriate data sources and smart grid sensor networks, employs analytics and machine learning, or employs other advanced computing solutions and models.

"(22) ASSURING ELECTRIC RELIABILITY WITH RELIABLE GENERATION.—

"(A) ASSURANCE OF ELECTRIC RELIABILITY.—Each electric utility shall adopt or modify policies to ensure that such electric utility incorporates reliable generation into its integrated resource plan to assure the availability of electric energy over a 10-year planning period.

"(B) RELIABLE GENERATION.—For purposes of this paragraph, 'reliable generation' means electric generation facilities with reliability attributes that include—

"(i)(I) possession of adequate fuel onsite to enable operation for an extended period of time;

"(II) the operational ability to generate electric energy from more than one source; or

"(III) fuel certainty, through firm contractual obligations (which may not be required to be for a period longer than one year), that ensures adequate fuel supply to enable operation, for an extended period of time, for the duration of an emergency or severe weather conditions;

"(ii) operational characteristics that enable the generation of electric energy for the duration of an emergency or severe weather conditions; and

"(iii) unless procured through other procurement mechanisms, essential reliability services, including frequency support and regulation services.

"(23) SUBSIDIZATION OF CUSTOMER-SIDE TECHNOLOGY.—

"(A) CONSIDERATION.—To the extent that a State regulatory authority may require or allow rates charged by any electric utility for which it has ratemaking authority to electric consumers that do not use a customer-side technology to include any cost, fee, or charge that directly or indirectly cross-subsidizes the deployment, construction, maintenance, or operation of that customer-side technology, such authority shall evaluate whether subsidizing the deployment, construction, maintenance, or operation of a customer-side technology would—

"(i) result in benefits predominately enjoyed by only the users of that customer-side technology;

"(ii) shift costs of a customer-side technology to electricity consumers that do not use that customer-side technology, particularly where disparate economic or resource conditions exist among the electricity consumers cross-subsidizing the costumer-side technology;

"(iii) negatively affect resource utilization, fuel diversity, or grid security;

"(iv) provide any unfair competitive advantage to market the customer-side technology; and

"(v) be necessary to fulfill an obligation to serve electric consumers.

"(B) PUBLIC NOTICE.—Each State regulatory authority shall make available to the public the evaluation completed under subparagraph (A) at least 90 days prior to any proceedings in which such authority considers the cross-subsidization of a customer-side technology.

"(C) CUSTOMER-SIDE TECHNOLOGY.—For purposes of this paragraph, the term 'customer-side technology' means a device connected to the electricity distribution system—

"(i) at, or on the customer side of, the meter; or

"(ii) that, if owned or operated by or on behalf of an electric utility, would otherwise be at, or on the customer side of, the meter.".

(2) COMPLIANCE.—

(A) 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:

"(7)(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 it has ratemaking authority) and each nonregulated electric utility, as applicable, shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standards established by paragraphs (20), (22), and (23) of section 111(d).

"(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility, as applicable, shall com-

plete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (20), (22), and (23) of section 111(d).

"(8)(A) Not later than 6 months after the date of 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 consideration, with respect to the standard established by paragraph (21) of section 111(d).

"(B) 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 it has ratemaking authority) and each nonregulated electric utility shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (21) of section 111(d).".

(B) 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 the following at the end: "In the case of the standards established by paragraphs (20)

through (23) 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.''.

(C) PRIOR STATE ACTIONS.—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 new subsection:

''(g) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to a standard established by paragraph (20), (21), (22), or (23) of section 111(d) in the case of any electric utility in a State if—

''(1) before the date of enactment of this subsection, 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 during the 3-year period ending on the date of enactment of this subsection; or

''(3) the State legislature has voted on the implementation of the standard concerned (or a comparable standard) for such utility during the 3-year

period ending on the date of enactment of this subsection.''.

(b) COVERAGE FOR COMPETITIVE MARKETS.—Section 102 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2612) is amended by adding at the end the following:

''(d) COVERAGE FOR COMPETITIVE MARKETS.—The requirements of this title do not apply to the operations of an electric utility, or to proceedings respecting such operations, to the extent that such operations or proceedings, or any portion thereof, relate to the competitive sale of retail electric energy that is unbundled or separated from the regulated provision or sale of distribution service.''.

**SEC. 1108. RELIABILITY ANALYSIS FOR CERTAIN RULES THAT AFFECT ELECTRIC GENERATING FACILITIES.**

(a) APPLICABILITY.—This section shall apply with respect to any proposed or final covered rule issued by a Federal agency for which compliance with the rule may impact an electric utility generating unit or units, including by resulting in closure or interruption to operations of such a unit or units.

(b) RELIABILITY ANALYSIS.—

(1) ANALYSIS OF RULES.—The Federal Energy Regulatory Commission, in consultation with the

Electric Reliability Organization, shall conduct an independent reliability analysis of a proposed or final covered rule under this section to evaluate the anticipated effects of implementation and enforcement of the rule on—

(A) electric reliability and resource adequacy;

(B) the electricity generation portfolio of the United States;

(C) the operation of wholesale electricity markets; and

(D) energy delivery and infrastructure, including electric transmission facilities and natural gas pipelines.

(2) RELEVANT INFORMATION.—

(A) MATERIALS FROM FEDERAL AGENCIES.—A Federal agency shall provide to the Commission materials and information relevant to the analysis required under paragraph (1) for a rule, including relevant data, modeling, and resource adequacy and reliability assessments, prepared or relied upon by such agency in developing the rule.

(B) ANALYSES FROM OTHER ENTITIES.—The Electric Reliability Organization, regional

entities, regional transmission organizations, independent system operators, and other reliability coordinators and planning authorities shall timely conduct analyses and provide such information as may be reasonably requested by the Commission.

(3) NOTICE.—A Federal agency shall provide to the Commission notice of the issuance of any proposed or final covered rule not later than 15 days after the date of such issuance.

(c) PROPOSED RULES.—Not later than 150 days after the date of publication in the Federal Register of a proposed rule described in subsection (a), the Federal Energy Regulatory Commission shall make available to the public an analysis of the proposed rule conducted in accordance with subsection (b), and any relevant special assessment or seasonal or long-term reliability assessment completed by the Electric Reliability Organization.

(d) FINAL RULES.—

(1) INCLUSION.—A final rule described in subsection (a) shall include, if available at the time of issuance, a copy of the analysis conducted pursuant to subsection (c) of the rule as proposed.

(2) ANALYSIS.—Not later than 120 days after the date of publication in the Federal Register of a

final rule described in subsection (a), the Federal Energy Regulatory Commission shall make available to the public an analysis of the final rule conducted in accordance with subsection (b), and any relevant special assessment or seasonal or long-term reliability assessment completed by the Electric Reliability Organization.

(e) DEFINITIONS.—In this section:

(1) ELECTRIC RELIABILITY ORGANIZATION.—The term ''Electric Reliability Organization'' has the meaning given to such term in section 215(a) of the Federal Power Act (16 U.S.C. 824o(a)).

(2) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551 of title 5, United States Code.

(3) COVERED RULE.—The term ''covered rule'' means a proposed or final rule that is estimated by the Federal agency issuing the rule, or the Director of the Office of Management and Budget, to result in an annual effect on the economy of $1,000,000,000 or more.

**SEC. 1109. INCREASED ACCOUNTABILITY WITH RESPECT TO CARBON CAPTURE, UTILIZATION, AND SEQUESTRATION PROJECTS.**

(a) DOE EVALUATION.—

(1) IN GENERAL.—The Secretary of Energy (in this section referred to as the ''Secretary'') shall, in accordance with this section, annually conduct an evaluation, and make recommendations, with respect to each project conducted by the Secretary for research, development, demonstration, or deployment of carbon capture, utilization, and sequestration technologies (also known as carbon capture and storage and utilization technologies).

(2) SCOPE.—For purposes of this section, a project includes any contract, lease, cooperative agreement, or other similar transaction with a public agency or private organization or person, entered into or performed, or any payment made, by the Secretary for research, development, demonstration, or deployment of carbon capture, utilization, and sequestration technologies.

(b) REQUIREMENTS FOR EVALUATION.—In conducting an evaluation of a project under this section, the Secretary shall—

(1) examine if the project has made advancements toward achieving any specific goal of the project with respect to a carbon capture, utilization, and sequestration technology; and

(2) evaluate and determine if the project has made significant progress in advancing a carbon capture, utilization, and sequestration technology.

(c) RECOMMENDATIONS.—For each evaluation of a project conducted under this section, if the Secretary determines that—

(1) significant progress in advancing a carbon capture, utilization, and sequestration technology has been made, the Secretary shall assess the funding of the project and make a recommendation as to whether increased funding is necessary to advance the project; or

(2) significant progress in advancing a carbon capture, utilization, and sequestration technology has not been made, the Secretary shall—

(A) assess the funding of the project and make a recommendation as to whether increased funding is necessary to advance the project;

(B) assess and determine if the project has reached its full potential; and

(C) make a recommendation as to whether the project should continue.

(d) REPORTS.—

(1) REPORT ON EVALUATIONS AND RECOMMENDATIONS.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall—

(A) issue a report on the evaluations conducted and recommendations made during the previous year pursuant to this section; and

(B) make each such report available on the Internet website of the Department of Energy.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, and every 3 years thereafter, the Secretary shall submit to the Subcommittee on Energy and Power of the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Commerce, Science, and Transportation of the Senate a report on—

(A) the evaluations conducted and recommendations made during the previous 3 years pursuant to this section; and

(B) the progress of the Department of Energy in advancing carbon capture, utilization, and sequestration technologies, including

progress in achieving the Department of Energy's goal of having an array of advanced carbon capture and sequestration technologies ready by 2020 for large-scale demonstration.

**SEC. 1110. RELIABILITY AND PERFORMANCE ASSURANCE IN REGIONAL TRANSMISSION ORGANIZATIONS.**

Part II of the Federal Power Act (16 U.S.C. 824 et seq.), as amended by section 1104, is further amended by adding after section 215A the following new section:

**"SEC. 215B. RELIABILITY AND PERFORMANCE ASSURANCE IN REGIONAL TRANSMISSION ORGANIZATIONS.**

''(a) EXISTING CAPACITY MARKETS.—

''(1) ANALYSIS CONCERNING CAPACITY MARKET DESIGN.—Not later than 180 days after the date of enactment of this section, each Regional Transmission Organization, and each Independent System Operator, that operates a capacity market, or a comparable market intended to ensure the procurement and availability of sufficient future electric energy resources, that is subject to the jurisdiction of the Commission, shall provide to the Commission an analysis of how the structure of such market meets the following criteria:

"(A) The structure of such market utilizes competitive market forces to the extent practicable in procuring capacity resources.

"(B) Consistent with subparagraph (A), the structure of such market includes resource-neutral performance criteria that ensure the procurement of sufficient capacity from physical generation facilities that have reliability attributes that include—

"(i)(I) possession of adequate fuel on-site to enable operation for an extended period of time;

"(II) the operational ability to generate electric energy from more than one fuel source; or

"(III) fuel certainty, through firm contractual obligations, that ensures adequate fuel supply to enable operation, for an extended period of time, for the duration of an emergency or severe weather conditions;

"(ii) operational characteristics that enable the generation of electric energy for the duration of an emergency or severe weather conditions; and

"(iii) unless procured through other markets or procurement mechanisms, essential reliability services, including frequency support and regulation services.

"(2) COMMISSION EVALUATION AND REPORT.—Not later than 1 year after the date of enactment of this section, the Commission shall make publicly available, and submit to the Committee on Energy and Commerce in the House of Representatives and the Committee on Energy and Natural Resources in the Senate, a report containing—

"(A) evaluation of whether the structure of each market addressed in an analysis submitted pursuant to paragraph (1) meets the criteria under such paragraph, based on the analysis; and

"(B) to the extent a market so addressed does not meet such criteria, any recommendations with respect to the procurement of sufficient capacity, as described in paragraph (1)(B).

"(b) COMMISSION EVALUATION AND REPORT FOR NEW SCHEDULES.—

"(1) INCLUSION OF ANALYSIS IN FILING.—Except as provided in subsection (a)(2), whenever a

Regional Transmission Organization or Independent System Operator files a new schedule under section 205 to establish a market described in subsection (a)(1), or that substantially modifies the capacity market design of a market described in subsection (a)(1), the Regional Transmission Organization or Independent System Operator shall include in any such filing the analysis required by subsection (a)(1).

"(2) EVALUATION AND REPORT.—Not later than 180 days of receiving an analysis under paragraph (1), the Commission shall make publicly available, and submit to the Committee on Energy and Commerce in the House of Representatives and the Committee on Energy and Natural Resources in the Senate, a report containing—

"(A) an evaluation of whether the structure of the market addressed in the analysis meets the criteria under subsection (a)(1), based on the analysis; and

"(B) to the extent the market does not meet such criteria, any recommendations with respect to the procurement of sufficient capacity, as described in subsection (a)(1)(B).

"(c) EFFECT ON EXISTING APPROVALS.—Nothing in this section shall be considered to—

"(1) require a modification of the Commission's approval of the capacity market design approved pursuant to docket numbers ER15–623–000, EL15–29–000, EL14–52–000, and ER14–2419–000; or

"(2) provide grounds for the Commission to grant rehearing or otherwise modify orders issued in those dockets.".

**SEC. 1111. ETHANE STORAGE STUDY.**

(a) IN GENERAL.—The Secretary of Energy and the Secretary of Commerce, in consultation with other relevant agencies and stakeholders, shall conduct a study on the feasibility of establishing an ethane storage and distribution hub in the United States.

(b) CONTENTS.—The study conducted under subsection (a) shall include—

(1) an examination of—

(A) potential locations;

(B) economic feasibility;

(C) economic benefits;

(D) geological storage capacity capabilities;

(E) above ground storage capabilities;

(F) infrastructure needs; and

(G) other markets and trading hubs, particularly related to ethane; and

(2) identification of potential additional benefits to energy security.

(c) PUBLICATION OF RESULTS.—Not later than 2 years after the date of enactment of this Act, the Secretaries of Energy and Commerce shall publish the results of the study conducted under subsection (a) on the websites of the Departments of Energy and Commerce, respectively, and shall submit such results to the Committee on Energy and Commerce of the House of Representatives and the Committees on Energy and Natural Resources and Commerce, Science, and Transportation of the Senate.

**SEC. 1112. STATEMENT OF POLICY ON GRID MODERNIZATION.**

It is the policy of the United States to promote and advance—

(1) the modernization of the energy delivery infrastructure of the United States, and bolster the reliability, affordability, diversity, efficiency, security, and resiliency of domestic energy supplies, through advanced grid technologies;

(2) the modernization of the electric grid to enable a robust multi-directional power flow that

leverages centralized energy resources and distributed energy resources, enables robust retail transactions, and facilitates the alignment of business and regulatory models to achieve a grid that optimizes the entire electric delivery system;

(3) relevant research and development in advanced grid technologies, including—

(A) energy storage;

(B) predictive tools and requisite real-time data to enable the dynamic optimization of grid operations;

(C) power electronics, including smart inverters, that ease the challenge of intermittent renewable resources and distributed generation;

(D) real-time data and situational awareness tools and systems; and

(E) tools to increase data security, physical security, and cybersecurity awareness and protection;

(4) the leadership of the United States in basic and applied sciences to develop a systems approach to innovation and development of cyber-secure advanced grid technologies, architectures, and control paradigms capable of managing diverse supplies and loads;

(5) the safeguarding of the critical energy delivery infrastructure of the United States and the enhanced resilience of the infrastructure to all hazards, including—

(A) severe weather events;

(B) cyber and physical threats; and

(C) other factors that affect energy delivery;

(6) the coordination of goals, investments to optimize the grid, and other measures for energy efficiency, advanced grid technologies, interoperability, and demand response-side management resources;

(7) partnerships with States and the private sector—

(A) to facilitate advanced grid capabilities and strategies; and

(B) to provide technical assistance, tools, or other related information necessary to enhance grid integration, particularly in connection with the development at the State and local levels of strategic energy, energy surety and assurance, and emergency preparedness, response, and restoration planning;

(8) the deployment of information and communications technologies at all levels of the electric system;

(9) opportunities to provide consumers with timely information and advanced control options;

(10) sophisticated or advanced control options to integrate distributed energy resources and associated ancillary services;

(11) open-source communications, database architectures, and common information model standards, guidelines, and protocols that enable interoperability to maximize efficiency gains and associated benefits among—

(A) the grid;

(B) energy and building management systems; and

(C) residential, commercial, and industrial equipment;

(12) private sector investment in the energy delivery infrastructure of the United States through targeted demonstration and validation of advanced grid technologies; and

(13) establishment of common valuation methods and tools for cost-benefit analysis of grid integration paradigms.

**SEC. 1113. GRID RESILIENCE REPORT.**

Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to the Congress a report on methods to increase electric grid resilience with respect to all threats, including cyber attacks, vandalism, terrorism, and severe weather.

**SEC. 1114. GAO REPORT ON IMPROVING NATIONAL RESPONSE CENTER.**

The Comptroller General of the United States shall conduct a study of ways in which the capabilities of the National Response Center could be improved.

**SEC. 1115. DESIGNATION OF NATIONAL ENERGY SECURITY CORRIDORS ON FEDERAL LANDS.**

(a) IN GENERAL.—Section 28 of the Mineral Leasing Act (30 U.S.C. 185) is amended as follows:

(1) In subsection (b)—

(A) by striking ''(b)(1) For the purposes of this section 'Federal lands' means'' and inserting the following:

''(b)(1) For the purposes of this section 'Federal lands'—

''(A) except as provided in subparagraph (B), means'';

(B) by striking the period at the end of paragraph (1) and inserting ''; and'' and by

adding at the end of paragraph (1) the following:

"(B) for purposes of granting an application for a natural gas pipeline right-of-way, means all lands owned by the United States except—

"(i) such lands held in trust for an Indian or Indian tribe; and

"(ii) lands on the Outer Continental Shelf.".

(2) By redesignating subsection (b), as so amended, as subsection (z), and transferring such subsection to appear after subsection (y) of that section.

(3) By inserting after subsection (a) the following:

"(b) NATIONAL ENERGY SECURITY CORRIDORS.—

"(1) DESIGNATION.—In addition to other authorities under this section, the Secretary shall—

"(A) identify and designate suitable Federal lands as National Energy Security Corridors (in this subsection referred to as a 'Corridor'), which shall be used for construction, operation, and maintenance of natural gas transmission facilities; and

"(B) incorporate such Corridors upon designation into the relevant agency land use and resource management plans or equivalent plans.

"(2) CONSIDERATIONS.—In evaluating Federal lands for designation as a National Energy Security Corridor, the Secretary shall—

"(A) employ the principle of multiple use to ensure route decisions balance national energy security needs with existing land use principles;

"(B) seek input from other Federal counterparts, State, local, and tribal governments, and affected utility and pipeline industries to determine the best suitable, most cost-effective, and commercially viable acreage for natural gas transmission facilities;

"(C) focus on transmission routes that improve domestic energy security through increasing reliability, relieving congestion, reducing natural gas prices, and meeting growing demand for natural gas; and

"(D) take into account technological innovations that reduce the need for surface disturbance.

"(3) PROCEDURES.—The Secretary shall establish procedures to expedite and approve applications for rights-of-way for natural gas pipelines across National Energy Security Corridors, that—

"(A) ensure a transparent process for review of applications for rights-of-way on such corridors;

"(B) require an approval time of not more than 1 year after the date of receipt of an application for a right-of-way; and

"(C) require, upon receipt of such an application, notice to the applicant of a predictable timeline for consideration of the application, that clearly delineates important milestones in the process of such consideration.

"(4) STATE INPUT.—

"(A) REQUESTS AUTHORIZED.—The Governor of a State may submit requests to the Secretary of the Interior to designate Corridors on Federal land in that State.

"(B) CONSIDERATION OF REQUESTS.—After receiving such a request, the Secretary shall respond in writing, within 30 days—

"(i) acknowledging receipt of the request; and

"(ii) setting forth a timeline in which the Secretary shall grant, deny, or modify such request and state the reasons for doing so.

"(5) SPATIAL DISTRIBUTION OF CORRIDORS.—In implementing this subsection, the Secretary shall coordinate with other Federal Departments to—

"(A) minimize the proliferation of duplicative natural gas pipeline rights-of-way on Federal lands where feasible;

"(B) ensure Corridors can connect effectively across Federal lands; and

"(C) utilize input from utility and pipeline industries submitting applications for rights-of-way to site corridors in economically feasible areas that reduce impacts, to the extent practicable, on local communities.

"(6) NOT A MAJOR FEDERAL ACTION.—Designation of a Corridor under this subsection, and incorporation of Corridors into agency plans under paragraph (1)(B), shall not be treated as a major Federal action for purpose of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(7) NO LIMIT ON NUMBER OR LENGTH OF CORRIDORS.—Nothing in this subsection limits the number or physical dimensions of Corridors that the Secretary may designate under this subsection.

"(8) OTHER AUTHORITY NOT AFFECTED.—Nothing in this subsection affects the authority of the Secretary to issue rights-of-way on Federal land that is not located in a Corridor designated under this subsection.

"(9) NEPA CLARIFICATION.—All applications for rights-of-way for natural gas transmission facilities across Corridors designated under this subsection shall be subject to the environmental protections outlined in subsection (h).".

(b) APPLICATIONS RECEIVED BEFORE DESIGNATION OF CORRIDORS.—Any application for a right-of-way under section 28 of the Mineral Leasing Act (30 U.S.C. 185) that is received by the Secretary of the Interior before designation of National Energy Security Corridors under the amendment made by subsection (a) of this section shall be reviewed and acted upon independently by the Secretary without regard to the process for such designation.

(c) DEADLINE.—Within 2 years after the date of the enactment of this Act, the Secretary of the Interior shall designate at least 10 National Energy Security Corridors

under the amendment made by subsection (a) in States referred to in section 368(b) of the Energy Policy Act of 2005 (42 U.S.C. 15926(b)).

**SEC. 1116. VEGETATION MANAGEMENT, FACILITY INSPECTION, AND OPERATION AND MAINTENANCE ON FEDERAL LANDS CONTAINING ELECTRIC TRANSMISSION AND DISTRIBUTION FACILITIES.**

(a) IN GENERAL.—Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) is amended by adding at the end the following new section:

**"SEC. 512. VEGETATION MANAGEMENT, FACILITY INSPECTION, AND OPERATION AND MAINTENANCE RELATING TO ELECTRIC TRANSMISSION AND DISTRIBUTION FACILITY RIGHTS-OF-WAY.**

''(a) GENERAL DIRECTION.—In order to enhance the reliability of the electric grid and reduce the threat of wildfires to and from electric transmission and distribution rights-of-way and related facilities and adjacent property, the Secretary, with respect to public lands and other lands under the jurisdiction of the Secretary, and the Secretary of Agriculture, with respect to National Forest System lands, shall provide direction to ensure that all existing and future rights-of-way, however established (including by grant, special use authorization, and easement), for

electric transmission and distribution facilities on such lands include provisions for utility vegetation management, facility inspection, and operation and maintenance activities that, while consistent with applicable law—

"(1) are developed in consultation with the holder of the right-of-way;

"(2) enable the owner or operator of an electric transmission and distribution facility to operate and maintain the facility in good working order and to comply with Federal, State, and local electric system reliability and fire safety requirements, including reliability standards established by the North American Electric Reliability Corporation and plans to meet such reliability standards;

"(3) minimize the need for case-by-case or annual approvals for—

"(A) routine vegetation management, facility inspection, and operation and maintenance activities within existing electric transmission and distribution rights-of-way; and

"(B) utility vegetation management activities that are necessary to control hazard trees within or adjacent to electric transmission and distribution rights-of-way; and

"(4) when review is required, provide for expedited review and approval of utility vegetation management, facility inspection, and operation and maintenance activities, especially activities requiring prompt action to avoid an adverse impact on human safety or electric reliability to avoid fire hazards.

"(b) VEGETATION MANAGEMENT, FACILITY INSPECTION, AND OPERATION AND MAINTENANCE PLANS.—

"(1) DEVELOPMENT AND SUBMISSION.—Consistent with subsection (a), the Secretary and the Secretary of Agriculture shall provide owners and operators of electric transmission and distribution facilities located on lands described in such subsection with the option to develop and submit a vegetation management, facility inspection, and operation and maintenance plan, that at each owner or operator's discretion may cover some or all of the owner or operator's electric transmission and distribution rights-of-way on Federal lands, for approval to the Secretary with jurisdiction over the lands. A plan under this paragraph shall enable the owner or operator of an electric transmission and distribution facility, at a minimum, to comply with applicable Federal, State, and local electric system reliability and fire safety requirements, as provided

in subsection (a)(2). The Secretaries shall not have the authority to modify those requirements.

"(2) REVIEW AND APPROVAL PROCESS.—The Secretary and the Secretary of Agriculture shall jointly develop a consolidated and coordinated process for review and approval of—

"(A) vegetation management, facility inspection, and operation and maintenance plans submitted under paragraph (1) that—

"(i) assures prompt review and approval not to exceed 90 days;

"(ii) includes timelines and benchmarks for agency comments on submitted plans and final approval of such plans;

"(iii) is consistent with applicable law; and

"(iv) minimizes the costs of the process to the reviewing agency and the entity submitting the plans; and

"(B) amendments to the plans in a prompt manner if changed conditions necessitate a modification to a plan.

"(3) NOTIFICATION.—The review and approval process under paragraph (2) shall—

"(A) include notification by the agency of any changed conditions that warrant a modification to a plan;

"(B) provide an opportunity for the owner or operator to submit a proposed plan amendment to address directly the changed condition; and

"(C) allow the owner or operator to continue to implement those elements of the approved plan that do not directly and adversely affect the condition precipitating the need for modification.

"(4) CATEGORICAL EXCLUSION PROCESS.—The Secretary and the Secretary of Agriculture shall apply his or her categorical exclusion process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to plans developed under this subsection on existing electric transmission and distribution rights-of-way under this subsection.

"(5) IMPLEMENTATION.—A plan approved under this subsection shall become part of the authorization governing the covered right-of-way and hazard trees adjacent to the right-of-way. If a vegetation management plan is proposed for an existing electric transmission and distribution facility concur-

rent with the siting of a new electric transmission or distribution facility, necessary reviews shall be completed as part of the siting process or sooner. Once the plan is approved, the owner or operator shall provide the agency with only a notification of activities anticipated to be undertaken in the coming year, a description of those activities, and certification that the activities are in accordance with the plan.

"(c) RESPONSE TO EMERGENCY CONDITIONS.—If vegetation on Federal lands within, or hazard trees on Federal lands adjacent to, an electric transmission or distribution right-of-way granted by the Secretary or the Secretary of Agriculture has contacted or is in imminent danger of contacting one or more electric transmission or distribution lines, the owner or operator of the electric transmission or distribution lines—

"(1) may prune or remove the vegetation to avoid the disruption of electric service and risk of fire; and

"(2) shall notify the appropriate local agent of the relevant Secretary not later than 24 hours after such removal.

"(d) COMPLIANCE WITH APPLICABLE RELIABILITY AND SAFETY STANDARDS.—If vegetation on Federal lands within or adjacent to an electric transmission or dis-

1 tribution right-of-way under the jurisdiction of each Sec-
2 retary does not meet clearance requirements under stand-
3 ards established by the North American Electric Reli-
4 ability Corporation, or by State and local authorities, and
5 the Secretary having jurisdiction over the lands has failed
6 to act to allow an electric transmission or distribution fa-
7 cility owner or operator to conduct vegetation manage-
8 ment activities within 3 business days after receiving a
9 request to allow such activities, the owner or operator
10 may, after notifying the Secretary, conduct such vegeta-
11 tion management activities to meet those clearance re-
12 quirements.

13 ''(e) REPORTING REQUIREMENT.—The Secretary or
14 Secretary of Agriculture shall report requests and actions
15 made under subsections (c) and (d) annually on each Sec-
16 retary's website.

17 ''(f) LIABILITY.—An owner or operator of an electric
18 transmission or distribution facility shall not be held liable
19 for wildfire damage, loss, or injury, including the cost of
20 fire suppression, if—

21 ''(1) the Secretary or the Secretary of Agri-
22 culture fails to allow the owner or operator to oper-
23 ate consistently with an approved vegetation man-
24 agement, facility inspection, and operation and
25 maintenance plan on Federal lands under the rel-

evant Secretary's jurisdiction within or adjacent to a right-of-way to comply with Federal, State, or local electric system reliability and fire safety standards, including standards established by the North American Electric Reliability Corporation; or

"(2) the Secretary or the Secretary of Agriculture fails to allow the owner or operator of the electric transmission or distribution facility to perform appropriate vegetation management activities in response to an identified hazard tree, or a tree in imminent danger of contacting the owner's or operator's electric transmission or distribution facility.

"(g) TRAINING AND GUIDANCE.—In consultation with the electric utility industry, the Secretary and the Secretary of Agriculture are encouraged to develop a program to train personnel of the Department of the Interior and the Forest Service involved in vegetation management decisions relating to electric transmission and distribution facilities to ensure that such personnel—

"(1) understand electric system reliability and fire safety requirements, including reliability standards established by the North American Electric Reliability Corporation;

"(2) assist owners and operators of electric transmission and distribution facilities to comply

with applicable electric reliability and fire safety requirements; and

"(3) encourage and assist willing owners and operators of electric transmission and distribution facilities to incorporate on a voluntary basis vegetation management practices to enhance habitats and forage for pollinators and for other wildlife so long as the practices are compatible with the integrated vegetation management practices necessary for reliability and safety.

"(h) IMPLEMENTATION.—The Secretary and the Secretary of Agriculture shall—

"(1) not later than one year after the date of the enactment of this section, propose regulations, or amended existing regulations, to implement this section; and

"(2) not later than two years after the date of the enactment of this section, finalize regulations, or amended existing regulations, to implement this section.

"(i) EXISTING VEGETATION MANAGEMENT, FACILITY INSPECTION, AND OPERATION AND MAINTENANCE PLANS.—Nothing in this section requires an owner or operator to develop and submit a vegetation management, facility inspection, and operation and maintenance plan if

one has already been approved by the Secretary or Secretary of Agriculture before the date of the enactment of this section.

"(j) DEFINITIONS.—In this section:

"(1) HAZARD TREE.—The term 'hazard tree' means any tree inside the right-of-way or located outside the right-of-way that has been found by the either the owner or operator of an electric transmission or distribution facility, or the Secretary or the Secretary of Agriculture, to be likely to fail and cause a high risk of injury, damage, or disruption within 10 feet of an electric power line or related structure if it fell.

"(2) OWNER OR OPERATOR.—The terms 'owner' and 'operator' include contractors or other agents engaged by the owner or operator of an electric transmission and distribution facility.

"(3) VEGETATION MANAGEMENT, FACILITY INSPECTION, AND OPERATION AND MAINTENANCE PLAN.—The term 'vegetation management, facility inspection, and operation and maintenance plan' means a plan that—

"(A) is prepared by the owner or operator of one or more electric transmission or distribu-

tion facilities to cover one or more electric transmission and distribution rights-of-way; and

"(B) provides for the long-term, cost-effective, efficient, and timely management of facilities and vegetation within the width of the right-of-way and adjacent Federal lands to enhance electric reliability, promote public safety, and avoid fire hazards.".

(b) CLERICAL AMENDMENT.—The table of sections for the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.), is amended by inserting after the item relating to section 511 the following new item:

"Sec. 512. Vegetation management, facility inspection, and operation and maintenance relating to electric transmission and distribution facility rights-of-way.".

# Subtitle B—Hydropower Regulatory Modernization

## SEC. 1201. PROTECTION OF PRIVATE PROPERTY RIGHTS IN HYDROPOWER LICENSING.

(a) LICENCES.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended—

(1) by striking "and" after "recreational opportunities,"; and

(2) by inserting ", and minimizing infringement on the useful exercise and enjoyment of property rights held by nonlicensees" after "aspects of environmental quality".

(b) PRIVATE LANDOWNERSHIP.—Section 10 of the Federal Power Act (16 U.S.C. 803) is amended—

(1) in subsection (a)(1), by inserting ", including minimizing infringement on the useful exercise and enjoyment of property rights held by non-licensees" after "section 4(e)"; and

(2) by adding at the end the following:

"(k) PRIVATE LANDOWNERSHIP.—In developing any recreational resource within the project boundary, the licensee shall consider private landownership as a means to encourage and facilitate—

"(1) private investment; and

"(2) increased tourism and recreational use.".

**SEC. 1202. EXTENSION OF TIME FOR FERC PROJECT INVOLVING W. KERR SCOTT DAM.**

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12642, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of

the project for up to 3 consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

(b) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this Act, the Commission may reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

**SEC. 1203. HYDROPOWER LICENSING AND PROCESS IMPROVEMENTS.**

Part I of the Federal Power Act (16 U.S.C. 792 et seq.) is amended by adding at the end the following:

**"SEC. 34. HYDROPOWER LICENSING AND PROCESS IMPROVEMENTS.**

"(a) DEFINITION.—In this section, the term 'Federal authorization'—

"(1) means any authorization required under Federal law with respect to an application for a license, license amendment, or exemption under this part; and

"(2) includes any permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law to approve or

implement the license, license amendment, or exemption under this part.

"(b) DESIGNATION AS LEAD AGENCY.—

"(1) IN GENERAL.—The Commission shall act as the lead agency for the purposes of coordinating all applicable Federal authorizations and for the purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) OTHER AGENCIES AND INDIAN TRIBES.—

"(A) IN GENERAL.—Each Federal, State, and local government agency and Indian tribe considering an aspect of an application for Federal authorization shall coordinate with the Commission and comply with the deadline established in the schedule developed for the project in accordance with the rule issued by the Commission under subsection (c).

"(B) IDENTIFICATION.—The Commission shall identify, as early as practicable after it is notified by the applicant of a project or facility requiring Commission action under this part, any Federal or State agency, local government, or Indian tribe that may consider an aspect of an application for a Federal authorization.

"(C) NOTIFICATION.—

1 "(i) IN GENERAL.—The Commission
2 shall notify any agency and Indian tribe
3 identified under subparagraph (B) of the
4 opportunity to participate in the process of
5 reviewing an aspect of an application for a
6 Federal authorization.
7 "(ii) DEADLINE.—Each agency and
8 Indian tribe receiving a notice under clause
9 (i) shall submit a response acknowledging
10 receipt of the notice to the Commission
11 within 30 days of receipt of such notice
12 and request.
13 "(D) ISSUE IDENTIFICATION AND RESOLU-
14 TION.—
15 "(i) IDENTIFICATION OF ISSUES.—
16 Federal, State, and local government agen-
17 cies and Indian tribes that may consider
18 an aspect of an application for Federal au-
19 thorization shall identify, as early as pos-
20 sible, and share with the Commission and
21 the applicant, any issues of concern identi-
22 fied during the pendency of the Commis-
23 sion's action under this part relating to
24 any Federal authorization that may delay
25 or prevent the granting of such authoriza-

tion, including any issues that may prevent the agency or Indian tribe from meeting the schedule established for the project in accordance with the rule issued by the Commission under subsection (c).

"(ii) ISSUE RESOLUTION.—The Commission may forward any issue of concern identified under clause (i) to the heads of the relevant State and Federal agencies (including, in the case of scheduling concerns identified by a State or local government agency or Indian tribe, the Federal agency overseeing the delegated authority, or the Secretary of the Interior with regard to scheduling concerns identified by an Indian tribe) for resolution. The Commission and any relevant agency shall enter into a memorandum of understanding to facilitate interagency coordination and resolution of such issues of concern, as appropriate.

"(c) SCHEDULE.—

"(1) COMMISSION RULEMAKING TO ESTABLISH PROCESS TO SET SCHEDULE.—Within 180 days of the date of enactment of this section the Commis-

sion shall, in consultation with the appropriate Federal agencies, issue a rule, after providing for notice and public comment, establishing a process for setting a schedule following the filing of an application under this part for the review and disposition of each Federal authorization.

"(2) ELEMENTS OF SCHEDULING RULE.—In issuing a rule under this subsection, the Commission shall ensure that the schedule for each Federal authorization—

"(A) includes deadlines for actions by—

"(i) any Federal or State agency, local government, or Indian tribe that may consider an aspect of an application for the Federal authorization;

"(ii) the applicant;

"(iii) the Commission; and

"(iv) other participants in a proceeding;

"(B) is developed in consultation with the applicant and any agency and Indian tribe that submits a response under subsection (b)(2)(C)(ii);

"(C) provides an opportunity for any Federal or State agency, local government, or In-

dian tribe that may consider an aspect of an application for the applicable Federal authorization to identify and resolve issues of concern, as provided in subsection (b)(2)(D);

"(D) complies with applicable schedules established under Federal and State law;

"(E) ensures expeditious completion of all proceedings required under Federal and State law, to the extent practicable; and

"(F) facilitates completion of Federal and State agency studies, reviews, and any other procedures required prior to, or concurrent with, the preparation of the Commission's environmental document required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(d) TRANSMISSION OF FINAL SCHEDULE.—

"(1) IN GENERAL.—For each application for a license, license amendment, or exemption under this part, the Commission shall establish a schedule in accordance with the rule issued by the Commission under subsection (c). The Commission shall publicly notice and transmit the final schedule to the applicant and each agency and Indian tribe identified under subsection (b)(2)(B).

"(2) RESPONSE.—Each agency and Indian tribe receiving a schedule under this subsection shall acknowledge receipt of such schedule in writing to the Commission within 30 days.

"(e) ADHERENCE TO SCHEDULE.—All applicants, other licensing participants, and agencies and tribes considering an aspect of an application for a Federal authorization shall meet the deadlines set forth in the schedule established pursuant to subsection (d)(1).

"(f) APPLICATION PROCESSING.—The Commission, Federal, State, and local government agencies, and Indian tribes may allow an applicant seeking a Federal authorization to fund a third-party contractor selected by such agency or tribe to assist in reviewing the application. All costs of an agency or tribe incurred pursuant to direct funding by the applicant, including all costs associated with the third party contractor, shall not be considered costs of the United States for the administration of this part under section 10(e).

"(g) COMMISSION RECOMMENDATION ON SCOPE OF ENVIRONMENTAL REVIEW.—For the purposes of coordinating Federal authorizations for each project, the Commission shall consult with and make a recommendation to agencies and Indian tribes receiving a schedule under subsection (d) on the scope of the environmental review

for all Federal authorizations for such project. Each Federal and State agency and Indian tribe shall give due consideration and may give deference to the Commission's recommendations, to the extent appropriate under Federal law.

"(h) FAILURE TO MEET SCHEDULE.—A Federal, State, or local government agency or Indian tribe that anticipates that it will be unable to complete its disposition of a Federal authorization by the deadline set forth in the schedule established under subsection (d)(1) may file for an extension as provided under section 313(b)(2).

"(i) CONSOLIDATED RECORD.—The Commission shall, with the cooperation of Federal, State, and local government agencies and Indian tribes, maintain a complete consolidated record of all decisions made or actions taken by the Commission or by a Federal administrative agency or officer (or State or local government agency or officer or Indian tribe acting under delegated Federal authority) with respect to any Federal authorization. Such record shall constitute the record for judicial review under section 313(b).".

**SEC. 1204. JUDICIAL REVIEW OF DELAYED FEDERAL AUTHORIZATIONS.**

Section 313(b) of the Federal Power Act (16 U.S.C. 825*l*(b)) is amended—

(1) by striking ''(b) Any party'' and inserting the following:

''(b) JUDICIAL REVIEW.—

''(1) IN GENERAL.—Any party''; and

(2) by adding at the end the following:

''(2) DELAY OF A FEDERAL AUTHORIZATION.—Any Federal, State, or local government agency or Indian tribe that will not complete its disposition of a Federal authorization by the deadline set forth in the schedule by the Commission under section 34 may file for an extension in the United States court of appeals for any circuit wherein the project or proposed project is located, or in the United States Court of Appeals for the District of Columbia. Such petition shall be filed not later than 30 days prior to such deadline. The court shall only grant an extension if the agency or tribe demonstrates, based on the record maintained under section 34, that it otherwise complied with the requirements of section 34 and that complying with the schedule set by the Commission would have prevented the agency or tribe from complying with applicable Federal or State law. If the court grants the extension, the court shall set a reasonable schedule and deadline, not to exceed 90 days, for the agency to act on re-

mand. If the court denies the extension, or if an agency or tribe does not file for an extension as provided in this subsection and does not complete its disposition of a Federal authorization by the applicable deadline, the Commission and applicant may move forward with the proposed action.''.

**SEC. 1205. LICENSING STUDY IMPROVEMENTS.**

Part I of the Federal Power Act (16 U.S.C. 792 et seq.), as amended by section 1203, is further amended by adding at the end the following:

**''SEC. 35. LICENSING STUDY IMPROVEMENTS.**

''(a) IN GENERAL.—To facilitate the timely and efficient completion of the license proceedings under this part, the Commission shall, in consultation with applicable Federal and State agencies and interested members of the public—

''(1) compile current and accepted best practices in performing studies required in such license proceedings, including methodologies and the design of studies to assess the full range of environmental impacts of a project that reflect the most recent peer-reviewed science;

''(2) compile a comprehensive collection of studies and data accessible to the public that could be

used to inform license proceedings under this part; and

"(3) encourage license applicants, agencies, and Indian tribes to develop and use, for the purpose of fostering timely and efficient consideration of license applications, a limited number of open-source methodologies and tools applicable across a wide array of projects, including water balance models and streamflow analyses.

"(b) USE OF STUDIES.—To the extent practicable, the Commission and other Federal, State, and local government agencies and Indian tribes considering an aspect of an application for Federal authorization shall use current, accepted science toward studies and data in support of their actions. Any participant in a proceeding with respect to a Federal authorization shall demonstrate a study requested by the party is not duplicative of current, existing studies that are applicable to the project.

"(c) BASIN-WIDE OR REGIONAL REVIEW.—The Commission shall establish a program to develop comprehensive plans, at the request of project applicants, on a regional or basin-wide scale, in consultation with the applicants, appropriate Federal agencies, and affected States, local governments, and Indian tribes, in basins or regions with respect to which there are more than one

project or application for a project. Upon such a request, the Commission, in consultation with the applicants, such Federal agencies, and affected States, local governments, and Indian tribes, may conduct or commission regional or basin-wide environmental studies, with the participation of at least 2 applicants. Any study conducted under this subsection shall apply only to a project with respect to which the applicant participates.''.

**SEC. 1206. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

Part I of the Federal Power Act (16 U.S.C. 792 et seq.), as amended by section 1205, is further amended by adding at the end the following:

**''SEC. 36. CLOSED-LOOP PUMPED STORAGE PROJECTS.**

''(a) DEFINITION.—For purposes of this section, a closed-loop pumped storage project is a project—

''(1) in which the upper and lower reservoirs do not impound or directly withdraw water from navigable waters; or

''(2) that is not continuously connected to a naturally flowing water feature.

''(b) IN GENERAL.—As provided in this section, the Commission may issue and amend licenses and preliminary permits, as appropriate, for closed-loop pumped storage projects.

1 "(c) DAM SAFETY.—Before issuing any license for a
2 closed-loop pumped storage project, the Commission shall
3 assess the safety of existing dams and other structures
4 related to the project (including possible consequences as-
5 sociated with failure of such structures).

6 "(d) LICENSE CONDITIONS.—With respect to a
7 closed-loop pumped storage project, the authority of the
8 Commission to impose conditions on a license under sec-
9 tions 4(e), 10(a), 10(g), and 10(j) shall not apply, and
10 any condition included in or applicable to a closed-loop
11 pumped storage project licensed under this section, includ-
12 ing any condition or other requirement of a Federal au-
13 thorization, shall be limited to those that are—

14 "(1) necessary to protect public safety; or

15 "(2) reasonable, economically feasible, and es-
16 sential to prevent loss of or damage to, or to miti-
17 gate adverse effects on, fish and wildlife resources
18 directly caused by the construction and operation of
19 the project, as compared to the environmental base-
20 line existing at the time the Commission completes
21 its environmental review.

22 "(e) TRANSFERS.—Notwithstanding section 5, and
23 regardless of whether the holder of a preliminary permit
24 for a closed-loop pumped storage project claimed munic-
25 ipal preference under section 7(a) when obtaining the per-

mit, the Commission may, to facilitate development of a closed-loop pumped storage project—

"(1) add entities as joint permittees following issuance of a preliminary permit; and

"(2) transfer a license in part to one or more nonmunicipal entities as co-licensees with a municipality.".

**SEC. 1207. LICENSE AMENDMENT IMPROVEMENTS.**

Part I of the Federal Power Act (16 U.S.C. 792 et seq.), as amended by section 1206, is further amended by adding at the end the following:

**"SEC. 37. LICENSE AMENDMENT IMPROVEMENTS.**

"(a) QUALIFYING PROJECT UPGRADES.—

"(1) IN GENERAL.—As provided in this section, the Commission may approve an application for an amendment to a license issued under this part for a qualifying project upgrade.

"(2) APPLICATION.—A licensee filing an application for an amendment to a project license under this section shall include in such application information sufficient to demonstrate that the proposed change to the project described in the application is a qualifying project upgrade.

"(3) INITIAL DETERMINATION.—Not later than 15 days after receipt of an application under para-

graph (2), the Commission shall make an initial determination as to whether the proposed change to the project described in the application for a license amendment is a qualifying project upgrade. The Commission shall publish its initial determination and issue notice of the application filed under paragraph (2). Such notice shall solicit public comment on the initial determination within 45 days.

"(4) PUBLIC COMMENT ON QUALIFYING CRITERIA.—The Commission shall accept public comment regarding whether a proposed license amendment is for a qualifying project upgrade for a period of 45 days beginning on the date of publication of a public notice described in paragraph (3), and shall—

"(A) if no entity contests whether the proposed license amendment is for a qualifying project upgrade during such comment period, immediately publish a notice stating that the initial determination has not been contested; or

"(B) if an entity contests whether the proposed license amendment is for a qualifying project upgrade during the comment period, issue a written determination in accordance with paragraph (5).

"(5) WRITTEN DETERMINATION.—If an entity contests whether the proposed license amendment is for a qualifying project upgrade during the comment period under paragraph (4), the Commission shall, not later than 30 days after the date of publication of the public notice of the initial determination under paragraph (3), issue a written determination as to whether the proposed license amendment is for a qualifying project upgrade.

"(6) PUBLIC COMMENT ON AMENDMENT APPLICATION.—If no entity contests whether the proposed license amendment is for a qualifying project upgrade during the comment period under paragraph (4) or the Commission issues a written determination under paragraph (5) that a proposed license amendment is a qualifying project upgrade, the Commission shall—

"(A) during the 60-day period beginning on the date of publication of a notice under paragraph (4)(A) or the date on which the Commission issues the written determination under paragraph (5), as applicable, solicit comments from each Federal, State, and local government agency and Indian tribe considering an aspect of an application for Federal authoriza-

tion (as defined in section 34) with respect to the proposed license amendment, as well as other interested agencies, Indian tribes, and members of the public; and

"(B) during the 90-day period beginning on the date of publication of a notice under paragraph (4)(A) or the date on which the Commission issues the written determination under paragraph (5), as applicable, consult with—

"(i) appropriate Federal agencies and the State agency exercising administrative control over the fish and wildlife resources, and water quality and supply, of the State in which the qualifying project upgrade is located;

"(ii) any Federal department supervising any public lands or reservations occupied by the qualifying project upgrade; and

"(iii) any Indian tribe affected by the qualifying project upgrade.

"(7) FEDERAL AUTHORIZATIONS.—The schedule established by the Commission under section 34 for any project upgrade under this subsection shall

1 require final disposition on all necessary Federal au-
2 thorizations (as defined in section 34), other than
3 final action by the Commission, by not later than
4 120 days after the date on which the Commission
5 issues a notice under paragraph (4)(A) or a written
6 determination under paragraph (5), as applicable.
7 "(8) COMMISSION ACTION.—Not later than 150
8 days after the date on which the Commission issues
9 a notice under paragraph (4)(A) or a written deter-
10 mination under paragraph (5), as applicable, the
11 Commission shall take final action on the license
12 amendment application.
13 "(9) LICENSE AMENDMENT CONDITIONS.—Any
14 condition included in or applicable to a license
15 amendment approved under this subsection, includ-
16 ing any condition or other requirement of a Federal
17 authorization, shall be limited to those that are—
18 "(A) necessary to protect public safety; or
19 "(B) reasonable, economically feasible, and
20 essential to prevent loss of or damage to, or to
21 mitigate adverse effects on, fish and wildlife re-
22 sources, water supply, and water quality that
23 are directly caused by the construction and op-
24 eration of the qualifying project upgrade, as
25 compared to the environmental baseline existing

at the time the Commission approves the application for the license amendment.

"(10) PROPOSED LICENSE AMENDMENTS THAT ARE NOT QUALIFYING PROJECT UPGRADES.—If the Commission determines under paragraph (3) or (5) that a proposed license amendment is not for a qualifying project upgrade, the procedures under paragraphs (6) through (9) shall not apply to the application.

"(11) RULEMAKING.—Not later than 180 days after the date of enactment of this section, the Commission shall, after notice and opportunity for public comment, issue a rule to implement this subsection.

"(12) DEFINITIONS.—For purposes of this subsection:

"(A) QUALIFYING PROJECT UPGRADE.—The term 'qualifying project upgrade' means a change to a project licensed under this part that meets the qualifying criteria, as determined by the Commission.

"(B) QUALIFYING CRITERIA.—The term 'qualifying criteria' means, with respect to a project license under this part, a change to the project that—

"(i) if carried out, would be unlikely to adversely affect any species listed as threatened or endangered under the Endangered Species Act of 1973 or result in the destruction or adverse modification of critical habitat, as determined in consultation with the Secretary of the Interior or Secretary of Commerce, as appropriate, in accordance with section 7 of the Endangered Species Act of 1973;

"(ii) is consistent with any applicable comprehensive plan under section 10(a)(2);

"(iii) includes only changes to project lands, waters, or operations that, in the judgment of the Commission, would result in only insignificant or minimal cumulative adverse environmental effects;

"(iv) would be unlikely to adversely affect water quality and water supply; and

"(v) proposes to implement—

"(I) capacity increases, efficiency improvements, or other enhancements to hydropower generation at the licensed project;

"(II) environmental protection, mitigation, or enhancement measures to benefit fish and wildlife resources or other natural and cultural resources; or

"(III) improvements to public recreation at the licensed project.

"(b) AMENDMENT APPROVAL PROCESSES.—

"(1) RULE.—Not later than 1 year after the date of enactment of this section, the Commission shall, after notice and opportunity for public comment, issue a rule establishing new standards and procedures for license amendment applications under this part. In issuing such rule, the Commission shall seek to develop the most efficient and expedient process, consultation, and review requirements, commensurate with the scope of different categories of proposed license amendments. Such rule shall account for differences in environmental effects across a wide range of categories of license amendment applications.

"(2) CAPACITY.—In issuing a rule under this subsection, the Commission shall take into consideration that a change in generating or hydraulic capacity may indicate the potential environmental ef-

fects of a proposed amendment but is not determinative of such effects.

"(3) PROCESS OPTIONS.—In issuing a rule under this subsection, the Commission shall take into consideration the range of process options available under the Commission's regulations for new and original license applications and adapt such options to amendment applications, where appropriate.".

**SEC. 1208. PROMOTING HYDROPOWER DEVELOPMENT AT EXISTING NONPOWERED DAMS.**

Part I of the Federal Power Act (16 U.S.C. 792 et seq.), as amended by section 1207, is further amended by adding at the end the following:

**"SEC. 38. PROMOTING HYDROPOWER DEVELOPMENT AT EXISTING NONPOWERED DAMS.**

"(a) EXEMPTIONS FOR QUALIFYING FACILITIES.—

"(1) EXEMPTION QUALIFICATIONS.—Subject to the requirements of this subsection, the Commission may grant an exemption in whole or in part from the requirements of this part, including any license requirements contained in this part, to any facility the Commission determines is a qualifying facility.

1 "(2) CONSULTATION WITH FEDERAL AND
2 STATE AGENCIES.—In granting any exemption under
3 this subsection, the Commission shall consult with—
4 "(A) the United States Fish and Wildlife
5 Service, the National Marine Fisheries Service,
6 and the State agency exercising administrative
7 control over the fish and wildlife resources of
8 the State in which the facility will be located,
9 in the manner provided by the Fish and Wild-
10 life Coordination Act;
11 "(B) any Federal department supervising
12 any public lands or reservations occupied by the
13 project; and
14 "(C) any Indian tribe affected by the
15 project.
16 "(3) EXEMPTION CONDITIONS.—
17 "(A) IN GENERAL.—The Commission shall
18 include in any exemption granted under this
19 subsection only such terms and conditions that
20 the Commission determines are—
21 "(i) necessary to protect public safety;
22 or
23 "(ii) reasonable, economically feasible,
24 and essential to prevent loss of or damage
25 to, or to mitigate adverse effects on, fish

and wildlife resources directly caused by the construction and operation of the qualifying facility, as compared to the environmental baseline existing at the time the Commission grants the exemption.

"(B) NO CHANGES TO RELEASE REGIME.—No Federal authorization required with respect to a qualifying facility described in paragraph (1), including an exemption granted by the Commission under this subsection, may include any condition or other requirement that results in any material change to the storage, control, withdrawal, diversion, release, or flow operations of the associated qualifying nonpowered dam.

"(4) ENVIRONMENTAL REVIEW.—The Commission's environmental review under the National Environmental Policy Act of 1969 of a proposed exemption under this subsection shall consist only of an environmental assessment, unless the Commission determines, by rule or order, that the Commission's obligations under such Act for granting exemptions under this subsection can be met through a categorical exclusion.

"(5) VIOLATION OF TERMS OF EXEMPTION.—Any violation of a term or condition of any exemption granted under this subsection shall be treated as a violation of a rule or order of the Commission under this Act.

"(6) ANNUAL CHARGES FOR ENHANCEMENT ACTIVITIES.—Exemptees under this subsection for any facility located at a non-Federal dam shall pay to the United States reasonable annual charges in an amount to be fixed by the Commission for the purpose of funding environmental enhancement projects in watersheds in which facilities exempted under this subsection are located. Such annual charges shall be equivalent to the annual charges for use of a Government dam under section 10(e), unless the Commission determines, by rule, that a lower charge is appropriate to protect exemptees' investment in the project or avoid increasing the price to consumers of power due to such charges. The proceeds of charges made by the Commission under this paragraph shall be paid into the Treasury of the United States and credited to miscellaneous receipts. Subject to annual appropriation Acts, such proceeds shall be available to Federal and State fish and wildlife agencies for purposes of carrying out specific en-

1 vironmental enhancement projects in watersheds in
2 which one or more facilities exempted under this
3 subsection are located. Not later than 180 days after
4 the date of enactment of this section, the Commis-
5 sion shall establish rules, after notice and oppor-
6 tunity for public comment, for the collection and ad-
7 ministration of annual charges under this para-
8 graph.

9 ''(7) EFFECT OF JURISDICTION.—The jurisdic-
10 tion of the Commission over any qualifying facility
11 exempted under this subsection shall extend only to
12 the qualifying facility exempted and any associated
13 primary transmission line, and shall not extend to
14 any conduit, dam, impoundment, shoreline or other
15 land, or any other project work associated with the
16 qualifying facility exempted under this subsection.

17 ''(b) DEFINITIONS.—For purposes of this section—

18 ''(1) FEDERAL AUTHORIZATION.—The term
19 'Federal authorization' has the same meaning as
20 provided in section 34.

21 ''(2) QUALIFYING CRITERIA.—The term 'quali-
22 fying criteria' means, with respect to a facility—

23 ''(A) as of the date of enactment of this
24 section, the facility is not licensed under, or ex-

empted from the license requirements contained in, this part;

"(B) the facility will be associated with a qualifying nonpowered dam;

"(C) the facility will be constructed, operated, and maintained for the generation of electric power;

"(D) the facility will use for such generation any withdrawals, diversions, releases, or flows from the associated qualifying nonpowered dam, including its associated impoundment or other infrastructure; and

"(E) the operation of the facility will not result in any material change to the storage, control, withdrawal, diversion, release, or flow operations of the associated qualifying nonpowered dam.

"(3) QUALIFYING FACILITY.—The term 'qualifying facility' means a facility that is determined under this section to meet the qualifying criteria.

"(4) QUALIFYING NONPOWERED DAM.—The term 'qualifying nonpowered dam' means any dam, dike, embankment, or other barrier—

"(A) the construction of which was completed on or before the date of enactment of this section;

"(B) that is operated for the control, release, or distribution of water for agricultural, municipal, navigational, industrial, commercial, environmental, recreational, aesthetic, or flood control purposes;

"(C) that, as of the date of enactment of this section, is not equipped with hydropower generating works that are licensed under, or exempted from the license requirements contained in, this part; and

"(D) that, in the case of a non-Federal dam, has been certified by an independent consultant approved by the Commission as complying with the Commission's dam safety requirements.".

# TITLE II—ENERGY SECURITY AND DIPLOMACY

**SEC. 2001. SENSE OF CONGRESS.**

Congress finds the following:

(1) North America's energy revolution has significantly enhanced energy security in the United

States, and fundamentally changed the Nation's energy future from that of scarcity to abundance.

(2) North America's energy abundance has increased global energy supplies and reduced the price of energy for consumers in the United States and abroad.

(3) Allies and trading partners of the United States, including in Europe and Asia, are seeking stable and affordable energy supplies from North America to enhance their energy security.

(4) The United States has an opportunity to improve its energy security and promote greater stability and affordability of energy supplies for its allies and trading partners through a more integrated, secure, and competitive North American energy system.

(5) The United States also has an opportunity to promote such objectives by supporting the free flow of energy commodities and more open, transparent, and competitive global energy markets, and through greater Federal agency coordination relating to regulations or agency actions that significantly affect the supply, distribution, or use of energy.

**SEC. 2002. ENERGY SECURITY VALUATION.**

(a) ESTABLISHMENT OF ENERGY SECURITY VALUATION METHODS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in collaboration with the Secretary of State, shall develop and transmit, after public notice and comment, to the Committee on Energy and Commerce, the Committee on Science, Space, and Technology, and the Committee on Foreign Affairs of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Commerce, Science, and Transportation, and the Committee on Foreign Relations of the Senate a report that develops recommended United States energy security valuation methods. In developing the report, the Secretaries may consider the recommendations of the Administration's Quadrennial Energy Review released on April 21, 2015. The report shall—

(1) evaluate and define United States energy security to reflect modern domestic and global energy markets and the collective needs of the United States and its allies and partners;

(2) identify transparent and uniform or coordinated procedures and criteria to ensure that energy-related actions that significantly affect the supply, distribution, transportation, or use of energy are

evaluated with respect to their potential impact on energy security, including their impact on—

(A) consumers and the economy;

(B) energy supply diversity and resiliency;

(C) well-functioning and competitive energy markets;

(D) United States trade balance; and

(E) national security objectives; and

(3) include a recommended implementation strategy that identifies and aims to ensure that the procedures and criteria referred to in paragraph (2) are—

(A) evaluated consistently across the Federal Government; and

(B) weighed appropriately and balanced with environmental considerations required by Federal law.

(b) PARTICIPATION.—In developing the report referred to in subsection (a), the Secretaries may consult with relevant Federal, State, private sector, and international participants, as appropriate and consistent with applicable law.

**SEC. 2003. NORTH AMERICAN ENERGY SECURITY PLAN.**

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy,

in collaboration with the Secretary of State, shall develop and transmit to the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate the plan described in subsection (b).

(b) PURPOSE.—The plan referred to in subsection (a) shall include—

(1) a recommended framework and implementation strategy to—

(A) improve planning and coordination with Canada and Mexico to enhance energy integration, strengthen North American energy security, and promote efficiencies in the exploration, production, storage, supply, distribution, marketing, pricing, and regulation of North American energy resources; and

(B) address—

(i) North American energy public data, statistics, and mapping collaboration;

(ii) responsible and sustainable best practices for the development of unconventional oil and natural gas; and

(iii) modern, resilient energy infrastructure for North America, including

physical infrastructure as well as institutional infrastructure such as policies, regulations, and practices relating to energy development; and

(2) a recommended framework and implementation strategy to improve collaboration with Caribbean and Central American partners on energy security, including actions to support—

(A) more open, transparent, and competitive energy markets;

(B) regulatory capacity building;

(C) improvements to energy transmission and storage; and

(D) improvements to the performance of energy infrastructure and efficiency.

(c) PARTICIPATION.—In developing the plan referred to in subsection (a), the Secretaries may consult with other Federal, State, private sector, and international participants, as appropriate and consistent with applicable law.

**SEC. 2004. COLLECTIVE ENERGY SECURITY.**

(a) IN GENERAL.—The Secretary of Energy and the Secretary of State shall collaborate to strengthen domestic energy security and the energy security of the allies and

trading partners of the United States, including through actions that support or facilitate—

(1) energy diplomacy;

(2) the delivery of United States assistance, including energy resources and technologies, to prevent or mitigate an energy security crisis;

(3) the development of environmentally and commercially sustainable energy resources;

(4) open, transparent, and competitive energy markets; and

(5) regulatory capacity building.

(b) ENERGY SECURITY FORUMS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in collaboration with the Secretary of State, shall convene not less than 2 forums to promote the collective energy security of the United States and its allies and trading partners. The forums shall include participation by the Secretary of Energy and the Secretary of State. In addition, an invitation shall be extended to—

(1) appropriate representatives of foreign governments that are allies or trading partners of the United States; and

(2) independent experts and industry representatives.

(c) REQUIREMENTS.—The forums shall—

(1) consist of at least 1 Trans-Atlantic and 1 Trans-Pacific energy security forum;

(2) be designed to foster dialogue among government officials, independent experts, and industry representatives regarding—

(A) the current state of global energy markets;

(B) trade and investment issues relevant to energy; and

(C) barriers to more open, competitive, and transparent energy markets; and

(3) be recorded and made publicly available on the Department of Energy's website, including, not later than 30 days after each forum, publication on the website any significant outcomes.

(d) NOTIFICATION.—At least 30 days before each of the forums referred to in subsection (b), the Secretary of Energy shall send a notification regarding the forum to—

(1) the chair and the ranking minority member of the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives; and

(2) the chair and ranking minority member of the Committee on Energy and Natural Resources

and the Committee on Foreign Relations of the Senate.

**SEC. 2005. AUTHORIZATION TO EXPORT NATURAL GAS.**

(a) DECISION DEADLINE.—For proposals that must also obtain authorization from the Federal Energy Regulatory Commission or the United States Maritime Administration to site, construct, expand, or operate LNG export facilities, the Department of Energy shall issue a final decision on any application for the authorization to export natural gas under section 3 of the Natural Gas Act (15 U.S.C. 717b) not later than 30 days after the later of—

(1) the conclusion of the review to site, construct, expand, or operate the LNG facilities required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) the date of enactment of this Act.

(b) CONCLUSION OF REVIEW.—For purposes of subsection (a), review required by the National Environmental Policy Act of 1969 shall be considered concluded—

(1) for a project requiring an Environmental Impact Statement, 30 days after publication of a Final Environmental Impact Statement;

(2) for a project for which an Environmental Assessment has been prepared, 30 days after publi-

1 cation by the Department of Energy of a Finding of
2 No Significant Impact; and
3 (3) upon a determination by the lead agency
4 that an application is eligible for a categorical exclu-
5 sion pursuant to National Environmental Policy Act
6 of 1969 implementing regulations.
7 (c) PUBLIC DISCLOSURE OF EXPORT DESTINA-
8 TIONS.—Section 3 of the Natural Gas Act (15 U.S.C.
9 717b) is amended by adding at the end the following:
10 ''(g) PUBLIC DISCLOSURE OF LNG EXPORT DES-
11 TINATIONS.—As a condition for approval of any authoriza-
12 tion to export LNG, the Secretary of Energy shall require
13 the applicant to publicly disclose the specific destination
14 or destinations of any such authorized LNG exports.''.
15 **SEC. 2006. ENVIRONMENTAL REVIEW FOR ENERGY EXPORT**
16 **FACILITIES.**
17 Notwithstanding any other provision of law, including
18 any other provision of this Act and any amendment made
19 by this Act, to the extent that the National Environmental
20 Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies to
21 the issuance of a permit for the construction, operation,
22 or maintenance of a facility for the export of bulk com-
23 modities, no such permit may be denied until each applica-
24 ble Federal agency has completed all reviews required for
25 the facility under such Act.

**SEC. 2007. AUTHORIZATION OF CROSS-BORDER INFRASTRUCTURE PROJECTS.**

(a) FINDING.—Congress finds that the United States should establish a more uniform, transparent, and modern process for the construction, connection, operation, and maintenance of pipelines and electric transmission facilities for the import and export of liquid products, including water and petroleum, and natural gas and the transmission of electricity to and from Canada and Mexico.

(b) AUTHORIZATION OF CERTAIN INFRASTRUCTURE PROJECTS AT THE NATIONAL BOUNDARY OF THE UNITED STATES.—

(1) REQUIREMENT.—No person may construct, connect, operate, or maintain a cross-border segment of a pipeline or electric transmission facility for the import or export of liquid products or natural gas, or the transmission of electricity, to or from Canada or Mexico without obtaining a certificate of crossing for such construction, connection, operation, or maintenance under this subsection.

(2) CERTIFICATE OF CROSSING.—

(A) ISSUANCE.—

(i) IN GENERAL.—Not later than 120 days after final action is taken under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect

to a cross-border segment described in paragraph (1), the relevant official identified under subparagraph (B), in consultation with appropriate Federal agencies, shall issue a certificate of crossing for the cross-border segment unless the relevant official finds that the construction, connection, operation, or maintenance of the cross-border segment is not in the public interest of the United States.

(ii) NATURAL GAS.—For the purposes of natural gas pipelines, a finding with respect to the public interest under section 3(a) of the Natural Gas Act (15 U.S.C. 717b(a)) shall serve as a finding under clause (i) of this subparagraph.

(B) RELEVANT OFFICIAL.—The relevant official referred to in subparagraph (A) is—

(i) the Secretary of State with respect to liquid pipelines;

(ii) the Federal Energy Regulatory Commission with respect to natural gas pipelines; and

(iii) the Secretary of Energy with respect to electric transmission facilities.

(C) ADDITIONAL REQUIREMENT FOR ELECTRIC TRANSMISSION FACILITIES.—The Secretary of Energy shall require, as a condition of issuing a certificate of crossing for an electric transmission facility, that the cross-border segment be constructed, connected, operated, or maintained consistent with all applicable policies and standards of—

(i) the Electric Reliability Organization and the applicable regional entity; and

(ii) any Regional Transmission Organization or Independent System Operator with operational or functional control over the cross-border segment of the electric transmission facility.

(3) MODIFICATIONS TO EXISTING PROJECTS.—No certificate of crossing shall be required under this subsection for a change in ownership, volume expansion, downstream or upstream interconnection, or adjustment to maintain flow (such as a reduction or increase in the number of pump or compressor stations) with respect to a liquid or natural gas pipeline or electric transmission facility unless such modification would result in a significant impact at the national boundary.

(4) EFFECT OF OTHER LAWS.—Nothing in this subsection shall affect the application of any other Federal statute (including the Natural Gas Act and the Energy Policy and Conservation Act) to a project for which a certificate of crossing is sought under this subsection.

(c) IMPORTATION OR EXPORTATION OF NATURAL GAS TO CANADA AND MEXICO.—Section 3(c) of the Natural Gas Act (15 U.S.C. 717b(c)) is amended by adding at the end the following: ''In the case of an application for the importation or exportation of natural gas to or from Canada or Mexico, the Commission shall grant the application not later than 30 days after the date of receipt of the complete application.''.

(d) TRANSMISSION OF ELECTRIC ENERGY TO CANADA AND MEXICO.—

(1) REPEAL OF REQUIREMENT TO SECURE ORDER.—Section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) STATE REGULATIONS.—Section 202(f) of the Federal Power Act (16 U.S.C. 824a(f)) is amended by striking ''insofar as such State regulation does not conflict with the exercise of

the Commission's powers under or relating to subsection 202(e)''.

(B) SEASONAL DIVERSITY ELECTRICITY EXCHANGE.—Section 602(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–4(b)) is amended by striking ''the Commission has conducted hearings and made the findings required under section 202(e) of the Federal Power Act'' and all that follows through the period at the end and inserting ''the Secretary has conducted hearings and finds that the proposed transmission facilities would not impair the sufficiency of electric supply within the United States or would not impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Secretary''.

(e) EFFECTIVE DATE; RULEMAKING DEADLINES.—

(1) EFFECTIVE DATE.—Subsections (b) through (d), and the amendments made by such subsections, shall take effect on January 20, 2017.

(2) RULEMAKING DEADLINES.—Each relevant official described in subsection (b)(2)(B) shall—

(A) not later than 180 days after the date of enactment of this Act, publish in the Federal

Register notice of a proposed rulemaking to carry out the applicable requirements of subsection (b); and

(B) not later than 1 year after the date of enactment of this Act, publish in the Federal Register a final rule to carry out the applicable requirements of subsection (b).

(f) DEFINITIONS.—In this section—

(1) the term ''cross-border segment'' means the portion of a liquid or natural gas pipeline or electric transmission facility that is located at the national boundary of the United States with either Canada or Mexico;

(2) the terms ''Electric Reliability Organization'' and ''regional entity'' have the meanings given those terms in section 215 of the Federal Power Act (16 U.S.C. 824o);

(3) the terms ''Independent System Operator'' and ''Regional Transmission Organization'' have the meanings given those terms in section 3 of the Federal Power Act (16 U.S.C. 796);

(4) the term ''liquid'' includes water, petroleum, petroleum product, and any other substance that flows through a pipeline other than natural gas; and

(5) the term ''natural gas'' has the meaning given that term in section 2 of the Natural Gas Act (15 U.S.C. 717a).

**SEC. 2008. REPORT ON SMART METER SECURITY CONCERNS.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress a report on the weaknesses in currently available smart meters' security architecture and features, including an absence of event logging, as described in the Government Accountability Office testimony entitled ''Critical Infrastructure Protection: Cybersecurity of the Nation's Electricity Grid Requires Continued Attention'' on October 21, 2015.

# TITLE III—ENERGY EFFICIENCY AND ACCOUNTABILITY

## Subtitle A—Energy Efficiency

### CHAPTER 1—FEDERAL AGENCY ENERGY EFFICIENCY

**SEC. 3111. ENERGY-EFFICIENT AND ENERGY-SAVING INFORMATION TECHNOLOGIES.**

(a) AMENDMENT.—Subtitle C of title V of the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1661) is amended by adding at the end the following:

**"SEC. 530. ENERGY-EFFICIENT AND ENERGY-SAVING INFORMATION TECHNOLOGIES.**

"(a) DEFINITIONS.—In this section:

"(1) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

"(2) INFORMATION TECHNOLOGY.—The term 'information technology' has the meaning given that term in section 11101 of title 40, United States Code.

"(b) DEVELOPMENT OF IMPLEMENTATION STRATEGY.—Not later than 1 year after the date of enactment of this section, each Federal agency shall coordinate with the Director, the Secretary, and the Administrator of the Environmental Protection Agency to develop an implementation strategy (that includes best practices and measurement and verification techniques) for the maintenance, purchase, and use by the Federal agency of energy-efficient and energy-saving information technologies, taking into consideration the performance goals established under subsection (d).

"(c) ADMINISTRATION.—In developing an implementation strategy under subsection (b), each Federal agency shall consider—

"(1) advanced metering infrastructure;

"(2) energy-efficient data center strategies and methods of increasing asset and infrastructure utilization;

"(3) advanced power management tools;

"(4) building information modeling, including building energy management;

"(5) secure telework and travel substitution tools; and

"(6) mechanisms to ensure that the agency realizes the energy cost savings brought about through increased efficiency and utilization.

"(d) PERFORMANCE GOALS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Director, in consultation with the Secretary, shall establish performance goals for evaluating the efforts of Federal agencies in improving the maintenance, purchase, and use of energy-efficient and energy-saving information technology.

"(2) BEST PRACTICES.—The Chief Information Officers Council established under section 3603 of title 44, United States Code, shall recommend best practices for the attainment of the performance goals, which shall include Federal agency consider-

ation of, to the extent applicable by law, the use of—

"(A) energy savings performance contracting; and

"(B) utility energy services contracting.

"(e) REPORTS.—

"(1) AGENCY REPORTS.—Each Federal agency shall include in the report of the agency under section 527 a description of the efforts and results of the agency under this section.

"(2) OMB GOVERNMENT EFFICIENCY REPORTS AND SCORECARDS.—Effective beginning not later than October 1, 2017, the Director shall include in the annual report and scorecard of the Director required under section 528 a description of the efforts and results of Federal agencies under this section.".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Independence and Security Act of 2007 is amended by adding after the item relating to section 529 the following:

"Sec. 530. Energy-efficient and energy-saving information technologies.".

**SEC. 3112. ENERGY EFFICIENT DATA CENTERS.**

Section 453 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17112) is amended—

(1) in subsection (b)(2)(D)(iv), by striking ''determined by the organization'' and inserting ''proposed by the stakeholders'';

(2) by striking subsection (b)(3); and

(3) by striking subsections (c) through (g) and inserting the following:

''(c) STAKEHOLDER INVOLVEMENT.—The Secretary and the Administrator shall carry out subsection (b) in collaboration with the information technology industry and other key stakeholders, with the goal of producing results that accurately reflect the most relevant and useful information available. In such collaboration, the Secretary and the Administrator shall pay particular attention to organizations that—

''(1) have members with expertise in energy efficiency and in the development, operation, and functionality of data centers, information technology equipment, and software, such as representatives of hardware manufacturers, data center operators, and facility managers;

''(2) obtain and address input from Department of Energy National Laboratories or any college, university, research institution, industry association, company, or public interest group with applicable expertise;

"(3) follow—

"(A) commonly accepted procedures for the development of specifications; and

"(B) accredited standards development processes; and

"(4) have a mission to promote energy efficiency for data centers and information technology.

"(d) MEASUREMENTS AND SPECIFICATIONS.—The Secretary and the Administrator shall consider and assess the adequacy of the specifications, measurements, best practices, and benchmarks described in subsection (b) for use by the Federal Energy Management Program, the Energy Star Program, and other efficiency programs of the Department of Energy or the Environmental Protection Agency.

"(e) STUDY.—The Secretary, in collaboration with the Administrator, shall, not later than 18 months after the date of enactment of the North American Energy Security and Infrastructure Act of 2016, make available to the public an update to the Report to Congress on Server and Data Center Energy Efficiency published on August 2, 2007, under section 1 of Public Law 109–431 (120 Stat. 2920), that provides—

"(1) a comparison and gap analysis of the estimates and projections contained in the original re-

port with new data regarding the period from 2008 through 2015;

"(2) an analysis considering the impact of information technologies, including virtualization and cloud computing, in the public and private sectors;

"(3) an evaluation of the impact of the combination of cloud platforms, mobile devices, social media, and big data on data center energy usage;

"(4) an evaluation of water usage in data centers and recommendations for reductions in such water usage; and

"(5) updated projections and recommendations for best practices through fiscal year 2020.

"(f) DATA CENTER ENERGY PRACTITIONER PROGRAM.—The Secretary, in collaboration with key stakeholders and the Director of the Office of Management and Budget, shall maintain a data center energy practitioner program that leads to the certification of energy practitioners qualified to evaluate the energy usage and efficiency opportunities in Federal data centers. Each Federal agency shall consider having the data centers of the agency evaluated every 4 years, in accordance with section 543(f) of the National Energy Conservation Policy Act (42 U.S.C. 8253), by energy practitioners certified pursuant to such program.

1 ''(g) OPEN DATA INITIATIVE.—The Secretary, in col-
2 laboration with key stakeholders and the Director of the
3 Office of Management and Budget, shall establish an open
4 data initiative for Federal data center energy usage data,
5 with the purpose of making such data available and acces-
6 sible in a manner that encourages further data center in-
7 novation, optimization, and consolidation. In establishing
8 the initiative, the Secretary shall consider the use of the
9 online Data Center Maturity Model.

10 ''(h) INTERNATIONAL SPECIFICATIONS AND
11 METRICS.—The Secretary, in collaboration with key
12 stakeholders, shall actively participate in efforts to har-
13 monize global specifications and metrics for data center
14 energy and water efficiency.

15 ''(i) DATA CENTER UTILIZATION METRIC.—The Sec-
16 retary, in collaboration with key stakeholders, shall facili-
17 tate the development of an efficiency metric that measures
18 the energy efficiency of a data center (including equipment
19 and facilities).

20 ''(j) PROTECTION OF PROPRIETARY INFORMATION.—
21 The Secretary and the Administrator shall not disclose
22 any proprietary information or trade secrets provided by
23 any individual or company for the purposes of carrying
24 out this section or the programs and initiatives established
25 under this section.''.

**SEC. 3113. REPORT ON ENERGY AND WATER SAVINGS POTENTIAL FROM THERMAL INSULATION.**

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in consultation with appropriate Federal agencies and relevant stakeholders, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the impact of thermal insulation on both energy and water use systems for potable hot and chilled water in Federal buildings, and the return on investment of installing such insulation.

(b) CONTENTS.—The report shall include—

(1) an analysis based on the cost of municipal or regional water for delivered water and the avoided cost of new water; and

(2) a summary of energy and water savings, including short-term and long-term (20 years) projections of such savings.

**SEC. 3114. BATTERY STORAGE REPORT.**

Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to Congress a report on the potential of battery energy storage that answers the following questions:

(1) How do existing Federal standards impact the development and deployment of battery storage systems?

(2) What are the benefits of using existing battery storage technology, and what challenges exist to their widespread use? What are some examples of existing battery storage projects providing these benefits?

(3) What potential impact could large-scale battery storage and behind-the-meter battery storage have on renewable energy utilization?

(4) What is the potential of battery technology for grid-scale use nationwide? What is the potential impact of battery technology on the national grid capabilities?

(5) How much economic activity associated with large-scale and behind-the-meter battery storage technology is located in the United States? How many jobs do these industries account for?

(6) What policies other than the Renewable Energy Investment Tax Credit have research and available data shown to promote renewable energy use and storage technology deployment by State and local governments or private end-users?

**SEC. 3115. FEDERAL PURCHASE REQUIREMENT.**

(a) DEFINITIONS.—Section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b)) is amended by striking paragraph (2) and inserting the following:

"(2) RENEWABLE ENERGY.—The term 'renewable energy' means electric energy, or thermal energy if resulting from a thermal energy project placed in service after December 31, 2014, generated from, or avoided by, solar, wind, biomass, landfill gas, ocean (including tidal, wave, current, and thermal), geothermal, municipal solid waste (in accordance with subsection (e)), qualified waste heat resource, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

"(3) QUALIFIED WASTE HEAT RESOURCE.—The term 'qualified waste heat resource' means—

"(A) exhaust heat or flared gas from any industrial process;

"(B) waste gas or industrial tail gas that would otherwise be flared, incinerated, or vented;

"(C) a pressure drop in any gas for an industrial or commercial process; or

"(D) such other forms of waste heat as the Secretary determines appropriate.".

(b) PAPER RECYCLING.—Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended by adding at the end the following:

"(e) PAPER RECYCLING.—

"(1) SEPARATE COLLECTION.—For purposes of this section, any Federal agency may consider electric energy generation purchased from a facility to be renewable energy if the municipal solid waste used by the facility to generate the electricity is—

"(A) separately collected (within the meaning of section 246.101(z) of title 40, Code of Federal Regulations, as in effect on the date of enactment of the North American Energy Security and Infrastructure Act of 2016) from paper that is commonly recycled; and

"(B) processed in a way that keeps paper that is commonly recycled segregated from nonrecyclable solid waste.

"(2) INCIDENTAL INCLUSION.—Municipal solid waste used to generate electric energy that meets the conditions described in paragraph (1) shall be considered renewable energy even if the municipal solid waste contains incidental commonly recycled paper.

"(3) NO EFFECT ON EXISTING PROCESSES.—Nothing in paragraph (1) shall be interpreted to re-

quire a State or political subdivision of a State, directly or indirectly, to change the systems, processes, or equipment it uses to collect, treat, dispose of, or otherwise use municipal solid waste, within the meaning of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), nor require a change to the regulations that implement subtitle D of such Act (42 U.S.C. 6941 et seq.).''.

**SEC. 3116. ENERGY PERFORMANCE REQUIREMENT FOR FEDERAL BUILDINGS.**

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

(1) by striking subsection (a) and inserting the following:

''(a) ENERGY PERFORMANCE REQUIREMENT FOR FEDERAL BUILDINGS.—

''(1) REQUIREMENT.—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 per gross square foot of the Federal buildings of the agency in fiscal years 2006 through 2017 is reduced, as compared with the energy consumption per gross square foot of the

1 Federal buildings of the agency in fiscal year 2003,
2 by the percentage specified in the following table:

| "Fiscal Year | Percentage Reduction |
|---|---|
| 2006 | 2 |
| 2007 | 4 |
| 2008 | 9 |
| 2009 | 12 |
| 2010 | 15 |
| 2011 | 18 |
| 2012 | 21 |
| 2013 | 24 |
| 2014 | 27 |
| 2015 | 30 |
| 2016 | 33 |
| 2017 | 36. |

3 "(2) EXCLUSION FOR BUILDINGS WITH ENERGY
4 INTENSIVE ACTIVITIES.—
5 "(A) IN GENERAL.—An agency may ex-
6 clude from the requirements of paragraph (1)
7 any building (including the associated energy
8 consumption and gross square footage) in which
9 energy intensive activities are carried out.
10 "(B) REPORTS.—Each agency shall iden-
11 tify and list in each report made under section
12 548(a) the buildings designated by the agency
13 for exclusion under subparagraph (A).
14 "(3) REVIEW.—Not later than December 31,
15 2017, the Secretary shall—
16 "(A) review the results of the implementa-
17 tion of the energy performance requirements es-
18 tablished under paragraph (1); and

"(B) based on the review conducted under subparagraph (A), submit to Congress a report that addresses the feasibility of requiring each agency to apply energy conservation measures to, and improve the design for the construction of, the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in each of fiscal years 2018 through 2030 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in the prior fiscal year, by 3 percent."; and

(2) in subsection (f)—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (F), (G), and (H), respectively; and

(ii) by inserting after subparagraph (D) the following:

"(E) ONGOING COMMISSIONING.—The term 'ongoing commissioning' means an ongoing process of commissioning using monitored data, the primary goal of which is to ensure

continuous optimum performance of a facility, in accordance with design or operating needs, over the useful life of the facility, while meeting facility occupancy requirements.'';

(B) in paragraph (2), by adding at the end the following:

''(C) ENERGY MANAGEMENT SYSTEM.—An energy manager designated under subparagraph (A) shall consider use of a system to manage energy use at the facility and certification of the facility in accordance with the International Organization for Standardization standard numbered 50001 and entitled 'Energy Management Systems'.'';

(C) by striking paragraphs (3) and (4) and inserting the following:

''(3) ENERGY AND WATER EVALUATIONS AND COMMISSIONING.—

''(A) EVALUATIONS.—Except as provided in subparagraph (B), effective beginning on the date that is 180 days after the date of enactment of the North American Energy Security and Infrastructure Act of 2016, and annually thereafter, each energy manager shall complete, for each calendar year, a comprehensive energy

and water evaluation and recommissioning or retrocommissioning for approximately 25 percent of the facilities of that energy manager's agency that meet the criteria under paragraph (2)(B) in a manner that ensures that an evaluation of each facility is completed at least once every 4 years.

"(B) EXCEPTIONS.—An evaluation and recommissioning or recommissioning shall not be required under subparagraph (A) with respect to a facility that—

"(i) has had a comprehensive energy and water evaluation during the 8-year period preceding the date of the evaluation;

"(ii)(I) has been commissioned, recommissioned, or retrocommissioned during the 10-year period preceding the date of the evaluation; or

"(II) is under ongoing commissioning, recommissioning, or retrocommissioning;

"(iii) has not had a major change in function or use since the previous evaluation and commissioning, recommissioning, or retrocommissioning;

"(iv) has been benchmarked with public disclosure under paragraph (8) within the year preceding the evaluation; and

"(v)(I) based on the benchmarking, has achieved at a facility level the most recent cumulative energy savings target under subsection (a) compared to the earlier of—

"(aa) the date of the most recent evaluation; or

"(bb) the date—

"(AA) of the most recent commissioning, recommissioning, or retrocommissioning; or

"(BB) on which ongoing commissioning, recommissioning, or retrocommissioning began; or

"(II) has a long-term contract in place guaranteeing energy savings at least as great as the energy savings target under subclause (I).

"(4) IMPLEMENTATION OF IDENTIFIED ENERGY AND WATER EFFICIENCY MEASURES.—

"(A) IN GENERAL.—Not later than 2 years after the date of completion of each evaluation

under paragraph (3), each energy manager may—

"(i) implement any energy- or water-saving measure that the Federal agency identified in the evaluation conducted under paragraph (3) that is life-cycle cost effective; and

"(ii) bundle individual measures of varying paybacks together into combined projects.

"(B) MEASURES NOT IMPLEMENTED.—Each energy manager, as part of the certification system under paragraph (7) and using guidelines developed by the Secretary, shall provide an explanation regarding any life-cycle cost-effective measures described in subparagraph (A)(i) that have not been implemented."; and

(D) in paragraph (7)(C), by adding at the end the following:

"(iii) SUMMARY REPORT.—The Secretary shall make publicly available a report that summarizes the information tracked under subparagraph (B)(i) by each

agency and, as applicable, by each type of measure.''.

**SEC. 3117. FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS; CERTIFICATION SYSTEM AND LEVEL FOR FEDERAL BUILDINGS.**

(a) DEFINITIONS.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832) is amended—

(1) in paragraph (6), by striking ''to be constructed'' and inserting ''constructed or altered''; and

(2) by adding at the end the following:

''(17) MAJOR RENOVATION.—The term 'major renovation' means a modification of building energy systems sufficiently extensive that the whole building can meet energy standards for new buildings, based on criteria to be established by the Secretary through notice and comment rulemaking.''.

(b) FEDERAL BUILDING EFFICIENCY STANDARDS.—Section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) is amended—

(1) in subsection (a)(3)—

(A) by striking "(3)(A) Not later than" and all that follows through the end of subparagraph (B) and inserting the following:

"(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS; CERTIFICATION FOR GREEN BUILDINGS.—

"(A) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—

"(i) IN GENERAL.—Not later than 1 year after the date of enactment of the North American Energy Security and Infrastructure Act of 2016, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

"(I) new Federal buildings and alterations and additions to existing Federal buildings—

"(aa) meet or exceed the most recent revision of the IECC (in the case of residential buildings) or ASHRAE Standard 90.1 (in the case of commercial buildings) as of the date of enactment

of the North American Energy Security and Infrastructure Act of 2016; and

"(bb) meet or exceed the energy provisions of State and local building codes applicable to the building, if the codes are more stringent than the IECC or ASHRAE Standard 90.1, as applicable;

"(II) unless demonstrated not to be life-cycle cost effective for new Federal buildings and Federal buildings with major renovations—

"(aa) 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 IECC, as appropriate, that is applied under subclause (I)(aa), including updates under subparagraph (B); and

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

"(III) 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; and

"(IV) if life-cycle cost effective, as compared to other reasonably available technologies, not less than 30 percent of the hot water demand for each new Federal building or Federal building undergoing a major renovation be met through the installation and use of solar hot water heaters.

"(ii) LIMITATION.—Clause (i)(I) shall not apply to unaltered portions of existing Federal buildings and systems that have been added to or altered.

"(B) UPDATES.—Not later than 1 year after the date of approval of each subsequent

revision of ASHRAE Standard 90.1 or the IECC, as appropriate, the Secretary shall determine whether the revised standards established under subparagraph (A) should be updated to reflect the revisions, based on the energy savings and life-cycle cost effectiveness of the revisions.";

(B) in subparagraph (C), by striking "(C) In the budget request" and inserting the following:

"(C) BUDGET REQUEST.—In the budget request"; and

(C) in subparagraph (D)—

(i) by striking "(D) Not later than" and all that follows through the end of the first sentence of clause (i)(III) and inserting the following:

"(D) CERTIFICATION FOR GREEN BUILDINGS.—

"(i) IN GENERAL.—";

(ii) by striking clause (ii);

(iii) in clause (iii), by striking "(iii) In identifying" and inserting the following:

"(ii) CONSIDERATIONS.—In identifying";

(iv) in clause (iv)—

(I) by striking ''(iv) At least once'' and inserting the following:

''(iii) STUDY.—At least once''; and

(II) by striking ''clause (iii)'' and inserting ''clause (ii)'';

(v) in clause (v)—

(I) by striking ''(v) The Secretary may'' and inserting the following:

''(iv) INTERNAL CERTIFICATION PROCESSES.—The Secretary may''; and

(II) by striking ''clause (i)(III)'' each place it appears and inserting ''clause (i)'';

(vi) in clause (vi)—

(I) by striking ''(vi) With respect'' and inserting the following:

''(v) PRIVATIZED MILITARY HOUSING.—With respect''; and

(II) by striking ''develop alternative criteria to those established by subclauses (I) and (III) of clause (i) that achieve an equivalent result in terms of energy savings, sustainable

design, and'' and inserting ''develop alternative certification systems and levels than the systems and levels identified under clause (i) that achieve an equivalent result in terms of''; and

(vii) in clause (vii), by striking ''(vii) In addition to'' and inserting the following:

''(vi) WATER CONSERVATION TECHNOLOGIES.—In addition to''; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) PERIODIC REVIEW.—The Secretary shall—

''(1) every 5 years, review the Federal building energy standards established under this section; and

''(2) on completion of a review under paragraph (1), if the Secretary determines that significant energy savings would result, upgrade the standards to include all new energy efficiency and renewable energy measures that are technologically feasible and economically justified.''.

**SEC. 3118. OPERATION OF BATTERY RECHARGING STATIONS IN PARKING AREAS USED BY FEDERAL EMPLOYEES.**

(a) AUTHORIZATION.—

(1) IN GENERAL.—The head of any office of the Federal Government which owns or operates a parking area for the use of its employees (either directly or indirectly through a contractor) may install, construct, operate, and maintain on a reimbursable basis a battery recharging station in such area for the use of privately owned vehicles of employees of the office and others who are authorized to park in such area.

(2) USE OF VENDORS.—The head of an office may carry out paragraph (1) through a contract with a vendor, under such terms and conditions (including terms relating to the allocation between the office and the vendor of the costs of carrying out the contract) as the head of the office and the vendor may agree to.

(b) IMPOSITION OF FEES TO COVER COSTS.—

(1) FEES.—The head of an office of the Federal Government which operates and maintains a battery recharging station under this section shall charge fees to the individuals who use the station in such amount as is necessary to ensure that office recovers all of the costs it incurs in installing, constructing, operating, and maintaining the station.

(2) DEPOSIT AND AVAILABILITY OF FEES.—Any fees collected by the head of an office under this subsection shall be—

(A) deposited monthly in the Treasury to the credit of the appropriations account for salaries and expenses of the office; and

(B) available for obligation without further appropriation during—

(i) the fiscal year collected; and

(ii) the fiscal year following the fiscal year collected.

(c) NO EFFECT ON EXISTING PROGRAMS FOR HOUSE AND SENATE.—Nothing in this section may be construed to affect the installation, construction, operation, or maintenance of battery recharging stations by the Architect of the Capitol—

(1) under Public Law 112–170 (2 U.S.C. 2171), relating to employees of the House of Representatives and individuals authorized to park in any parking area under the jurisdiction of the House of Representatives on the Capitol Grounds; or

(2) under Public Law 112–167 (2 U.S.C. 2170), relating to employees of the Senate and individuals authorized to park in any parking area

1 under the jurisdiction of the Senate on the Capitol
2 Grounds.
3 (d) EFFECTIVE DATE.—This section shall apply with
4 respect to fiscal year 2016 and each succeeding fiscal year.

5 **SEC. 3119. REPORT ON ENERGY SAVINGS AND GREEN-**
6 **HOUSE GAS EMISSIONS REDUCTION FROM**
7 **CONVERSION OF CAPTURED METHANE TO**
8 **ENERGY.**

9 (a) REPORT.—Not later than 1 year after the date
10 of enactment of this Act, the Secretary of Energy, in con-
11 sultation with appropriate Federal agencies and relevant
12 stakeholders, shall submit to the Committee on Energy
13 and Natural Resources of the Senate and the Committee
14 on Energy and Commerce of the House of Representatives
15 a report on the impact of captured methane converted for
16 energy and power generation on Federal lands, Federal
17 buildings, and relevant municipalities that use such gen-
18 eration, and the return on investment and reduction in
19 greenhouse gas emissions of utilizing such power genera-
20 tion.
21 (b) CONTENTS.—The report shall include—
22 (1) a summary of energy performance and sav-
23 ings resulting from the utilization of such power
24 generation, including short-term and long-term (20
25 years) projections of such savings; and

(2) an analysis of the reduction in greenhouse emissions resulting from the utilization of such power generation.

## CHAPTER 2—ENERGY EFFICIENT TECHNOLOGY AND MANUFACTURING

### SEC. 3121. INCLUSION OF SMART GRID CAPABILITY ON ENERGY GUIDE LABELS.

Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding the following at the end:

"(J) SMART GRID CAPABILITY ON ENERGY GUIDE LABELS.—

"(i) RULE.—Not later than 1 year after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider making a special note in a prominent manner on any Energy Guide label for any product that includes Smart Grid capability that—

"(I) Smart Grid capability is a feature of that product;

"(II) the use and value of that feature depend on the Smart Grid capability of the utility system in which the product is installed and the active

1 utilization of that feature by the cus-
2 tomer; and
3 ''(III) on a utility system with
4 Smart Grid capability, the use of the
5 product's Smart Grid capability could
6 reduce the customer's cost of the
7 product's annual operation as a result
8 of the incremental energy and elec-
9 tricity cost savings that would result
10 from the customer taking full advan-
11 tage of such Smart Grid capability.
12 ''(ii) DEADLINE.—Not later than 3
13 years after the date of enactment of this
14 subparagraph, the Commission shall com-
15 plete the rulemaking initiated under clause
16 (i).''.

17 **SEC. 3122. VOLUNTARY VERIFICATION PROGRAMS FOR AIR**
18 **CONDITIONING, FURNACE, BOILER, HEAT**
19 **PUMP, AND WATER HEATER PRODUCTS.**

20 Section 326(b) of the Energy Policy and Conserva-
21 tion Act (42 U.S.C. 6296(b)) is amended by adding at
22 the end the following:
23 ''(6) VOLUNTARY VERIFICATION PROGRAMS FOR
24 AIR CONDITIONING, FURNACE, BOILER, HEAT PUMP,
25 AND WATER HEATER PRODUCTS.—

"(A) RELIANCE ON VOLUNTARY PROGRAMS.—For the purpose of verifying compliance with energy conservation standards established under sections 325 and 342 for covered products described in paragraphs (3), (4), (5), (9), and (11) of section 322(a) and covered equipment described in subparagraphs (B), (C), (D), (F), (I), (J), and (K) of section 340(1), the Secretary shall rely on testing conducted by recognized voluntary verification programs that are recognized by the Secretary in accordance with subparagraph (B).

"(B) RECOGNITION OF VOLUNTARY VERIFICATION PROGRAMS.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall initiate a negotiated rulemaking in accordance with subchapter III of chapter 5 of title 5, United States Code (commonly known as the 'Negotiated Rulemaking Act of 1990') to develop criteria that have consensus support for achieving recognition by the Secretary as an approved voluntary verification program. Any subsequent

amendment to such criteria may be made only pursuant to a subsequent negotiated rulemaking in accordance with subchapter III of chapter 5 of title 5, United States Code.

"(ii) MINIMUM REQUIREMENTS.—The criteria developed under clause (i) shall, at a minimum, ensure that a voluntary verification program—

"(I) is nationally recognized;

"(II) is operated by a third party and not directly operated by a program participant;

"(III) satisfies any applicable elements of—

"(aa) International Organization for Standardization standard numbered 17025; and

"(bb) any other relevant International Organization for Standardization standards identified and agreed to through the negotiated rulemaking under clause (i);

"(IV) at least annually tests independently obtained products following the test procedures established under this title to verify the certified rating of a representative sample of products and equipment within the scope of the program;

"(V) maintains a publicly available list of all ratings of products subject to verification;

"(VI) requires the changing of the performance rating or removal of the product or equipment from the program if testing determines that the performance rating does not meet the levels the manufacturer has certified to the Secretary;

"(VII) requires new program participants to substantiate ratings through test data generated in accordance with Department of Energy regulations;

"(VIII) allows for challenge testing of products and equipment within the scope of the program;

1 "(IX) requires program partici-
2 pants to disclose the performance rat-
3 ing of all covered products and equip-
4 ment within the scope of the program
5 for the covered product or equipment;
6 "(X) provides to the Secretary—
7 "(aa) an annual report of all
8 test results, the contents of which
9 shall be determined through the
10 negotiated rulemaking process
11 under clause (i); and
12 "(bb) test reports, on the re-
13 quest of the Secretary, that note
14 any instructions specified by the
15 manufacturer or the representa-
16 tive of the manufacturer for the
17 purpose of conducting the
18 verification testing; and
19 "(XI) satisfies any additional re-
20 quirements or standards that the Sec-
21 retary shall establish consistent with
22 this subparagraph.
23 "(iii) CESSATION OF RECOGNITION.—
24 The Secretary may only cease recognition
25 of a voluntary verification program as an

1 approved program described in subpara-
2 graph (A) upon a finding that the program
3 is not meeting its obligations for compli-
4 ance through program review criteria de-
5 veloped during the negotiated rulemaking
6 conducted under subparagraph (B).
7 ''(C) ADMINISTRATION.—
8 ''(i) IN GENERAL.—The Secretary
9 shall not require—
10 ''(I) manufacturers to participate
11 in a recognized voluntary verification
12 program described in subparagraph
13 (A); or
14 ''(II) participating manufacturers
15 to provide information that has al-
16 ready been provided to the Secretary.
17 ''(ii) LIST OF COVERED PRODUCTS.—
18 The Secretary may maintain a publicly
19 available list of covered products and
20 equipment that distinguishes between
21 products that are and are not covered
22 products and equipment verified through a
23 recognized voluntary verification program
24 described in subparagraph (A).

"(iii) PERIODIC VERIFICATION TESTING.—The Secretary—

"(I) shall not subject products or equipment that have been verification tested under a recognized voluntary verification program described in subparagraph (A) to periodic verification testing to verify the accuracy of the certified performance rating of the products or equipment; but

"(II) may require testing of products or equipment described in subclause (I)—

"(aa) if the testing is necessary—

"(AA) to assess the overall performance of a voluntary verification program;

"(BB) to address specific performance issues;

"(CC) for use in updating test procedures and standards; or

"(DD) for other purposes consistent with this title; or

"(bb) if such testing is agreed to during the negotiated rulemaking conducted under subparagraph (B).

"(D) EFFECT ON OTHER AUTHORITY.—Nothing in this paragraph limits the authority of the Secretary to enforce compliance with any law.".

**SEC. 3123. FACILITATING CONSENSUS FURNACE STANDARDS.**

(a) CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.—

(1) FINDINGS.—Congress finds that—

(A) acting pursuant to the requirements of section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295), the Secretary of Energy is considering amending the energy conservation standards applicable to residential nonweatherized gas furnaces and mobile home gas furnaces;

(B) numerous stakeholders, representing manufacturers, distributors, and installers of

residential nonweatherized gas furnaces and mobile home furnaces, natural gas utilities, home builders, multifamily property owners, and energy efficiency, environmental, and consumer advocates have begun negotiations in an attempt to agree on a consensus recommendation to the Secretary on levels for such standards that will meet the statutory criteria; and

(C) the stakeholders believe these negotiations are likely to result in a consensus recommendation, but several of the stakeholders do not support suspending the current rulemaking.

(2) PURPOSE.—It is the purpose of this section to provide the stakeholders described in paragraph (1) with an opportunity to continue negotiations for a limited time period to facilitate the proposal for adoption of standards that enjoy consensus support, while not delaying the current rulemaking except to the extent necessary to provide such opportunity.

(b) OPPORTUNITY FOR A NEGOTIATED FURNACE STANDARD.—Section 325(f)(4) of the Energy Policy and Conservation Act (42 U.S.C. 6295(f)(4)) is amended by adding after subparagraph (D) the following:

1 "(E)(i) Unless the Secretary has published such a no-
2 tice prior to the date of enactment of this Act, the Sec-
3 retary shall publish, not later than October 31, 2015, a
4 supplemental notice of proposed rulemaking or a notice
5 of data availability updating the proposed rule entitled
6 'Energy Conservation Program for Consumer Products:
7 Energy Conservation Standards for Residential Furnaces'
8 and published in the Federal Register on March 12, 2015
9 (80 Fed. Reg. 13119), to provide notice and an oppor-
10 tunity for comment on—
11 "(I) dividing nonweatherized gas furnaces into
12 two or more product classes with separate energy
13 conservation standards based on capacity; and
14 "(II) any other matters the Secretary deter-
15 mines appropriate.
16 "(ii) On receipt of a statement that is submitted on
17 or before January 1, 2016, jointly by interested persons
18 that are fairly representative of relevant points of view,
19 that contains recommended standards for nonweatherized
20 gas furnaces and mobile home gas furnaces that are con-
21 sistent with the requirements of this part (except that the
22 date on which such standards will apply may be earlier
23 or later than the date required under this part), the Sec-
24 retary shall evaluate the standards proposed in the joint
25 statement for consistency with the requirements of sub-

section (o), and shall publish notice of the potential adoption of the standards proposed in the joint statement, modified as necessary to ensure consistency with subsection (o). The Secretary shall solicit public comment for a period of at least 30 days with respect to such notice.

"(iii) Not later than July 31, 2016, but not before July 1, 2016, the Secretary shall publish a final rule containing a determination of whether the standards for non-weatherized gas furnaces and mobile home gas furnaces should be amended. Such rule shall contain any such amendments to the standards.".

**SEC. 3124. NO WARRANTY FOR CERTAIN CERTIFIED ENERGY STAR PRODUCTS.**

Section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a) is amended by adding at the end the following new subsection:

"(e) NO WARRANTY.—

"(1) IN GENERAL.—Any disclosure relating to participation of a product in the Energy Star program shall not create an express or implied warranty or give rise to any private claims or rights of action under State or Federal law relating to the disqualification of that product from Energy Star if—

"(A) the product has been certified by a certification body recognized by the Energy Star program;

"(B) the Administrator has approved corrective measures, including a determination of whether or not consumer compensation is appropriate; and

"(C) the responsible party has fully complied with all approved corrective measures.

"(2) CONSTRUAL.—Nothing in this subsection shall be construed to require the Administrator to modify any procedure or take any other action.".

**SEC. 3125. CLARIFICATION TO EFFECTIVE DATE FOR REGIONAL STANDARDS.**

Section 325(o)(6)(E)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6295(o)(6)(E)(ii)) is amended by striking "installed" and inserting "manufactured or imported into the United States".

**SEC. 3126. INTERNET OF THINGS REPORT.**

The Secretary of Energy shall, not later than 18 months after the date of enactment of this Act, report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the efforts made to take advantage of, and promote, the utilization of ad-

vanced technologies such as Internet of Things end-to-end platform solutions to provide real-time actionable analytics and enable predictive maintenance and asset management to improve energy efficiency wherever feasible. In doing so, the Secretary shall look to encourage and utilize Internet of Things energy management solutions that have security tightly integrated into the hardware and software from the outset. The Secretary shall also encourage the use of Internet of Things solutions that enable seamless connectivity and that are interoperable, open standards-based, and built on a repeatable foundation for ease of scalability.

**SEC. 3127. ENERGY SAVINGS FROM LUBRICATING OIL.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and the Director of Management and Budget, shall—

(1) review and update the report prepared pursuant to section 1838 of the Energy Policy Act of 2005;

(2) after consultation with relevant Federal, State, and local agencies and affected industry and stakeholder groups, update data that was used in preparing that report; and

(3) prepare and submit to Congress a coordinated Federal strategy to increase the beneficial reuse of used lubricating oil, that—

(A) is consistent with national policy as established pursuant to section 2 of the Used Oil Recycling Act of 1980 (Public Law 96–463); and

(B) addresses measures needed to—

(i) increase the responsible collection of used oil;

(ii) disseminate public information concerning sustainable reuse options for used oil; and

(iii) promote sustainable reuse of used oil by Federal agencies, recipients of Federal grant funds, entities contracting with the Federal Government, and the general public.

**SEC. 3128. DEFINITION OF EXTERNAL POWER SUPPLY.**

Section 321(36)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6291(36)(A)) is amended—

(1) by striking the subparagraph designation and all that follows through ''The term'' and inserting the following:

''(A) EXTERNAL POWER SUPPLY.—

"(i) IN GENERAL.—The term"; and

(2) by adding at the end the following:

"(ii) EXCLUSION.—The term 'external power supply' does not include a power supply circuit, driver, or device that is designed exclusively to be connected to, and power—

"(I) light-emitting diodes providing illumination; or

"(II) organic light-emitting diodes providing illumination.".

**SEC. 3129. STANDARDS FOR POWER SUPPLY CIRCUITS CONNECTED TO LEDS OR OLEDS.**

(a) IN GENERAL.—Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) is amended by adding at the end the following:

"(6) POWER SUPPLY CIRCUITS CONNECTED TO LEDS OR OLEDS.—Notwithstanding the exclusion described in section 321(36)(A)(ii), the Secretary may prescribe, in accordance with subsections (o) and (p) and section 322(b), an energy conservation standard for a power supply circuit, driver, or device that is designed primarily to be connected to, and power, light-emitting diodes or organic light-emitting diodes providing illumination.".

(b) ENERGY CONSERVATION STANDARDS.—Section 346 of the Energy Policy and Conservation Act (42 U.S.C. 6317) is amended by adding at the end the following:

"(g) ENERGY CONSERVATION STANDARD FOR POWER SUPPLY CIRCUITS CONNECTED TO LEDS OR OLEDS.—Not earlier than 1 year after applicable testing requirements are prescribed under section 343, the Secretary may prescribe an energy conservation standard for a power supply circuit, driver, or device that is designed primarily to be connected to, and power, light-emitting diodes or organic light-emitting diodes providing illumination.".

## CHAPTER 3—SCHOOL BUILDINGS

### SEC. 3131. COORDINATION OF ENERGY RETROFITTING ASSISTANCE FOR SCHOOLS.

Section 392 of the Energy Policy and Conservation Act (42 U.S.C. 6371a) is amended by adding at the end the following:

"(e) COORDINATION OF ENERGY RETROFITTING ASSISTANCE FOR SCHOOLS.—

"(1) DEFINITION OF SCHOOL.—Notwithstanding section 391(6), for the purposes of this subsection, the term 'school' means—

"(A) an elementary school or secondary school (as defined in section 9101 of the Ele-

mentary and Secondary Education Act of 1965 (20 U.S.C. 7801));

"(B) an institution of higher education (as defined in section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)));

"(C) a school of the defense dependents' education system under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.) or established under section 2164 of title 10, United States Code;

"(D) a school operated by the Bureau of Indian Affairs;

"(E) a tribally controlled school (as defined in section 5212 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2511)); and

"(F) a Tribal College or University (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))).

"(2) ESTABLISHMENT OF CLEARINGHOUSE.—The Secretary, acting through the Office of Energy Efficiency and Renewable Energy, shall establish a clearinghouse to disseminate information regarding available Federal programs and financing mechanisms that may be used to help initiate, develop, and

finance energy efficiency, distributed generation, and energy retrofitting projects for schools.

"(3) REQUIREMENTS.—In carrying out paragraph (2), the Secretary shall—

"(A) consult with appropriate Federal agencies to develop a list of Federal programs and financing mechanisms that are, or may be, used for the purposes described in paragraph (2); and

"(B) coordinate with appropriate Federal agencies to develop a collaborative education and outreach effort to streamline communications and promote available Federal programs and financing mechanisms described in subparagraph (A), which may include the development and maintenance of a single online resource that includes contact information for relevant technical assistance in the Office of Energy Efficiency and Renewable Energy that States, local education agencies, and schools may use to effectively access and use such Federal programs and financing mechanisms.".

# CHAPTER 4—BUILDING ENERGY CODES

## SEC. 3141. GREATER ENERGY EFFICIENCY IN BUILDING CODES.

(a) DEFINITIONS.—Section 303 of the Energy Conservation and Production Act (42 U.S.C. 6832), as amended by section 3116, is further amended—

(1) by striking paragraph (14) and inserting the following:

"(14) MODEL BUILDING ENERGY CODE.—The term 'model building energy code' means a voluntary building energy code or standard developed and updated through a consensus process among interested persons, such as the IECC or ASHRAE Standard 90.1 or a code used by other appropriate organizations regarding which the Secretary has issued a determination that buildings subject to it would achieve greater energy efficiency than under a previously developed code."; and

(2) by adding at the end the following:

"(18) ASHRAE STANDARD 90.1.—The term 'ASHRAE Standard 90.1' means the American Society of Heating, Refrigerating and Air-Conditioning Engineers ANSI/ASHRAE/IES Standard 90/1 Energy Standard for Buildings Except Low-Rise Residential Buildings.

"(19) COST-EFFECTIVE.—The term 'cost-effective' means having a simple payback of 10 years or less.

"(20) IECC.—The term 'IECC' means the International Energy Conservation Code as published by the International Code Council.

"(21) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).

"(22) SIMPLE PAYBACK.—The term 'simple payback' means the time in years that is required for energy savings to exceed the incremental first cost of a new requirement or code.

"(23) TECHNICALLY FEASIBLE.—The term 'technically feasible' means capable of being achieved, based on widely available appliances, equipment, technologies, materials, and construction practices.".

(b) STATE BUILDING ENERGY EFFICIENCY CODES.—Section 304 of the Energy Conservation and Production Act (42 U.S.C. 6833) is amended to read as follows:

**"SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.**

"(a) IN GENERAL.—The Secretary shall provide technical assistance, as described in subsection (e), for the purposes of—

"(1) implementation of building energy codes by States, Indian tribes, and, as appropriate, by local governments, that are technically feasible and cost-effective; and

"(2) supporting full compliance with the State, tribal, and local codes.

"(b) STATE AND INDIAN TRIBE CERTIFICATION OF BUILDING ENERGY CODE UPDATES.—

"(1) REVIEW AND UPDATING OF CODES BY EACH STATE AND INDIAN TRIBE.—

"(A) IN GENERAL.—Not later than 3 years after the date on which a model building energy code is published, each State or Indian tribe shall certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively.

"(B) DEMONSTRATION.—The certification shall include a statement of whether or not the energy savings for the code provisions that are

in effect throughout the State or Indian tribal territory meet or exceed—

"(i) the energy savings of the most recently published model building energy code; or

"(ii) the targets established under section 307(b)(2).

"(C) NO MODEL BUILDING ENERGY CODE UPDATE.—If a model building energy code is not updated by a target date established under section 307(b)(2)(D), each State or Indian tribe shall, not later than 3 years after the specified date, certify whether or not the State or Indian tribe, respectively, has reviewed and updated the energy provisions of the building code of the State or Indian tribe, respectively, to meet or exceed the target in section 307(b)(2).

"(2) VALIDATION BY SECRETARY.—Not later than 90 days after a State or Indian tribe certification under paragraph (1), the Secretary shall—

"(A) determine whether the code provisions of the State or Indian tribe, respectively, meet the criteria specified in paragraph (1);

"(B) determine whether the certification submitted by the State or Indian tribe, respectively, is complete; and

"(C) if the requirements of subparagraph (B) are satisfied, validate the certification.

"(3) LIMITATION.—Nothing in this section shall be interpreted to require a State or Indian tribe to adopt any building code or provision within a code.

"(c) IMPROVEMENTS IN COMPLIANCE WITH BUILDING ENERGY CODES.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—Not later than 3 years after the date of a certification under subsection (b), each State and Indian tribe shall certify whether or not the State or Indian tribe, respectively, has—

"(i) achieved full compliance under paragraph (3) with the applicable certified State or Indian tribe building energy code or with the associated model building energy code; or

"(ii) made significant progress under paragraph (4) toward achieving compliance with the applicable certified State or In-

dian tribe building energy code or with the associated model building energy code.

"(B) REPEAT CERTIFICATIONS.—If the State or Indian tribe certifies progress toward achieving compliance, the State or Indian tribe shall repeat the certification until the State or Indian tribe certifies that the State or Indian tribe has achieved full compliance.

"(2) MEASUREMENT OF COMPLIANCE.—A certification under paragraph (1) shall include documentation of the rate of compliance based on—

"(A) inspections of a random sample of the buildings covered by the code in the preceding year; or

"(B) an alternative method that yields an accurate measure of compliance.

"(3) ACHIEVEMENT OF COMPLIANCE.—A State or Indian tribe shall be considered to achieve full compliance under paragraph (1) if—

"(A) at least 90 percent of building space covered by the code in the preceding year substantially meets all the requirements of the applicable code specified in paragraph (1), or achieves equivalent or greater energy savings level; or

"(B) the estimated excess energy use of buildings that did not meet the applicable code specified in paragraph (1) in the preceding year, compared to a baseline of comparable buildings that meet this code, is not more than 5 percent of the estimated energy use of all buildings covered by this code during the preceding year.

"(4) SIGNIFICANT PROGRESS TOWARD ACHIEVEMENT OF COMPLIANCE.—A State or Indian tribe shall be considered to have made significant progress toward achieving compliance for purposes of paragraph (1) if the State or Indian tribe—

"(A) has developed and is implementing a plan for achieving compliance during the 8-year period beginning on the date of enactment of this paragraph, including annual targets for compliance and active training and enforcement programs; and

"(B) has met the most recent target under subparagraph (A).

"(5) VALIDATION BY SECRETARY.—Not later than 90 days after a State or Indian tribe certification under paragraph (1), the Secretary shall—

"(A) determine whether the State or Indian tribe has demonstrated meeting the criteria of this subsection, including accurate measurement of compliance;

"(B) determine whether the certification submitted by the State or Indian tribe is complete; and

"(C) if the requirements of subparagraph (B) are satisfied, validate the certification.

"(6) LIMITATION.—Nothing in this section shall be interpreted to require a State or Indian tribe to adopt any building code or provision within a code.

"(d) STATES OR INDIAN TRIBES THAT DO NOT ACHIEVE COMPLIANCE.—

"(1) REPORTING.—A State or Indian tribe that has not made a certification required under subsection (b) or (c) by the applicable deadline shall submit to the Secretary a report on the status of the State or Indian tribe with respect to meeting the requirements and submitting the certification.

"(2) STATE SOVEREIGNTY.—Nothing in this section shall be interpreted to require a State or Indian tribe to adopt any building code or provision within a code.

"(3) LOCAL GOVERNMENT.—In any State or Indian tribe for which the Secretary has not validated a certification under subsection (b) or (c), a local government may be eligible for Federal support by meeting the certification requirements of subsections (b) and (c).

"(4) ANNUAL REPORTS BY SECRETARY.—

"(A) IN GENERAL.—The Secretary shall annually submit to Congress, and publish in the Federal Register, a report on—

"(i) the status of model building energy codes;

"(ii) the status of code adoption and compliance in the States and Indian tribes;

"(iii) implementation of this section; and

"(iv) improvements in energy savings over time as a result of the targets established under section 307(b)(2).

"(B) IMPACTS.—The report shall include estimates of impacts of past action under this section, and potential impacts of further action, on—

"(i) upfront financial and construction costs, cost benefits and returns (using a

return on investment analysis), and lifetime energy use for buildings;

"(ii) resulting energy costs to individuals and businesses; and

"(iii) resulting overall annual building ownership and operating costs.

"(e) TECHNICAL ASSISTANCE TO STATES AND INDIAN TRIBES.—

"(1) IN GENERAL.—The Secretary shall, upon request, provide technical assistance to States and Indian tribes to implement the goals and requirements of this section—

"(A) to implement State residential and commercial building energy codes; and

"(B) to document the rate of compliance with a building energy code.

"(2) TECHNICAL ASSISTANCE.—The assistance shall include, as requested by the State or Indian tribe, technical assistance in—

"(A) evaluating the energy savings of building energy codes;

"(B) assessing the economic considerations, referenced in section 307(b)(4), of implementing building energy codes;

"(C) building energy analysis and design tools;

"(D) energy simulation models;

"(E) building demonstrations;

"(F) developing the definitions of energy use intensity and building types for use in model building energy codes to evaluate the efficiency impacts of the model building energy codes; and

"(G) complying with a performance-based pathway referenced in the model code.

"(3) EXCLUSION.—For purposes of this section, 'technical assistance' shall not include actions that promote or discourage the adoption of a particular building energy code, code provision, or energy savings target to a State or Indian tribe.

"(4) INFORMATION QUALITY AND TRANSPARENCY.—For purposes of this section, information provided by the Secretary, attendant to any technical assistance provided to a State or Indian tribe, is 'influential information' and shall satisfy the guidelines established by the Office of Management and Budget and published at 67 Federal Register 8,452 (February 22, 2002).

"(f) FEDERAL SUPPORT.—

"(1) IN GENERAL.—The Secretary shall provide support to States and Indian tribes—

"(A) to implement the reporting requirements of this section; and

"(B) to implement residential and commercial building energy codes, including increasing and verifying compliance with the codes and training of State, tribal, and local building code officials to implement and enforce the codes.

"(2) EXCLUSION.—Support shall not be given to support adoption and implementation of model building energy codes for which the Secretary has made a determination under section 307(g)(1)(C) that the code is not cost-effective.

"(3) TRAINING.—Support shall be offered to States to train State and local building code officials to implement and enforce codes described in paragraph (1)(B).

"(4) LOCAL GOVERNMENTS.—States may work under this subsection with local governments that implement and enforce codes described in paragraph (1)(B).

"(g) VOLUNTARY PROGRAMS TO EXCEED MODEL BUILDING ENERGY CODE.—

"(1) IN GENERAL.—The Secretary shall provide technical assistance, as described in subsection (e), for the development of voluntary programs that exceed the model building energy codes for residential and commercial buildings for use as—

"(A) voluntary incentive programs adopted by local, tribal, or State governments; and

"(B) nonbinding guidelines for energy-efficient building design.

"(2) TARGETS.—The voluntary programs described in paragraph (1) shall be designed—

"(A) to achieve substantial energy savings compared to the model building energy codes; and

"(B) to meet targets under section 307(b), if available, up to 3 to 6 years in advance of the target years.

"(h) STUDIES.—

"(1) GAO STUDY.—

"(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the impacts of updating the national model building energy codes for residential and commercial buildings. In conducting the study, the

1 Comptroller General shall consider and report,
2 at a minimum—
3 "(i) the actual energy consumption
4 savings stemming from updated energy
5 codes compared to the energy consumption
6 savings predicted during code development;
7 "(ii) the actual consumer cost savings
8 stemming from updated energy codes com-
9 pared to predicted consumer cost savings;
10 and
11 "(iii) an accounting of expenditures of
12 the Federal funds under each program au-
13 thorized by this title.
14 "(B) REPORT TO CONGRESS.—Not later
15 than 3 years after the date of enactment of the
16 North American Energy Security and Infra-
17 structure Act of 2016, the Comptroller General
18 of the United States shall submit a report to
19 the Committee on Energy and Natural Re-
20 sources of the Senate and the Committee on
21 Energy and Commerce of the House of Rep-
22 resentatives including the study findings and
23 conclusions.
24 "(2) FEASIBILITY STUDY.—The Secretary, in
25 consultation with building science experts from the

National Laboratories and institutions of higher education, designers and builders of energy-efficient residential and commercial buildings, code officials, and other stakeholders, shall undertake a study of the feasibility, impact, economics, and merit of—

"(A) code improvements that would require that buildings be designed, sited, and constructed in a manner that makes the buildings more adaptable in the future to become zero-net-energy after initial construction, as advances are achieved in energy-saving technologies;

"(B) code procedures to incorporate a ten-year payback, not just first-year energy use, in trade-offs and performance calculations; and

"(C) legislative options for increasing energy savings from building energy codes, including additional incentives for effective State and local verification of compliance with and enforcement of a code.

"(3) ENERGY DATA IN MULTITENANT BUILDINGS.—The Secretary, in consultation with appropriate representatives of the utility, utility regulatory, building ownership, and other stakeholders, shall—

"(A) undertake a study of best practices regarding delivery of aggregated energy consumption information to owners and managers of residential and commercial buildings with multiple tenants and uses; and

"(B) consider the development of a memorandum of understanding between and among affected stakeholders to reduce barriers to the delivery of aggregated energy consumption information to such owners and managers.

"(i) EFFECT ON OTHER LAWS.—Nothing in this section or section 307 supersedes or modifies the application of sections 321 through 346 of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.).

"(j) FUNDING LIMITATIONS.—No Federal funds shall be—

"(1) used to support actions by the Secretary, or States, to promote or discourage the adoption of a particular building energy code, code provision, or energy saving target to a State or Indian tribe; or

"(2) provided to private third parties or nongovernmental organizations to engage in such activities.".

(c) FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.—Section 305 of the Energy Conservation

and Production Act (42 U.S.C. 6834) is amended by striking ''voluntary building energy code'' in subsections (a)(2)(B) and (b) and inserting ''model building energy code''.

(d) MODEL BUILDING ENERGY CODES.—

(1) AMENDMENT.—Section 307 of the Energy Conservation and Production Act (42 U.S.C. 6836) is amended to read as follows:

**''SEC. 307. SUPPORT FOR MODEL BUILDING ENERGY CODES.**

''(a) IN GENERAL.—The Secretary shall provide technical assistance, as described in subsection (c), for updating of model building energy codes.

''(b) TARGETS.—

''(1) IN GENERAL.—The Secretary shall provide technical assistance, for updating the model building energy codes.

''(2) TARGETS.—

''(A) IN GENERAL.—The Secretary shall provide technical assistance to States, Indian tribes, local governments, nationally recognized code and standards developers, and other interested parties for updating of model building energy codes by establishing one or more aggregate energy savings targets through rulemaking

in accordance with section 553 of title 5, United States Code, to achieve the purposes of this section.

"(B) SEPARATE TARGETS.—Separate targets may be established for commercial and residential buildings.

"(C) BASELINES.—The baseline for updating model building energy codes shall be the 2009 IECC for residential buildings and ASHRAE Standard 90.1–2010 for commercial buildings.

"(D) SPECIFIC YEARS.—

"(i) IN GENERAL.—Targets for specific years shall be established and revised by the Secretary through rulemaking in accordance with section 553 of title 5, United States Code, and coordinated with nationally recognized code and standards developers at a level that—

"(I) is at the maximum level of energy efficiency that is technically feasible and cost effective, while accounting for the economic considerations under paragraph (4); and

"(II) promotes the achievement of commercial and residential high performance buildings through high performance energy efficiency (within the meaning of section 401 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061)).

"(ii) INITIAL TARGETS.—Not later than 1 year after the date of enactment of this clause, the Secretary shall establish initial targets under this subparagraph.

"(iii) DIFFERENT TARGET YEARS.—Subject to clause (i), prior to the applicable year, the Secretary may set a later target year for any of the model building energy codes described in subparagraph (A) if the Secretary determines that a target cannot be met.

"(E) SMALL BUSINESS.—When establishing targets under this paragraph through rulemaking, the Secretary shall ensure compliance with the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note; Public Law 104–121) for any indirect eco-

nomic effect on small entities that is reasonably foreseeable and a result of such rule.

"(3) APPLIANCE STANDARDS AND OTHER FACTORS AFFECTING BUILDING ENERGY USE.—In establishing energy savings targets under paragraph (2), the Secretary shall develop and adjust the targets in recognition of potential savings and costs relating to—

"(A) efficiency gains made in appliances, lighting, windows, insulation, and building envelope sealing;

"(B) advancement of distributed generation and on-site renewable power generation technologies;

"(C) equipment improvements for heating, cooling, and ventilation systems and water heating systems;

"(D) building management systems and smart grid technologies to reduce energy use; and

"(E) other technologies, practices, and building systems regarding building plug load and other energy uses.

In developing and adjusting the targets, the Secretary shall use climate zone weighted averages for

equipment efficiency for heating, cooling, ventilation, and water heating systems, using equipment that is actually installed.

"(4) ECONOMIC CONSIDERATIONS.—In establishing and revising energy savings targets under paragraph (2), the Secretary shall consider the economic feasibility of achieving the proposed targets established under this section and the potential costs and savings for consumers and building owners, by conducting a return on investment analysis, using a simple payback methodology over a 3-, 5-, and 7-year period. The Secretary shall not propose or provide technical or financial assistance for any code, provision in the code, or energy target, or amendment thereto, that has a payback greater than 10 years.

"(c) TECHNICAL ASSISTANCE TO MODEL BUILDING ENERGY CODE-SETTING AND STANDARD DEVELOPMENT ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall, on a timely basis, provide technical assistance to model building energy code-setting and standard development organizations consistent with the goals of this section.

"(2) TECHNICAL ASSISTANCE.—The assistance shall include, as requested by the organizations, technical assistance in—

"(A) evaluating the energy savings of building energy codes;

"(B) assessing the economic considerations, under subsection (b)(4), of code or standards proposals or revisions;

"(C) building energy analysis and design tools;

"(D) energy simulation models;

"(E) building demonstrations;

"(F) developing definitions of energy use intensity and building types for use in model building energy codes to evaluate the efficiency impacts of the model building energy codes;

"(G) developing a performance-based pathway for compliance;

"(H) developing model building energy codes by Indian tribes in accordance with tribal law; and

"(I) code development meetings, including through direct Federal employee participation in committee meetings, hearings and online communication, voting, and presenting research

and technical or economic analyses during such meetings.

"(3) EXCLUSION.—Except as provided in paragraph (2)(I), for purposes of this section, 'technical assistance' shall not include actions that promote or discourage the adoption of a particular building energy code, code provision, or energy savings target.

"(4) INFORMATION QUALITY AND TRANSPARENCY.—For purposes of this section, information provided by the Secretary, attendant to development of any energy savings targets, is influential information and shall satisfy the guidelines established by the Office of Management and Budget and published at 67 Federal Register 8,452 (February 22, 2002).

"(d) AMENDMENT PROPOSALS.—

"(1) IN GENERAL.—The Secretary may submit timely model building energy code amendment proposals that are technically feasible, cost-effective, and technology-neutral to the model building energy code-setting and standard development organizations, with supporting evidence, sufficient to enable the model building energy codes to meet the targets established under subsection (b)(2).

"(2) PROCESS AND FACTORS.—All amendment proposals submitted by the Secretary shall be pub-

lished in the Federal Register and made available on the Department of Energy website 90 days prior to any submittal to a code development body, and shall be subject to a public comment period of not less than 60 days. Information provided by the Secretary, attendant to submission of any amendment proposals, is influential information and shall satisfy the guidelines established by the Office of Management and Budget and published at 67 Federal Register 8,452 (February 22, 2002). When calculating the costs and benefits of an amendment, the Secretary shall use climate zone weighted averages for equipment efficiency for heating, cooling, ventilation, and water heating systems, using equipment that is actually installed.

''(e) ANALYSIS METHODOLOGY.—The Secretary shall make publicly available the entire calculation methodology (including input assumptions and data) used by the Secretary to estimate the energy savings of code or standard proposals and revisions.

''(f) METHODOLOGY DEVELOPMENT.—The Secretary shall establish a methodology for evaluating cost effectiveness of energy code changes in multifamily buildings that incorporates economic parameters representative of typical multifamily buildings.

"(g) DETERMINATION.—

"(1) REVISION OF MODEL BUILDING ENERGY CODES.—If the provisions of the IECC or ASHRAE Standard 90.1 regarding building energy use are revised, the Secretary shall make a preliminary determination not later than 90 days after the date of the revision, and a final determination not later than 15 months after the date of the revision, on whether or not the revision—

"(A) improves energy efficiency in buildings compared to the existing IECC or ASHRAE Standard 90.1, as applicable;

"(B) meets the applicable targets under subsection (b)(2); and

"(C) is technically feasible and cost-effective.

"(2) CODES OR STANDARDS NOT MEETING CRITERIA.—

"(A) IN GENERAL.—If the Secretary makes a preliminary determination under paragraph (1)(B) that a revised IECC or ASHRAE Standard 90.1 does not meet the targets established under subsection (b)(2), is not technically feasible, or is not cost-effective, the Secretary may at the same time provide technical assist-

ance, as described in subsection (c), to the International Code Council or ASHRAE, as applicable, with proposed changes that would result in a model building energy code or standard that meets the criteria, and with supporting evidence. Proposed changes submitted by the Secretary shall be published in the Federal Register and made available on the Department of Energy website 90 days prior to any submittal to a code development body, and shall be subject to a public comment period of not less than 60 days. Information provided by the Secretary, attendant to submission of any amendment proposals, is influential information and shall satisfy the guidelines established by the Office of Management and Budget and published at 67 Federal Register 8,452 (February 22, 2002).

"(B) INCORPORATION OF CHANGES.—

"(i) IN GENERAL.—On receipt of the technical assistance, as described in subsection (c), the International Code Council or ASHRAE, as applicable, shall, prior to the Secretary making a final determination under paragraph (1), have an additional

270 days to accept or reject the proposed changes made by the Secretary to the model building energy code or standard.

"(ii) FINAL DETERMINATION.—A final determination under paragraph (1) shall be on the final revised model building energy code or standard.

"(h) ADMINISTRATION.—In carrying out this section, the Secretary shall—

"(1) publish notice of targets, amendment proposals and supporting analysis and determinations under this section in the Federal Register to provide an explanation of and the basis for such actions, including any supporting modeling, data, assumptions, protocols, and cost-benefit analysis, including return on investment;

"(2) provide an opportunity for public comment on targets and supporting analysis and determinations under this section, in accordance with section 553 of title 5, United States Code; and

"(3) provide an opportunity for public comment on amendment proposals.

"(i) VOLUNTARY CODES AND STANDARDS.—Notwithstanding any other provision of this section, any model building code or standard established under this

1 section shall not be binding on a State, local government,
2 or Indian tribe as a matter of Federal law.''.

3 (2) CONFORMING AMENDMENT.—The item re-
4 lating to section 307 in the table of contents for the
5 Energy Conservation and Production Act is amend-
6 ed to read as follows:

''Sec. 307. Support for model building energy codes.''.

7 **SEC. 3142. VOLUNTARY NATURE OF BUILDING ASSET RAT-**
8 **ING PROGRAM.**

9 (a) IN GENERAL.—Any program of the Secretary of
10 Energy that may enable the owner of a commercial build-
11 ing or a residential building to obtain a rating, score, or
12 label regarding the actual or anticipated energy usage or
13 performance of a building shall be made available on a
14 voluntary, optional, and market-driven basis.

15 (b) DISCLAIMER AS TO REGULATORY INTENT.—In-
16 formation disseminated by the Secretary of Energy re-
17 garding the program described in subsection (a), including
18 any information made available by the Secretary on a
19 website, shall include language plainly stating that such
20 program is not developed or intended to be the basis for
21 a regulatory program by a Federal, State, local, or munic-
22 ipal government body.

# CHAPTER 5—EPCA TECHNICAL CORRECTIONS AND CLARIFICATIONS

**SEC. 3151. MODIFYING PRODUCT DEFINITIONS.**

(a) AUTHORITY TO MODIFY DEFINITIONS.—

(1) COVERED PRODUCTS.—Section 322 of the Energy Policy and Conservation Act (42 U.S.C. 6292) is amended by adding at the end the following:

''(c) MODIFYING DEFINITIONS OF COVERED PRODUCTS.—

''(1) IN GENERAL.—For any covered product for which a definition is provided in section 321, the Secretary may, by rule, unless prohibited herein, modify such definition in order to—

''(A) address significant changes in the product or the market occurring since the definition was established; and

''(B) better enable improvements in the energy efficiency of the product as part of an energy using system.

''(2) ANTIBACKSLIDING EXEMPTION.—Section 325(o)(1) shall not apply to adjustments to covered product definitions made pursuant to this subsection.

"(3) PROCEDURE FOR MODIFYING DEFINITION.—

"(A) IN GENERAL.—Notice of any adjustment to the definition of a covered product and an explanation of the reasons therefor shall be published in the Federal Register and opportunity provided for public comment.

"(B) CONSENSUS REQUIRED.—Any amendment to the definition of a covered product under this subsection must have consensus support, as reflected in—

"(i) the outcome of negotiations conducted in accordance with the subchapter III of chapter 5 of title 5, United States Code (commonly known as the 'Negotiated Rulemaking Act of 1990'); or

"(ii) the Secretary's receipt of a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary, which contains a recommended modified definition for a covered product.

"(4) EFFECT OF A MODIFIED DEFINITION.—

"(A) IN GENERAL.—For any type or class of consumer product which becomes a covered product pursuant to this subsection—

"(i) the Secretary may establish test procedures for such type or class of covered product pursuant to section 323 and energy conservation standards pursuant to section 325(l);

"(ii) the Commission may prescribe labeling rules pursuant to section 324 if the Commission determines that labeling in accordance with that section is technologically and economically feasible and likely to assist consumers in making purchasing decisions;

"(iii) section 327 shall begin to apply to such type or class of covered product in accordance with section 325(ii)(1); and

"(iv) standards previously promulgated under section 325 shall not apply to such type or class of product.

"(B) APPLICABILITY.—For any type or class of consumer product which ceases to be a covered product pursuant to this subsection, the

provisions of this part shall no longer apply to the type or class of consumer product.''.

(2) COVERED EQUIPMENT.—Section 341 of the Energy Policy and Conservation Act (42 U.S.C. 6312) is amended by adding at the end the following:

''(d) MODIFYING DEFINITIONS OF COVERED EQUIPMENT.—

''(1) IN GENERAL.—For any covered equipment for which a definition is provided in section 340, the Secretary may, by rule, unless prohibited herein, modify such definition in order to—

''(A) address significant changes in the product or the market occurring since the definition was established; and

''(B) better enable improvements in the energy efficiency of the equipment as part of an energy using system.

''(2) ANTIBACKSLIDING EXEMPTION.—Section 325(o)(1) shall not apply to adjustments to covered equipment definitions made pursuant to this subsection.

''(3) PROCEDURE FOR MODIFYING DEFINITION.—

"(A) IN GENERAL.—Notice of any adjustment to the definition of a type of covered equipment and an explanation of the reasons therefor shall be published in the Federal Register and opportunity provided for public comment.

"(B) CONSENSUS REQUIRED.—Any amendment to the definition of a type of covered equipment under this subsection must have consensus support, as reflected in—

"(i) the outcome of negotiations conducted in accordance with the subchapter III of chapter 5 of title 5, United States Code (commonly known as the 'Negotiated Rulemaking Act of 1990'); or

"(ii) the Secretary's receipt of a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered equipment, States, and efficiency advocates), as determined by the Secretary, which contains a recommended modified definition for a type of covered equipment.

"(4) EFFECT OF A MODIFIED DEFINITION.—

"(A) For any type or class of equipment which becomes covered equipment pursuant to this subsection—

"(i) the Secretary may establish test procedures for such type or class of covered equipment pursuant to section 343 and energy conservation standards pursuant to section 325(l);

"(ii) the Secretary may prescribe labeling rules pursuant to section 344 if the Secretary determines that labeling in accordance with that section is technologically and economically feasible and likely to assist purchasers in making purchasing decisions;

"(iii) section 327 shall begin to apply to such type or class of covered equipment in accordance with section 325(ii)(1); and

"(iv) standards previously promulgated under section 325, 342, or 346 shall not apply to such type or class of covered equipment.

"(B) For any type or class of equipment which ceases to be covered equipment pursuant to this subsection the provisions of this part

shall no longer apply to the type or class of equipment.''.

(b) CONFORMING AMENDMENTS PROVIDING FOR JUDICIAL REVIEW.—

(1) Section 336 of the Energy Policy and Conservation Act (42 U.S.C. 6306) is amended by striking ''section 323,'' each place it appears and inserting ''section 322, 323,''; and

(2) Section 345(a)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6316(a)(1)) is amended to read as follows:

''(1) the references to sections 322, 323, 324, and 325 of this Act shall be considered as references to sections 341, 343, 344, and 342 of this Act, respectively;''.

**SEC. 3152. CLARIFYING RULEMAKING PROCEDURES.**

(a) COVERED PRODUCTS.—Section 325(p) of the Energy Policy and Conservation Act (42 U.S.C. 6295(p)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (5), and (6), respectively;

(2) by inserting before paragraph (2) (as so redesignated by paragraph (1) of this subsection) the following:

1 ''(1) The Secretary shall provide an opportunity
2 for public input prior to the issuance of a proposed
3 rule, seeking information—
4 ''(A) identifying and commenting on design
5 options;
6 ''(B) on the existence of and opportunities
7 for voluntary nonregulatory actions; and
8 ''(C) identifying significant subgroups of
9 consumers and manufacturers that merit anal-
10 ysis.'';
11 (3) in paragraph (3) (as so redesignated by
12 paragraph (1) of this subsection)—
13 (A) in subparagraph (C), by striking
14 ''and'' after ''adequate;'';
15 (B) in subparagraph (D), by striking
16 ''standard.'' and inserting ''standard;''; and
17 (C) by adding at the end the following new
18 subparagraphs:
19 ''(E) whether the technical and economic
20 analytical assumptions, methods, and models
21 used to justify the standard to be prescribed
22 are—
23 ''(i) justified; and
24 ''(ii) available and accessible for pub-
25 lic review, analysis, and use; and

"(F) the cumulative regulatory impacts on the manufacturers of the product, taking into account—

"(i) other government standards affecting energy use; and

"(ii) other energy conservation standards affecting the same manufacturers."; and

(4) by inserting after paragraph (3) (as so redesignated by paragraph (1) of this subsection) the following:

"(4) RESTRICTION ON TEST PROCEDURE AMENDMENTS.—

"(A) IN GENERAL.—Any proposed energy conservation standards rule shall be based on the final test procedure which shall be used to determine compliance, and the public comment period on the proposed standards shall conclude no sooner than 180 days after the date of publication of a final rule revising the test procedure.

"(B) EXCEPTION.—The Secretary may propose or prescribe an amendment to the test procedures issued pursuant to section 323 for any type or class of covered product after the

issuance of a notice of proposed rulemaking to prescribe an amended or new energy conservation standard for that type or class of covered product, but before the issuance of a final rule prescribing any such standard, if—

"(i) the amendments to the test procedure have consensus support achieved through a rulemaking conducted in accordance with the subchapter III of chapter 5 of title 5, United States Code (commonly known as the 'Negotiated Rulemaking Act of 1990'); or

"(ii) the Secretary receives a statement that is submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of the type or class of covered product, States, and efficiency advocates), as determined by the Secretary, which contains a recommendation that a supplemental notice of proposed rulemaking is not necessary for the type or class of covered product.".

(b) CONFORMING AMENDMENT.—Section 345(b)(1) of the Energy Policy and Conservation Act (42 U.S.C.

6316(b)(1)) is amended by striking ''section 325(p)(4),'' and inserting ''section 325(p)(3), (4), and (6),''.

# CHAPTER 6—ENERGY AND WATER EFFICIENCY

## SEC. 3161. SMART ENERGY AND WATER EFFICIENCY PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a utility;

(B) a municipality;

(C) a water district; and

(D) any other authority that provides water, wastewater, or water reuse services.

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

(3) SMART ENERGY AND WATER EFFICIENCY PILOT PROGRAM.—The term ''smart energy and water efficiency pilot program'' or ''pilot program'' means the pilot program established under subsection (b).

(b) SMART ENERGY AND WATER EFFICIENCY PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and carry out a smart energy and water efficiency

management pilot program in accordance with this section.

(2) PURPOSE.—The purpose of the smart energy and water efficiency pilot program is to award grants to eligible entities to demonstrate advanced and innovative technology-based solutions that will—

(A) increase and improve the energy efficiency of water, wastewater, and water reuse systems to help communities across the United States make significant progress in conserving water, saving energy, and reducing costs;

(B) support the implementation of innovative processes and the installation of advanced automated systems that provide real-time data on energy and water; and

(C) improve energy and water conservation, water quality, and predictive maintenance of energy and water systems, through the use of Internet-connected technologies, including sensors, intelligent gateways, and security embedded in hardware.

(3) PROJECT SELECTION.—

(A) IN GENERAL.—The Secretary shall make competitive, merit-reviewed grants under

the pilot program to not less than 3, but not more than 5, eligible entities.

(B) SELECTION CRITERIA.—In selecting an eligible entity to receive a grant under the pilot program, the Secretary shall consider—

(i) energy and cost savings anticipated to result from the project;

(ii) the innovative nature, commercial viability, and reliability of the technology to be used;

(iii) the degree to which the project integrates next-generation sensors, software, hardware, analytics, and management tools;

(iv) the anticipated cost effectiveness of the pilot project in terms of energy efficiency savings, water savings or reuse, and infrastructure costs averted;

(v) whether the technology can be deployed in a variety of geographic regions and the degree to which the technology can be implemented on a smaller or larger scale, including whether the technology can be implemented by each type of eligible entity;

(vi) whether the technology has been successfully deployed elsewhere;

(vii) whether the technology is sourced from a manufacturer based in the United States; and

(viii) whether the project will be completed in 5 years or less.

(C) APPLICATIONS.—

(i) IN GENERAL.—Subject to clause (ii), an eligible entity seeking a grant under the pilot program shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be necessary.

(ii) CONTENTS.—An application under clause (i) shall, at a minimum, include—

(I) a description of the project;

(II) a description of the technology to be used in the project;

(III) the anticipated results, including energy and water savings, of the project;

(IV) a comprehensive budget for the project;

(V) the names of the project lead organization and any partners;

(VI) the number of users to be served by the project; and

(VII) any other information that the Secretary determines to be necessary to complete the review and selection of a grant recipient.

(4) ADMINISTRATION.—

(A) IN GENERAL.—Not later than 300 days after the date of enactment of this Act, the Secretary shall select grant recipients under this section.

(B) EVALUATIONS.—The Secretary shall annually carry out an evaluation of each project for which a grant is provided under this section that—

(i) evaluates the progress and impact of the project; and

(ii) assesses the degree to which the project is meeting the goals of the pilot program.

(C) TECHNICAL AND POLICY ASSISTANCE.—On the request of a grant recipient, the Secretary shall provide technical and policy as-

sistance to the grant recipient to carry out the project.

(D) BEST PRACTICES.—The Secretary shall make available to the public—

(i) a copy of each evaluation carried out under subparagraph (B); and

(ii) a description of any best practices identified by the Secretary as a result of those evaluations.

(E) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report containing the results of each evaluation carried out under subparagraph (B).

(c) FUNDING.—To carry out this section, the Secretary is authorized to use not more than $15,000,000, to the extent provided in advance in appropriation Acts.

**SEC. 3162. WATERSENSE.**

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

**"SEC. 324B. WATERSENSE.**

"(a) WATERSENSE.—

"(1) IN GENERAL.—There is established within the Environmental Protection Agency a voluntary program, to be entitled 'WaterSense', to identify

water efficient products, buildings, landscapes, facilities, processes, and services that sensibly—

"(A) reduce water use;

"(B) reduce the strain on public and community water systems and wastewater and stormwater infrastructure;

"(C) conserve energy used to pump, heat, transport, and treat water; and

"(D) preserve water resources for future generations, through voluntary labeling of, or other forms of communications about, products, buildings, landscapes, facilities, processes, and services while still meeting strict performance criteria.

"(2) DUTIES.—The Administrator, coordinating as appropriate with the Secretary of Energy, shall—

"(A) establish—

"(i) a WaterSense label to be used for items meeting the certification criteria established in this section; and

"(ii) the procedure, including the methods and means, by which an item may be certified to display the WaterSense label;

"(B) conduct a public awareness education campaign regarding the WaterSense label;

"(C) preserve the integrity of the WaterSense label by—

"(i) establishing and maintaining feasible performance criteria so that products, buildings, landscapes, facilities, processes, and services labeled with the WaterSense label perform as well or better than less water-efficient counterparts;

"(ii) overseeing WaterSense certifications made by third parties;

"(iii) using testing protocols, from the appropriate, applicable, and relevant consensus standards, for the purpose of determining standards compliance; and

"(iv) auditing the use of the WaterSense label in the marketplace and preventing cases of misuse; and

"(D) not more often than every six years, review and, if appropriate, update WaterSense criteria for the defined categories of water-efficient product, building, landscape, process, or service, including—

"(i) providing reasonable notice to interested parties and the public of any such changes, including effective dates, and an explanation of the changes;

"(ii) soliciting comments from interested parties and the public prior to any such changes;

"(iii) as appropriate, responding to comments submitted by interested parties and the public; and

"(iv) providing an appropriate transition time prior to the applicable effective date of any such changes, taking into account the timing necessary for the manufacture, marketing, training, and distribution of the specific water-efficient product, building, landscape, process, or service category being addressed.

"(b) USE OF SCIENCE.—In carrying out this section, and, to the degree that an agency action is based on science, the Administrator shall use—

"(1) the best available peer-reviewed science and supporting studies conducted in accordance with sound and objective scientific practices; and

"(2) data collected by accepted methods or best available methods (if the reliability of the method and the nature of the decision justify use of the data).

"(c) DISTINCTION OF AUTHORITIES.—In setting or maintaining standards for Energy Star pursuant to section 324A, and WaterSense under this section, the Secretary and Administrator shall coordinate to prevent duplicative or conflicting requirements among the respective programs.

"(d) DEFINITIONS.—In this section:

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

"(2) FEASIBLE.—The term 'feasible' means feasible with the use of the best technology, treatment techniques, and other means that the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration).

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

"(4) WATER-EFFICIENT PRODUCT, BUILDING, LANDSCAPE, PROCESS, OR SERVICE.—The term

'water-efficient product, building, landscape, process, or service' means a product, building, landscape, process, or service for a residence or a commercial or institutional building, or its landscape, that is rated for water efficiency and performance, the covered categories of which are—

"(A) irrigation technologies and services;

"(B) point-of-use water treatment devices;

"(C) plumbing products;

"(D) reuse and recycling technologies;

"(E) landscaping and gardening products, including moisture control or water enhancing technologies;

"(F) xeriscaping and other landscape conversions that reduce water use; and

"(G) new water efficient homes certified under the WaterSense program.".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy and Conservation Act (Public Law 94–163; 42 U.S.C. 6201 et seq.) is amended by inserting after the item relating to section 324A the following new item:

"Sec. 324B. WaterSense.".

# Subtitle B—Accountability

## CHAPTER 1—MARKET MANIPULATION, ENFORCEMENT, AND COMPLIANCE

### SEC. 3211. FERC OFFICE OF COMPLIANCE ASSISTANCE AND PUBLIC PARTICIPATION.

Section 319 of the Federal Power Act (16 U.S.C. 825q–1) is amended to read as follows:

### "SEC. 319. OFFICE OF COMPLIANCE ASSISTANCE AND PUBLIC PARTICIPATION.

"(a) ESTABLISHMENT.—There is established within the Commission an Office of Compliance Assistance and Public Participation (referred to in this section as the 'Office'). The Office shall be headed by a Director.

"(b) DUTIES OF DIRECTOR.—

"(1) IN GENERAL.—The Director of the Office shall promote improved compliance with Commission rules and orders by—

"(A) making recommendations to the Commission regarding—

"(i) the protection of consumers;

"(ii) market integrity and support for the development of responsible market behavior;

"(iii) the application of Commission rules and orders in a manner that ensures that—

"(I) rates and charges for, or in connection with, the transmission or sale of electric energy subject to the jurisdiction of the Commission shall be just and reasonable and not unduly discriminatory or preferential; and

"(II) markets for such transmission and sale of electric energy are not impaired and consumers are not damaged; and

"(iv) the impact of existing and proposed Commission rules and orders on small entities, as defined in section 601 of title 5, United States Code (commonly known as the Regulatory Flexibility Act);

"(B) providing entities subject to regulation by the Commission the opportunity to obtain timely guidance for compliance with Commission rules and orders; and

"(C) providing information to the Commission and Congress to inform policy with respect

to energy issues under the jurisdiction of the Commission.

"(2) REPORTS AND GUIDANCE.—The Director shall, as the Director determines appropriate, issue reports and guidance to the Commission and to entities subject to regulation by the Commission, regarding market practices, proposing improvements in Commission monitoring of market practices, and addressing potential improvements to both industry and Commission practices.

"(3) OUTREACH.—The Director shall promote improved compliance with Commission rules and orders through outreach, publications, and, where appropriate, direct communication with entities regulated by the Commission.".

## CHAPTER 2—MARKET REFORMS

### SEC. 3221. GAO STUDY ON WHOLESALE ELECTRICITY MARKETS.

(a) STUDY AND REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of a study of whether and how the current market rules, practices, and structures

of each regional transmission entity produce rates that are just and reasonable by—

(1) facilitating fuel diversity, the availability of generation resources during emergency and severe weather conditions, resource adequacy, and reliability, including the cost-effective retention and development of needed generation;

(2) promoting the equitable treatment of business models, including different utility types, the integration of diverse generation resources, and advanced grid technologies;

(3) identifying and addressing regulatory barriers to entry, market-distorting incentives, and artificial constraints on competition;

(4) providing transparency regarding dispatch decisions, including the need for out-of-market actions and payments, and the accuracy of day-ahead unit commitments;

(5) facilitating the development of necessary natural gas pipeline and electric transmission infrastructure;

(6) ensuring fairness and transparency in governance structures and stakeholder processes, including meaningful participation by both voting and nonvoting stakeholder representatives;

(7) ensuring the proper alignment of the energy and transmission markets by including both energy and financial transmission rights in the day-ahead markets;

(8) facilitating the ability of load-serving entities to self-supply their service territory load;

(9) considering, as appropriate, State and local resource planning; and

(10) mitigating, to the extent practicable, the disruptive effects of tariff revisions on the economic decisionmaking of market participants.

(b) DEFINITIONS.—In this section:

(1) LOAD-SERVING ENTITY.—The term ''load-serving entity'' has the meaning given that term in section 217 of the Federal Power Act (16 U.S.C. 824q).

(2) REGIONAL TRANSMISSION ENTITY.—The term ''regional transmission entity'' means a Regional Transmission Organization or an Independent System Operator, as such terms are defined in section 3 of the Federal Power Act (16 U.S.C. 796).

**SEC. 3222. CLARIFICATION OF FACILITY MERGER AUTHORIZATION.**

Section 203(a)(1)(B) of the Federal Power Act (16 U.S.C. 824b(a)(1)(B)) is amended by striking ''such facili-

ties or any part thereof'' and inserting ''such facilities, or any part thereof, of a value in excess of $10,000,000''.

## CHAPTER 3—CODE MAINTENANCE

### SEC. 3231. REPEAL OF OFF-HIGHWAY MOTOR VEHICLES STUDY.

(a) REPEAL.—Part I of title III of the Energy Policy and Conservation Act (42 U.S.C. 6373) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy and Conservation Act (Public Law 94–163; 89 Stat. 871) is amended—

(1) by striking the item relating to part I of title III; and

(2) by striking the item relating to section 385.

### SEC. 3232. REPEAL OF METHANOL STUDY.

Section 400EE of the Energy Policy and Conservation Act (42 U.S.C. 6374d) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

### SEC. 3233. REPEAL OF RESIDENTIAL ENERGY EFFICIENCY STANDARDS STUDY.

(a) REPEAL.—Section 253 of the National Energy Conservation Policy Act (42 U.S.C. 8232) is repealed.

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

(Public Law 95–619; 92 Stat. 3206) is amended by striking the item relating to section 253.

**SEC. 3234. REPEAL OF WEATHERIZATION STUDY.**

(a) REPEAL.—Section 254 of the National Energy Conservation Policy Act (42 U.S.C. 8233) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act (Public Law 95–619; 92 Stat. 3206) is amended by striking the item relating to section 254.

**SEC. 3235. REPEAL OF REPORT TO CONGRESS.**

(a) REPEAL.—Section 273 of the National Energy Conservation Policy Act (42 U.S.C. 8236b) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act (Public Law 95–619; 92 Stat. 3206) is amended by striking the item relating to section 273.

**SEC. 3236. REPEAL OF REPORT BY GENERAL SERVICES ADMINISTRATION.**

(a) REPEAL.—Section 154 of the Energy Policy Act of 1992 (42 U.S.C. 8262a) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents for the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2776) is amended by striking the item relating to section 154.

(2) Section 159 of the Energy Policy Act of 1992 (42 U.S.C. 8262e) is amended by striking subsection (c).

**SEC. 3237. REPEAL OF INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION WORKSHOPS.**

(a) REPEAL.—Section 156 of the Energy Policy Act of 1992 (42 U.S.C. 8262b) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2776) is amended by striking the item relating to section 156.

**SEC. 3238. REPEAL OF INSPECTOR GENERAL AUDIT SURVEY AND PRESIDENT'S COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.**

(a) REPEAL.—Section 160 of the Energy Policy Act of 1992 (42 U.S.C. 8262f) is amended by striking the section designation and heading and all that follows through ''(c) INSPECTOR GENERAL REVIEW.—Each Inspector General'' and inserting the following:

**"SEC. 160. INSPECTOR GENERAL REVIEW.**

''Each Inspector General''.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 1992 (Public Law 102–

486; 106 Stat. 2776) is amended by striking the item relating to section 160 and inserting the following:

"Sec. 160. Inspector General review.".

**SEC. 3239. REPEAL OF PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS PROGRAM.**

(a) REPEAL.—Section 161 of the Energy Policy Act of 1992 (42 U.S.C. 8262g) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 2776) is amended by striking the item relating to section 161.

**SEC. 3240. REPEAL OF NATIONAL ACTION PLAN FOR DEMAND RESPONSE.**

(a) REPEAL.—Part 5 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8279) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the National Energy Conservation Policy Act (Public Law 95–619; 92 Stat. 3206; 121 Stat. 1665) is amended—

(1) by striking the item relating to part 5 of title V; and

(2) by striking the item relating to section 571.

**SEC. 3241. REPEAL OF NATIONAL COAL POLICY STUDY.**

(a) REPEAL.—Section 741 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8451) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat. 3289) is amended by striking the item relating to section 741.

**SEC. 3242. REPEAL OF STUDY ON COMPLIANCE PROBLEM OF SMALL ELECTRIC UTILITY SYSTEMS.**

(a) REPEAL.—Section 744 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8454) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat. 3289) is amended by striking the item relating to section 744.

**SEC. 3243. REPEAL OF STUDY OF SOCIOECONOMIC IMPACTS OF INCREASED COAL PRODUCTION AND OTHER ENERGY DEVELOPMENT.**

(a) REPEAL.—Section 746 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8456) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Powerplant and Industrial Fuel Use Act of

1978 (Public Law 95–620; 92 Stat. 3289) is amended by striking the item relating to section 746.

**SEC. 3244. REPEAL OF STUDY OF THE USE OF PETROLEUM AND NATURAL GAS IN COMBUSTORS.**

(a) REPEAL.—Section 747 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8457) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat. 3289) is amended by striking the item relating to section 747.

**SEC. 3245. REPEAL OF SUBMISSION OF REPORTS.**

(a) REPEAL.—Section 807 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8483) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat. 3289) is amended by striking the item relating to section 807.

**SEC. 3246. REPEAL OF ELECTRIC UTILITY CONSERVATION PLAN.**

(a) REPEAL.—Section 808 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8484) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The table of contents for the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat. 3289) is amended by striking the item relating to section 808.

(2) REPORT ON IMPLEMENTATION.—Section 712 of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8422) is amended—

(A) by striking ''(a) GENERALLY.—''; and

(B) by striking subsection (b).

**SEC. 3247. TECHNICAL AMENDMENT TO POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978.**

The table of contents for the Powerplant and Industrial Fuel Use Act of 1978 (Public Law 95–620; 92 Stat. 3289) is amended by striking the item relating to section 742.

**SEC. 3248. EMERGENCY ENERGY CONSERVATION REPEALS.**

(a) REPEALS.—

(1) Section 201 of the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8501) is amended—

(A) in the section heading, by striking ''**FINDINGS AND**'';

(B) by striking subsection (a); and

(C) by striking ''(b) PURPOSES.—''.

(2) Section 221 of the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8521) is repealed.

(3) Section 222 of the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8522) is repealed.

(4) Section 241 of the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8531) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Emergency Energy Conservation Act of 1979 (Public Law 96–102; 93 Stat. 749) is amended—

(1) by striking the item relating to section 201 and inserting the following:

"Sec. 201. Purposes."; and

(2) by striking the items relating to sections 221, 222, and 241.

**SEC. 3249. REPEAL OF STATE UTILITY REGULATORY ASSISTANCE.**

(a) REPEAL.—Section 207 of the Energy Conservation and Production Act (42 U.S.C. 6807) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Conservation and Production Act (Public Law 94–385; 90 Stat. 1125) is amended by striking the item relating to section 207.

**SEC. 3250. REPEAL OF SURVEY OF ENERGY SAVING POTENTIAL.**

(a) REPEAL.—Section 550 of the National Energy Conservation Policy Act (42 U.S.C. 8258b) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents for the National Energy Conservation Policy Act (Public Law 95–619; 92 Stat. 3206; 106 Stat. 2851) is amended by striking the item relating to section 550.

(2) Section 543(d)(2) of the National Energy Conservation Policy Act (42 U.S.C. 8253(d)(2)) is amended by striking ", incorporating any relevant information obtained from the survey conducted pursuant to section 550".

**SEC. 3251. REPEAL OF PHOTOVOLTAIC ENERGY PROGRAM.**

(a) REPEAL.—Part 4 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8271 et seq.) is repealed.

(b) CONFORMING AMENDMENTS.—The table of contents for the National Energy Conservation Policy Act (Public Law 95–619; 92 Stat. 3206) is amended—

(1) by striking the item relating to part 4 of title V; and

(2) by striking the items relating to sections 561 through 570.

**SEC. 3252. REPEAL OF ENERGY AUDITOR TRAINING AND CERTIFICATION.**

(a) REPEAL.—Subtitle F of title V of the Energy Security Act (42 U.S.C. 8285 et seq.) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Security Act (Public Law 96–294; 94 Stat. 611) is amended by striking the items relating to subtitle F of title V.

## CHAPTER 4—AUTHORIZATION

**SEC. 3261 AUTHORIZATION.**

There are authorized to be appropriated, out of funds authorized under previously enacted laws, amounts required for carrying out this division and the amendments made by this division.

# TITLE IV—CHANGING CRUDE OIL MARKET CONDITIONS

**SEC. 4001. FINDINGS.**

The Congress finds the following:

(1) The United States has enjoyed a renaissance in energy production, establishing the United States as the world's leading oil producer.

(2) By authorizing crude oil exports, the Congress can spur domestic energy production, create and preserve jobs, help maintain and strengthen our independent shipping fleet that is essential to national defense, and generate State and Federal revenues.

(3) An energy-secure United States that is a net exporter of energy has the potential to transform

the security environment around the world, notably in Europe and the Middle East.

(4) For our European allies and Israel, the presence of more United States oil in the market will offer more secure supply options, which will strengthen United States strategic alliances and help curtail the use of energy as a political weapon.

(5) The 60-ship Maritime Security Fleet is a vital element of our military's strategic sealift and global response capability. It assures United States-flag ships and United States crews will be available to support the United States military when it needs to mobilize to protect our allies, and is the most prudent and economical solution to meet current and projected sealift requirements for the United States.

(6) The Maritime Security Fleet program provides a labor base of skilled American mariners who are available to crew the United States Government-owned strategic sealift fleet, as well as the United States commercial fleet, in both peace and war.

(7) The United States has reduced its oil consumption over the past decade, and increasing investment in clean energy technology and energy efficiency will lower energy prices, reduce greenhouse gas emissions, and increase national security.

**SEC. 4002. REPEAL.**

Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212) and the item relating thereto in the table of contents of that Act are repealed.

**SEC. 4003. NATIONAL POLICY ON OIL EXPORT RESTRICTIONS.**

Notwithstanding any other provision of law, to promote the efficient exploration, production, storage, supply, marketing, pricing, and regulation of energy resources, including fossil fuels, no official of the Federal Government shall impose or enforce any restriction on the export of crude oil.

**SEC. 4004. STUDIES.**

(a) GREENHOUSE GAS EMISSIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall conduct, and transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate the results of, a study on the net greenhouse gas emissions that will result from the repeal of the crude oil export ban under section 4002.

(b) CRUDE OIL EXPORT STUDY.—

(1) IN GENERAL.—The Department of Commerce, in consultation with the Department of Energy, and other departments as appropriate, shall conduct a study of the State and national implica-

tions of lifting the crude oil export ban with respect to consumers and the economy.

(2) CONTENTS.—The study conducted under paragraph (1) shall include an analysis of—

(A) the economic impact that exporting crude oil will have on the economy of the United States;

(B) the economic impact that exporting crude oil will have on consumers, taking into account impacts on energy prices;

(C) the economic impact that exporting crude oil will have on domestic manufacturing, taking into account impacts on employment; and

(D) the economic impact that exporting crude oil will have on the refining sector, taking into account impacts on employment.

(3) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Bureau of Industry and Security shall submit to Congress a report containing the results of the study conducted under paragraph (1).

**SEC. 4005. SAVINGS CLAUSE.**

Nothing in this title limits the authority of the President under the Constitution, the International Emergency

Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), part B of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.), the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.), or any other provision of law that imposes sanctions on a foreign person or foreign government (including any provision of law that prohibits or restricts United States persons from engaging in a transaction with a sanctioned person or government), including a foreign government that is designated as a state sponsor of terrorism, to prohibit exports.

**SEC. 4006. PARTNERSHIPS WITH MINORITY SERVING INSTITUTIONS.**

(a) IN GENERAL.—The Department of Energy shall continue to develop and broaden partnerships with minority serving institutions, including Hispanic Serving Institutions (HSI) and Historically Black Colleges and Universities (HBCUs) in the areas of oil and gas exploration, production, midstream, and refining.

(b) PUBLIC-PRIVATE PARTNERSHIPS.—The Department of Energy shall encourage public-private partnerships between the energy sector and minority serving institutions, including Hispanic Serving Institutions and Historically Black Colleges and Universities.

**SEC. 4007. REPORT.**

Not later than 10 years after the date of enactment of this Act, the Secretary of Energy and the Secretary of Commerce shall jointly transmit to Congress a report that reviews the impact of lifting the oil export ban under this title as it relates to promoting United States energy and national security.

**SEC. 4008. REPORT TO CONGRESS.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Commerce shall jointly transmit to Congress a report analyzing how lifting the ban on crude oil exports will help create opportunities for veterans and women in the United States, while promoting energy and national security.

**SEC. 4009. PROHIBITION ON EXPORTS OF CRUDE OIL, REFINED PETROLEUM PRODUCTS, AND PETROCHEMICAL PRODUCTS TO THE ISLAMIC REPUBLIC OF IRAN.**

Nothing in this title shall be construed to authorize the export of crude oil, refined petroleum products, and petrochemical products by or through any entity or person, wherever located, subject to the jurisdiction of the United States to any entity or person located in, subject to the jurisdiction of, or sponsored by the Islamic Republic of Iran.

# TITLE V—OTHER MATTERS

**SEC. 5001. ASSESSMENT OF REGULATORY REQUIREMENTS.**

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall ensure that the requirements described in subsection (b) are satisfied.

(b) REQUIREMENTS.—The Administrator shall satisfy—

(1) section 4 of Executive Order No. 12866 (5 U.S.C. 601 note) (relating to regulatory planning and review) and Executive Order No. 13563 (5 U.S.C. 601 note) (relating to improving regulation and regulatory review) (or any successor Executive order establishing requirements applicable to the uniform reporting of regulatory and deregulatory agendas);

(2) section 602 of title 5, United States Code;

(3) section 8 of Executive Order No. 13132 (5 U.S.C. 601 note) (relating to federalism); and

(4) section 202(a) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532(a)).

**SEC. 5002. DEFINITIONS.**

In this title:

(1) COVERED CIVIL ACTION.—The term ''covered civil action'' means a civil action containing a

claim under section 702 of title 5, United States Code, regarding agency action (as defined for the purposes of that section) affecting a covered energy project on Federal land.

(2) COVERED ENERGY PROJECT.—

(A) IN GENERAL.—The term ''covered energy project'' means—

(i) the leasing of Federal land for the exploration, development, production, processing, or transmission of oil, natural gas, coal, geothermal, hydroelectric, biomass, solar, or any other source of energy; and

(ii) any action under the lease.

(B) EXCLUSION.—The term ''covered energy project'' does not include any dispute between the parties to a lease regarding the obligations under the lease, including any alleged breach of the lease.

**SEC. 5003. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS RELATING TO COVERED ENERGY PROJECTS.**

Venue for any covered civil action shall lie in the United States district court in which the covered energy project or lease exists or is proposed.

**SEC. 5004. TIMELY FILING.**

To ensure timely redress by the courts, a covered civil action shall be filed not later than the end of the 90-day period beginning on the date of the final Federal agency action to which the covered civil action relates.

**SEC. 5005. EXPEDITION IN HEARING AND DETERMINING THE ACTION.**

The court shall endeavor to hear and determine any covered civil action as expeditiously as practicable.

**SEC. 5006. LIMITATION ON INJUNCTION AND PROSPECTIVE RELIEF.**

(a) IN GENERAL.—In a covered civil action, a court shall not grant or approve any prospective relief unless the court finds that the relief—

(1) is narrowly drawn;

(2) extends no further than necessary to correct the violation of a legal requirement; and

(3) is the least intrusive means necessary to correct the violation.

(b) DURATION.—

(1) IN GENERAL.—A court shall limit the duration of preliminary injunctions to halt covered energy projects to not more than 60 days, unless the court finds clear reasons to extend the injunction.

(2) ADMINISTRATION.—In the case of an extension, the extension shall—

(A) only be in 30-day increments; and

(B) require action by the court to renew the injunction.

(c) IN GENERAL.—Sections 504 of title 5 and 2412 of title 28, United States Code (commonly known as the ''Equal Access to Justice Act''), shall not apply to a covered civil action.

(d) COURT COSTS.—A party to a covered civil action shall not receive payment from the Federal Government for the attorneys' fees, expenses, or other court costs incurred by the party.

**SEC. 5007. LEGAL STANDING.**

A challenger that files an appeal with the Department of the Interior Board of Land Appeals shall meet the same standing requirements as a challenger before a United States district court.

**SEC. 5008. STUDY TO IDENTIFY LEGAL AND REGULATORY BARRIERS THAT DELAY, PROHIBIT, OR IMPEDE THE EXPORT OF NATURAL ENERGY RESOURCES.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy and the Secretary of Commerce shall jointly transmit to the Committee on Energy and Commerce and the Committee on Natural Resources of the House of Representatives, and the Com-

mittee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources of the Senate, the results of a study to—

(1) identify legal and regulatory barriers that delay, prohibit, or impede the export of natural energy resources, including government and technical (physical or market) barriers that hinder coal, natural gas, oil, and other energy exports; and

(2) estimate the economic impacts of such barriers.

**SEC. 5009. STUDY OF VOLATILITY OF CRUDE OIL.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall transmit to Congress the results of a study to determine the maximum level of volatility that is consistent with the safest practicable shipment of crude oil by rail.

**SEC. 5010. SMART METER PRIVACY RIGHTS.**

(a) ELECTRICAL CORPORATION OR GAS CORPORATIONS.—

(1) For purposes of this section, ''electrical or gas consumption data'' means data about a customer's electrical or natural gas usage that is made available as part of an advanced metering infrastructure, and includes the name, account number, or residence of the customer.

(2)(A) An electrical corporation or gas corporation shall not share, disclose, or otherwise make accessible to any third party a customer's electrical or gas consumption data, except as provided in subsection (a)(5) or upon the consent of the customer.

(B) An electrical corporation or gas corporation shall not sell a customer's electrical or gas consumption data or any other personally identifiable information for any purpose.

(C) The electrical corporation or gas corporation or its contractors shall not provide an incentive or discount to the customer for accessing the customer's electrical or gas consumption data without the prior consent of the customer.

(D) An electrical or gas corporation that utilizes an advanced metering infrastructure that allows a customer to access the customer's electrical and gas consumption data shall ensure that the customer has an option to access that data without being required to agree to the sharing of his or her personally identifiable information, including electrical or gas consumption data, with a third party.

(3) If an electrical corporation or gas corporation contracts with a third party for a service that allows a customer to monitor his or her electricity or

gas usage, and that third party uses the data for a secondary commercial purpose, the contract between the electrical corporation or gas corporation and the third party shall provide that the third party prominently discloses that secondary commercial purpose to the customer.

(4) An electrical corporation or gas corporation shall use reasonable security procedures and practices to protect a customer's unencrypted electrical or gas consumption data from unauthorized access, destruction, use, modification, or disclosure.

(5)(A) Nothing in this section shall preclude an electrical corporation or gas corporation from using customer aggregate electrical or gas consumption data for analysis, reporting, or program management if all information has been removed regarding the individual identity of a customer.

(B) Nothing in this section shall preclude an electrical corporation or gas corporation from disclosing a customer's electrical or gas consumption data to a third party for system, grid, or operational needs, or the implementation of demand response, energy management, or energy efficiency programs, provided that, for contracts entered into after January 1, 2016, the utility has required by contract that

the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer's consent.

(C) Nothing in this section shall preclude an electrical corporation or gas corporation from disclosing electrical or gas consumption data as required or permitted under State or Federal law or by an order of a State public utility commission.

(6) If a customer chooses to disclose his or her electrical or gas consumption data to a third party that is unaffiliated with, and has no other business relationship with, the electrical or gas corporation, the electrical or gas corporation shall not be responsible for the security of that data, or its use or misuse.

(b) LOCAL PUBLICLY OWNED ELECTRIC UTILITIES.—

(1) For purposes of this section, ''electrical consumption data'' means data about a customer's electrical usage that is made available as part of an ad-

vanced metering infrastructure, and includes the name, account number, or residence of the customer.

(2)(A) A local publicly owned electric utility shall not share, disclose, or otherwise make accessible to any third party a customer's electrical consumption data, except as provided in subsection (b)(5) or upon the consent of the customer.

(B) A local publicly owned electric utility shall not sell a customer's electrical consumption data or any other personally identifiable information for any purpose.

(C) The local publicly owned electric utility or its contractors shall not provide an incentive or discount to the customer for accessing the customer's electrical consumption data without the prior consent of the customer.

(D) A local publicly owned electric utility that utilizes an advanced metering infrastructure that allows a customer to access the customer's electrical consumption data shall ensure that the customer has an option to access that data without being required to agree to the sharing of his or her personally identifiable information, including electrical consumption data, with a third party.

(3) If a local publicly owned electric utility contracts with a third party for a service that allows a customer to monitor his or her electricity usage, and that third party uses the data for a secondary commercial purpose, the contract between the local publicly owned electric utility and the third party shall provide that the third party prominently discloses that secondary commercial purpose to the customer.

(4) A local publicly owned electric utility shall use reasonable security procedures and practices to protect a customer's unencrypted electrical consumption data from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of the data for a secondary commercial purpose not related to the primary purpose of the contract without the customer's consent.

(5)(A) Nothing in this section shall preclude a local publicly owned electric utility from using customer aggregate electrical consumption data for analysis, reporting, or program management if all information has been removed regarding the individual identity of a customer.

(B) Nothing in this section shall preclude a local publicly owned electric utility from disclosing a customer's electrical consumption data to a third

party for system, grid, or operational needs, or the implementation of demand response, energy management, or energy efficiency programs, provided, for contracts entered into after January 1, 2016, that the utility has required by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

(C) Nothing in this section shall preclude a local publicly owned electric utility from disclosing electrical consumption data as required under State or Federal law.

(6) If a customer chooses to disclose his or her electrical consumption data to a third party that is unaffiliated with, and has no other business relationship with, the local publicly owned electric utility, the utility shall not be responsible for the security of that data, or its use or misuse.

**SEC. 5011. YOUTH ENERGY ENTERPRISE COMPETITION.**

The Secretaries of Energy and Commerce shall jointly establish an energy enterprise competition to encourage youth to propose solutions to the energy challenges of the United States and to promote youth interest in careers

in science, technology, engineering, and math, especially as those fields relate to energy.

**SEC. 5012. MODERNIZATION OF TERMS RELATING TO MINORITIES.**

(a) OFFICE OF MINORITY ECONOMIC IMPACT.—Section 211(f)(1) of the Department of Energy Organization Act (42 U.S.C. 7141(f)(1)) is amended by striking ''a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut or is a Spanish speaking individual of Spanish descent'' and inserting ''Asian American, African American, Hispanic, Puerto Rican, Native American, or an Alaska Native''.

(b) MINORITY BUSINESS ENTERPRISES.—Section 106(f)(2) of the Local Public Works Capital Development and Investment Act of 1976 (42 U.S.C. 6705(f)(2)) is amended by striking ''Negroes, Spanish-speaking, Orientals, Indians, Eskimos, and Aleuts'' and inserting ''Asian American, African American, Hispanic, Native American, or Alaska Natives''.

**SEC. 5013. VOLUNTARY VEGETATION MANAGEMENT OUTSIDE RIGHTS-OF-WAY.**

(a) AUTHORIZATION.—The Secretary of the Interior or the Secretary of Agriculture may authorize an owner or operator of an electric transmission or distribution facility to manage vegetation selectively within 150 feet of

the exterior boundary of the right-of-way near structures for selective thinning and fuel reduction.

(b) STATUS OF REMOVED VEGETATION.—Any vegetation removed pursuant to this section shall be the property of the United States and not available for sale by the owner or operator.

(c) LIMITATION ON LIABILITY.—An owner or operator of an electric transmission or distribution facility shall not be held liable for wildlife damage, loss, or injury, including the cost of fire suppression, resulting from activities carried out pursuant to subsection (a) except in the case of harm resulting from the owner or operator's gross negligence or criminal misconduct.

**SEC. 5014. REPEAL OF RULE FOR NEW RESIDENTIAL WOOD HEATERS.**

The final rule entitled ''Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces'' published at 80 Fed. Reg. 13672 (March 16, 2015) shall have no force or effect and shall be treated as if such rule had never been issued.

# TITLE VI—PROMOTING RENEWABLE ENERGY WITH SHARED SOLAR

**SEC. 6001. SHORT TITLE.**

This title may be cited as the ''Promoting Renewable Energy with Shared Solar Act of 2016''.

**SEC. 6002. PROVISION OF INTERCONNECTION SERVICE AND NET BILLING SERVICE FOR COMMUNITY SOLAR FACILITIES.**

(a) IN GENERAL.—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:

''(20) COMMUNITY SOLAR FACILITIES.—

''(A) DEFINITIONS.—In this paragraph:

''(i) COMMUNITY SOLAR FACILITY.—The term 'community solar facility' means a solar photovoltaic system that—

''(I) allocates electricity to multiple individual electric consumers of an electric utility;

''(II) has a nameplate rating of 2 megawatts or less; and

''(III) is—

"(aa) owned by the electric utility, jointly owned, or third-party-owned;

"(bb) connected to a local distribution facility of the electric utility; and

"(cc) located on or off the property of a consumer of the electricity.

"(ii) INTERCONNECTION SERVICE.—The term 'interconnection service' means a service provided by an electric utility to an electric consumer, in accordance with the standards described in paragraph (15), through which a community solar facility is connected to an applicable local distribution facility.

"(iii) NET BILLING SERVICE.—The term 'net billing service' means a service provided by an electric utility to an electric consumer through which electric energy generated for that electric consumer from a community solar facility may be used to offset electric energy provided by the elec-

tric utility to the electric consumer during the applicable billing period.

"(B) REQUIREMENT.—On receipt of a request of an electric consumer served by the electric utility, each electric utility shall make available to the electric consumer interconnection service and net billing service for a community solar facility.".

(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:

"(7)(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 has ratemaking authority) and each nonregulated utility shall commence consideration under section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (20) of section 111(d).

"(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 has ratemaking authority), and each

nonregulated electric utility shall complete the consideration and make the determination under section 111 with respect to the standard established by paragraph (20) of section 111(d).''.

(2) FAILURE TO COMPLY.—

(A) IN GENERAL.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended—

(i) by striking ''such paragraph (14)'' and all that follows through ''paragraphs (16)'' and inserting ''such paragraph (14). In the case of the standard established by paragraph (15) 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 that paragraph (15). In the case of the standards established by paragraphs (16)''; and

(ii) by adding at the end the following: ''In the case of the standard established by paragraph (20) 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 that paragraph (20).''.

(B) TECHNICAL CORRECTION.—

(i) IN GENERAL.—Section 1254(b) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 971) is amended by striking paragraph (2).

(ii) TREATMENT.—The amendment made by paragraph (2) of section 1254(b) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 971) (as in effect on the day before the date of enactment of this Act) is void, and section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) shall be in effect as if those amendments had not been enacted.

(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:

''(g) PRIOR STATE ACTIONS.—Subsections (b) and (c) shall not apply to the standard established by paragraph (20) of section 111(d) in the case of any electric

1 utility in a State if, before the date of enactment of this
2 subsection—
3 ''(1) the State has implemented for the electric
4 utility the standard (or a comparable standard);
5 ''(2) the State regulatory authority for the
6 State or the relevant nonregulated electric utility has
7 conducted a proceeding to consider implementation
8 of the standard (or a comparable standard) for the
9 electric utility; or
10 ''(3) the State legislature has voted on the im-
11 plementation of the standard (or a comparable
12 standard) for the electric utility.''.
13 (B) CROSS-REFERENCE.—Section 124 of
14 the Public Utility Regulatory Policy Act of
15 1978 (16 U.S.C. 2634) is amended by adding
16 at the end the following: ''In the case of the
17 standard established by paragraph (20) of sec-
18 tion 111(d), the reference contained in this sub-
19 section to the date of enactment of this Act
20 shall be deemed to be a reference to the date
21 of enactment of that paragraph (20).''.

# TITLE VII—MARINE HYDROKINETIC

**SEC. 7001. DEFINITION OF MARINE AND HYDROKINETIC RENEWABLE ENERGY.**

Section 632 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17211) is amended in the matter preceding paragraph (1) by striking ''electrical''.

**SEC. 7002. MARINE AND HYDROKINETIC RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.**

Section 633 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17212) is amended to read as follows:

**''SEC. 633. MARINE AND HYDROKINETIC RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.**

''The Secretary, in consultation with the Secretary of the Interior, the Secretary of Commerce, and the Federal Energy Regulatory Commission, shall carry out a program of research, development, demonstration, and commercial application to accelerate the introduction of marine and hydrokinetic renewable energy production into the United States energy supply, giving priority to fostering accelerated research, development, and commercialization of technology, including—

''(1) to assist technology development to improve the components, processes, and systems used

for power generation from marine and hydrokinetic renewable energy resources;

"(2) to establish critical testing infrastructure necessary—

"(A) to cost effectively and efficiently test and prove the efficacy of marine and hydrokinetic renewable energy devices; and

"(B) to accelerate the technological readiness and commercialization of those devices;

"(3) to support efforts to increase the efficiency of energy conversion, lower the cost, increase the use, improve the reliability, and demonstrate the applicability of marine and hydrokinetic renewable energy technologies by participating in demonstration projects;

"(4) to investigate variability issues and the efficient and reliable integration of marine and hydrokinetic renewable energy with the utility grid;

"(5) to identify and study critical short- and long-term needs to create a sustainable marine and hydrokinetic renewable energy supply chain based in the United States;

"(6) to increase the reliability and survivability of marine and hydrokinetic renewable energy technologies;

"(7) to verify the performance, reliability, maintainability, and cost of new marine and hydrokinetic renewable energy device designs and system components in an operating environment;

"(8) to coordinate and avoid duplication of activities across programs of the Department and other applicable Federal agencies, including National Laboratories, and to coordinate public-private collaboration in all programs under this section;

"(9) to identify opportunities for joint research and development programs and development of economies of scale between—

"(A) marine and hydrokinetic renewable energy technologies; and

"(B) other renewable energy and fossil energy programs, offshore oil and gas production activities, and activities of the Department of Defense; and

"(10) to support in-water technology development with international partners using existing cooperative procedures (including memoranda of understanding)—

"(A) to allow cooperative funding and other support of value to be exchanged and leveraged; and

"(B) to encourage international research centers and international companies to participate in the development of water technology in the United States and to encourage United States research centers and United States companies to participate in water technology projects abroad.".

**SEC. 7003. NATIONAL MARINE RENEWABLE ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTERS.**

Section 634(b) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17213(b)) is amended to read as follows:

"(b) PURPOSES.—A Center (in coordination with the Department and National Laboratories) shall—

"(1) advance research, development, demonstration, and commercial application of marine and hydrokinetic renewable energy technologies;

"(2) support in-water testing and demonstration of marine and hydrokinetic renewable energy technologies, including facilities capable of testing—

"(A) marine and hydrokinetic renewable energy systems of various technology readiness levels and scales;

"(B) a variety of technologies in multiple test berths at a single location; and

"(C) arrays of technology devices; and

"(3) serve as information clearinghouses for the marine and hydrokinetic renewable energy industry by collecting and disseminating information on best practices in all areas relating to developing and managing marine and hydrokinetic renewable energy resources and energy systems.".

**SEC. 7004. AUTHORIZATION OF APPROPRIATIONS.**

Section 636 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17215) is amended by striking "2008 through 2012" and inserting "2016 through 2019".

# TITLE VIII—EXTENSIONS OF TIME FOR VARIOUS FEDERAL ENERGY REGULATORY COMMISSION PROJECTS

**SEC. 8001. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT INVOLVING CLARK CANYON DAM.**

Notwithstanding the time period described in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12429, the Federal Energy

Regulatory Commission (referred to in this section as the ''Commission'') shall, at the request of the licensee for the project, and after reasonable notice and in accordance with the procedures of the Commission under that section, reinstate the license and extend the time period during which the licensee is required to commence construction of project works for the 3-year period beginning on the date of enactment of this Act.

**SEC. 8002. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT INVOLVING GIBSON DAM.**

(a) IN GENERAL.—Notwithstanding the requirements of section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12478–003, the Federal Energy Regulatory Commission (referred to in this section as the ''Commission'') may, at the request of the licensee for the project, and after reasonable notice and in accordance with the procedures of the Commission under that section, extend the time period during which the licensee is required to commence construction of the project for a 6-year period that begins on the date described in subsection (b).

(b) DATE DESCRIBED.—The date described in this subsection is the date of the expiration of the extension

of the period required for commencement of construction for the project described in subsection (a) that was issued by the Commission prior to the date of enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

**SEC. 8003. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT INVOLVING JENNINGS RANDOLPH DAM.**

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12715, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for up to three consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission. Any obligation of the licensee for the payment of annual charges under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)) shall commence upon conclusion of the time period to commence construction

of the project, as extended by the Commission under this subsection.

(b) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this Act, the Commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

**SEC. 8004. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT INVOLVING CANNONSVILLE DAM.**

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 13287, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for up to four consecutive 2-year periods from the date of the expiration of the time period required for commencement of construction prescribed in the license.

(b) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the date of the enactment of this Act, the Commission may reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

**SEC. 8005. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT INVOLVING GATHRIGHT DAM.**

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12737, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for up to three consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

(b) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the

project described in subsection (a) has expired prior to the date of the enactment of this Act, the Commission may reinstate the license for the project effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

**SEC. 8006. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT INVOLVING FLANNAGAN DAM.**

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 12740, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for up to three consecutive 2-year periods from the date of the expiration of the extension originally issued by the Commission.

(b) REINSTATEMENT OF EXPIRED LICENSE.—If the period required for commencement of construction of the project described in subsection (a) has expired prior to the

date of the enactment of this Act, the Commission may reinstate the license for the project effective as of the date of its expiration and the first extension authorized under subsection (a) shall take effect on the date of such expiration.

# TITLE IX—ENERGY AND MANUFACTURING WORKFORCE DEVELOPMENT

## SEC. 9001. ENERGY AND MANUFACTURING WORKFORCE DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Energy (in this title referred to as the ''Secretary'') shall prioritize education and training for energy and manufacturing-related jobs in order to increase the number of skilled workers trained to work in energy and manufacturing-related fields when considering awards for existing grant programs, including by—

(1) encouraging State education agencies and local educational agencies to equip students with the skills, mentorships, training, and technical expertise necessary to fill the employment opportunities vital to managing and operating the Nation's energy and manufacturing industries, in collaboration with representatives from the energy and manufacturing industries (including the oil, gas, coal, nuclear, utility,

pipeline, renewable, petrochemical, manufacturing, and electrical construction sectors) to identify the areas of highest need in each sector and the skills necessary for a high quality workforce in the following sectors of energy and manufacturing:

(A) Energy efficiency industry, including work in energy efficiency, conservation, weatherization, or retrofitting, or as inspectors or auditors.

(B) Pipeline industry, including work in pipeline construction and maintenance or work as engineers or technical advisors.

(C) Utility industry, including work in the generation, transmission, and distribution of electricity and natural gas, such as utility technicians, operators, lineworkers, engineers, scientists, and information technology specialists.

(D) Nuclear industry, including work as scientists, engineers, technicians, mathematicians, or security personnel.

(E) Oil and gas industry, including work as scientists, engineers, technicians, mathematicians, petrochemical engineers, or geologists.

(F) Renewable industry, including work in the development, manufacturing, and produc-

tion of renewable energy sources (such as solar, hydropower, wind, or geothermal energy).

(G) Coal industry, including work as coal miners, engineers, developers and manufacturers of state-of-the-art coal facilities, technology vendors, coal transportation workers and operators, or mining equipment vendors.

(H) Manufacturing industry, including work as operations technicians, operations and design in additive manufacturing, 3–D printing, advanced composites, and advanced aluminum and other metal alloys, industrial energy efficiency management systems, including power electronics, and other innovative technologies.

(I) Chemical manufacturing industry, including work in construction (such as welders, pipefitters, and tool and die makers) or as instrument and electrical technicians, machinists, chemical process operators, chemical engineers, quality and safety professionals, and reliability engineers; and

(2) strengthening and more fully engaging Department of Energy programs and labs in carrying out the Department's workforce development initiatives including the Minorities in Energy Initiative.

(b) PROHIBITION.—Nothing in this section shall be construed to authorize the Secretary or any other officer or employee of the Federal Government to incentivize, require, or coerce a State, school district, or school to adopt curricula aligned to the skills described in subsection (a).

(c) PRIORITY.—The Secretary shall prioritize the education and training of underrepresented groups in energy and manufacturing-related jobs.

(d) CLEARINGHOUSE.—In carrying out this section, the Secretary shall establish a clearinghouse to—

(1) maintain and update information and resources on training and workforce development programs for energy and manufacturing-related jobs, including job training and workforce development programs available to assist displaced and unemployed energy and manufacturing workers transitioning to new employment; and

(2) provide technical assistance for States, local educational agencies, schools, community colleges, universities (including minority serving institutions), workforce development programs, labor-management organizations, and industry organizations that would like to develop and implement energy and manufacturing-related training programs.

(e) COLLABORATION.—In carrying out this section, the Secretary—

(1) shall collaborate with States, local educational agencies, schools, community colleges, universities (including minority serving institutions), workforce-training organizations, national laboratories, State energy offices, workforce investment boards, and the energy and manufacturing industries;

(2) shall encourage and foster collaboration, mentorships, and partnerships among organizations (including industry, States, local educational agencies, schools, community colleges, workforce-development organizations, and colleges and universities) that currently provide effective job training programs in the energy and manufacturing fields and entities (including States, local educational agencies, schools, community colleges, workforce development programs, and colleges and universities) that seek to establish these types of programs in order to share best practices; and

(3) shall collaborate with the Bureau of Labor Statistics, the Department of Commerce, the Bureau of the Census, States, and the energy and manufacturing industries to develop a comprehensive and de-

tailed understanding of the energy and manufacturing workforce needs and opportunities by State and by region.

(f) OUTREACH TO MINORITY SERVING INSTITUTIONS.—In carrying out this section, the Secretary shall—

(1) give special consideration to increasing outreach to minority serving institutions and Historically Black Colleges and Universities;

(2) make existing resources available through program cross-cutting to minority serving institutions with the objective of increasing the number of skilled minorities and women trained to go into the energy and manufacturing sectors;

(3) encourage industry to improve the opportunities for students of minority serving institutions to participate in industry internships and cooperative work/study programs; and

(4) partner with the Department of Energy laboratories to increase underrepresented groups' participation in internships, fellowships, traineeships, and employment at all Department of Energy laboratories.

(g) OUTREACH TO DISLOCATED ENERGY AND MANUFACTURING WORKERS.—In carrying out this section, the Secretary shall—

(1) give special consideration to increasing outreach to employers and job trainers preparing dislocated energy and manufacturing workers for in-demand sectors or occupations;

(2) make existing resources available through program cross-cutting to institutions serving dislocated energy and manufacturing workers with the objective of training individuals to re-enter in-demand sectors or occupations;

(3) encourage the energy and manufacturing industries to improve opportunities for dislocated energy and manufacturing workers to participate in career pathways; and

(4) work closely with the energy and manufacturing industries to identify energy and manufacturing operations, such as coal-fired power plants and coal mines, scheduled for closure and to provide early intervention assistance to workers employed at such energy and manufacturing operations by—

(A) partnering with State and local workforce development boards;

(B) giving special consideration to employers and job trainers preparing such workers for in-demand sectors or occupations;

(C) making existing resources available through program cross-cutting to institutions serving such workers with the objective of training them to re-enter in-demand sectors or occupations; and

(D) encouraging the energy and manufacturing industries to improve opportunities for such workers to participate in career pathways.

(h) ENROLLMENT IN WORKFORCE DEVELOPMENT PROGRAMS.—In carrying out this section, the Secretary shall work with industry and community-based workforce organizations to help identify candidates, including from underrepresented communities such as minorities, women, and veterans, to enroll in workforce development programs for energy and manufacturing-related jobs.

(i) PROHIBITION.—Nothing in this section shall be construed as authorizing the creation of a new workforce development program.

(j) DEFINITIONS.—In this section:

(1) CAREER PATHWAYS; DISLOCATED WORKER; IN-DEMAND SECTORS OR OCCUPATIONS; LOCAL WORKFORCE DEVELOPMENT BOARD; STATE WORKFORCE DEVELOPMENT BOARD.—The terms ''career pathways'', ''dislocated worker'', ''in-demand sectors or occupations'', ''local workforce development

board'', and ''State workforce development board'' have the meanings given the terms ''career pathways'', ''dislocated worker'', ''in-demand sectors or occupations'', ''local board'', and ''State board'', respectively, in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(2) MINORITY-SERVING INSTITUTION.—The term ''minority-serving institution'' means an institution of higher education with a designation of one of the following:

(A) Hispanic-serving institution (as defined in 20 U.S.C.1101a(a)(5)).

(B) Tribal College or University (as defined in 20 U.S.C.1059c(b)).

(C) Alaska Native-serving institution or a Native Hawaiian-serving institution (as defined in 20 U.S.C.1059d(b)).

(D) Predominantly Black Institution (as defined in 20 U.S.C.1059e(b)).

(E) Native American-serving nontribal institution (as defined in 20 U.S.C.1059f(b)).

(F) Asian American and Native American Pacific Islander-serving institution (as defined in 20 U.S.C.1059g(b)).

**SEC. 9002. REPORT.**

Five years after the date of enactment of this Act, the Secretary shall publish a comprehensive report to the Committee on Energy and Commerce and the Committee on Education and the Workforce of the House of Representatives and the Senate Energy and Natural Resources Committee on the outlook for energy and manufacturing sectors nationally. The report shall also include a comprehensive summary of energy and manufacturing job creation as a result of the enactment of this title. The report shall include performance data regarding the number of program participants served, the percentage of participants in competitive integrated employment two quarters and four quarters after program completion, the median income of program participants two quarters and four quarters after program completion, and the percentage of program participants receiving industry-recognized credentials.

**SEC. 9003. USE OF EXISTING FUNDS.**

No additional funds are authorized to carry out the requirements of this title. Such requirements shall be carried out using amounts otherwise authorized.

# DIVISION B—RESILIENT FEDERAL FORESTS

**SEC. 1. SHORT TITLE.**

This division may be cited as the ''Resilient Federal Forests Act of 2016''.

**SEC. 2. DEFINITIONS.**

In titles I through VIII of this division:

(1) CATASTROPHIC EVENT.—The term ''catastrophic event'' means any natural disaster (such as hurricane, tornado, windstorm, snow or ice storm, rain storm, high water, wind-driven water, tidal wave, earthquake, volcanic eruption, landslide, mudslide, drought, or insect or disease outbreak) or any fire, flood, or explosion, regardless of cause.

(2) CATEGORICAL EXCLUSION.—The term ''categorical exclusion'' refers to an exception to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) for a project or activity relating to the management of National Forest System lands or public lands.

(3) COLLABORATIVE PROCESS.—The term ''collaborative process'' refers to a process relating to the management of National Forest System lands or public lands by which a project or activity is developed and implemented by the Secretary concerned

through collaboration with interested persons, as described in section 603(b)(1)(C) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591b(b)(1)(C)).

(4) COMMUNITY WILDFIRE PROTECTION PLAN.—The term ''community wildfire protection plan'' has the meaning given that term in section 101(3) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511(3)).

(5) COOS BAY WAGON ROAD GRANT LANDS.—The term ''Coos Bay Wagon Road Grant lands'' means the lands reconveyed to the United States pursuant to the first section of the Act of February 26, 1919 (40 Stat. 1179).

(6) FOREST MANAGEMENT ACTIVITY.—The term ''forest management activity'' means a project or activity carried out by the Secretary concerned on National Forest System lands or public lands in concert with the forest plan covering the lands.

(7) FOREST PLAN.—The term ''forest plan'' means—

(A) a land use plan prepared by the Bureau of Land Management for public lands pursuant to section 202 of the Federal Land Policy

and Management Act of 1976 (43 U.S.C. 1712); or

(B) a land and resource management plan prepared by the Forest Service for a unit of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(8) LARGE-SCALE CATASTROPHIC EVENT.—The term ''large-scale catastrophic event'' means a catastrophic event that adversely impacts at least 5,000 acres of reasonably contiguous National Forest System lands or public lands.

(9) NATIONAL FOREST SYSTEM.—The term ''National Forest System'' has the meaning given that term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(10) OREGON AND CALIFORNIA RAILROAD GRANT LANDS.—The term ''Oregon and California Railroad Grant lands'' means the following lands:

(A) All lands in the State of Oregon revested in the United States under the Act of June 9, 1916 (39 Stat. 218), that are administered by the Secretary of the Interior, acting

through the Bureau of Land Management, pursuant to the first section of the Act of August 28, 1937 (43 U.S.C. 1181a).

(B) All lands in that State obtained by the Secretary of the Interior pursuant to the land exchanges authorized and directed by section 2 of the Act of June 24, 1954 (43 U.S.C. 1181h).

(C) All lands in that State acquired by the United States at any time and made subject to the provisions of title II of the Act of August 28, 1937 (43 U.S.C. 1181f).

(11) PUBLIC LANDS.—The term ''public lands'' has the meaning given that term in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)), except that the term includes Coos Bay Wagon Road Grant lands and Oregon and California Railroad Grant lands.

(12) REFORESTATION ACTIVITY.—The term ''reforestation activity'' means a project or activity carried out by the Secretary concerned whose primary purpose is the reforestation of impacted lands following a large-scale catastrophic event. The term includes planting, evaluating and enhancing natural regeneration, clearing competing vegetation, and

other activities related to reestablishment of forest species on the fire-impacted lands.

(13) RESOURCE ADVISORY COMMITTEE.—The term ''resource advisory committee'' has the meaning given that term in section 201(3) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7121(3)).

(14) SALVAGE OPERATION.—The term ''salvage operation'' means a forest management activity undertaken in response to a catastrophic event whose primary purpose—

(A) is to prevent wildfire as a result of the catastrophic event, or, if the catastrophic event was wildfire, to prevent a re-burn of the fire-impacted area;

(B) is to provide an opportunity for utilization of forest materials damaged as a result of the catastrophic event; or

(C) is to provide a funding source for reforestation and other restoration activities for the National Forest System lands or public lands impacted by the catastrophic event.

(15) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of Agriculture, with respect to National Forest System lands; and

(B) the Secretary of the Interior, with respect to public lands.

# TITLE I—EXPEDITED ENVIRONMENTAL ANALYSIS AND AVAILABILITY OF CATEGORICAL EXCLUSIONS TO EXPEDITE FOREST MANAGEMENT ACTIVITIES

## SEC. 101. ANALYSIS OF ONLY TWO ALTERNATIVES (ACTION VERSUS NO ACTION) IN PROPOSED COLLABORATIVE FOREST MANAGEMENT ACTIVITIES.

(a) APPLICATION TO CERTAIN ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL IMPACT STATEMENTS.—This section shall apply whenever the Secretary concerned prepares an environmental assessment or an environmental impact statement pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for a forest management activity that—

(1) is developed through a collaborative process;

(2) is proposed by a resource advisory committee; or

(3) is covered by a community wildfire protection plan.

(b) CONSIDERATION OF ALTERNATIVES.—In an environmental assessment or environmental impact statement described in subsection (a), the Secretary concerned shall study, develop, and describe only the following two alternatives:

(1) The forest management activity, as proposed pursuant to paragraph (1), (2), or (3) of subsection (a).

(2) The alternative of no action.

(c) ELEMENTS OF NON-ACTION ALTERNATIVE.—In the case of the alternative of no action, the Secretary concerned shall evaluate—

(1) the effect of no action on—

(A) forest health;

(B) habitat diversity;

(C) wildfire potential; and

(D) insect and disease potential; and

(2) the implications of a resulting decline in forest health, loss of habitat diversity, wildfire, or insect or disease infestation, given fire and insect and disease historic cycles, on—

(A) domestic water costs;

(B) wildlife habitat loss; and

(C) other economic and social factors.

**SEC. 102. CATEGORICAL EXCLUSION TO EXPEDITE CERTAIN CRITICAL RESPONSE ACTIONS.**

(a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A categorical exclusion is available to the Secretary concerned to develop and carry out a forest management activity on National Forest System lands or public lands when the primary purpose of the forest management activity is—

(1) to address an insect or disease infestation;

(2) to reduce hazardous fuel loads;

(3) to protect a municipal water source;

(4) to maintain, enhance, or modify critical habitat to protect it from catastrophic disturbances;

(5) to increase water yield; or

(6) any combination of the purposes specified in paragraphs (1) through (5).

(b) ACREAGE LIMITATIONS.—

(1) IN GENERAL.—Except in the case of a forest management activity described in paragraph (2), a forest management activity covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 5,000 acres.

(2) LARGER AREAS AUTHORIZED.—A forest management activity covered by the categorical exclusion granted by subsection (a) may not contain

harvest units exceeding a total of 15,000 acres if the forest management activity—

(A) is developed through a collaborative process;

(B) is proposed by a resource advisory committee; or

(C) is covered by a community wildfire protection plan.

**SEC. 103. CATEGORICAL EXCLUSION TO EXPEDITE SALVAGE OPERATIONS IN RESPONSE TO CATASTROPHIC EVENTS.**

(a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A categorical exclusion is available to the Secretary concerned to develop and carry out a salvage operation as part of the restoration of National Forest System lands or public lands following a catastrophic event.

(b) ACREAGE LIMITATIONS.—

(1) IN GENERAL.—A salvage operation covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 5,000 acres.

(2) HARVEST AREA.—In addition to the limitation imposed by paragraph (1), the harvest units covered by the categorical exclusion granted by sub-

section (a) may not exceed one-third of the area impacted by the catastrophic event.

(c) ADDITIONAL REQUIREMENTS.—

(1) ROAD BUILDING.—A salvage operation covered by the categorical exclusion granted by subsection (a) may not include any new permanent roads. Temporary roads constructed as part of the salvage operation shall be retired before the end of the fifth fiscal year beginning after the completion of the salvage operation.

(2) STREAM BUFFERS.—A salvage operation covered by the categorical exclusion granted by subsection (a) shall comply with the standards and guidelines for stream buffers contained in the applicable forest plan unless waived by the Regional Forester, in the case of National Forest System lands, or the State Director of the Bureau of Land Management, in the case of public lands.

(3) REFORESTATION PLAN.—A reforestation plan shall be developed under section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b), as part of a salvage operation covered by the categorical exclusion granted by subsection (a).

**SEC. 104. CATEGORICAL EXCLUSION TO MEET FOREST PLAN GOALS FOR EARLY SUCCESSIONAL FORESTS.**

(a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A categorical exclusion is available to the Secretary concerned to develop and carry out a forest management activity on National Forest System lands or public lands when the primary purpose of the forest management activity is to modify, improve, enhance, or create early successional forests for wildlife habitat improvement and other purposes, consistent with the applicable forest plan.

(b) PROJECT GOALS.—To the maximum extent practicable, the Secretary concerned shall design a forest management activity under this section to meet early successional forest goals in such a manner so as to maximize production and regeneration of priority species, as identified in the forest plan and consistent with the capability of the activity site.

(c) ACREAGE LIMITATIONS.—A forest management activity covered by the categorical exclusion granted by subsection (a) may not contain harvest units exceeding a total of 5,000 acres.

**SEC. 105. CLARIFICATION OF EXISTING CATEGORICAL EXCLUSION AUTHORITY RELATED TO INSECT AND DISEASE INFESTATION.**

Section 603(c)(2)(B) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591b(c)(2)(B)) is amended by striking ''Fire Regime Groups I, II, or III'' and inserting ''Fire Regime I, Fire Regime II, Fire Regime III, or Fire Regime IV''.

**SEC. 106. CATEGORICAL EXCLUSION TO IMPROVE, RESTORE, AND REDUCE THE RISK OF WILDFIRE.**

(a) AVAILABILITY OF CATEGORICAL EXCLUSION.—A categorical exclusion is available to the Secretary concerned to carry out a forest management activity described in subsection (c) on National Forest System Lands or public lands when the primary purpose of the activity is to improve, restore, or reduce the risk of wildfire on those lands.

(b) ACREAGE LIMITATIONS.—A forest management activity covered by the categorical exclusion granted by subsection (a) may not exceed 5,000 acres.

(c) AUTHORIZED ACTIVITIES.—The following activities may be carried out using a categorical exclusion granted by subsection (a):

(1) Removal of juniper trees, medusahead rye, conifer trees, piñon pine trees, cheatgrass, and other noxious or invasive weeds specified on Federal or

State noxious weeds lists through late-season livestock grazing, targeted livestock grazing, prescribed burns, and mechanical treatments.

(2) Performance of hazardous fuels management.

(3) Creation of fuel and fire breaks.

(4) Modification of existing fences in order to distribute livestock and help improve wildlife habitat.

(5) Installation of erosion control devices.

(6) Construction of new and maintenance of permanent infrastructure, including stock ponds, water catchments, and water spring boxes used to benefit livestock and improve wildlife habitat.

(7) Performance of soil treatments, native and non-native seeding, and planting of and transplanting sagebrush, grass, forb, shrub, and other species.

(8) Use of herbicides, so long as the Secretary concerned determines that the activity is otherwise conducted consistently with agency procedures, including any forest plan applicable to the area covered by the activity.

(d) DEFINITIONS.—In this section:

(1) HAZARDOUS FUELS MANAGEMENT.—The term ''hazardous fuels management'' means any

vegetation management activities that reduce the risk of wildfire.

(2) LATE-SEASON GRAZING.—The term ''late-season grazing'' means grazing activities that occur after both the invasive species and native perennial species have completed their current-year annual growth cycle until new plant growth begins to appear in the following year.

(3) TARGETED LIVESTOCK GRAZING.—The term ''targeted livestock grazing'' means grazing used for purposes of hazardous fuel reduction.

**SEC. 107. COMPLIANCE WITH FOREST PLAN.**

A forest management activity covered by a categorical exclusion granted by this title shall be conducted in a manner consistent with the forest plan applicable to the National Forest System land or public lands covered by the forest management activity.

# TITLE II—SALVAGE AND REFORESTATION IN RESPONSE TO CATASTROPHIC EVENTS

**SEC. 201. EXPEDITED SALVAGE OPERATIONS AND REFORESTATION ACTIVITIES FOLLOWING LARGE-SCALE CATASTROPHIC EVENTS.**

(a) EXPEDITED ENVIRONMENTAL ASSESSMENT.—Notwithstanding any other provision of law, any environ-

1 mental assessment prepared by the Secretary concerned
2 pursuant to section 102(2) of the National Environmental
3 Policy Act of 1969 (42 U.S.C. 4332(2)) for a salvage oper-
4 ation or reforestation activity proposed to be conducted
5 on National Forest System lands or public lands adversely
6 impacted by a large-scale catastrophic event shall be com-
7 pleted within 3 months after the conclusion of the cata-
8 strophic event.

9 (b) EXPEDITED IMPLEMENTATION AND COMPLE-
10 TION.—In the case of reforestation activities conducted on
11 National Forest System lands or public lands adversely
12 impacted by a large-scale catastrophic event, the Secretary
13 concerned shall achieve reforestation of at least 75 percent
14 of the impacted lands during the 5-year period following
15 the conclusion of the catastrophic event.

16 (c) AVAILABILITY OF KNUTSON-VANDENBERG
17 FUNDS.—Amounts in the special fund established pursu-
18 ant to section 3 of the Act of June 9, 1930 (commonly
19 known as the Knutson-Vandenberg Act; 16 U.S.C. 576b)
20 shall be available to the Secretary of Agriculture for refor-
21 estation activities authorized by this title.

22 (d) TIMELINE FOR PUBLIC INPUT PROCESS.—Not-
23 withstanding any other provision of law, in the case of a
24 salvage operation or reforestation activity proposed to be
25 conducted on National Forest System lands or public

lands adversely impacted by a large-scale catastrophic event, the Secretary concerned shall allow 30 days for public scoping and comment, 15 days for filing an objection, and 15 days for the agency response to the filing of an objection. Upon completion of this process and expiration of the period specified in subsection (a), the Secretary concerned shall implement the project immediately.

**SEC. 202. COMPLIANCE WITH FOREST PLAN.**

A salvage operation or reforestation activity authorized by this title shall be conducted in a manner consistent with the forest plan applicable to the National Forest System lands or public lands covered by the salvage operation or reforestation activity.

**SEC. 203. PROHIBITION ON RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS, AND INJUNCTIONS PENDING APPEAL.**

No restraining order, preliminary injunction, or injunction pending appeal shall be issued by any court of the United States with respect to any decision to prepare or conduct a salvage operation or reforestation activity in response to a large-scale catastrophic event. Section 705 of title 5, United States Code, shall not apply to any challenge to the salvage operation or reforestation activity.

**SEC. 204. EXCLUSION OF CERTAIN LANDS.**

In applying this title, the Secretary concerned may not carry out salvage operations or reforestation activities on National Forest System lands or public lands—

(1) that are included in the National Wilderness Preservation System;

(2) that are located within an inventoried roadless area unless the reforestation activity is consistent with the forest plan; or

(3) on which timber harvesting for any purpose is prohibited by statute.

# TITLE III—COLLABORATIVE PROJECT LITIGATION REQUIREMENT

**SEC. 301. DEFINITIONS.**

In this title:

(1) COSTS.—The term ''costs'' refers to the fees and costs described in section 1920 of title 28, United States Code.

(2) EXPENSES.—The term ''expenses'' includes the expenditures incurred by the staff of the Secretary concerned in preparing for and responding to a legal challenge to a collaborative forest management activity and in participating in litigation that challenges the forest management activity, including such staff time as may be used to prepare the ad-

ministrative record, exhibits, declarations, and affidavits in connection with the litigation.

**SEC. 302. BOND REQUIREMENT AS PART OF LEGAL CHALLENGE OF CERTAIN FOREST MANAGEMENT ACTIVITIES.**

(a) BOND REQUIRED.—In the case of a forest management activity developed through a collaborative process or proposed by a resource advisory committee, any plaintiff or plaintiffs challenging the forest management activity shall be required to post a bond or other security equal to the anticipated costs, expenses, and attorneys fees of the Secretary concerned as defendant, as reasonably estimated by the Secretary concerned. All proceedings in the action shall be stayed until the required bond or security is provided.

(b) RECOVERY OF LITIGATION COSTS, EXPENSES, AND ATTORNEYS FEES.—

(1) MOTION FOR PAYMENT.—If the Secretary concerned prevails in an action challenging a forest management activity described in subsection (a), the Secretary concerned shall submit to the court a motion for payment, from the bond or other security posted under subsection (a) in such action, of the reasonable costs, expenses, and attorneys fees incurred by the Secretary concerned.

(2) MAXIMUM AMOUNT RECOVERED.—The amount of costs, expenses, and attorneys fees recovered by the Secretary concerned under paragraph (1) as a result of prevailing in an action challenging the forest management activity may not exceed the amount of the bond or other security posted under subsection (a) in such action.

(3) RETURN OF REMAINDER.—Any funds remaining from the bond or other security posted under subsection (a) after the payment of costs, expenses, and attorneys fees under paragraph (1) shall be returned to the plaintiff or plaintiffs that posted the bond or security in the action.

(c) RETURN OF BOND TO PREVAILING PLAINTIFF.—

(1) IN GENERAL.—If the plaintiff ultimately prevails on the merits in every action brought by the plaintiff challenging a forest management activity described in subsection (a), the court shall return to the plaintiff any bond or security provided by the plaintiff under subsection (a), plus interest from the date the bond or security was provided.

(2) ULTIMATELY PREVAILS ON THE MERITS.—In this subsection, the phrase "ultimately prevails on the merits" means, in a final enforceable judgment on the merits, a court rules in favor of the plaintiff

on every cause of action in every action brought by the plaintiff challenging the forest management activity.

(d) EFFECT OF SETTLEMENT.—If a challenge to a forest management activity described in subsection (a) for which a bond or other security was provided by the plaintiff under such subsection is resolved by settlement between the Secretary concerned and the plaintiff, the settlement agreement shall provide for sharing the costs, expenses, and attorneys fees incurred by the parties.

(e) LIMITATION ON CERTAIN PAYMENTS.—Notwithstanding section 1304 of title 31, United States Code, no award may be made under section 2412 of title 28, United States Code, and no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay any fees or other expenses under such sections to any plaintiff related to an action challenging a forest management activity described in subsection (a).

# TITLE IV—SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT AMENDMENTS

## SEC. 401. USE OF RESERVED FUNDS FOR TITLE II PROJECTS ON FEDERAL LAND AND CERTAIN NON-FEDERAL LAND.

(a) REPEAL OF MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—Section 204(e) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7124(e)) is amended by striking paragraph (3).

(b) REQUIREMENTS FOR PROJECT FUNDS.—Section 204 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7124) is amended by striking subsection (f) and inserting the following new subsection:

"(f) REQUIREMENTS FOR PROJECT FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary concerned shall ensure that at least 50 percent of the project funds reserved by a participating county under section 102(d) shall be available only for projects that—

"(A) include the sale of timber or other forest products, reduce fire risks, or improve water supplies; and

"(B) implement stewardship objectives that enhance forest ecosystems or restore and improve land health and water quality.

"(2) APPLICABILITY.—The requirement in paragraph (1) shall apply only to project funds reserved by a participating county whose boundaries include Federal land that the Secretary concerned determines has been subject to a timber or other forest products program within 5 fiscal years before the fiscal year in which the funds are reserved.".

**SEC. 402. RESOURCE ADVISORY COMMITTEES.**

(a) RECOGNITION OF RESOURCE ADVISORY COMMITTEES.—Section 205(a)(4) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(a)(4)) is amended by striking "2012" each place it appears and inserting "2020".

(b) TEMPORARY REDUCTION IN COMPOSITION OF COMMITTEES.—Section 205(d) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(d)) is amended—

(1) in paragraph (1), by striking ''Each'' and inserting ''Except during the period specified in paragraph (6), each''; and

(2) by adding at the end the following new paragraph:

''(6) TEMPORARY REDUCTION IN MINIMUM NUMBER OF MEMBERS.—

''(A) TEMPORARY REDUCTION.—During the period beginning on the date of the enactment of this paragraph and ending on September 30, 2020, a resource advisory committee established under this section may be comprised of nine or more members, of which—

''(i) at least three shall be representative of interests described in subparagraph (A) of paragraph (2);

''(ii) at least three shall be representative of interests described in subparagraph (B) of paragraph (2); and

''(iii) at least three shall be representative of interests described in subparagraph (C) of paragraph (2).

''(B) ADDITIONAL REQUIREMENTS.—In appointing members of a resource advisory committee from the three categories described in

paragraph (2), as provided in subparagraph (A), the Secretary concerned shall ensure balanced and broad representation in each category. In the case of a vacancy on a resource advisory committee, the vacancy shall be filled within 90 days after the date on which the vacancy occurred. Appointments to a new resource advisory committee shall be made within 90 days after the date on which the decision to form the new resource advisory committee was made.

''(C) CHARTER.—A charter for a resource advisory committee with 15 members that was filed on or before the date of the enactment of this paragraph shall be considered to be filed for a resource advisory committee described in this paragraph. The charter of a resource advisory committee shall be reapproved before the expiration of the existing charter of the resource advisory committee. In the case of a new resource advisory committee, the charter of the resource advisory committee shall be approved within 90 days after the date on which the decision to form the new resource advisory committee was made.''.

(c) CONFORMING CHANGE TO PROJECT APPROVAL REQUIREMENTS.—Section 205(e)(3) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(e)(3)) is amended by adding at the end the following new sentence: ''In the case of a resource advisory committee consisting of fewer than 15 members, as authorized by subsection (d)(6), a project may be proposed to the Secretary concerned upon approval by a majority of the members of the committee, including at least one member from each of the three categories described in subsection (d)(2).''.

(d) EXPANDING LOCAL PARTICIPATION ON COMMITTEES.—Section 205(d) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7125(d)) is amended—

(1) in paragraph (3), by inserting before the period at the end the following: '', consistent with the requirements of paragraph (4)''; and

(2) by striking paragraph (4) and inserting the following new paragraph:

''(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the county or counties in which the committee has jurisdiction or an adjacent county.''.

**SEC. 403. PROGRAM FOR TITLE II SELF-SUSTAINING RESOURCE ADVISORY COMMITTEE PROJECTS.**

(a) SELF-SUSTAINING RESOURCE ADVISORY COMMITTEE PROJECTS.—Title II of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7121 et seq.) is amended by adding at the end the following new section:

**"SEC. 209. PROGRAM FOR SELF-SUSTAINING RESOURCE ADVISORY COMMITTEE PROJECTS.**

"(a) RAC PROGRAM.—The Chief of the Forest Service shall conduct a program (to be known as the 'self-sustaining resource advisory committee program' or 'RAC program') under which 10 resource advisory committees will propose projects authorized by subsection (c) to be carried out using project funds reserved by a participating county under section 102(d).

"(b) SELECTION OF PARTICIPATING RESOURCE ADVISORY COMMITTEES.—The selection of resource advisory committees to participate in the RAC program is in the sole discretion of the Chief of the Forest Service, except that, consistent with section 205(d)(6), a selected resource advisory committee must have a minimum of six members.

"(c) AUTHORIZED PROJECTS.—Notwithstanding the project purposes specified in sections 202(b), 203(c), and 204(a)(5), projects under the RAC program are intended to—

"(1) accomplish forest management objectives or support community development; and

"(2) generate receipts.

"(d) DEPOSIT AND AVAILABILITY OF REVENUES.—Any revenue generated by a project conducted under the RAC program, including any interest accrued from the revenues, shall be—

"(1) deposited in the special account in the Treasury established under section 102(d)(2)(A); and

"(2) available, in such amounts as may be provided in advance in appropriation Acts, for additional projects under the RAC program.

"(e) TERMINATION OF AUTHORITY.—

"(1) IN GENERAL.—The authority to initiate a project under the RAC program shall terminate on September 30, 2020.

"(2) DEPOSITS IN TREASURY.—Any funds available for projects under the RAC program and not obligated by September 30, 2021, shall be deposited in the Treasury of the United States.".

(b) EXCEPTION TO GENERAL RULE REGARDING TREATMENT OF RECEIPTS.—Section 403(b) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7153(b)) is amended by striking "All rev-

enues'' and inserting ''Except as provided in section 209, all revenues''.

**SEC. 404. ADDITIONAL AUTHORIZED USE OF RESERVED FUNDS FOR TITLE III COUNTY PROJECTS.**

Section 302(a) of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7142(a)) is amended—

(1) in paragraph (2)—

(A) by inserting ''and law enforcement patrols'' after ''including firefighting''; and

(B) by striking ''and'' at the end;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

''(3) to cover training costs and equipment purchases directly related to the emergency services described in paragraph (2); and''.

**SEC. 405. TREATMENT AS SUPPLEMENTAL FUNDING.**

Section 102 of the Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 7112) is amended by adding at the end the following new subsection:

''(f) TREATMENT AS SUPPLEMENTAL FUNDING.—None of the funds made available to a beneficiary county

or other political subdivision of a State under this Act shall be used in lieu of or to otherwise offset State funding sources for local schools, facilities, or educational purposes.''.

# TITLE V—STEWARDSHIP END RESULT CONTRACTING

## SEC. 501. CANCELLATION CEILINGS FOR STEWARDSHIP END RESULT CONTRACTING PROJECTS.

(a) CANCELLATION CEILINGS.—Section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following new subsection (h):

''(h) CANCELLATION CEILINGS.—

''(1) IN GENERAL.—The Chief and the Director may obligate funds to cover any potential cancellation or termination costs for an agreement or contract under subsection (b) in stages that are economically or programmatically viable.

''(2) ADVANCE NOTICE TO CONGRESS OF CANCELLATION CEILING IN EXCESS OF $25 MILLION.—Not later than 30 days before entering into a multiyear agreement or contract under subsection

(b) that includes a cancellation ceiling in excess of $25 million, but does not include proposed funding for the costs of cancelling the agreement or contract up to such cancellation ceiling, the Chief or the Director, as the case may be, shall submit to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives a written notice that includes—

"(A) the cancellation ceiling amounts proposed for each program year in the agreement or contract;

"(B) the reasons why such cancellation ceiling amounts were selected;

"(C) the extent to which the costs of contract cancellation are not included in the budget for the agreement or contract; and

"(D) an assessment of the financial risk of not including budgeting for the costs of agreement or contract cancellation.

"(3) TRANSMITTAL OF NOTICE TO OMB.—Not later than 14 days after the date on which written notice is provided under paragraph (2) with respect

to an agreement or contract under subsection (b), the Chief or the Director, as the case may be, shall transmit a copy of the notice to the Director of the Office of Management and Budget.''.

(b) RELATION TO OTHER LAWS.—Section 604(d)(5) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c(d)(5)) is amended by striking '', the Chief may'' and inserting ''and section 2(a)(1) of the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 602(a)(1)), the Chief and the Director may''.

**SEC. 502. EXCESS OFFSET VALUE.**

Section 604(g)(2) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c(g)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

''(A) use the excess to satisfy any outstanding liabilities for cancelled agreements or contracts; or

''(B) if there are no outstanding liabilities under subparagraph (A), apply the excess to other authorized stewardship projects.''.

**SEC. 503. PAYMENT OF PORTION OF STEWARDSHIP PROJECT REVENUES TO COUNTY IN WHICH STEWARDSHIP PROJECT OCCURS.**

Section 604(e) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c(e)) is amended—

(1) in paragraph (2)(B), by inserting ''subject to paragraph (3)(A),'' before ''shall''; and

(2) in paragraph (3)(A), by striking ''services received by the Chief or the Director'' and all that follows through the period at the end and inserting the following: ''services and in-kind resources received by the Chief or the Director under a stewardship contract project conducted under this section shall not be considered monies received from the National Forest System or the public lands, but any payments made by the contractor to the Chief or Director under the project shall be considered monies received from the National Forest System or the public lands.''.

**SEC. 504. SUBMISSION OF EXISTING ANNUAL REPORT.**

Subsection (j) of section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c), as redesignated by section 501(a)(1), is amended by striking ''report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives'' and inserting ''submit to the

1 congressional committees specified in subsection (h)(2) a
2 report''.

3 **SEC. 505. FIRE LIABILITY PROVISION.**

4 Section 604(d) of the Healthy Forests Restoration
5 Act of 2003 (16 U.S.C. 6591c(d)) is amended by adding
6 at the end the following new paragraph:

7 ''(8) MODIFICATION.—Upon the request of the
8 contractor, a contract or agreement under this sec-
9 tion awarded before February 7, 2014, shall be
10 modified by the Chief or Director to include the fire
11 liability provisions described in paragraph (7).''.

# 12 TITLE VI—ADDITIONAL FUND-
# 13 ING SOURCES FOR FOREST
# 14 MANAGEMENT ACTIVITIES

15 **SEC. 601. DEFINITIONS.**

16 In this title:

17 (1) ELIGIBLE ENTITY.—The term ''eligible enti-
18 ty'' means—

19 (A) a State or political subdivision of a
20 State containing National Forest System lands
21 or public lands;

22 (B) a publicly chartered utility serving one
23 or more States or a political subdivision thereof;

24 (C) a rural electric company; and

(D) any other entity determined by the Secretary concerned to be appropriate for participation in the Fund.

(2) FUND.—The term ''Fund'' means the State-Supported Forest Management Fund established by section 603.

**SEC. 602. AVAILABILITY OF STEWARDSHIP PROJECT REVENUES AND COLLABORATIVE FOREST LANDSCAPE RESTORATION FUND TO COVER FOREST MANAGEMENT ACTIVITY PLANNING COSTS.**

(a) AVAILABILITY OF STEWARDSHIP PROJECT REVENUES.—Section 604(e)(2)(B) of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c(e)(2)(B)), as amended by section 503, is further amended by striking ''appropriation at the project site from which the monies are collected or at another project site.'' and inserting the following: ''appropriation—

''(i) at the project site from which the monies are collected or at another project site; and

''(ii) to cover not more than 25 percent of the cost of planning additional stewardship contracting projects.''.

(b) AVAILABILITY OF COLLABORATIVE FOREST LANDSCAPE RESTORATION FUND.—Section 4003(f)(1) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303(f)(1)) is amended by striking ''carrying out and'' and inserting ''planning, carrying out, and''.

**SEC. 603. STATE-SUPPORTED PLANNING OF FOREST MANAGEMENT ACTIVITIES.**

(a) STATE-SUPPORTED FOREST MANAGEMENT FUND.—There is established in the Treasury of the United States a fund, to be known as the ''State-Supported Forest Management Fund'', to cover the cost of planning (especially related to compliance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2))), carrying out, and monitoring certain forest management activities on National Forest System lands or public lands.

(b) CONTENTS.—The State-Supported Forest Management Fund shall consist of such amounts as may be—

(1) contributed by an eligible entity for deposit in the Fund;

(2) appropriated to the Fund; or

(3) generated by forest management activities carried out using amounts in the Fund.

(c) GEOGRAPHICAL AND USE LIMITATIONS.—In making a contribution under subsection (b)(1), an eligible entity may—

(1) specify the National Forest System lands or public lands for which the contribution may be expended; and

(2) limit the types of forest management activities for which the contribution may be expended.

(d) AUTHORIZED FOREST MANAGEMENT ACTIVITIES.—In such amounts as may be provided in advance in appropriation Acts, the Secretary concerned may use the Fund to plan, carry out, and monitor a forest management activity that—

(1) is developed through a collaborative process;

(2) is proposed by a resource advisory committee; or

(3) is covered by a community wildfire protection plan.

(e) IMPLEMENTATION METHODS.—A forest management activity carried out using amounts in the Fund may be carried out using a contract or agreement under section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c), the good neighbor authority provided by section 8206 of the Agricultural Act of 2014 (16 U.S.C. 2113a), a contract under section 14 of the National Forest

Management Act of 1976 (16 U.S.C. 472a), or other authority available to the Secretary concerned, but revenues generated by the forest management activity shall be used to reimburse the Fund for planning costs covered using amounts in the Fund.

(f) RELATION TO OTHER LAWS.—

(1) REVENUE SHARING.—Subject to subsection (e), revenues generated by a forest management activity carried out using amounts from the Fund shall be considered monies received from the National Forest System.

(2) KNUTSON-VANDERBERG ACT.—The Act of June 9, 1930 (commonly known as the Knutson-Vanderberg Act; 16 U.S.C. 576 et seq.), shall apply to any forest management activity carried out using amounts in the Fund.

(g) TERMINATION OF FUND.—

(1) TERMINATION.—The Fund shall terminate 10 years after the date of the enactment of this Act.

(2) EFFECT OF TERMINATION.—Upon the termination of the Fund pursuant to paragraph (1) or pursuant to any other provision of law, unobligated contributions remaining in the Fund shall be returned to the eligible entity that made the contribution.

# TITLE VII—TRIBAL FORESTRY PARTICIPATION AND PROTECTION

## SEC. 701. PROTECTION OF TRIBAL FOREST ASSETS THROUGH USE OF STEWARDSHIP END RESULT CONTRACTING AND OTHER AUTHORITIES.

(a) PROMPT CONSIDERATION OF TRIBAL REQUESTS.—Section 2(b) of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a(b)) is amended—

(1) in paragraph (1), by striking ''Not later than 120 days after the date on which an Indian tribe submits to the Secretary'' and inserting ''In response to the submission by an Indian tribe of''; and

(2) by adding at the end the following new paragraph:

''(4) TIME PERIODS FOR CONSIDERATION.—

''(A) INITIAL RESPONSE.—Not later than 120 days after the date on which the Secretary receives a tribal request under paragraph (1), the Secretary shall provide an initial response to the Indian tribe regarding—

''(i) whether the request may meet the selection criteria described in subsection (c); and

"(ii) the likelihood of the Secretary entering into an agreement or contract with the Indian tribe under paragraph (2) for activities described in paragraph (3).

"(B) NOTICE OF DENIAL.—Notice under subsection (d) of the denial of a tribal request under paragraph (1) shall be provided not later than 1 year after the date on which the Secretary received the request.

"(C) COMPLETION.—Not later than 2 years after the date on which the Secretary receives a tribal request under paragraph (1), other than a tribal request denied under subsection (d), the Secretary shall—

"(i) complete all environmental reviews necessary in connection with the agreement or contract and proposed activities under the agreement or contract; and

"(ii) enter into the agreement or contract with the Indian tribe under paragraph (2).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—Section 2 of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a) is amended—

(1) in subsections (b)(1) and (f)(1), by striking "section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 2104 note; Public Law 105–277) (as amended by section 323 of the Department of the Interior and Related Agencies Appropriations Act, 2003 (117 Stat. 275))" and inserting "section 604 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6591c)"; and

(2) in subsection (d), by striking "subsection (b)(1), the Secretary may" and inserting "paragraphs (1) and (4)(B) of subsection (b), the Secretary shall".

**SEC. 702. MANAGEMENT OF INDIAN FOREST LAND AUTHORIZED TO INCLUDE RELATED NATIONAL FOREST SYSTEM LANDS AND PUBLIC LANDS.**

Section 305 of the National Indian Forest Resources Management Act (25 U.S.C. 3104) is amended by adding at the end the following new subsection:

"(c) INCLUSION OF CERTAIN NATIONAL FOREST SYSTEM LAND AND PUBLIC LAND.—

"(1) AUTHORITY.—At the request of an Indian tribe, the Secretary concerned may treat Federal forest land as Indian forest land for purposes of planning and conducting forest land management

activities under this section if the Federal forest land is located within, or mostly within, a geographic area that presents a feature or involves circumstances principally relevant to that Indian tribe, such as Federal forest land ceded to the United States by treaty, Federal forest land within the boundaries of a current or former reservation, or Federal forest land adjudicated to be tribal homelands.

"(2) REQUIREMENTS.—As part of the agreement to treat Federal forest land as Indian forest land under paragraph (1), the Secretary concerned and the Indian tribe making the request shall—

"(A) provide for continued public access applicable to the Federal forest land prior to the agreement, except that the Secretary concerned may limit or prohibit such access as needed;

"(B) continue sharing revenue generated by the Federal forest land with State and local governments either—

"(i) on the terms applicable to the Federal forest land prior to the agreement, including, where applicable, 25-percent payments or 50-percent payments; or

"(ii) at the option of the Indian tribe, on terms agreed upon by the Indian tribe, the Secretary concerned, and State and county governments participating in a revenue sharing agreement for the Federal forest land;

"(C) comply with applicable prohibitions on the export of unprocessed logs harvested from the Federal forest land;

"(D) recognize all right-of-way agreements in place on Federal forest land prior to commencement of tribal management activities; and

"(E) ensure that all commercial timber removed from the Federal forest land is sold on a competitive bid basis.

"(3) LIMITATION.—Treating Federal forest land as Indian forest land for purposes of planning and conducting management activities pursuant to paragraph (1) shall not be construed to designate the Federal forest land as Indian forest lands for any other purpose.

"(4) DEFINITIONS.—In this subsection:

"(A) FEDERAL FOREST LAND.—The term 'Federal forest land' means—

"(i) National Forest System lands; and

"(ii) public lands (as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e))), including Coos Bay Wagon Road Grant lands reconveyed to the United States pursuant to the first section of the Act of February 26, 1919 (40 Stat. 1179), and Oregon and California Railroad Grant lands.

"(B) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

"(i) the Secretary of Agriculture, with respect to the Federal forest land referred to in subparagraph (A)(i); and

"(ii) the Secretary of the Interior, with respect to the Federal forest land referred to in subparagraph (A)(ii).".

**SEC. 703. TRIBAL FOREST MANAGEMENT DEMONSTRATION PROJECT.**

The Secretary of the Interior and the Secretary of Agriculture may carry out demonstration projects by which federally recognized Indian tribes or tribal organizations may contract to perform administrative, manage-

ment, and other functions of programs of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a et seq.) through contracts entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

# TITLE VIII—MISCELLANEOUS FOREST MANAGEMENT PROVISIONS

## SEC. 801. BALANCING SHORT- AND LONG-TERM EFFECTS OF FOREST MANAGEMENT ACTIVITIES IN CONSIDERING INJUNCTIVE RELIEF.

As part of its weighing the equities while considering any request for an injunction that applies to any agency action as part of a forest management activity under titles I through VIII, the court reviewing the agency action shall balance the impact to the ecosystem likely affected by the forest management activity of—

(1) the short- and long-term effects of undertaking the agency action; against

(2) the short- and long-term effects of not undertaking the action.

## SEC. 802. CONDITIONS ON FOREST SERVICE ROAD DECOMMISSIONING.

(a) CONSULTATION WITH AFFECTED COUNTY.—Whenever any Forest Service defined maintenance level

one- or two-system road within a designated high fire prone area of a unit of the National Forest System is considered for decommissioning, the Forest Supervisor of that unit of the National Forest System shall—

(1) consult with the government of the county containing the road regarding the merits and possible consequences of decommissioning the road; and

(2) solicit possible alternatives to decommissioning the road.

(b) REGIONAL FORESTER APPROVAL.—A Forest Service road described in subsection (a) may not be decommissioned without the advance approval of the Regional Forester.

**SEC. 803. PROHIBITION ON APPLICATION OF EASTSIDE SCREENS REQUIREMENTS ON NATIONAL FOREST SYSTEM LANDS.**

On and after the date of the enactment of this Act, the Secretary of Agriculture may not apply to National Forest System lands any of the amendments to forest plans adopted in the Decision Notice for the Revised Continuation of Interim Management Direction Establishing Riparian, Ecosystem and Wildlife Standards for Timber Sales (commonly known as the Eastside Screens requirements), including all preceding or associated versions of these amendments.

**SEC. 804. USE OF SITE-SPECIFIC FOREST PLAN AMENDMENTS FOR CERTAIN PROJECTS AND ACTIVITIES.**

If the Secretary concerned determines that, in order to conduct a project or carry out an activity implementing a forest plan, an amendment to the forest plan is required, the Secretary concerned shall execute such amendment as a nonsignificant plan amendment through the record of decision or decision notice for the project or activity.

**SEC. 805. KNUTSON-VANDENBERG ACT MODIFICATIONS.**

(a) DEPOSITS OF FUNDS FROM NATIONAL FOREST TIMBER PURCHASERS REQUIRED.—Section 3(a) of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b(a)), is amended by striking ''The Secretary'' and all that follows through ''any purchaser'' and inserting the following: ''The Secretary of Agriculture shall require each purchaser''.

(b) CONDITIONS ON USE OF DEPOSITS.—Section 3 of the Act of June 9, 1930 (commonly known as the Knutson-Vandenberg Act; 16 U.S.C. 576b), is amended—

(1) by striking ''Such deposits'' and inserting the following:

''(b) Amounts deposited under subsection (a)'';

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting before subsection (d), as so redesignated, the following new subsection (c):

''(c)(1) Amounts in the special fund established pursuant to this section—

''(A) shall be used exclusively to implement activities authorized by subsection (a); and

''(B) may be used anywhere within the Forest Service Region from which the original deposits were collected.

''(2) The Secretary of Agriculture may not deduct overhead costs from the funds collected under subsection (a), except as needed to fund personnel of the responsible Ranger District for the planning and implementation of the activities authorized by subsection (a).''.

**SEC. 806. EXCLUSION OF CERTAIN NATIONAL FOREST SYSTEM LANDS AND PUBLIC LANDS.**

Unless specifically provided by a provision of titles I through VIII, the authorities provided by such titles do not apply with respect to any National Forest System lands or public lands—

(1) that are included in the National Wilderness Preservation System;

(2) that are located within an inventoried roadless area unless the forest management activity

to be carried out under such authority is consistent with the forest plan applicable to the area; or

(3) on which timber harvesting for any purpose is prohibited by statute.

**SEC. 807. APPLICATION OF NORTHWEST FOREST PLAN SURVEY AND MANAGE MITIGATION MEASURE STANDARD AND GUIDELINES.**

The Northwest Forest Plan Survey and Manage Mitigation Measure Standard and Guidelines shall not apply to any National Forest System lands or public lands.

**SEC. 808. MANAGEMENT OF BUREAU OF LAND MANAGEMENT LANDS IN WESTERN OREGON.**

(a) GENERAL RULE.—All of the public land managed by the Bureau of Land Management in the Salem District, Eugene District, Roseburg District, Coos Bay District, Medford District, and the Klamath Resource Area of the Lakeview District in the State of Oregon shall hereafter be managed pursuant to title I of the of the Act of August 28, 1937 (43 U.S.C. 1181a through 1181e). Except as provided in subsection (b), all of the revenue produced from such land shall be deposited in the Treasury of the United States in the Oregon and California land-grant fund and be subject to the provisions of title II of the Act of August 28, 1937 (43 U.S.C. 1181f).

(b) CERTAIN LANDS EXCLUDED.—Subsection (a) does not apply to any revenue that is required to be deposited in the Coos Bay Wagon Road grant fund pursuant to sections 1 through 4 of the Act of May 24, 1939 (43 U.S.C. 1181f–1 through f–4).

**SEC. 809. BUREAU OF LAND MANAGEMENT RESOURCE MANAGEMENT PLANS.**

(a) ADDITIONAL ANALYSIS AND ALTERNATIVES.—To develop a full range of reasonable alternatives as required by the National Environmental Policy Act of 1969, the Secretary of the Interior shall develop and consider in detail a reference analysis and two additional alternatives as part of the revisions of the resource management plans for the Bureau of Land Management's Salem, Eugene, Coos Bay, Roseburg, and Medford Districts and the Klamath Resource Area of the Lakeview District.

(b) REFERENCE ANALYSIS.—The reference analysis required by subsection (a) shall measure and assume the harvest of the annual growth net of natural mortality for all forested land in the planning area in order to determine the maximum sustained yield capacity of the forested land base and to establish a baseline by which the Secretary of the Interior shall measure incremental effects on the sustained yield capacity and environmental impacts from management prescriptions in all other alternatives.

(c) ADDITIONAL ALTERNATIVES.—

(1) CARBON SEQUESTRATION ALTERNATIVE.—The Secretary of the Interior shall develop and consider an additional alternative with the goal of maximizing the total carbon benefits from forest storage and wood product storage. To the extent practicable, the analysis shall consider—

(A) the future risks to forest carbon from wildfires, insects, and disease;

(B) the amount of carbon stored in products or in landfills;

(C) the life cycle benefits of harvested wood products compared to non-renewable products; and

(D) the energy produced from wood residues.

(2) SUSTAINED YIELD ALTERNATIVE.—The Secretary of the Interior shall develop and consider an additional alternative that produces the greater of 500 million board feet or the annual net growth on the acres classified as timberland, excluding any congressionally reserved areas. The projected harvest levels, as nearly as practicable, shall be distributed among the Districts referred to in subsection (a) in the same proportion as the maximum yield capacity

of each such District bears to maximum yield capacity of the planning area as a whole.

(d) ADDITIONAL ANALYSIS AND PUBLIC PARTICIPATION.—The Secretary of the Interior shall publish the reference analysis and additional alternatives and analyze their environmental and economic consequences in a supplemental draft environmental impact statement. The draft environmental impact statement and supplemental draft environmental impact statement shall be made available for public comment for a period of not less than 180 days. The Secretary shall respond to any comments received before making a final decision between all alternatives.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall affect the obligation of the Secretary of the Interior to manage the timberlands as required by the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a–1181j).

**SEC. 810. LANDSCAPE-SCALE FOREST RESTORATION PROJECT.**

The Secretary of Agriculture shall develop and implement at least one landscape-scale forest restoration project that includes, as a defined purpose of the project, the generation of material that will be used to promote advanced wood products. The project shall be developed through a collaborative process.

# TITLE IX—MAJOR DISASTER FOR WILDFIRE ON FEDERAL LAND

**SEC. 901. WILDFIRE ON FEDERAL LANDS.**

Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)) is amended—

(1) by striking ''(2)'' and all that follows through ''means'' and inserting the following:

''(2) MAJOR DISASTER.—

''(A) MAJOR DISASTER.—The term 'major disaster' means''; and

(2) by adding at the end the following:

''(B) MAJOR DISASTER FOR WILDFIRE ON FEDERAL LANDS.—The term 'major disaster for wildfire on Federal lands' means any wildfire or wildfires, which in the determination of the President under section 802 warrants assistance under section 803 to supplement the efforts and resources of the Department of the Interior or the Department of Agriculture—

''(i) on Federal lands; or

''(ii) on non-Federal lands pursuant to a fire protection agreement or cooperative agreement.''.

**SEC. 902. DECLARATION OF A MAJOR DISASTER FOR WILDFIRE ON FEDERAL LANDS.**

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following:

# "TITLE VIII—MAJOR DISASTER FOR WILDFIRE ON FEDERAL LAND

**"SEC. 801. DEFINITIONS.**

"As used in this title—

"(1) FEDERAL LAND.—The term 'Federal land' means—

"(A) any land under the jurisdiction of the Department of the Interior; and

"(B) any land under the jurisdiction of the United States Forest Service.

"(2) FEDERAL LAND MANAGEMENT AGENCIES.—The term 'Federal land management agencies' means—

"(A) the Bureau of Land Management;

"(B) the National Park Service;

"(C) the Bureau of Indian Affairs;

"(D) the United States Fish and Wildlife Service; and

"(E) the United States Forest Service.

"(3) WILDFIRE SUPPRESSION OPERATIONS.—The term 'wildfire suppression operations' means the emergency and unpredictable aspects of wildland firefighting, including support, response, emergency stabilization activities, and other emergency management activities of wildland firefighting on Federal lands (or on non-Federal lands pursuant to a fire protection agreement or cooperative agreement) by the Federal land management agencies covered by the wildfire suppression subactivity of the Wildland Fire Management account or the FLAME Wildfire Suppression Reserve Fund account of the Federal land management agencies.

**"SEC. 802. PROCEDURE FOR DECLARATION OF A MAJOR DISASTER FOR WILDFIRE ON FEDERAL LANDS.**

"(a) IN GENERAL.—The Secretary of the Interior or the Secretary of Agriculture may submit a request to the President consistent with the requirements of this title for a declaration by the President that a major disaster for wildfire on Federal lands exists.

"(b) REQUIREMENTS.—A request for a declaration by the President that a major disaster for wildfire on Federal lands exists shall—

"(1) be made in writing by the respective Secretary;

"(2) certify that the amount appropriated in the current fiscal year for wildfire suppression operations of the Federal land management agencies under the jurisdiction of the respective Secretary, net of any concurrently enacted rescissions of wildfire suppression funds, increases the total unobligated balance of amounts available for wildfire suppression by an amount equal to or greater than the average total costs incurred by the Federal land management agencies per year for wildfire suppression operations, including the suppression costs in excess of appropriated amounts, over the previous ten fiscal years;

"(3) certify that the amount available for wildfire suppression operations of the Federal land management agencies under the jurisdiction of the respective Secretary will be obligated not later than 30 days after such Secretary notifies the President that wildfire suppression funds will be exhausted to fund ongoing and anticipated wildfire suppression operations related to the wildfire on which the request for the declaration of a major disaster for wildfire on Federal lands pursuant to this title is based; and

"(4) specify the amount required in the current fiscal year to fund wildfire suppression operations related to the wildfire on which the request for the declaration of a major disaster for wildfire on Federal lands pursuant to this title is based.

"(c) DECLARATION.—Based on the request of the respective Secretary under this title, the President may declare that a major disaster for wildfire on Federal lands exists.

**"SEC. 803. WILDFIRE ON FEDERAL LANDS ASSISTANCE.**

"(a) IN GENERAL.—In a major disaster for wildfire on Federal lands, the President may transfer funds, only from the account established pursuant to subsection (b), to the Secretary of the Interior or the Secretary of Agriculture to conduct wildfire suppression operations on Federal lands (and non-Federal lands pursuant to a fire protection agreement or cooperative agreement).

"(b) WILDFIRE SUPPRESSION OPERATIONS ACCOUNT.—The President shall establish a specific account for the assistance available pursuant to a declaration under section 802. Such account may only be used to fund assistance pursuant to this title.

"(c) LIMITATION.—

"(1) LIMITATION OF TRANSFER.—The assistance available pursuant to a declaration under sec-

tion 802 is limited to the transfer of the amount requested pursuant to section 802(b)(4). The assistance available for transfer shall not exceed the amount contained in the wildfire suppression operations account established pursuant to subsection (b).

"(2) TRANSFER OF FUNDS.—Funds under this section shall be transferred from the wildfire suppression operations account to the wildfire suppression subactivity of the Wildland Fire Management Account.

"(d) PROHIBITION OF OTHER TRANSFERS.—Except as provided in this section, no funds may be transferred to or from the account established pursuant to subsection (b) to or from any other fund or account.

"(e) REIMBURSEMENT FOR WILDFIRE SUPPRESSION OPERATIONS ON NON-FEDERAL LAND.—If amounts transferred under subsection (c) are used to conduct wildfire suppression operations on non-Federal land, the respective Secretary shall—

"(1) secure reimbursement for the cost of such wildfire suppression operations conducted on the non-Federal land; and

"(2) transfer the amounts received as reimbursement to the wildfire suppression operations account established pursuant to subsection (b).

"(f) ANNUAL ACCOUNTING AND REPORTING REQUIREMENTS.—Not later than 90 days after the end of each fiscal year for which assistance is received pursuant to this section, the respective Secretary shall submit to the Committees on Agriculture, Appropriations, the Budget, Natural Resources, and Transportation and Infrastructure of the House of Representatives and the Committees on Agriculture, Nutrition, and Forestry, Appropriations, the Budget, Energy and Natural Resources, Homeland Security and Governmental Affairs, and Indian Affairs of the Senate, and make available to the public, a report that includes the following:

"(1) The risk-based factors that influenced management decisions regarding wildfire suppression operations of the Federal land management agencies under the jurisdiction of the Secretary concerned.

"(2) Specific discussion of a statistically significant sample of large fires, in which each fire is analyzed for cost drivers, effectiveness of risk management techniques, resulting positive or negative impacts of fire on the landscape, impact of investments in preparedness, suggested corrective actions, and

such other factors as the respective Secretary considers appropriate.

''(3) Total expenditures for wildfire suppression operations of the Federal land management agencies under the jurisdiction of the respective Secretary, broken out by fire sizes, cost, regional location, and such other factors as the such Secretary considers appropriate.

''(4) Lessons learned.

''(5) Such other matters as the respective Secretary considers appropriate.

''(g) SAVINGS PROVISION.—Nothing in this title shall limit the Secretary of the Interior, the Secretary of Agriculture, Indian tribe, or a State from receiving assistance through a declaration made by the President under this Act when the criteria for such declaration have been met.''.

**SEC. 903. PROHIBITION ON TRANSFERS.**

No funds may be transferred to or from the Federal land management agencies' wildfire suppression operations accounts referred to in section 801(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to or from any account or subactivity of the Federal land management agencies, as defined in section 801(2) of such

Act, that is not used to cover the cost of wildfire suppression operations.

# DIVISION C—NATURAL RESOURCES

# TITLE I—WESTERN WATER AND AMERICAN FOOD SECURITY ACT

**SEC. 1001. SHORT TITLE.**

This title may be cited as the ''Western Water and American Food Security Act of 2015''.

**SEC. 1002. FINDINGS.**

Congress finds as follows:

(1) As established in the Proclamation of a State of Emergency issued by the Governor of the State on January 17, 2014, the State is experiencing record dry conditions.

(2) Extremely dry conditions have persisted in the State since 2012, and the drought conditions are likely to persist into the future.

(3) The water supplies of the State are at record-low levels, as indicated by the fact that all major Central Valley Project reservoir levels were at 20–35 percent of capacity as of September 25, 2014.

(4) The lack of precipitation has been a significant contributing factor to the 6,091 fires experi-

enced in the State as of September 15, 2014, and which covered nearly 400,000 acres.

(5) According to a study released by the University of California, Davis in July 2014, the drought has led to the fallowing of 428,000 acres of farmland, loss of $810 million in crop revenue, loss of $203 million in dairy and other livestock value, and increased groundwater pumping costs by $454 million. The statewide economic costs are estimated to be $2.2 billion, with over 17,000 seasonal and part-time agricultural jobs lost.

(6) CVPIA Level II water deliveries to refuges have also been reduced by 25 percent in the north of Delta region, and by 35 percent in the south of Delta region.

(7) Only one-sixth of the usual acres of rice fields are being flooded this fall, which leads to a significant decline in habitat for migratory birds and an increased risk of disease at the remaining wetlands due to overcrowding of such birds.

(8) The drought of 2013 through 2014 constitutes a serious emergency that poses immediate and severe risks to human life and safety and to the environment throughout the State.

(9) The serious emergency described in paragraph (4) requires—

(A) immediate and credible action that respects the complexity of the water system of the State and the importance of the water system to the entire State; and

(B) policies that do not pit stakeholders against one another, which history shows only leads to costly litigation that benefits no one and prevents any real solutions.

(10) Data on the difference between water demand and reliable water supplies for various regions of California south of the Delta, including the San Joaquin Valley, indicate there is a significant annual gap between reliable water supplies to meet agricultural, municipal and industrial, groundwater, and refuges water needs within the Delta Division, San Luis Unit and Friant Division of the Central Valley Project and the State Water Project south of the Sacramento-San Joaquin River Delta and the demands of those areas. This gap varies depending on the methodology of the analysis performed, but can be represented in the following ways:

(A) For Central Valley Project South-of-Delta water service contractors, if it is assumed

that a water supply deficit is the difference in the amount of water available for allocation versus the maximum contract quantity, then the water supply deficits that have developed from 1992 to 2014 as a result of legislative and regulatory changes besides natural variations in hydrology during this timeframe range between 720,000 and 1,100,000 acre-feet.

(B) For Central Valley Project and State Water Project water service contractors south of the Delta and north of the Tehachapi mountain range, if it is assumed that a water supply deficit is the difference between reliable water supplies, including maximum water contract deliveries, safe yield of groundwater, safe yield of local and surface supplies and long-term contracted water transfers, and water demands, including water demands from agriculture, municipal and industrial and refuge contractors, then the water supply deficit ranges between approximately 2,500,000 to 2,700,000 acre-feet.

(11) Data of pumping activities at the Central Valley Project and State Water Project delta pumps identifies that, on average from Water Year 2009 to Water Year 2014, take of Delta smelt is 80 percent

less than allowable take levels under the biological opinion issued December 15, 2008.

(12) Data of field sampling activities of the Interagency Ecological Program located in the Sacramento-San Joaquin Estuary identifies that, on average from 2005 to 2013, the program ''takes'' 3,500 delta smelt during annual surveys with an authorized ''take'' level of 33,480 delta smelt annually—according to the biological opinion issued December 9, 1997.

(13) In 2015, better information exists than was known in 2008 concerning conditions and operations that may or may not lead to high salvage events that jeopardize the fish populations, and what alternative management actions can be taken to avoid jeopardy.

(14) Alternative management strategies, removing non-native species, enhancing habitat, monitoring fish movement and location in real-time, and improving water quality in the Delta can contribute significantly to protecting and recovering these endangered fish species, and at potentially lower costs to water supplies.

(15) Resolution of fundamental policy questions concerning the extent to which application of the

Endangered Species Act of 1973 affects the operation of the Central Valley Project and State Water Project is the responsibility of Congress.

**SEC. 1003. DEFINITIONS.**

In this title:

(1) DELTA.—The term ''Delta'' means the Sacramento-San Joaquin Delta and the Suisun Marsh, as defined in sections 12220 and 29101 of the California Public Resources Code.

(2) EXPORT PUMPING RATES.—The term ''export pumping rates'' means the rates of pumping at the C.W. ''Bill'' Jones Pumping Plant and the Harvey O. Banks Pumping Plant, in the southern Delta.

(3) LISTED FISH SPECIES.—The term ''listed fish species'' means listed salmonid species and the Delta smelt.

(4) LISTED SALMONID SPECIES.—The term ''listed salmonid species'' means natural origin steelhead, natural origin genetic spring run Chinook, and genetic winter run Chinook salmon including hatchery steelhead or salmon populations within the evolutionary significant unit (ESU) or distinct population segment (DPS).

(5) NEGATIVE IMPACT ON THE LONG-TERM SURVIVAL.—The term ''negative impact on the long-

term survival'' means to reduce appreciably the likelihood of the survival of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

(6) OMR.—The term ''OMR'' means the Old and Middle River in the Delta.

(7) OMR FLOW OF −5,000 CUBIC FEET PER SECOND.—The term ''OMR flow of −5,000 cubic feet per second'' means Old and Middle River flow of negative 5,000 cubic feet per second as described in—

(A) the smelt biological opinion; and

(B) the salmonid biological opinion.

(8) SALMONID BIOLOGICAL OPINION.—The term ''salmonid biological opinion'' means the biological opinion issued by the National Marine Fisheries Service on June 4, 2009.

(9) SMELT BIOLOGICAL OPINION.—The term ''smelt biological opinion'' means the biological opinion on the Long-Term Operational Criteria and Plan for coordination of the Central Valley Project and State Water Project issued by the United States Fish and Wildlife Service on December 15, 2008.

(10) STATE.—The term ''State'' means the State of California.

# Subtitle A—ADJUSTING DELTA SMELT MANAGEMENT BASED ON INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE

**SEC. 1011. DEFINITIONS.**

In this subtitle:

(1) DIRECTOR.—The term ''Director'' means the Director of the United States Fish and Wildlife Service.

(2) DELTA SMELT.—The term ''Delta smelt'' means the fish species with the scientific name Hypomesus transpacificus.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau of Reclamation.

**SEC. 1012. REVISE INCIDENTAL TAKE LEVEL CALCULATION FOR DELTA SMELT TO REFLECT NEW SCIENCE.**

(a) REVIEW AND MODIFICATION.—Not later than October 1, 2016, and at least every five years thereafter, the Director, in cooperation with other Federal, State, and local agencies, shall use the best scientific and commercial

data available to complete a review and, modify the method used to calculate the incidental take levels for adult and larval/juvenile Delta smelt in the smelt biological opinion that takes into account all life stages, among other considerations—

(1) salvage information collected since at least 1993;

(2) updated or more recently developed statistical models;

(3) updated scientific and commercial data; and

(4) the most recent information regarding the environmental factors affecting Delta smelt salvage.

(b) MODIFIED INCIDENTAL TAKE LEVEL.—Unless the Director determines in writing that one or more of the requirements described in paragraphs (1) through (4) are not appropriate, the modified incidental take level described in subsection (a) shall—

(1) be normalized for the abundance of prespawning adult Delta smelt using the Fall Midwater Trawl Index or other index;

(2) be based on a simulation of the salvage that would have occurred from 1993 through 2012 if OMR flow has been consistent with the smelt biological opinions;

(3) base the simulation on a correlation between annual salvage rates and historic water clarity and OMR flow during the adult salvage period; and

(4) set the incidental take level as the 80 percent upper prediction interval derived from simulated salvage rates since at least 1993.

**SEC. 1013. FACTORING INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE INTO DELTA SMELT MANAGEMENT.**

(a) IN GENERAL.—The Director shall use the best scientific and commercial data available to implement, continuously evaluate, and refine or amend, as appropriate, the reasonable and prudent alternative described in the smelt biological opinion, and any successor opinions or court order. The Secretary shall make all significant decisions under the smelt biological opinion, or any successor opinions that affect Central Valley Project and State Water Project operations, in writing, and shall document the significant facts upon which such decisions are made, consistent with section 706 of title 5, United States Code.

(b) INCREASED MONITORING TO INFORM REAL-TIME OPERATIONS.—The Secretary shall conduct additional surveys, on an annual basis at the appropriate time

of the year based on environmental conditions, in collaboration with other Delta science interests.

(1) In implementing this section, the Secretary shall—

(A) use the most accurate survey methods available for the detection of Delta smelt to determine the extent that adult Delta smelt are distributed in relation to certain levels of turbidity, or other environmental factors that may influence salvage rate; and

(B) use results from appropriate survey methods for the detection of Delta smelt to determine how the Central Valley Project and State Water Project may be operated more efficiently to minimize salvage while maximizing export pumping rates without causing a significant negative impact on the long-term survival of the Delta smelt.

(2) During the period beginning on December 1, 2015, and ending March 31, 2016, and in each successive December through March period, if suspended sediment loads enter the Delta from the Sacramento River and the suspended sediment loads appear likely to raise turbidity levels in the Old River north of the export pumps from values below 12

Nephelometric Turbidity Units (NTU) to values above 12 NTU, the Secretary shall—

(A) conduct daily monitoring using appropriate survey methods at locations including, but not limited to, the vicinity of Station 902 to determine the extent that adult Delta smelt are moving with turbidity toward the export pumps; and

(B) use results from the monitoring surveys referenced in paragraph (A) to determine how increased trawling can inform daily real-time Central Valley Project and State Water Project operations to minimize salvage while maximizing export pumping rates without causing a significant negative impact on the long-term survival of the Delta smelt.

(c) PERIODIC REVIEW OF MONITORING.—Within 12 months of the date of enactment of this title, and at least once every 5 years thereafter, the Secretary shall—

(1) evaluate whether the monitoring program under subsection (b), combined with other monitoring programs for the Delta, is providing sufficient data to inform Central Valley Project and State Water Project operations to minimize salvage while maximizing export pumping rates without causing a

significant negative impact on the long-term survival of the Delta smelt; and

(2) determine whether the monitoring efforts should be changed in the short or long term to provide more useful data.

(d) DELTA SMELT DISTRIBUTION STUDY.—

(1) IN GENERAL.—No later than January 1, 2016, and at least every five years thereafter, the Secretary, in collaboration with the California Department of Fish and Wildlife, the California Department of Water Resources, public water agencies, and other interested entities, shall implement new targeted sampling and monitoring specifically designed to understand Delta smelt abundance, distribution, and the types of habitat occupied by Delta smelt during all life stages.

(2) SAMPLING.—The Delta smelt distribution study shall, at a minimum—

(A) include recording water quality and tidal data;

(B) be designed to understand Delta smelt abundance, distribution, habitat use, and movement throughout the Delta, Suisun Marsh, and other areas occupied by the Delta smelt during all seasons;

(C) consider areas not routinely sampled by existing monitoring programs, including wetland channels, near-shore water, depths below 35 feet, and shallow water; and

(D) use survey methods, including sampling gear, best suited to collect the most accurate data for the type of sampling or monitoring.

(e) SCIENTIFICALLY SUPPORTED IMPLEMENTATION OF OMR FLOW REQUIREMENTS.—In implementing the provisions of the smelt biological opinion, or any successor biological opinion or court order, pertaining to management of reverse flow in the Old and Middle Rivers, the Secretary shall—

(1) consider the relevant provisions of the biological opinion or any successor biological opinion;

(2) to maximize Central Valley project and State Water Project water supplies, manage export pumping rates to achieve a reverse OMR flow rate of −5,000 cubic feet per second unless information developed by the Secretary under paragraphs (3) and (4) leads the Secretary to reasonably conclude that a less negative OMR flow rate is necessary to avoid a negative impact on the long-term survival of the Delta smelt. If information available to the Sec-

retary indicates that a reverse OMR flow rate more negative than −5,000 cubic feet per second can be established without an imminent negative impact on the long-term survival of the Delta smelt, the Secretary shall manage export pumping rates to achieve that more negative OMR flow rate;

(3) document in writing any significant facts about real-time conditions relevant to the determinations of OMR reverse flow rates, including—

(A) whether targeted real-time fish monitoring in the Old River pursuant to this section, including monitoring in the vicinity of Station 902, indicates that a significant negative impact on the long-term survival of the Delta smelt is imminent; and

(B) whether near-term forecasts with available salvage models show under prevailing conditions that OMR flow of −5,000 cubic feet per second or higher will cause a significant negative impact on the long-term survival of the Delta smelt;

(4) show in writing that any determination to manage OMR reverse flow at rates less negative than −5,000 cubic feet per second is necessary to avoid a significant negative impact on the long-term

survival of the Delta smelt, including an explanation of the data examined and the connection between those data and the choice made, after considering—

(A) the distribution of Delta smelt throughout the Delta;

(B) the potential effects of documented, quantified entrainment on subsequent Delta smelt abundance;

(C) the water temperature;

(D) other significant factors relevant to the determination; and

(E) whether any alternative measures could have a substantially lesser water supply impact; and

(5) for any subsequent biological opinion, make the showing required in paragraph (4) for any determination to manage OMR reverse flow at rates less negative than the most negative limit in the biological opinion if the most negative limit in the biological opinion is more negative than −5,000 cubic feet per second.

(f) MEMORANDUM OF UNDERSTANDING.—No later than December 1, 2015, the Commissioner and the Director will execute a Memorandum of Understanding (MOU) to ensure that the smelt biological opinion is implemented

in a manner that maximizes water supply while complying with applicable laws and regulations. If that MOU alters any procedures set out in the biological opinion, there will be no need to reinitiate consultation if those changes will not have a significant negative impact on the long-term survival on listed species and the implementation of the MOU would not be a major change to implementation of the biological opinion. Any change to procedures that does not create a significant negative impact on the long-term survival to listed species will not alter application of the take permitted by the incidental take statement in the biological opinion under section 7(o)(2) of the Endangered Species Act of 1973.

(g) CALCULATION OF REVERSE FLOW IN OMR.—Within 90 days of the enactment of this title, the Secretary is directed, in consultation with the California Department of Water Resources to revise the method used to calculate reverse flow in Old and Middle Rivers for implementation of the reasonable and prudent alternatives in the smelt biological opinion and the salmonid biological opinion, and any succeeding biological opinions, for the purpose of increasing Central Valley Project and State Water Project water supplies. The method of calculating reverse flow in Old and Middle Rivers shall be reevaluated not less than every five years thereafter to achieve max-

imum export pumping rates within limits established by the smelt biological opinion, the salmonid biological opinion, and any succeeding biological opinions.

## Subtitle B—ENSURING SALMONID MANAGEMENT IS RESPONSIVE TO NEW SCIENCE

**SEC. 1021. DEFINITIONS.**

In this subtitle:

(1) ASSISTANT ADMINISTRATOR.—The term ''Assistant Administrator'' means the Assistant Administrator of the National Oceanic and Atmospheric Administration for Fisheries.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(3) OTHER AFFECTED INTERESTS.—The term ''other affected interests'' means the State of California, Indian tribes, subdivisions of the State of California, public water agencies and those who benefit directly and indirectly from the operations of the Central Valley Project and the State Water Project.

(4) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau of Reclamation.

(5) DIRECTOR.—The term ''Director'' means the Director of the United States Fish and Wildlife Service.

**SEC. 1022. PROCESS FOR ENSURING SALMONID MANAGEMENT IS RESPONSIVE TO NEW SCIENCE.**

(a) GENERAL DIRECTIVE.—The reasonable and prudent alternative described in the salmonid biological opinion allows for and anticipates adjustments in Central Valley Project and State Water Project operation parameters to reflect the best scientific and commercial data currently available, and authorizes efforts to test and evaluate improvements in operations that will meet applicable regulatory requirements and maximize Central Valley Project and State Water Project water supplies and reliability. Implementation of the reasonable and prudent alternative described in the salmonid biological opinion shall be adjusted accordingly as new scientific and commercial data are developed. The Commissioner and the Assistant Administrator shall fully utilize these authorities as described below.

(b) ANNUAL REVIEWS OF CERTAIN CENTRAL VALLEY PROJECT AND STATE WATER PROJECT OPERATIONS.—No later than December 31, 2016, and at least annually thereafter:

(1) The Commissioner, with the assistance of the Assistant Administrator, shall examine and identify adjustments to the initiation of Action IV.2.3 as set forth in the Biological Opinion and Conference Opinion on the Long-Term Operations of the Central Valley Project and State Water Project, Endangered Species Act Section 7 Consultation, issued by the National Marine Fisheries Service on June 4, 2009, pertaining to negative OMR flows, subject to paragraph (5).

(2) The Commissioner, with the assistance of the Assistant Administrator, shall examine and identify adjustments in the timing, triggers or other operational details relating to the implementation of pumping restrictions in Action IV.2.1 pertaining to the inflow to export ratio, subject to paragraph (5).

(3) Pursuant to the consultation and assessments carried out under paragraphs (1) and (2) of this subsection, the Commissioner and the Assistant Administrator shall jointly make recommendations to the Secretary of the Interior and to the Secretary on adjustments to project operations that, in the exercise of the adaptive management provisions of the salmonid biological opinion, will reduce water supply impacts of the salmonid biological opinion on the

Central Valley Project and the California State Water Project and are consistent with the requirements of applicable law and as further described in subsection (c).

(4) The Secretary and the Secretary of the Interior shall direct the Commissioner and Assistant Administrator to implement recommended adjustments to Central Valley Project and State Water Project operations for which the conditions under subsection (c) are met.

(5) The Assistant Administrator and the Commissioner shall review and identify adjustments to Central Valley Project and State Water Project operations with water supply restrictions in any successor biological opinion to the salmonid biological opinion, applying the provisions of this section to those water supply restrictions where there are references to Actions IV.2.1 and IV.2.3.

(c) IMPLEMENTATION OF OPERATIONAL ADJUSTMENTS.—After reviewing the recommendations under subsection (b), the Secretary of the Interior and the Secretary shall direct the Commissioner and the Assistant Administrator to implement those operational adjustments, or any combination, for which, in aggregate—

(1) the net effect on listed species is equivalent to those of the underlying project operational parameters in the salmonid biological opinion, taking into account both—

(A) efforts to minimize the adverse effects of the adjustment to project operations; and

(B) whatever additional actions or measures may be implemented in conjunction with the adjustments to operations to offset the adverse effects to listed species, consistent with (d), that are in excess of the adverse effects of the underlying operational parameters, if any; and

(2) the effects of the adjustment can be reasonably expected to fall within the incidental take authorizations.

(d) EVALUATION OF OFFSETTING MEASURES.—When examining and identifying opportunities to offset the potential adverse effect of adjustments to operations under subsection (c)(1)(B), the Commissioner and the Assistant Administrator shall take into account the potential species survival improvements that are likely to result from other measures which, if implemented in conjunction with such adjustments, would offset adverse effects, if any, of the adjustments. When evaluating offsetting measures,

the Commissioner and the Assistant Administrator shall consider the type, timing and nature of the adverse effects, if any, to specific species and ensure that the measures likely provide equivalent overall benefits to the listed species in the aggregate, as long as the change will not cause a significant negative impact on the long-term survival of a listed salmonid species.

(e) FRAMEWORK FOR EXAMINING OPPORTUNITIES TO MINIMIZE OR OFFSET THE POTENTIAL ADVERSE EFFECT OF ADJUSTMENTS TO OPERATIONS.—Not later than December 31, 2015, and every five years thereafter, the Assistant Administrator shall, in collaboration with the Director of the California Department of Fish and Wildlife, based on the best scientific and commercial data available and for each listed salmonid species, issue estimates of the increase in through-Delta survival the Secretary expects to be achieved—

(1) through restrictions on export pumping rates as specified by Action IV.2.3 as compared to limiting OMR flow to a fixed rate of −5,000 cubic feet per second within the time period Action IV.2.3 is applicable, based on a given rate of San Joaquin River inflow to the Delta and holding other relevant factors constant;

(2) through San Joaquin River inflow to export restrictions on export pumping rates specified within Action IV.2.1 as compared to the restrictions in the April/May period imposed by the State Water Resources Control Board decision D–1641, based on a given rate of San Joaquin River inflow to the Delta and holding other relevant factors constant;

(3) through physical habitat restoration improvements;

(4) through predation control programs;

(5) through the installation of temporary barriers, the management of Cross Channel Gates operations, and other projects affecting flow in the Delta;

(6) through salvaging fish that have been entrained near the entrance to Clifton Court Forebay;

(7) through any other management measures that may provide equivalent or better protections for listed species while maximizing export pumping rates without causing a significant negative impact on the long-term survival of a listed salmonid species; and

(8) through development and implementation of conservation hatchery programs for salmon and steelhead to aid in the recovery of listed salmon and steelhead species.

(f) SURVIVAL ESTIMATES.—

(1) To the maximum extent practicable, the Assistant Administrator shall make quantitative estimates of survival such as a range of percentage increases in through-Delta survival that could result from the management measures, and if the scientific information is lacking for quantitative estimates, shall do so on qualitative terms based upon the best available science.

(2) If the Assistant Administrator provides qualitative survival estimates for a species resulting from one or more management measures, the Secretary shall, to the maximum extent feasible, rank the management measures described in subsection (e) in terms of their most likely expected contribution to increased through-Delta survival relative to the other measures.

(3) If at the time the Assistant Administrator conducts the reviews under subsection (b), the Secretary has not issued an estimate of increased through-Delta survival from different management measures pursuant to subsection (e), the Secretary shall compare the protections to the species from different management measures based on the best scientific and commercial data available at the time.

(g) COMPARISON OF ADVERSE CONSEQUENCES FOR ALTERNATIVE MANAGEMENT MEASURES OF EQUIVALENT PROTECTION FOR A SPECIES.—

(1) For the purposes of this subsection and subsection (c)—

(A) the alternative management measure or combination of alternative management measures identified in paragraph (2) shall be known as the ''equivalent alternative measure'';

(B) the existing measure or measures identified in subparagraphs (2) (A), (B), (C), or (D) shall be known as the ''equivalent existing measure''; and

(C) an ''equivalent increase in through-Delta survival rates for listed salmonid species'' shall mean an increase in through-Delta survival rates that is equivalent when considering the change in through-Delta survival rates for the listed salmonid species in the aggregate, and not the same change for each individual species, as long as the change in survival rates will not cause a significant negative impact on the long-term survival of a listed salmonid species.

(2) As part of the reviews of project operations pursuant to subsection (b), the Assistant Administrator shall determine whether any alternative management measures or combination of alternative management measures listed in subsection (e) (3) through (8) would provide an increase in through-Delta survival rates for listed salmonid species that is equivalent to the increase in through-Delta survival rates for listed salmonid species from the following:

(A) Through restrictions on export pumping rates as specified by Action IV.2.3, as compared to limiting OMR flow to a fixed rate of −5,000 cubic feet per second within the time period Action IV.2.3 is applicable.

(B) Through restrictions on export pumping rates as specified by Action IV.2.3, as compared to a modification of Action IV.2.3 that would provide additional water supplies, other than that described in subparagraph (A).

(C) Through San Joaquin River inflow to export restrictions on export pumping rates specified within Action IV.2.1, as compared to the restrictions in the April/May period imposed

by the State Water Resources Control Board decision D–1641.

(D) Through San Joaquin River inflow to export restrictions on export pumping rates specified within Action IV.2.1, as compared to a modification of Action IV.2.1 that would reduce water supply impacts of the salmonid biological opinion on the Central Valley Project and the California State Water Project, other than that described in subparagraph (C).

(3) If the Assistant Administrator identifies an equivalent alternative measure pursuant to paragraph (2), the Assistant Administrator shall determine whether—

(A) it is technically feasible and within Federal jurisdiction to implement the equivalent alternative measure;

(B) the State of California, or subdivision thereof, or local agency with jurisdiction has certified in writing within 10 calendar days to the Assistant Administrator that it has the authority and capability to implement the pertinent equivalent alternative measure; or

(C) the adverse consequences of doing so are less than the adverse consequences of the

equivalent existing measure, including a concise evaluation of the adverse consequences to other affected interests.

(4) If the Assistant Administrator makes the determinations in subparagraph (3)(A) or (3)(B), the Commissioner shall adjust project operations to implement the equivalent alternative measure in place of the equivalent existing measure in order to increase export rates of pumping to the greatest extent possible while maintaining a net combined effect of equivalent through-Delta survival rates for the listed salmonid species.

(h) TRACKING ADVERSE EFFECTS BEYOND THE RANGE OF EFFECTS ACCOUNTED FOR IN THE SALMONID BIOLOGICAL OPINION AND COORDINATED OPERATION WITH THE DELTA SMELT BIOLOGICAL OPINION.—

(1) Among the adjustments to the project operations considered through the adaptive management process under this section, the Assistant Administrator and the Commissioner shall—

(A) evaluate the effects on listed salmonid species and water supply of the potential adjustment to operational criteria described in subparagraph (B); and

(B) consider requiring that before some or all of the provisions of Actions IV.2.1. or IV.2.3 are imposed in any specific instance, the Assistant Administrator show that the implementation of these provisions in that specific instance is necessary to avoid a significant negative impact on the long-term survival of a listed salmonid species.

(2) The Assistant Administrator, the Director, and the Commissioner, in coordination with State officials as appropriate, shall establish operational criteria to coordinate management of OMR flows under the smelt and salmonid biological opinions, in order to take advantage of opportunities to provide additional water supplies from the coordinated implementation of the biological opinions.

(3) The Assistant Administrator and the Commissioner shall document the effects of any adaptive management decisions related to the coordinated operation of the smelt and salmonid biological opinions that prioritizes the maintenance of one species at the expense of the other.

(i) REAL-TIME MONITORING AND MANAGEMENT.—Notwithstanding the calendar based triggers described in the salmonid biological opinion Reasonable and Prudent

1 Alternative (RPA), the Assistant Administrator and the
2 Commissioner shall not limit OMR reverse flow to −5,000
3 cubic feet per second unless current monitoring data indi-
4 cate that this OMR flow limitation is reasonably required
5 to avoid a significant negative impact on the long-term
6 survival of a listed salmonid species.

7 (j) EVALUATION AND IMPLEMENTATION OF MANAGE-
8 MENT MEASURES.—If the quantitative estimates of
9 through-Delta survival established by the Secretary for the
10 adjustments in subsection (b)(2) exceed the through-Delta
11 survival established for the RPAs, the Secretary shall
12 evaluate and implement the management measures in sub-
13 section (b)(2) as a prerequisite to implementing the RPAs
14 contained in the Salmonid Biological Opinion.

15 (k) ACCORDANCE WITH OTHER LAW.—Consistent
16 with section 706 of title 5, United States Code, decisions
17 of the Assistant Administrator and the Commissioner de-
18 scribed in subsections (b) through (j) shall be made in
19 writing, on the basis of best scientific and commercial data
20 currently available, and shall include an explanation of the
21 data examined at the connection between those data and
22 the decisions made.

**SEC. 1023. NON-FEDERAL PROGRAM TO PROTECT NATIVE ANADROMOUS FISH IN THE STANISLAUS RIVER.**

(a) ESTABLISHMENT OF NONNATIVE PREDATOR FISH REMOVAL PROGRAM.—The Secretary and the districts, in consultation with the Director, shall jointly develop and conduct a nonnative predator fish removal program to remove nonnative striped bass, smallmouth bass, largemouth bass, black bass, and other nonnative predator fish species from the Stanislaus River. The program shall—

(1) be scientifically based;

(2) include methods to quantify the number and size of predator fish removed each year, the impact of such removal on the overall abundance of predator fish, and the impact of such removal on the populations of juvenile anadromous fish found in the Stanislaus River by, among other things, evaluating the number of juvenile anadromous fish that migrate past the rotary screw trap located at Caswell;

(3) among other methods, use wire fyke trapping, portable resistance board weirs, and boat electrofishing; and

(4) be implemented as quickly as possible following the issuance of all necessary scientific research.

(b) MANAGEMENT.—The management of the program shall be the joint responsibility of the Secretary and the districts. Such parties shall work collaboratively to ensure the performance of the program, and shall discuss and agree upon, among other things, changes in the structure, management, personnel, techniques, strategy, data collection, reporting, and conduct of the program.

(c) CONDUCT.—

(1) IN GENERAL.—By agreement between the Secretary and the districts, the program may be conducted by their own personnel, qualified private contractors hired by the districts, personnel of, on loan to, or otherwise assigned to the National Marine Fisheries Service, or a combination thereof.

(2) PARTICIPATION BY THE NATIONAL MARINE FISHERIES SERVICE.—If the districts elect to conduct the program using their own personnel or qualified private contractors hired by them in accordance with paragraph (1), the Secretary may assign an employee of, on loan to, or otherwise assigned to the National Marine Fisheries Service, to be present for all activities performed in the field. Such presence shall ensure compliance with the agreed-upon elements specified in subsection (b). The districts shall

pay the cost of such participation in accordance with subsection (d).

(3) TIMING OF ELECTION.—The districts shall notify the Secretary of their election on or before October 15 of each calendar year of the program. Such an election shall apply to the work performed in the subsequent calendar year.

(d) FUNDING.—

(1) IN GENERAL.—The districts shall be responsible for 100 percent of the cost of the program.

(2) CONTRIBUTED FUNDS.—The Secretary may accept and use contributions of funds from the districts to carry out activities under the program.

(3) ESTIMATION OF COST.—On or before December 1 of each year of the program, the Secretary shall submit to the districts an estimate of the cost to be incurred by the National Marine Fisheries Service for the program in the following calendar year, if any, including the cost of any data collection and posting under subsection (e). If an amount equal to the estimate is not provided through contributions pursuant to paragraph (2) before December 31 of that year—

(A) the Secretary shall have no obligation to conduct the program activities otherwise

scheduled for such following calendar year until such amount is contributed by the districts; and

(B) the districts may not conduct any aspect of the program until such amount is contributed by the districts.

(4) ACCOUNTING.—On or before September 1 of each year, the Secretary shall provide to the districts an accounting of the costs incurred by the Secretary for the program in the preceding calendar year. If the amount contributed by the districts pursuant to paragraph (2) for that year was greater than the costs incurred by the Secretary, the Secretary shall—

(A) apply the excess contributions to costs of activities to be performed by the Secretary under the program, if any, in the next calendar year; or

(B) if no such activities are to be performed, repay the excess contribution to the districts.

(e) POSTING AND EVALUATION.—On or before the 15th day of each month, the Secretary shall post on the Internet website of the National Marine Fisheries Service a tabular summary of the raw data collected under the program in the preceding month.

(f) IMPLEMENTATION.—The program is hereby found to be consistent with the requirements of the Central Valley Project Improvement Act (Public Law 102–575). No provision, plan or definition established or required by the Central Valley Project Improvement Act (Public Law 102–575) shall be used to prohibit the imposition of the program, or to prevent the accomplishment of its goals.

(g) TREATMENT OF STRIPED BASS.—For purposes of the application of the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575) with respect to the program, striped bass shall not be treated as anadromous fish.

(h) DEFINITION.—For the purposes of this section, the term ''districts'' means the Oakdale Irrigation District and the South San Joaquin Irrigation District, California.

**SEC. 1024. PILOT PROJECTS TO IMPLEMENT CALFED INVASIVE SPECIES PROGRAM.**

(a) IN GENERAL.—Not later than January 1, 2017, the Secretary of the Interior, in collaboration with the Secretary of Commerce, the Director of the California Department of Fish and Wildlife, and other relevant agencies and interested parties, shall begin pilot projects to implement the invasive species control program authorized pursuant to section 103(d)(6)(A)(iv) of Public Law 108–361 (118 Stat. 1690).

(b) REQUIREMENTS.—The pilot projects shall—

(1) seek to reduce invasive aquatic vegetation, predators, and other competitors which contribute to the decline of native listed pelagic and anadromous species that occupy the Sacramento and San Joaquin Rivers and their tributaries and the Sacramento-San Joaquin Bay-Delta; and

(2) remove, reduce, or control the effects of species, including Asiatic clams, silversides, gobies, Brazilian water weed, water hyacinth, largemouth bass, smallmouth bass, striped bass, crappie, bluegill, white and channel catfish, and brown bullheads.

(c) SUNSET.—The authorities provided under this subsection shall expire seven years after the Secretaries commence implementation of the pilot projects pursuant to subsection (a).

(d) EMERGENCY ENVIRONMENTAL REVIEWS.—To expedite the environmentally beneficial programs for the conservation of threatened and endangered species, the Secretaries shall consult with the Council on Environmental Quality in accordance with section 1506.11 of title 40, Code of Federal Regulations (or successor regulations), to develop alternative arrangements to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the projects pursuant to subsection (a).

# Subtitle C—OPERATIONAL FLEXIBILITY AND DROUGHT RELIEF

**SEC. 1031. DEFINITIONS.**

In this subtitle:

(1) CENTRAL VALLEY PROJECT.—The term ''Central Valley Project'' has the meaning given the term in section 3403 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4707).

(2) RECLAMATION PROJECT.—The term ''Reclamation Project'' means a project constructed pursuant to the authorities of the reclamation laws and whose facilities are wholly or partially located in the State.

(3) SECRETARIES.—The term ''Secretaries'' means—

(A) the Secretary of Agriculture;

(B) the Secretary of Commerce; and

(C) the Secretary of the Interior.

(4) STATE WATER PROJECT.—The term ''State Water Project'' means the water project described by California Water Code section 11550 et seq. and operated by the California Department of Water Resources.

(5) STATE.—The term ''State'' means the State of California.

**SEC. 1032. OPERATIONAL FLEXIBILITY IN TIMES OF DROUGHT.**

(a) WATER SUPPLIES.—For the period of time such that in any year that the Sacramento Valley Index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, the Secretaries shall provide the maximum quantity of water supplies practicable to all individuals or district who receive Central Valley Project water under water service or repayments contracts, water rights settlement contracts, exchange contracts, or refuge contracts or agreements entered into prior to or after the date of enactment of this title; State Water Project contractors, and any other tribe, locality, water agency, or municipality in the State, by approving, consistent with applicable laws (including regulations), projects and operations to provide additional water supplies as quickly as practicable based on available information to address the emergency conditions.

(b) ADMINISTRATION.—In carrying out subsection (a), the Secretaries shall, consistent with applicable laws (including regulations)—

(1) issue all necessary permit decisions under the authority of the Secretaries not later than 30 days after the date on which the Secretaries receive a completed application from the State to place and use temporary barriers or operable gates in Delta channels to improve water quantity and quality for the State Water Project and the Central Valley Project south of Delta water contractors and other water users, on the condition that the barriers or operable gates—

(A) do not result in a significant negative impact on the long-term survival of listed species within the Delta and provide benefits or have a neutral impact on in-Delta water user water quality; and

(B) are designed so that formal consultations under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) are not necessary;

(2) require the Director of the United States Fish and Wildlife Service and the Commissioner of Reclamation—

(A) to complete, not later than 30 days after the date on which the Director or the Commissioner receives a complete written re-

quest for water transfer, all requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) necessary to make final permit decisions on the request; and

(B) to approve any water transfer request described in subparagraph (A) to maximize the quantity of water supplies available for non-habitat uses, on the condition that actions associated with the water transfer comply with applicable Federal laws (including regulations);

(3) adopt a 1:1 inflow to export ratio, as measured as a 3-day running average at Vernalis during the period beginning on April 1, and ending on May 31, absent a determination in writing that a more restrictive inflow to export ratio is required to avoid a significant negative impact on the long-term survival of a listed salmonid species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); provided that the 1:1 inflow to export ratio shall apply for the increment of increased flow of the San Joaquin River resulting from the voluntary sale, transfers, or exchanges of water from agencies with rights to divert water from the San Joaquin River

or its tributaries and provided that the movement of the acquired, transferred, or exchanged water through the Delta consistent with the Central Valley Project's and the State Water Project's permitted water rights and provided that movement of the Central Valley Project water is consistent with the requirements of section 3405(a)(1)(H) of the Central Valley Project Improvement Act; and

(4) allow and facilitate, consistent with existing priorities, water transfers through the C.W. ''Bill'' Jones Pumping Plant or the Harvey O. Banks Pumping Plant from April 1 to November 30 provided water transfers comply with State law, including the California Environmental Quality Act.

(c) ACCELERATED PROJECT DECISION AND ELEVATION.—

(1) IN GENERAL.—On request by the Governor of the State, the Secretaries shall use the expedited procedures under this subsection to make final decisions relating to a Federal project or operation, or to local or State projects or operations that require decisions by the Secretary of the Interior or the Secretary of Commerce to provide additional water supplies if the project's or operation's purpose is to pro-

vide relief for emergency drought conditions pursuant to subsections (a) and (b).

(2) REQUEST FOR RESOLUTION.—

(A) IN GENERAL.—On request by the Governor of the State, the Secretaries referenced in paragraph (1), or the head of another Federal agency responsible for carrying out a review of a project, as applicable, the Secretary of the Interior shall convene a final project decision meeting with the heads of all relevant Federal agencies to decide whether to approve a project to provide relief for emergency drought conditions.

(B) MEETING.—The Secretary of the Interior shall convene a meeting requested under subparagraph (A) not later than 7 days after the date on which the meeting request is received.

(3) NOTIFICATION.—On receipt of a request for a meeting under paragraph (2), the Secretary of the Interior shall notify the heads of all relevant Federal agencies of the request, including information on the project to be reviewed and the date of the meeting.

(4) DECISION.—Not later than 10 days after the date on which a meeting is requested under

paragraph (2), the head of the relevant Federal agency shall issue a final decision on the project, subject to subsection (e)(2).

(5) MEETING CONVENED BY SECRETARY.—The Secretary of the Interior may convene a final project decision meeting under this subsection at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under paragraph (2).

(d) APPLICATION.—To the extent that a Federal agency, other than the agencies headed by the Secretaries, has a role in approving projects described in subsections (a) and (b), this section shall apply to those Federal agencies.

(e) LIMITATION.—Nothing in this section authorizes the Secretaries to approve projects—

(1) that would otherwise require congressional authorization; or

(2) without following procedures required by applicable law.

(f) DROUGHT PLAN.—For the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, the Secretaries of Commerce and

the Interior, in consultation with appropriate State officials, shall develop a drought operations plan that is consistent with the provisions of this Act including the provisions that are intended to provide additional water supplies that could be of assistance during the current drought.

**SEC. 1033. OPERATION OF CROSS-CHANNEL GATES.**

(a) IN GENERAL.—The Secretary of Commerce and the Secretary of the Interior shall jointly—

(1) authorize and implement activities to ensure that the Delta Cross Channel Gates remain open to the maximum extent practicable using findings from the United States Geological Survey on diurnal behavior of juvenile salmonids, timed to maximize the peak flood tide period and provide water supply and water quality benefits for the duration of the drought emergency declaration of the State, and for the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, consistent with operational criteria and monitoring criteria set forth into the Order Approving a Temporary Urgency Change in

License and Permit Terms in Response to Drought Conditions of the California State Water Resources Control Board, effective January 31, 2014 (or a successor order) and other authorizations associated with it;

(2) with respect to the operation of the Delta Cross Channel Gates described in paragraph (1), collect data on the impact of that operation on—

(A) species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) water quality; and

(C) water supply;

(3) collaborate with the California Department of Water Resources to install a deflection barrier at Georgiana Slough in coordination with Delta Cross Channel Gate diurnal operations to protect migrating salmonids, consistent with knowledge gained from activities carried out during 2014 and 2015;

(4) evaluate the combined salmonid survival in light of activities carried out pursuant to paragraphs (1) through (3) in deciding how to operate the Delta Cross Channel gates to enhance salmonid survival and water supply benefits; and

(5) not later than May 15, 2016, submit to the appropriate committees of the House of Representatives and the Senate a notice and explanation on the extent to which the gates are able to remain open.

(b) RECOMMENDATIONS.—After assessing the information collected under subsection (a), the Secretary of the Interior shall recommend revisions to the operation of the Delta Cross-Channel Gates, to the Central Valley Project, and to the State Water Project, including, if appropriate, any reasonable and prudent alternative contained in the biological opinion issued by the National Marine Fisheries Service on June 4, 2009, that are likely to produce water supply benefits without causing a significant negative impact on the long-term survival of the listed fish species within the Delta or on water quality.

**SEC. 1034. FLEXIBILITY FOR EXPORT/INFLOW RATIO.**

For the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, the Commissioner of the Bureau of Reclamation shall continue to vary the averaging period of the Delta Export/Inflow ratio pursuant to the California State Water Resources Control Board decision D1641—

(1) to operate to a 35-percent Export/Inflow ratio with a 3-day averaging period on the rising limb of a Delta inflow hydrograph; and

(2) to operate to a 14-day averaging period on the falling limb of the Delta inflow hydrograph.

**SEC. 1035. EMERGENCY ENVIRONMENTAL REVIEWS.**

(a) NEPA COMPLIANCE.—To minimize the time spent carrying out environmental reviews and to deliver water quickly that is needed to address emergency drought conditions in the State during the duration of an emergency drought declaration, the Secretaries shall, in carrying out this Act, consult with the Council on Environmental Quality in accordance with section 1506.11 of title 40, Code of Federal Regulations (including successor regulations), to develop alternative arrangements to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) during the emergency.

(b) DETERMINATIONS.—For the purposes of this section, a Secretary may deem a project to be in compliance with all necessary environmental regulations and reviews if the Secretary determines that the immediate implementation of the project is necessary to address—

(1) human health and safety; or

(2) a specific and imminent loss of agriculture production upon which an identifiable region de-

pends for 25 percent or more of its tax revenue used to support public services including schools, fire or police services, city or county health facilities, unemployment services or other associated social services.

**SEC. 1036. INCREASED FLEXIBILITY FOR REGULAR PROJECT OPERATIONS.**

The Secretaries shall, consistent with applicable laws (including regulations)—

(1) in coordination with the California Department of Water Resources and the California Department of Fish and Wildlife, implement offsite upstream projects in the Delta and upstream of the Sacramento River and San Joaquin basins that offset the effects on species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) due to activities carried out pursuant this Act, as determined by the Secretaries;

(2) manage reverse flow in the Old and Middle Rivers at −6,100 cubic feet per second if real-time monitoring indicates that flows of −6,100 cubic feet per second or more negative can be established for specific periods without causing a significant negative impact on the long-term survival of the Delta smelt, or if real-time monitoring does not support flows of −6,100 cubic feet per second than manage

OMR flows at −5,000 cubic feet per second subject to section 1013(e)(3) and (4); and

(3) use all available scientific tools to identify any changes to real-time operations of the Bureau of Reclamation, State, and local water projects that could result in the availability of additional water supplies.

**SEC. 1037. TEMPORARY OPERATIONAL FLEXIBILITY FOR FIRST FEW STORMS OF THE WATER YEAR.**

(a) IN GENERAL.—Consistent with avoiding a significant negative impact on the long-term survival in the short term upon listed fish species beyond the range of those authorized under the Endangered Species Act of 1973 and other environmental protections under subsection (e), the Secretaries shall authorize the Central Valley Project and the State Water Project, combined, to operate at levels that result in negative OMR flows at −7,500 cubic feet per second (based on United States Geological Survey gauges on Old and Middle Rivers) daily average for 56 cumulative days after October 1 as described in subsection (c).

(b) DAYS OF TEMPORARY OPERATIONAL FLEXIBILITY.—The temporary operational flexibility described in subsection (a) shall be authorized on days that the California Department of Water Resources determines the

daily average river flow of the Sacramento River is at, or above, 17,000 cubic feet per second as measured at the Sacramento River at Freeport gauge maintained by the United States Geologic Survey.

(c) COMPLIANCE WITH ENDANGERED SPECIES ACT AUTHORIZATIONS.—In carrying out this section, the Secretaries may continue to impose any requirements under the smelt and salmonid biological opinions during any period of temporary operational flexibility as they determine are reasonably necessary to avoid an additional significant negative impacts on the long-term survival of a listed fish species beyond the range of those authorized under the Endangered Species Act of 1973, provided that the requirements imposed do not reduce water supplies available for the Central Valley Project and the State Water Project.

(d) OTHER ENVIRONMENTAL PROTECTIONS.—

(1) STATE LAW.—The Secretaries' actions under this section shall be consistent with applicable regulatory requirements under State law.

(2) FIRST SEDIMENT FLUSH.—During the first flush of sediment out of the Delta in each water year, and provided that such determination is based upon objective evidence, OMR flow may be managed at rates less negative than −5,000 cubic feet per

second for a minimum duration to avoid movement of adult Delta smelt (Hypomesus transpacificus) to areas in the southern Delta that would be likely to increase entrainment at Central Valley Project and State Water Project pumping plants.

(3) APPLICABILITY OF OPINION.—This section shall not affect the application of the salmonid biological opinion from April 1 to May 31, unless the Secretary of Commerce finds that some or all of such applicable requirements may be adjusted during this time period to provide emergency water supply relief without resulting in additional adverse effects beyond those authorized under the Endangered Species Act of 1973. In addition to any other actions to benefit water supply, the Secretary of the Interior and the Secretary of Commerce shall consider allowing through-Delta water transfers to occur during this period if they can be accomplished consistent with section 3405(a)(1)(H) of the Central Valley Project Improvement Act. Water transfers solely or exclusively through the State Water Project are not required to be consistent with section 3405(a)(1)(H) of the Central Valley Project Improvement Act.

(4) MONITORING.—During operations under this section, the Commissioner of Reclamation, in coordination with the Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife, shall undertake a monitoring program and other data gathering to ensure incidental take levels are not exceeded, and to identify potential negative impacts and actions, if any, necessary to mitigate impacts of the temporary operational flexibility to species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(e) TECHNICAL ADJUSTMENTS TO TARGET PERIOD.—If, before temporary operational flexibility has been implemented on 56 cumulative days, the Secretaries operate the Central Valley Project and the State Water Project combined at levels that result in OMR flows less negative than −7,500 cubic feet per second during days of temporary operational flexibility as defined in subsection (c), the duration of such operation shall not be counted toward the 56 cumulative days specified in subsection (a).

(f) EMERGENCY CONSULTATION; EFFECT ON RUNNING AVERAGES.—

(1) If necessary to implement the provisions of this section, the Commissioner is authorized to take any action necessary to implement this section for up to 56 cumulative days. If during the 56 cumulative days the Commissioner determines that actions necessary to implement this section will exceed 56 days, the Commissioner shall use the emergency consultation procedures under the Endangered Species Act of 1973 and its implementing regulation at section 402.05 of title 50, Code of Federal Regulations, to temporarily adjust the operating criteria under the biological opinions—

(A) solely for extending beyond the 56 cumulative days for additional days of temporary operational flexibility—

(i) no more than necessary to achieve the purposes of this section consistent with the environmental protections in subsections (d) and (e); and

(ii) including, as appropriate, adjustments to ensure that the actual flow rates during the periods of temporary operational flexibility do not count toward the 5-day and 14-day running averages of

tidally filtered daily OMR flow requirements under the biological opinions, or

(B) for other adjustments to operating criteria or to take other urgent actions to address water supply shortages for the least amount of time or volume of diversion necessary as determined by the Commissioner.

(2) Following the conclusion of the 56 cumulative days of temporary operational flexibility, or the extended number of days covered by the emergency consultation procedures, the Commissioner shall not reinitiate consultation on these adjusted operations, and no mitigation shall be required, if the effects on listed fish species of these operations under this section remain within the range of those authorized under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). If the Commissioner reinitiates consultation, no mitigation measures shall be required.

(g) LEVEL OF DETAIL REQUIRED FOR ANALYSIS.—In articulating the determinations required under this section, the Secretaries shall fully satisfy the requirements herein but shall not be expected to provide a greater level of supporting detail for the analysis than feasible to provide within the short timeframe permitted for timely deci-

1 sionmaking in response to changing conditions in the
2 Delta.

3 **SEC. 1038. EXPEDITING WATER TRANSFERS.**

4 (a) IN GENERAL.—Section 3405(a) of the Central
5 Valley Project Improvement Act (Public Law 102–575;
6 106 Stat. 4709(a)) is amended—

7 (1) by redesignating paragraphs (1) through
8 (3) as paragraphs (4) through (6), respectively;

9 (2) in the matter preceding paragraph (4) (as
10 so designated)—

11 (A) in the first sentence, by striking ''In
12 order to'' and inserting the following:

13 ''(1) IN GENERAL.—In order to''; and

14 (B) in the second sentence, by striking
15 ''Except as provided herein'' and inserting the
16 following:

17 ''(3) TERMS.—Except as otherwise provided in
18 this section'';

19 (3) by inserting before paragraph (3) (as so
20 designated) the following:

21 ''(2) EXPEDITED TRANSFER OF WATER.—The
22 Secretary shall take all necessary actions to facilitate
23 and expedite transfers of Central Valley Project
24 water in accordance with—

25 ''(A) this Act;

"(B) any other applicable provision of the reclamation laws; and

"(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).";

(4) in paragraph (4) (as so designated)—

(A) in subparagraph (A), by striking "to combination" and inserting "or combination"; and

(B) by striking "3405(a)(2) of this title" each place it appears and inserting "(5)";

(5) in paragraph (5) (as so designated), by adding at the end the following:

"(E) The contracting district from which the water is coming, the agency, or the Secretary shall determine if a written transfer proposal is complete within 45 days after the date of submission of the proposal. If the contracting district or agency or the Secretary determines that the proposal is incomplete, the district or agency or the Secretary shall state with specificity what must be added to or revised for the proposal to be complete."; and

(6) in paragraph (6) (as so designated), by striking "3405(a)(1)(A)–(C), (E), (G), (H), (I), (L), and (M) of this title" and inserting "(A) through

(C), (E), (G), (H), (I), (L), and (M) of paragraph (4)''.

(b) CONFORMING AMENDMENTS.—The Central Valley Project Improvement Act (Public Law 102–575) is amended—

(1) in section 3407(c)(1) (106 Stat. 4726), by striking ''3405(a)(1)(C)'' and inserting ''3405(a)(4)(C)''; and

(2) in section 3408(i)(1) (106 Stat. 4729), by striking ''3405(a)(1) (A) and (J) of this title'' and inserting ''subparagraphs (A) and (J) of section 3405(a)(4)''.

**SEC. 1039. ADDITIONAL EMERGENCY CONSULTATION.**

For adjustments to operating criteria other than under section 1038 of this subtitle or to take urgent actions to address water supply shortages for the least amount of time or volume of diversion necessary as determined by the Commissioner of Reclamation, no mitigation measures shall be required during any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, and any mitigation measures imposed must be based on quan-

1 titative data and required only to the extent that such data
2 demonstrates actual harm to species.

3 **SEC. 1040. ADDITIONAL STORAGE AT NEW MELONES.**

4 The Commissioner of Reclamation is directed to work
5 with local water and irrigation districts in the Stanislaus
6 River Basin to ascertain the water storage made available
7 by the Draft Plan of Operations in New Melones Reservoir
8 (DRPO) for water conservation programs, conjunctive use
9 projects, water transfers, rescheduled project water and
10 other projects to maximize water storage and ensure the
11 beneficial use of the water resources in the Stanislaus
12 River Basin. All such programs and projects shall be im-
13 plemented according to all applicable laws and regulations.
14 The source of water for any such storage program at New
15 Melones Reservoir shall be made available under a valid
16 water right, consistent with the State of California water
17 transfer guidelines and any other applicable State water
18 law. The Commissioner shall inform the Congress within
19 18 months setting forth the amount of storage made avail-
20 able by the DRPO that has been put to use under this
21 program, including proposals received by the Commis-
22 sioner from interested parties for the purpose of this sec-
23 tion.

**SEC. 1041. REGARDING THE OPERATION OF FOLSOM RESERVOIR.**

The Secretary of the Interior, in collaboration with the Sacramento Water Forum, shall expedite evaluation, completion and implementation of the Modified Lower American River Flow Management Standard developed by the Water Forum in 2015 to improve water supply reliability for Central Valley Project American River water contractors and resource protection in the lower American River during consecutive dry-years under current and future demand and climate change conditions.

**SEC. 1042. APPLICANTS.**

In the event that the Bureau of Reclamation or another Federal agency initiates or reinitiates consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)), with respect to construction or operation of the Central Valley Project and State Water Project, or any part thereof, the State Water Project contractors and the Central Valley Project contractors will be accorded all the rights and responsibilities extended to applicants in the consultation process.

**SEC. 1043. SAN JOAQUIN RIVER SETTLEMENT.**

(a) CALIFORNIA STATE LAW SATISFIED BY WARM WATER FISHERY.—

(1) IN GENERAL.—Sections 5930 through 5948 of the California Fish and Game Code, and all applicable Federal laws, including the San Joaquin River Restoration Settlement Act (Public Law 111–11) and the Stipulation of Settlement (Natural Resources Defense Council, et al. v. Kirk Rodgers, et al., Eastern District of California, No. Civ. S–88–1658–LKK/GGH), shall be satisfied by the existence of a warm water fishery in the San Joaquin River below Friant Dam, but upstream of Gravelly Ford.

(2) DEFINITION OF WARM WATER FISHERY.—For the purposes of this section, the term ''warm water fishery'' means a water system that has an environment suitable for species of fish other than salmon (including all subspecies) and trout (including all subspecies).

(b) REPEAL OF THE SAN JOAQUIN RIVER SETTLEMENT.—As of the date of enactment of this section, the Secretary of the Interior shall cease any action to implement the San Joaquin River Restoration Settlement Act (subtitle A of title X of Public Law 111–11) and the Stipulation of Settlement (Natural Resources Defense Council, et al. v. Kirk Rodgers, et al., Eastern District of California, No. Civ. S–88–1658 LKK/GGH).

**SEC. 1044. PROGRAM FOR WATER RESCHEDULING.**

By December 31, 2015, the Secretary of the Interior shall develop and implement a program, including rescheduling guidelines for Shasta and Folsom Reservoirs, to allow existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed, and refuge service and municipal and industrial water service contractors within the Sacramento River Watershed and the American River Watershed to reschedule water, provided for under their Central Valley Project contracts, from one year to the next; provided, that the program is consistent with existing rescheduling guidelines as utilized by the Bureau of Reclamation for rescheduling water for Central Valley Project water service contractors that are located South of the Delta.

# Subtitle D—CALFED STORAGE FEASIBILITY STUDIES

**SEC. 1051. STUDIES.**

The Secretary of the Interior, through the Commissioner of Reclamation, shall—

(1) complete the feasibility studies described in clauses (i)(I) and (ii)(II) of section 103(d)(1)(A) of Public Law 108–361 (118 Stat. 1684) and submit such studies to the appropriate committees of the House of Representatives and the Senate not later than December 31, 2015;

(2) complete the feasibility study described in clause (i)(II) of section 103(d)(1)(A) of Public Law 108–361 and submit such study to the appropriate committees of the House of Representatives and the Senate not later than November 30, 2016;

(3) complete a publicly available draft of the feasibility study described in clause (ii)(I) of section 103(d)(1)(A) of Public Law 108–361 and submit such study to the appropriate committees of the House of Representatives and the Senate not later than November 30, 2016;

(4) complete the feasibility study described in clause (ii)(I) of section 103(d)(1)(A) of Public Law 108–361 and submit such study to the appropriate committees of the House of Representatives and the Senate not later than November 30, 2017;

(5) complete the feasibility study described in section 103(f)(1)(A) of Public Law 108–361 (118 Stat. 1694) and submit such study to the appropriate Committees of the House of Representatives and the Senate not later than December 31, 2017;

(6) provide a progress report on the status of the feasibility studies referred to in paragraphs (1) through (3) to the appropriate committees of the House of Representatives and the Senate not later

than 90 days after the date of the enactment of this Act and each 180 days thereafter until December 31, 2017, as applicable. The report shall include timelines for study completion, draft environmental impact statements, final environmental impact statements, and Records of Decision;

(7) in conducting any feasibility study under this Act, the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law, for the purposes of determining feasibility the Secretary shall document, delineate, and publish costs directly relating to the engineering and construction of a water storage project separately from the costs resulting from regulatory compliance or the construction of auxiliary facilities necessary to achieve regulatory compliance; and

(8) communicate, coordinate and cooperate with public water agencies that contract with the United States for Central Valley Project water and that are expected to participate in the cost pools that will be

created for the projects proposed in the feasibility studies under this section.

**SEC. 1052. TEMPERANCE FLAT.**

(a) DEFINITIONS.—For the purposes of this section:

(1) PROJECT.—The term ''Project'' means the Temperance Flat Reservoir Project on the Upper San Joaquin River.

(2) RMP.—The term ''RMP'' means the document titled ''Bakersfield Field Office, Record of Decision and Approved Resource Management Plan,'' dated December 2014.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) APPLICABILITY OF RMP.—The RMP and findings related thereto shall have no effect on or applicability to the Secretary's determination of feasibility of, or on any findings or environmental review documents related to—

(1) the Project; or

(2) actions taken by the Secretary pursuant to section 103(d)(1)(A)(ii)(II) of the Bay-Delta Authorization Act (title I of Public Law 108–361).

(c) DUTIES OF SECRETARY UPON DETERMINATION OF FEASIBILITY.—If the Secretary finds the Project to be feasible, the Secretary shall manage the land recommended in the RMP for designation under the Wild and

Scenic Rivers Act (16 U.S.C. 1271 et seq.) in a manner that does not impede any environmental reviews, preconstruction, construction, or other activities of the Project, regardless of whether or not the Secretary submits any official recommendation to Congress under the Wild and Scenic Rivers Act.

(d) RESERVED WATER RIGHTS.—Effective December 22, 2014, there shall be no Federal reserved water rights to any segment of the San Joaquin River related to the Project as a result of any designation made under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

**SEC. 1053. CALFED STORAGE ACCOUNTABILITY.**

If the Secretary of the Interior fails to provide the feasibility studies described in section 1051 to the appropriate committees of the House of Representatives and the Senate by the times prescribed, the Secretary shall notify each committee chair individually in person on the status of each project once a month until the feasibility study for that project is provided to Congress.

**SEC. 1054. WATER STORAGE PROJECT CONSTRUCTION.**

(a) PARTNERSHIP AND AGREEMENTS.—The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may partner or enter into an agreement on the water storage projects identified in section 103(d)(1) of the Water Supply Reliability and En-

vironmental Improvement Act (Public Law 108–361) (and Acts supplemental and amendatory to the Act) with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance those projects.

(b) AUTHORIZATION FOR PROJECT.—If the Secretary determines a project described in section 1052(a)(1) and (2) is feasible, the Secretary is authorized to carry out the project in a manner that is substantially in accordance with the recommended plan, and subject to the conditions described in the feasibility study, provided that no Federal funding shall be used to construct the project.

# Subtitle E—WATER RIGHTS PROTECTIONS

**SEC. 1061. OFFSET FOR STATE WATER PROJECT.**

(a) IMPLEMENTATION IMPACTS.—The Secretary of the Interior shall confer with the California Department of Fish and Wildlife in connection with the implementation of this Act on potential impacts to any consistency determination for operations of the State Water Project issued pursuant to California Fish and Game Code section 2080.1.

(b) ADDITIONAL YIELD.—If, as a result of the application of this Act, the California Department of Fish and Wildlife—

(1) revokes the consistency determinations pursuant to California Fish and Game Code section 2080.1 that are applicable to the State Water Project;

(2) amends or issues one or more new consistency determinations pursuant to California Fish and Game Code section 2080.1 in a manner that directly or indirectly results in reduced water supply to the State Water Project as compared with the water supply available under the smelt biological opinion and the salmonid biological opinion; or

(3) requires take authorization under California Fish and Game Code section 2081 for operation of the State Water Project in a manner that directly or indirectly results in reduced water supply to the State Water Project as compared with the water supply available under the smelt biological opinion and the salmonid biological opinion, and as a consequence of the Department's action, Central Valley Project yield is greater than it would have been absent the Department's actions, then that additional yield shall be made available to the State Water

Project for delivery to State Water Project contractors to offset losses resulting from the Department's action.

(c) NOTIFICATION RELATED TO ENVIRONMENTAL PROTECTIONS.—The Secretary of the Interior shall immediately notify the Director of the California Department of Fish and Wildlife in writing if the Secretary of the Interior determines that implementation of the smelt biological opinion and the salmonid biological opinion consistent with this Act reduces environmental protections for any species covered by the opinions.

**SEC. 1062. AREA OF ORIGIN PROTECTIONS.**

(a) IN GENERAL.—The Secretary of the Interior is directed, in the operation of the Central Valley Project, to adhere to California's water rights laws governing water rights priorities and to honor water rights senior to those held by the United States for operation of the Central Valley Project, regardless of the source of priority, including any appropriative water rights initiated prior to December 19, 1914, as well as water rights and other priorities perfected or to be perfected pursuant to California Water Code Part 2 of Division 2. Article 1.7 (commencing with section 1215 of chapter 1 of part 2 of division 2, sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and sections 12200 to 12220, inclusive).

(b) DIVERSIONS.—Any action undertaken by the Secretary of the Interior and the Secretary of Commerce pursuant to both this Act and section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that requires that diversions from the Sacramento River or the San Joaquin River watersheds upstream of the Delta be bypassed shall not be undertaken in a manner that alters the water rights priorities established by California law.

(c) ENDANGERED SPECIES ACT.—Nothing in this subtitle alters the existing authorities provided to and obligations placed upon the Federal Government under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended.

(d) CONTRACTS.—With respect to individuals and entities with water rights on the Sacramento River, the mandates of this section may be met, in whole or in part, through a contract with the Secretary of the Interior executed pursuant to section 14 of Public Law 76–260; 53 Stat. 1187 (43 U.S.C. 389) that is in conformance with the Sacramento River Settlement Contracts renewed by the Secretary of the Interior in 2005.

**SEC. 1063. NO REDIRECTED ADVERSE IMPACTS.**

(a) IN GENERAL.—The Secretary of the Interior shall ensure that, except as otherwise provided for in a water service or repayment contract, actions taken in compliance

with legal obligations imposed pursuant to or as a result of this Act, including such actions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and other applicable Federal and State laws, shall not directly or indirectly—

(1) result in the involuntary reduction of water supply or fiscal impacts to individuals or districts who receive water from either the State Water Project or the United States under water rights settlement contracts, exchange contracts, water service contracts, repayment contracts, or water supply contracts; or

(2) cause redirected adverse water supply or fiscal impacts to those within the Sacramento River watershed, the San Joaquin River watershed or the State Water Project service area.

(b) COSTS.—To the extent that costs are incurred solely pursuant to or as a result of this Act and would not otherwise have been incurred by any entity or public or local agency or subdivision of the State of California, such costs shall not be borne by any such entity, agency, or subdivision of the State of California, unless such costs are incurred on a voluntary basis.

(c) RIGHTS AND OBLIGATIONS NOT MODIFIED OR AMENDED.—Nothing in this Act shall modify or amend the rights and obligations of the parties to any existing—

(1) water service, repayment, settlement, purchase, or exchange contract with the United States, including the obligation to satisfy exchange contracts and settlement contracts prior to the allocation of any other Central Valley Project water; or

(2) State Water Project water supply or settlement contract with the State.

**SEC. 1064. ALLOCATIONS FOR SACRAMENTO VALLEY CONTRACTORS.**

(a) ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2) and subsection (b), the Secretary of the Interior is directed, in the operation of the Central Valley Project, to allocate water provided for irrigation purposes to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed in compliance with the following:

(A) Not less than 100 percent of their contract quantities in a ''Wet'' year.

(B) Not less than 100 percent of their contract quantities in an ''Above Normal'' year.

(C) Not less than 100 percent of their contract quantities in a ''Below Normal'' year that is preceded by an ''Above Normal'' or a ''Wet'' year.

(D) Not less than 50 percent of their contract quantities in a ''Dry'' year that is preceded by a ''Below Normal,'' an ''Above Normal,'' or a ''Wet'' year.

(E) In all other years not identified herein, the allocation percentage for existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed shall not be less than twice the allocation percentage to south-of-Delta Central Valley Project agricultural water service contractors, up to 100 percent; provided, that nothing herein shall preclude an allocation to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed that is greater than twice the allocation percentage to south-of-Delta Central Valley Project agricultural water service contractors.

(2) CONDITIONS.—The Secretary's actions under paragraph (a) shall be subject to—

(A) the priority of individuals or entities with Sacramento River water rights, including those with Sacramento River Settlement Contracts, that have priority to the diversion and use of Sacramento River water over water rights held by the United States for operations of the Central Valley Project;

(B) the United States obligation to make a substitute supply of water available to the San Joaquin River Exchange Contractors; and

(C) the Secretary's obligation to make water available to managed wetlands pursuant to section 3406(d) of the Central Valley Project Improvement Act (Public Law 102–575).

(b) PROTECTION OF MUNICIPAL AND INDUSTRIAL SUPPLIES.—Nothing in subsection (a) shall be deemed to—

(1) modify any provision of a water service contract that addresses municipal and industrial water shortage policies of the Secretary;

(2) affect or limit the authority of the Secretary to adopt or modify municipal and industrial water shortage policies;

(3) affect or limit the authority of the Secretary to implement municipal and industrial water shortage policies; or

(4) affect allocations to Central Valley Project municipal and industrial contractors pursuant to such policies.

Neither subsection (a) nor the Secretary's implementation of subsection (a) shall constrain, govern or affect, directly, the operations of the Central Valley Project's American River Division or any deliveries from that Division, its units or facilities.

(c) NO EFFECT ON ALLOCATIONS.—This section shall not—

(1) affect the allocation of water to Friant Division contractors; or

(2) result in the involuntary reduction in contract water allocations to individuals or entities with contracts to receive water from the Friant Division.

(d) PROGRAM FOR WATER RESCHEDULING.—The Secretary of the Interior shall develop and implement a program, not later than 1 year after the date of the enactment of this Act, to provide for the opportunity for existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed to re-

schedule water, provided for under their Central Valley Project water service contracts, from one year to the next.

(e) DEFINITIONS.—In this section:

(1) The term ''existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed'' means water service contractors within the Shasta, Trinity, and Sacramento River Divisions of the Central Valley Project, that have a water service contract in effect, on the date of the enactment of this section, that provides water for irrigation.

(2) The year type terms used in subsection (a) have the meaning given those year types in the Sacramento Valley Water Year Type (40–30–30) Index.

**SEC. 1065. EFFECT ON EXISTING OBLIGATIONS.**

Nothing in this Act preempts or modifies any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law, including established water rights priorities.

# Subtitle F—MISCELLANEOUS

**SEC. 1071. AUTHORIZED SERVICE AREA.**

(a) IN GENERAL.—The authorized service area of the Central Valley Project authorized under the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat.

4706) shall include the area within the boundaries of the Kettleman City Community Services District, California, as in existence on the date of enactment of this Act.

(b) LONG-TERM CONTRACT.—

(1) IN GENERAL.—Notwithstanding the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706) and subject to paragraph (2), the Secretary of the Interior, in accordance with the Federal reclamation laws, shall enter into a long-term contract with the Kettleman City Community Services District, California, under terms and conditions mutually agreeable to the parties, for the delivery of up to 900 acre-feet of Central Valley Project water for municipal and industrial use.

(2) LIMITATION.—Central Valley Project water deliveries authorized under the contract entered into under paragraph (1) shall be limited to the minimal quantity necessary to meet the immediate needs of the Kettleman City Community Services District, California, in the event that local supplies or State Water Project allocations are insufficient to meet those needs.

(c) PERMIT.—The Secretary shall apply for a permit with the State for a joint place of use for water deliveries authorized under the contract entered into under sub-

section (b) with respect to the expanded service area under subsection (a), consistent with State law.

(d) ADDITIONAL COSTS.—If any additional infrastructure, water treatment, or related costs are needed to implement this section, those costs shall be the responsibility of the non-Federal entity.

**SEC. 1072. OVERSIGHT BOARD FOR RESTORATION FUND.**

(a) PLAN; ADVISORY BOARD.—Section 3407 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4726) is amended by adding at the end the following:

"(g) PLAN ON EXPENDITURE OF FUNDS.—

"(1) IN GENERAL.—For each fiscal year, the Secretary, in consultation with the Advisory Board, shall submit to Congress a plan for the expenditure of all of the funds deposited into the Restoration Fund during the preceding fiscal year.

"(2) CONTENTS.—The plan shall include an analysis of the cost-effectiveness of each expenditure.

"(h) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—There is established the Restoration Fund Advisory Board (referred to in this section as the 'Advisory Board'), which shall be composed of 11 members appointed by the Secretary.

"(2) MEMBERSHIP.—

"(A) IN GENERAL.—The Secretary shall appoint members to the Advisory Board that represent the various Central Valley Project stakeholders, of whom—

"(i) 4 members shall be agricultural users of the Central Valley Project, including at least one agricultural user from north-of-the-Delta and one agricultural user from south-of-the-Delta;

"(ii) 2 members shall be municipal and industrial users of the Central Valley Project, including one municipal and industrial user from north-of-the-Delta and one municipal and industrial user from south-of-the-Delta;

"(iii) 2 members shall be power contractors of the Central Valley Project, including at least one power contractor from north-of-the-Delta and from south-of-the-Delta;

"(iv) 1 member shall be a representative of a Federal national wildlife refuge that contracts for Central Valley Project

water supplies with the Bureau of Reclamation;

"(v) 1 member shall have expertise in the economic impacts of the changes to water operations; and

"(vi) 1 member shall be a representative of a wildlife entity that primarily focuses on waterfowl.

"(B) OBSERVER.—The Secretary and the Secretary of Commerce may each designate a representative to act as an observer of the Advisory Board.

"(C) CHAIR.—The Secretary shall appoint 1 of the members described in subparagraph (A) to serve as Chair of the Advisory Board.

"(3) TERMS.—The term of each member of the Advisory Board shall be 4 years.

"(4) DATE OF APPOINTMENTS.—The appointment of a member of the Panel shall be made not later than—

"(A) the date that is 120 days after the date of enactment of this Act; or

"(B) in the case of a vacancy on the Panel described in subsection (c)(2), the date that is

120 days after the date on which the vacancy occurs.

"(5) VACANCIES.—

"(A) IN GENERAL.—A vacancy on the Panel shall be filled in the manner in which the original appointment was made and shall be subject to any conditions that applied with respect to the original appointment.

"(B) FILLING UNEXPIRED TERM.—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(C) EXPIRATION OF TERMS.—The term of any member shall not expire before the date on which the successor of the member takes office.

"(6) REMOVAL.—A member of the Panel may be removed from office by the Secretary of the Interior.

"(7) FEDERAL ADVISORY COMMITTEE ACT.—The Panel shall not be subject to the requirements of the Federal Advisory Committee Act.

"(8) DUTIES.—The duties of the Advisory Board are—

"(A) to meet not less frequently than semi-annually to develop and make recommendations to the Secretary regarding priorities and spending levels on projects and programs carried out under this title;

"(B) to ensure that any advice given or recommendation made by the Advisory Board reflects the independent judgment of the Advisory Board;

"(C) not later than December 31, 2015, and annually thereafter, to submit to the Secretary and Congress the recommendations under subparagraph (A); and

"(D) not later than December 31, 2015, and biennially thereafter, to submit to Congress details of the progress made in achieving the actions required under section 3406.

"(9) ADMINISTRATION.—With the consent of the appropriate agency head, the Advisory Board may use the facilities and services of any Federal agency.

"(10) COOPERATION AND ASSISTANCE.—

"(A) PROVISION OF INFORMATION.—Upon request of the Panel Chair for information or assistance to facilitate carrying out this section,

the Secretary of the Interior shall promptly provide such information, unless otherwise prohibited by law.

"(B) SPACE AND ASSISTANCE.—The Secretary of the Interior shall provide the Panel with appropriate and adequate office space, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Panel, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.".

**SEC. 1073. WATER SUPPLY ACCOUNTING.**

(a) IN GENERAL.—All Central Valley Project water, except Central Valley Project water released pursuant to U.S. Department of the Interior Record of Decision, Trinity River Mainstem Fishery Restoration Final Environmental Impact Statement/Environmental Impact Report dated December 2000 used to implement an action undertaken for a fishery beneficial purpose that was not imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing on October 30, 1992, shall be credited to the quantity of Central Valley Project yield dedicated and managed under

this section; provided, that nothing herein shall affect the Secretary of the Interior's duty to comply with any otherwise lawful requirement imposed on operations of the Central Valley Project under any provision of Federal or State law.

(b) RECLAMATION POLICIES AND ALLOCATIONS.—Reclamation policies and allocations shall not be based upon any premise or assumption that Central Valley Project contract supplies are supplemental or secondary to any other contractor source of supply.

**SEC. 1074. IMPLEMENTATION OF WATER REPLACEMENT PLAN.**

(a) IN GENERAL.—Not later than October 1, 2016, the Secretary of the Interior shall update and implement the plan required by section 3408(j) of title XXXIV of Public Law 102–575. The Secretary shall notify the Congress annually describing the progress of implementing the plan required by section 3408(j) of title XXXIV of Public Law 102–575.

(b) POTENTIAL AMENDMENT.—If the plan required in subsection (a) has not increased the Central Valley Project yield by 800,000 acre-feet within 5 years after the enactment of this Act, then section 3406 of the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575) is amended as follows:

(1) In subsection (b)—

(A) by amending paragraph (2)(C) to read:

"(C) If by March 15, 2021, and any year thereafter the quantity of Central Valley Project water forecasted to be made available to all water service or repayment contractors of the Central Valley Project is below 50 percent of the total quantity of water to be made available under said contracts, the quantity of Central Valley Project yield dedicated and managed for that year under this paragraph shall be reduced by 25 percent.".

**SEC. 1075. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.**

After the date of the enactment of this title, and regardless of the date of listing, the Secretaries of the Interior and Commerce shall not distinguish between natural-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making any determination under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that relates to any anadromous or pelagic fish species that resides for all or a portion of its life in the Sacramento-San Joaquin Delta or rivers tributary thereto.

**SEC. 1076. TRANSFER THE NEW MELONES UNIT, CENTRAL VALLEY PROJECT TO INTERESTED PROVIDERS.**

(a) DEFINITIONS.—For the purposes of this section, the following terms apply:

(1) INTERESTED LOCAL WATER AND POWER PROVIDERS.—The term ''interested local water and power providers'' includes the Calaveras County Water District, Calaveras Public Power Agency, Central San Joaquin Water Conservation District, Oakdale Irrigation District, Stockton East Water District, South San Joaquin Irrigation District, Tuolumne Utilities District, Tuolumne Public Power Agency, and Union Public Utilities District.

(2) NEW MELONES UNIT, CENTRAL VALLEY PROJECT.—The term ''New Melones Unit, Central Valley Project'' means all Federal reclamation projects located within or diverting water from or to the watershed of the Stanislaus and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850), and all Acts amendatory or supplemental thereto, including the Act of October 23, 1962 (76 Stat. 1173).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) NEGOTIATIONS.—Notwithstanding any other provision of law, not later than 180 days after the date of the enactment of this Act, the Secretary shall enter into negotiations with interested local water and power providers for the transfer ownership, control, and operation of the New Melones Unit, Central Valley Project to interested local water and power providers within the State of California.

(c) TRANSFER.—The Secretary shall transfer the New Melones Unit, Central Valley Project in accordance with an agreement reached pursuant to negotiations conducted under subsection (b).

(d) NOTIFICATION.—Not later than 360 days after the date of the enactment of this Act, and every 6 months thereafter, the Secretary shall notify the appropriate committees of the House of Representatives and the Senate—

(1) if an agreement is reached pursuant to negotiations conducted under subsection (b), the terms of that agreement;

(2) of the status of formal discussions with interested local water and power providers for the transfer of ownership, control, and operation of the New Melones Unit, Central Valley Project to interested local water and power providers;

(3) of all unresolved issues that are preventing execution of an agreement for the transfer of ownership, control, and operation of the New Melones Unit, Central Valley Project to interested local water and power providers;

(4) on analysis and review of studies, reports, discussions, hearing transcripts, negotiations, and other information about past and present formal discussions that—

(A) have a serious impact on the progress of the formal discussions;

(B) explain or provide information about the issues that prevent progress or finalization of formal discussions; or

(C) are, in whole or in part, preventing execution of an agreement for the transfer; and

(5) of any actions the Secretary recommends that the United States should take to finalize an agreement for that transfer.

**SEC. 1077. BASIN STUDIES.**

(a) AUTHORIZED STUDIES.—The Secretary of the Interior is authorized and directed to expand opportunities and expedite completion of assessments under section 9503(b) of the SECURE Water Act (42 U.S.C. 10363(b)), with non-Federal partners, of individual sub-

basins and watersheds within major Reclamation river basins; and shall ensure timely decision and expedited implementation of adaptation and mitigation strategies developed through the special study process.

(b) FUNDING.—

(1) IN GENERAL.—The non-Federal partners shall be responsible for 100 percent of the cost of the special studies.

(2) CONTRIBUTED FUNDS.—The Secretary may accept and use contributions of funds from the non-Federal partners to carry out activities under the special studies.

**SEC. 1078. OPERATIONS OF THE TRINITY RIVER DIVISION.**

The Secretary of the Interior, in the operation of the Trinity River Division of the Central Valley Project, shall not make releases from Lewiston Dam in excess of the volume for each water-year type required by the U.S. Department of the Interior Record of Decision, Trinity River Mainstem Fishery Restoration Final Environmental Impact Statement/Environmental Impact Report dated December 2000.

(1) A maximum of 369,000 acre-feet in a ''Critically Dry'' year.

(2) A maximum of 453,000 acre-feet in a ''Dry'' year.

(3) A maximum of 647,000 acre-feet in a ''Normal'' year.

(4) A maximum of 701,000 acre-feet in a ''Wet'' year.

(5) A maximum of 815,000 acre-feet in an ''Extremely Wet'' year.

**SEC. 1079. AMENDMENT TO PURPOSES.**

Section 3402 of the Central Valley Project Improvement Act (106 Stat. 4706) is amended—

(1) in subsection (f), by striking the period at the end; and

(2) by adding at the end the following:

''(g) to ensure that water dedicated to fish and wildlife purposes by this title is replaced and provided to Central Valley Project water contractors by December 31, 2018, at the lowest cost reasonably achievable; and

''(h) to facilitate and expedite water transfers in accordance with this Act.''.

**SEC. 1080. AMENDMENT TO DEFINITION.**

Section 3403 of the Central Valley Project Improvement Act (106 Stat. 4707) is amended—

(1) by amending subsection (a) to read as follows:

''(a) the term 'anadromous fish' means those native stocks of salmon (including steelhead) and sturgeon that,

as of October 30, 1992, were present in the Sacramento and San Joaquin Rivers and their tributaries and ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean;'';

(2) in subsection (l), by striking ''and,'';

(3) in subsection (m), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(n) the term 'reasonable flow' means water flows capable of being maintained taking into account competing consumptive uses of water and economic, environmental, and social factors.''.

**SEC. 1081. REPORT ON RESULTS OF WATER USAGE.**

The Secretary of the Interior, in consultation with the Secretary of Commerce and the Secretary of Natural Resources of the State of California, shall publish an annual report detailing instream flow releases from the Central Valley Project and California State Water Project, their explicit purpose and authority, and all measured environmental benefit as a result of the releases.

**SEC. 1082. KLAMATH PROJECT CONSULTATION APPLICANTS.**

If the Bureau of Reclamation initiates or reinitiates consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service under section

7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)), with respect to construction or operation of the Klamath Project (or any part thereof), Klamath Project contractors shall be accorded all the rights and responsibilities extended to applicants in the consultation process. Upon request of the Klamath Project contractors, they may be represented through an association or organization.

# Subtitle G—Water Supply Permitting Act

**SEC. 1091. SHORT TITLE.**

This subtitle may be cited as the ''Water Supply Permitting Coordination Act''.

**SEC. 1092. DEFINITIONS.**

In this subtitle:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) BUREAU.—The term ''Bureau'' means the Bureau of Reclamation.

(3) QUALIFYING PROJECTS.—The term ''qualifying projects'' means new surface water storage projects in the States covered under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.) constructed on lands adminis-

tered by the Department of the Interior or the Department of Agriculture, exclusive of any easement, right-of-way, lease, or any private holding.

(4) COOPERATING AGENCIES.—The term ''cooperating agency'' means a Federal agency with jurisdiction over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a qualifying project under applicable Federal laws and regulations, or a State agency subject to section 1093(c).

**SEC. 1093. ESTABLISHMENT OF LEAD AGENCY AND COOPERATING AGENCIES.**

(a) ESTABLISHMENT OF LEAD AGENCY.—The Bureau of Reclamation is established as the lead agency for purposes of coordinating all reviews, analyses, opinions, statements, permits, licenses, or other approvals or decisions required under Federal law to construct qualifying projects.

(b) IDENTIFICATION AND ESTABLISHMENT OF COOPERATING AGENCIES.—The Commissioner of the Bureau shall—

(1) identify, as early as practicable upon receipt of an application for a qualifying project, any Federal agency that may have jurisdiction over a review, analysis, opinion, statement, permit, license, ap-

proval, or decision required for a qualifying project under applicable Federal laws and regulations; and

(2) notify any such agency, within a reasonable timeframe, that the agency has been designated as a cooperating agency in regards to the qualifying project unless that agency responds to the Bureau in writing, within a timeframe set forth by the Bureau, notifying the Bureau that the agency—

(A) has no jurisdiction or authority with respect to the qualifying project;

(B) has no expertise or information relevant to the qualifying project or any review, analysis, opinion, statement, permit, license, or other approval or decision associated therewith; or

(C) does not intend to submit comments on the qualifying project or conduct any review of such a project or make any decision with respect to such project in a manner other than in cooperation with the Bureau.

(c) STATE AUTHORITY.—A State in which a qualifying project is being considered may choose, consistent with State law—

(1) to participate as a cooperating agency; and

(2) to make subject to the processes of this subtitle all State agencies that—

(A) have jurisdiction over the qualifying project;

(B) are required to conduct or issue a review, analysis, or opinion for the qualifying project; or

(C) are required to make a determination on issuing a permit, license, or approval for the qualifying project.

**SEC. 1094. BUREAU RESPONSIBILITIES.**

(a) IN GENERAL.—The principal responsibilities of the Bureau under this subtitle are to—

(1) serve as the point of contact for applicants, State agencies, Indian tribes, and others regarding proposed qualifying projects;

(2) coordinate preparation of unified environmental documentation that will serve as the basis for all Federal decisions necessary to authorize the use of Federal lands for qualifying projects; and

(3) coordinate all Federal agency reviews necessary for project development and construction of qualifying projects.

(b) COORDINATION PROCESS.—The Bureau shall have the following coordination responsibilities:

(1) PRE-APPLICATION COORDINATION.—Notify cooperating agencies of proposed qualifying projects not later than 30 days after receipt of a proposal and facilitate a preapplication meeting for prospective applicants, relevant Federal and State agencies, and Indian tribes to—

(A) explain applicable processes, data requirements, and applicant submissions necessary to complete the required Federal agency reviews within the timeframe established; and

(B) establish the schedule for the qualifying project.

(2) CONSULTATION WITH COOPERATING AGENCIES.—Consult with the cooperating agencies throughout the Federal agency review process, identify and obtain relevant data in a timely manner, and set necessary deadlines for cooperating agencies.

(3) SCHEDULE.—Work with the qualifying project applicant and cooperating agencies to establish a project schedule. In establishing the schedule, the Bureau shall consider, among other factors—

(A) the responsibilities of cooperating agencies under applicable laws and regulations;

(B) the resources available to the cooperating agencies and the non-Federal qualifying project sponsor, as applicable;

(C) the overall size and complexity of the qualifying project;

(D) the overall schedule for and cost of the qualifying project; and

(E) the sensitivity of the natural and historic resources that may be affected by the qualifying project.

(4) ENVIRONMENTAL COMPLIANCE.—Prepare a unified environmental review document for each qualifying project application, incorporating a single environmental record on which all cooperating agencies with authority to issue approvals for a given qualifying project shall base project approval decisions. Help ensure that cooperating agencies make necessary decisions, within their respective authorities, regarding Federal approvals in accordance with the following timelines:

(A) Not later than one year after acceptance of a completed project application when an environmental assessment and finding of no significant impact is determined to be the appropriate level of review under the National Envi-

ronmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) Not later than one year and 30 days after the close of the public comment period for a draft environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), when an environmental impact statement is required under the same.

(5) CONSOLIDATED ADMINISTRATIVE RECORD.—Maintain a consolidated administrative record of the information assembled and used by the cooperating agencies as the basis for agency decisions.

(6) PROJECT DATA RECORDS.—To the extent practicable and consistent with Federal law, ensure that all project data is submitted and maintained in generally accessible electronic format, compile, and where authorized under existing law, make available such project data to cooperating agencies, the qualifying project applicant, and to the public.

(7) PROJECT MANAGER.—Appoint a project manager for each qualifying project. The project manager shall have authority to oversee the project and to facilitate the issuance of the relevant final

authorizing documents, and shall be responsible for ensuring fulfillment of all Bureau responsibilities set forth in this section and all cooperating agency responsibilities under section 1095.

**SEC. 1095. COOPERATING AGENCY RESPONSIBILITIES.**

(a) ADHERENCE TO BUREAU SCHEDULE.—Upon notification of an application for a qualifying project, all cooperating agencies shall submit to the Bureau a timeframe under which the cooperating agency reasonably considers it will be able to complete its authorizing responsibilities. The Bureau shall use the timeframe submitted under this subsection to establish the project schedule under section 1094, and the cooperating agencies shall adhere to the project schedule established by the Bureau.

(b) ENVIRONMENTAL RECORD.—Cooperating agencies shall submit to the Bureau all environmental review material produced or compiled in the course of carrying out activities required under Federal law consistent with the project schedule established by the Bureau.

(c) DATA SUBMISSION.—To the extent practicable and consistent with Federal law, the cooperating agencies shall submit all relevant project data to the Bureau in a generally accessible electronic format subject to the project schedule set forth by the Bureau.

**SEC. 1096. FUNDING TO PROCESS PERMITS.**

(a) IN GENERAL.—The Secretary, after public notice in accordance with the Administrative Procedures Act (5 U.S.C. 553), may accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a qualifying project.

(b) EFFECT ON PERMITTING.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decisionmaking with respect to permits, either substantively or procedurally.

(2) EVALUATION OF PERMITS.—In carrying out this section, the Secretary shall ensure that the evaluation of permits carried out using funds accepted under this section shall—

(A) be reviewed by the Regional Director of the Bureau, or the Regional Director's designee, of the region in which the qualifying project or activity is located; and

(B) use the same procedures for decisions that would otherwise be required for the evaluation of permits for similar projects or activities not carried out using funds authorized under this section.

(3) IMPARTIAL DECISIONMAKING.—In carrying out this section, the Secretary and the cooperating agencies receiving funds under this section for qualifying projects shall ensure that the use of the funds accepted under this section for such projects shall not—

(A) impact impartial decisionmaking with respect to the issuance of permits, either substantively or procedurally; or

(B) diminish, modify, or otherwise affect the statutory or regulatory authorities of such agencies.

(c) LIMITATION ON USE OF FUNDS.—None of the funds accepted under this section shall be used to carry out a review of the evaluation of permits required under subsection (b)(2)(A).

(d) PUBLIC AVAILABILITY.—The Secretary shall ensure that all final permit decisions carried out using funds authorized under this section are made available to the public, including on the Internet.

# Subtitle H—Bureau of Reclamation Project Streamlining

**SEC. 1101. SHORT TITLE.**

This subtitle may be cited as the ''Bureau of Reclamation Project Streamlining Act''.

**SEC. 1102. DEFINITIONS.**

In this subtitle:

(1) ENVIRONMENTAL IMPACT STATEMENT.—The term ''environmental impact statement'' means the detailed statement of environmental impacts of a project required to be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term ''environmental review process'' means the process of preparing an environmental impact statement, environmental assessment, categorical exclusion, or other document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project study.

(B) INCLUSIONS.—The term ''environmental review process'' includes the process for and completion of any environmental permit, approval, review, or study required for a project study under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) FEDERAL JURISDICTIONAL AGENCY.—The term ''Federal jurisdictional agency'' means a Federal agency with jurisdiction delegated by law, regu-

lation, order, or otherwise over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a project study under applicable Federal laws (including regulations).

(4) FEDERAL LEAD AGENCY.—The term ''Federal lead agency'' means the Bureau of Reclamation.

(5) PROJECT.—The term ''project'' means a surface water project, a project under the purview of title XVI of Public Law 102–575, or a rural water supply project investigated under Public Law 109–451 to be carried out, funded or operated in whole or in party by the Secretary pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(6) PROJECT SPONSOR.—The term ''project sponsor'' means a State, regional, or local authority or instrumentality or other qualifying entity, such as a water conservation district, irrigation district, water conservancy district, joint powers authority, mutual water company, canal company, rural water district or association, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

(7) PROJECT STUDY.—The term ''project study'' means a feasibility study for a project carried out pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(8) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(9) SURFACE WATER STORAGE.—The term ''surface water storage'' means any surface water reservoir or impoundment that would be owned, funded or operated in whole or in part by the Bureau of Reclamation or that would be integrated into a larger system owned, operated or administered in whole or in part by the Bureau of Reclamation.

**SEC. 1103. ACCELERATION OF STUDIES.**

(a) IN GENERAL.—To the extent practicable, a project study initiated by the Secretary, after the date of enactment of this Act, under the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto, shall—

(1) result in the completion of a final feasibility report not later than 3 years after the date of initiation;

(2) have a maximum Federal cost of $3,000,000; and

(3) ensure that personnel from the local project area, region, and headquarters levels of the Bureau of Reclamation concurrently conduct the review required under this section.

(b) EXTENSION.—If the Secretary determines that a project study described in subsection (a) will not be conducted in accordance with subsection (a), the Secretary, not later than 30 days after the date of making the determination, shall—

(1) prepare an updated project study schedule and cost estimate;

(2) notify the non-Federal project cost-sharing partner that the project study has been delayed; and

(3) provide written notice to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate as to the reasons the requirements of subsection (a) are not attainable.

(c) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding the requirements of subsection (a), the Secretary may extend the timeline of a project study by a period not to exceed 3 years, if the Secretary determines that the project study is too complex to comply with the requirements of subsection (a).

(2) FACTORS.—In making a determination that a study is too complex to comply with the requirements of subsection (a), the Secretary shall consider—

(A) the type, size, location, scope, and overall cost of the project;

(B) whether the project will use any innovative design or construction techniques;

(C) whether the project will require significant action by other Federal, State, or local agencies;

(D) whether there is significant public dispute as to the nature or effects of the project; and

(E) whether there is significant public dispute as to the economic or environmental costs or benefits of the project.

(3) NOTIFICATION.—Each time the Secretary makes a determination under this subsection, the Secretary shall provide written notice to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate as to the results of that determination, including an identification of the

specific one or more factors used in making the determination that the project is complex.

(4) LIMITATION.—The Secretary shall not extend the timeline for a project study for a period of more than 7 years, and any project study that is not completed before that date shall no longer be authorized.

(d) REVIEWS.—Not later than 90 days after the date of the initiation of a project study described in subsection (a), the Secretary shall—

(1) take all steps necessary to initiate the process for completing federally mandated reviews that the Secretary is required to complete as part of the study, including the environmental review process under section 1105;

(2) convene a meeting of all Federal, tribal, and State agencies identified under section 1105(d) that may—

(A) have jurisdiction over the project;

(B) be required by law to conduct or issue a review, analysis, opinion, or statement for the project study; or

(C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study; and

(3) take all steps necessary to provide information that will enable required reviews and analyses related to the project to be conducted by other agencies in a thorough and timely manner.

(e) INTERIM REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and make publicly available a report that describes—

(1) the status of the implementation of the planning process under this section, including the number of participating projects;

(2) a review of project delivery schedules, including a description of any delays on those studies initiated prior to the date of the enactment of this Act; and

(3) any recommendations for additional authority necessary to support efforts to expedite the project.

(f) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Nat-

ural Resources of the Senate and make publicly available a report that describes—

(1) the status of the implementation of this section, including a description of each project study subject to the requirements of this section;

(2) the amount of time taken to complete each project study; and

(3) any recommendations for additional authority necessary to support efforts to expedite the project study process, including an analysis of whether the limitation established by subsection (a)(2) needs to be adjusted to address the impacts of inflation.

**SEC. 1104. EXPEDITED COMPLETION OF REPORTS.**

The Secretary shall—

(1) expedite the completion of any ongoing project study initiated before the date of enactment of this Act; and

(2) if the Secretary determines that the project is justified in a completed report, proceed directly to preconstruction planning, engineering, and design of the project in accordance with the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

**SEC. 1105. PROJECT ACCELERATION.**

(a) APPLICABILITY.—

(1) IN GENERAL.—This section shall apply to—

(A) each project study that is initiated after the date of enactment of this Act and for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the extent determined appropriate by the Secretary, to other project studies initiated before the date of enactment of this Act and for which an environmental review process document is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(C) any project study for the development of a non-federally owned and operated surface water storage project for which the Secretary determines there is a demonstrable Federal interest and the project—

(i) is located in a river basin where other Bureau of Reclamation water projects are located;

(ii) will create additional water supplies that support Bureau of Reclamation water projects; or

(iii) will become integrated into the operation of Bureau of Reclamation water projects.

(2) FLEXIBILITY.—Any authority granted under this section may be exercised, and any requirement established under this section may be satisfied, for the conduct of an environmental review process for a project study, a class of project studies, or a program of project studies.

(3) LIST OF PROJECT STUDIES.—

(A) IN GENERAL.—The Secretary shall annually prepare, and make publicly available, a list of all project studies that the Secretary has determined—

(i) meets the standards described in paragraph (1); and

(ii) does not have adequate funding to make substantial progress toward the completion of the project study.

(B) INCLUSIONS.—The Secretary shall include for each project study on the list under subparagraph (A) a description of the estimated amounts necessary to make substantial progress on the project study.

(b) PROJECT REVIEW PROCESS.—

(1) IN GENERAL.—The Secretary shall develop and implement a coordinated environmental review process for the development of project studies.

(2) COORDINATED REVIEW.—The coordinated environmental review process described in paragraph (1) shall require that any review, analysis, opinion, statement, permit, license, or other approval or decision issued or made by a Federal, State, or local governmental agency or an Indian tribe for a project study described in subsection (b) be conducted, to the maximum extent practicable, concurrently with any other applicable governmental agency or Indian tribe.

(3) TIMING.—The coordinated environmental review process under this subsection shall be completed not later than the date on which the Secretary, in consultation and concurrence with the agencies identified under section 1105(d), establishes with respect to the project study.

(c) LEAD AGENCIES.—

(1) JOINT LEAD AGENCIES.—

(A) IN GENERAL.—Subject to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the requirements of section 1506.8 of title 40, Code

of Federal Regulations (or successor regulations), including the concurrence of the proposed joint lead agency, a project sponsor may serve as the joint lead agency.

(B) PROJECT SPONSOR AS JOINT LEAD AGENCY.—A project sponsor that is a State or local governmental entity may—

(i) with the concurrence of the Secretary, serve as a joint lead agency with the Federal lead agency for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) prepare any environmental review process document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) required in support of any action or approval by the Secretary if—

(I) the Secretary provides guidance in the preparation process and independently evaluates that document;

(II) the project sponsor complies with all requirements applicable to the Secretary under—

(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(bb) any regulation implementing that Act; and

(cc) any other applicable Federal law; and

(III) the Secretary approves and adopts the document before the Secretary takes any subsequent action or makes any approval based on that document, regardless of whether the action or approval of the Secretary results in Federal funding.

(2) DUTIES.—The Secretary shall ensure that—

(A) the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection; and

(B) any environmental document prepared by the project sponsor is appropriately supple-

mented to address any changes to the project the Secretary determines are necessary.

(3) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency making any determination related to the project study to the same extent that the Federal agency could adopt or use a document prepared by another Federal agency under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

(4) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project study, the Federal lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper and within the authority of the Federal lead agency to facilitate the expeditious resolution of the environmental review process for the project study; and

(B) to prepare or ensure that any required environmental impact statement or other envi-

ronmental review document for a project study required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

(d) PARTICIPATING AND COOPERATING AGENCIES.—

(1) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to carrying out the environmental review process for a project study, the Secretary shall identify, as early as practicable in the environmental review process, all Federal, State, and local government agencies and Indian tribes that may—

(A) have jurisdiction over the project;

(B) be required by law to conduct or issue a review, analysis, opinion, or statement for the project study; or

(C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study.

(2) STATE AUTHORITY.—If the environmental review process is being implemented by the Secretary for a project study within the boundaries of a State, the State, consistent with State law, may

1 choose to participate in the process and to make
2 subject to the process all State agencies that—
3 (A) have jurisdiction over the project;
4 (B) are required to conduct or issue a re-
5 view, analysis, opinion, or statement for the
6 project study; or
7 (C) are required to make a determination
8 on issuing a permit, license, or other approval
9 or decision for the project study.
10 (3) INVITATION.—
11 (A) IN GENERAL.—The Federal lead agen-
12 cy shall invite, as early as practicable in the en-
13 vironmental review process, any agency identi-
14 fied under paragraph (1) to become a partici-
15 pating or cooperating agency, as applicable, in
16 the environmental review process for the project
17 study.
18 (B) DEADLINE.—An invitation to partici-
19 pate issued under subparagraph (A) shall set a
20 deadline by which a response to the invitation
21 shall be submitted, which may be extended by
22 the Federal lead agency for good cause.
23 (4) PROCEDURES.—Section 1501.6 of title 40,
24 Code of Federal Regulations (as in effect on the
25 date of enactment of the Bureau of Reclamation

Project Streamlining Act) shall govern the identification and the participation of a cooperating agency.

(5) FEDERAL COOPERATING AGENCIES.—Any Federal agency that is invited by the Federal lead agency to participate in the environmental review process for a project study shall be designated as a cooperating agency by the Federal lead agency unless the invited agency informs the Federal lead agency, in writing, by the deadline specified in the invitation that the invited agency—

(A)(i) has no jurisdiction or authority with respect to the project;

(ii) has no expertise or information relevant to the project; or

(iii) does not have adequate funds to participate in the project; and

(B) does not intend to submit comments on the project.

(6) ADMINISTRATION.—A participating or cooperating agency shall comply with this section and any schedule established under this section.

(7) EFFECT OF DESIGNATION.—Designation as a participating or cooperating agency under this

subsection shall not imply that the participating or cooperating agency—

(A) supports a proposed project; or

(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

(8) CONCURRENT REVIEWS.—Each participating or cooperating agency shall—

(A) carry out the obligations of that agency under other applicable law concurrently and in conjunction with the required environmental review process, unless doing so would prevent the participating or cooperating agency from conducting needed analysis or otherwise carrying out those obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(e) NON-FEDERAL PROJECTS INTEGRATED INTO RECLAMATION SYSTEMS.—The Federal lead agency shall serve in that capacity for the entirety of all non-Federal projects that will be integrated into a larger system owned,

1 operated or administered in whole or in part by the Bu-
2 reau of Reclamation.
3 (f) NON-FEDERAL PROJECT.—If the Secretary deter-
4 mines that a project can be expedited by a non-Federal
5 sponsor and that there is a demonstrable Federal interest
6 in expediting that project, the Secretary shall take such
7 actions as are necessary to advance such a project as a
8 non-Federal project, including, but not limited to, entering
9 into agreements with the non-Federal sponsor of such
10 project to support the planning, design and permitting of
11 such project as a non-Federal project.
12 (g) PROGRAMMATIC COMPLIANCE.—
13 (1) IN GENERAL.—The Secretary shall issue
14 guidance regarding the use of programmatic ap-
15 proaches to carry out the environmental review proc-
16 ess that—
17 (A) eliminates repetitive discussions of the
18 same issues;
19 (B) focuses on the actual issues ripe for
20 analyses at each level of review;
21 (C) establishes a formal process for coordi-
22 nating with participating and cooperating agen-
23 cies, including the creation of a list of all data
24 that are needed to carry out an environmental
25 review process; and

(D) complies with—

(i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) all other applicable laws.

(2) REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall—

(A) as the first step in drafting guidance under that paragraph, consult with relevant Federal, State, and local governmental agencies, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches;

(B) emphasize the importance of collaboration among relevant Federal, State, and local governmental agencies, and Indian tribes in undertaking programmatic reviews, especially with respect to including reviews with a broad geographical scope;

(C) ensure that the programmatic reviews—

(i) promote transparency, including of the analyses and data used in the environmental review process, the treatment of any deferred issues raised by Federal, State, and local governmental agencies, In-

1 dian tribes, or the public, and the temporal
2 and special scales to be used to analyze
3 those issues;
4 (ii) use accurate and timely informa-
5 tion in the environmental review process,
6 including—
7 (I) criteria for determining the
8 general duration of the usefulness of
9 the review; and
10 (II) the timeline for updating any
11 out-of-date review;
12 (iii) describe—
13 (I) the relationship between pro-
14 grammatic analysis and future tiered
15 analysis; and
16 (II) the role of the public in the
17 creation of future tiered analysis; and
18 (iv) are available to other relevant
19 Federal, State, and local governmental
20 agencies, Indian tribes, and the public;
21 (D) allow not fewer than 60 days of public
22 notice and comment on any proposed guidance;
23 and
24 (E) address any comments received under
25 subparagraph (D).

(h) COORDINATED REVIEWS.—

(1) COORDINATION PLAN.—

(A) ESTABLISHMENT.—The Federal lead agency shall, after consultation with and with the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, establish a plan for coordinating public and agency participation in, and comment on, the environmental review process for a project study or a category of project studies.

(B) SCHEDULE.—

(i) IN GENERAL.—As soon as practicable but not later than 45 days after the close of the public comment period on a draft environmental impact statement, the Federal lead agency, after consultation with and the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, shall establish, as part of the coordination plan established in subparagraph (A), a schedule for completion of the environmental review process for the project study.

(ii) FACTORS FOR CONSIDERATION.—In establishing a schedule, the Secretary shall consider factors such as—

(I) the responsibilities of participating and cooperating agencies under applicable laws;

(II) the resources available to the project sponsor, joint lead agency, and other relevant Federal and State agencies, as applicable;

(III) the overall size and complexity of the project;

(IV) the overall schedule for and cost of the project; and

(V) the sensitivity of the natural and historical resources that could be affected by the project.

(iii) MODIFICATIONS.—The Secretary may—

(I) lengthen a schedule established under clause (i) for good cause; and

(II) shorten a schedule only with concurrence of the affected participating and cooperating agencies and

the project sponsor or joint lead agency, as applicable.

(iv) DISSEMINATION.—A copy of a schedule established under clause (i) shall be—

(I) provided to each participating and cooperating agency and the project sponsor or joint lead agency, as applicable; and

(II) made available to the public.

(2) COMMENT DEADLINES.—The Federal lead agency shall establish the following deadlines for comment during the environmental review process for a project study:

(A) DRAFT ENVIRONMENTAL IMPACT STATEMENTS.—For comments by Federal and State agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of the draft environmental impact statement, unless—

(i) a different deadline is established by agreement of the Federal lead agency, the project sponsor or joint lead agency, as

applicable, and all participating and cooperating agencies; or

(ii) the deadline is extended by the Federal lead agency for good cause.

(B) OTHER ENVIRONMENTAL REVIEW PROCESSES.—For all other comment periods established by the Federal lead agency for agency or public comments in the environmental review process, a period of not more than 30 days after the date on which the materials on which comment is requested are made available, unless—

(i) a different deadline is established by agreement of the Federal lead agency, the project sponsor, or joint lead agency, as applicable, and all participating and cooperating agencies; or

(ii) the deadline is extended by the Federal lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project study, including the issuance or denial of a permit or license, is required to be made by the date described in subsection (i)(5)(B), the Secretary shall submit to the Com-

mittee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—

(A) as soon as practicable after the 180-day period described in subsection (i)(5)(B), an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project study have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection reduces any time period provided for public comment in the environmental review process under applicable Federal law (including regulations).

(5) TRANSPARENCY REPORTING.—

(A) REPORTING REQUIREMENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish and maintain an electronic database and, in coordination with other Federal and State agencies, issue re-

porting requirements to make publicly available the status and progress with respect to compliance with applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal, State, or local approval or action required for a project study for which this section is applicable.

(B) PROJECT STUDY TRANSPARENCY.—Consistent with the requirements established under subparagraph (A), the Secretary shall make publicly available the status and progress of any Federal, State, or local decision, action, or approval required under applicable laws for each project study for which this section is applicable.

(i) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The Federal lead agency, the cooperating agencies, and any participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or result in the denial of any approval required for the project study under applicable laws.

(2) FEDERAL LEAD AGENCY RESPONSIBILITIES.—

(A) IN GENERAL.—The Federal lead agency shall make information available to the cooperating agencies and participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(B) DATA SOURCES.—The information under subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

(3) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the Federal lead agency, cooperating and participating agencies shall identify, as early as practicable, any issues of concern regarding the potential environmental or socioeconomic impacts of the project, including any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project study.

(4) ACCELERATED ISSUE RESOLUTION AND ELEVATION.—

(A) IN GENERAL.—On the request of a participating or cooperating agency or project sponsor, the Secretary shall convene an issue resolution meeting with the relevant participating and cooperating agencies and the project sponsor or joint lead agency, as applicable, to resolve issues that may—

(i) delay completion of the environmental review process; or

(ii) result in denial of any approval required for the project study under applicable laws.

(B) MEETING DATE.—A meeting requested under this paragraph shall be held not later than 21 days after the date on which the Secretary receives the request for the meeting, unless the Secretary determines that there is good cause to extend that deadline.

(C) NOTIFICATION.—On receipt of a request for a meeting under this paragraph, the Secretary shall notify all relevant participating and cooperating agencies of the request, includ-

ing the issue to be resolved and the date for the meeting.

(D) ELEVATION OF ISSUE RESOLUTION.—If a resolution cannot be achieved within the 30-day period beginning on the date of a meeting under this paragraph and a determination is made by the Secretary that all information necessary to resolve the issue has been obtained, the Secretary shall forward the dispute to the heads of the relevant agencies for resolution.

(E) CONVENTION BY SECRETARY.—The Secretary may convene an issue resolution meeting under this paragraph at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under subparagraph (A).

(5) FINANCIAL PENALTY PROVISIONS.—

(A) IN GENERAL.—A Federal jurisdictional agency shall complete any required approval or decision for the environmental review process on an expeditious basis using the shortest existing applicable process.

(B) FAILURE TO DECIDE.—

(i) IN GENERAL.—

(I) TRANSFER OF FUNDS.—If a Federal jurisdictional agency fails to render a decision required under any Federal law relating to a project study that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, statement, opinion, or other approval by the date described in clause (ii), the amount of funds made available to support the office of the head of the Federal jurisdictional agency shall be reduced by an amount of funding equal to the amount specified in item (aa) or (bb) of subclause (II), and those funds shall be made available to the division of the Federal jurisdictional agency charged with rendering the decision by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C).

(II) AMOUNT TO BE TRANSFERRED.—The amount referred to in subclause (I) is—

(aa) $20,000 for any project study requiring the preparation of an environmental assessment or environmental impact statement; or

(bb) $10,000 for any project study requiring any type of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) other than an environmental assessment or environmental impact statement.

(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the

1 project under the National Environ-
2 mental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.).
4 (C) LIMITATIONS.—
5 (i) IN GENERAL.—No transfer of
6 funds under subparagraph (B) relating to
7 an individual project study shall exceed, in
8 any fiscal year, an amount equal to 1 per-
9 cent of the funds made available for the
10 applicable agency office.
11 (ii) FAILURE TO DECIDE.—The total
12 amount transferred in a fiscal year as a re-
13 sult of a failure by an agency to make a
14 decision by an applicable deadline shall not
15 exceed an amount equal to 5 percent of the
16 funds made available for the applicable
17 agency office for that fiscal year.
18 (iii) AGGREGATE.—Notwithstanding
19 any other provision of law, for each fiscal
20 year, the aggregate amount of financial
21 penalties assessed against each applicable
22 agency office under this Act and any other
23 Federal law as a result of a failure of the
24 agency to make a decision by an applicable
25 deadline for environmental review, includ-

ing the total amount transferred under this paragraph, shall not exceed an amount equal to 9.5 percent of the funds made available for the agency office for that fiscal year.

(D) NOTIFICATION OF TRANSFERS.—Not later than 10 days after the last date in a fiscal year on which funds of the Federal jurisdictional agency may be transferred under subparagraph (B)(5) with respect to an individual decision, the agency shall submit to the appropriate committees of the House of Representatives and the Senate written notification that includes a description of—

(i) the decision;

(ii) the project study involved;

(iii) the amount of each transfer under subparagraph (B) in that fiscal year relating to the decision;

(iv) the total amount of all transfers under subparagraph (B) in that fiscal year relating to the decision; and

(v) the total amount of all transfers of the agency under subparagraph (B) in that fiscal year.

(E) NO FAULT OF AGENCY.—

(i) IN GENERAL.—A transfer of funds under this paragraph shall not be made if the applicable agency described in subparagraph (A) notifies, with a supporting explanation, the Federal lead agency, cooperating agencies, and project sponsor, as applicable, that—

(I) the agency has not received necessary information or approvals from another entity in a manner that affects the ability of the agency to meet any requirements under Federal, State, or local law;

(II) significant new information, including from public comments, or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application; or

(III) the agency lacks the financial resources to complete the review under the scheduled timeframe, including a description of the number of

full-time employees required to complete the review, the amount of funding required to complete the review, and a justification as to why not enough funding is available to complete the review by the deadline.

(ii) LACK OF FINANCIAL RESOURCES.—If the agency provides notice under clause (i)(III), the Inspector General of the agency shall—

(I) conduct a financial audit to review the notice; and

(II) not later than 90 days after the date on which the review described in subclause (I) is completed, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate the results of the audit conducted under subclause (I).

(F) LIMITATION.—The Federal agency from which funds are transferred pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent

office, to reimburse that office for the loss of the funds.

(G) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

(j) MEMORANDUM OF AGREEMENTS FOR EARLY COORDINATION.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other, State and local agencies, and Indian tribes on environmental review and Bureau of Reclamation project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, prevent potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

(B) the cooperation referred to in subparagraph (A) should include the development of policies and the designation of staff that advise planning agencies and project sponsors of stud-

ies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(2) TECHNICAL ASSISTANCE.—If requested at any time by a State or project sponsor, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the maximum extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or project sponsor in carrying out early coordination activities.

(3) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or project sponsor, the Federal lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, Indian tribes, State and local governments, and other appropriate entities to carry out the early coordination activities, including providing technical assistance in identifying potential impacts and mitigation issues in an integrated fashion.

(k) LIMITATIONS.—Nothing in this section preempts or interferes with—

(1) any obligation to comply with the provisions of any Federal law, including—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) any other Federal environmental law;

(2) the reviewability of any final Federal agency action in a court of the United States or in the court of any State;

(3) any requirement for seeking, considering, or responding to public comment; or

(4) any power, jurisdiction, responsibility, duty, or authority that a Federal, State, or local governmental agency, Indian tribe, or project sponsor has with respect to carrying out a project or any other provision of law applicable to projects.

(l) TIMING OF CLAIMS.—

(1) TIMING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or other approval issued by a Federal agency for a project study shall be barred unless the claim is filed not later than 3 years after publication of a notice in the Federal Register announcing that the permit, license, or

other approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law that allows judicial review.

(B) APPLICABILITY.—Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of a permit, license, or other approval.

(2) NEW INFORMATION.—

(A) IN GENERAL.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under title 40, Code of Federal Regulations (including successor regulations).

(B) SEPARATE ACTION.—The preparation of a supplemental environmental impact statement or other environmental document, if required under this section, shall be considered a separate final agency action and the deadline for filing a claim for judicial review of the action shall be 3 years after the date of publication of a notice in the Federal Register an-

nouncing the action relating to such supplemental environmental impact statement or other environmental document.

(m) CATEGORICAL EXCLUSIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(A) survey the use by the Bureau of Reclamation of categorical exclusions in projects since 2005;

(B) publish a review of the survey that includes a description of—

(i) the types of actions that were categorically excluded or could be the basis for developing a new categorical exclusion; and

(ii) any requests previously received by the Secretary for new categorical exclusions; and

(C) solicit requests from other Federal agencies and project sponsors for new categorical exclusions.

(2) NEW CATEGORICAL EXCLUSIONS.—Not later than 1 year after the date of enactment of this Act, if the Secretary has identified a category of ac-

tivities that merit establishing a categorical exclusion that did not exist on the day before the date of enactment this Act based on the review under paragraph (1), the Secretary shall publish a notice of proposed rulemaking to propose that new categorical exclusion, to the extent that the categorical exclusion meets the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (or successor regulation).

(n) REVIEW OF PROJECT ACCELERATION REFORMS.—

(1) IN GENERAL.—The Comptroller General of the United States shall—

(A) assess the reforms carried out under this section; and

(B) not later than 5 years and not later than 10 years after the date of enactment of this Act, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the results of the assessment.

(2) CONTENTS.—The reports under paragraph (1) shall include an evaluation of impacts of the reforms carried out under this section on—

(A) project delivery;

(B) compliance with environmental laws; and

(C) the environmental impact of projects.

(o) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process.

(p) CATEGORICAL EXCLUSIONS IN EMERGENCIES.—For the repair, reconstruction, or rehabilitation of a Bureau of Reclamation surface water storage project that is in operation or under construction when damaged by an event or incident that results in a declaration by the President of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall treat such repair, reconstruction, or rehabilitation activity as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations (or successor regulations), if the repair or reconstruction activity is—

(1) in the same location with the same capacity, dimensions, and design as the original Bureau of

Reclamation surface water storage project as before the declaration described in this section; and

(2) commenced within a 2-year period beginning on the date of a declaration described in this subsection.

**SEC. 1106. ANNUAL REPORT TO CONGRESS.**

(a) IN GENERAL.—Not later than February 1 of each year, the Secretary shall develop and submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report, to be entitled ''Report to Congress on Future Water Project Development'', that identifies the following:

(1) PROJECT REPORTS.—Each project report that meets the criteria established in subsection (c)(1)(A).

(2) PROPOSED PROJECT STUDIES.—Any proposed project study submitted to the Secretary by a non-Federal interest pursuant to subsection (b) that meets the criteria established in subsection (c)(1)(A).

(3) PROPOSED MODIFICATIONS.—Any proposed modification to an authorized water project or project study that meets the criteria established in subsection (c)(1)(A) that—

(A) is submitted to the Secretary by a non-Federal interest pursuant to subsection (b); or

(B) is identified by the Secretary for authorization.

(4) EXPEDITED COMPLETION OF REPORT AND DETERMINATIONS.—Any project study that was expedited and any Secretarial determinations under section 1104.

(b) REQUESTS FOR PROPOSALS.—

(1) PUBLICATION.—Not later than May 1 of each year, the Secretary shall publish in the Federal Register a notice requesting proposals from non-Federal interests for proposed project studies and proposed modifications to authorized projects and project studies to be included in the annual report.

(2) DEADLINE FOR REQUESTS.—The Secretary shall include in each notice required by this subsection a requirement that non-Federal interests submit to the Secretary any proposals described in paragraph (1) by not later than 120 days after the date of publication of the notice in the Federal Register in order for the proposals to be considered for inclusion in the annual report.

(3) NOTIFICATION.—On the date of publication of each notice required by this subsection, the Secretary shall—

(A) make the notice publicly available, including on the Internet; and

(B) provide written notification of the publication to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) CONTENTS.—

(1) PROJECT REPORTS, PROPOSED PROJECT STUDIES, AND PROPOSED MODIFICATIONS.—

(A) CRITERIA FOR INCLUSION IN REPORT.—The Secretary shall include in the annual report only those project reports, proposed project studies, and proposed modifications to authorized projects and project studies that—

(i) are related to the missions and authorities of the Bureau of Reclamation;

(ii) require specific congressional authorization, including by an Act of Congress;

(iii) have not been congressionally authorized;

(iv) have not been included in any previous annual report; and

(v) if authorized, could be carried out by the Bureau of Reclamation.

(B) DESCRIPTION OF BENEFITS.—

(i) DESCRIPTION.—The Secretary shall describe in the annual report, to the extent applicable and practicable, for each proposed project study and proposed modification to an authorized water resources development project or project study included in the annual report, the benefits, as described in clause (ii), of each such study or proposed modification.

(ii) BENEFITS.—The benefits (or expected benefits, in the case of a proposed project study) described in this clause are benefits to—

(I) the protection of human life and property;

(II) improvement to domestic irrigated water and power supplies;

(III) the national economy;

(IV) the environment; or

(V) the national security interests of the United States.

(C) IDENTIFICATION OF OTHER FACTORS.—The Secretary shall identify in the annual report, to the extent practicable—

(i) for each proposed project study included in the annual report, the non-Federal interest that submitted the proposed project study pursuant to subsection (b); and

(ii) for each proposed project study and proposed modification to a project or project study included in the annual report, whether the non-Federal interest has demonstrated—

(I) that local support exists for the proposed project study or proposed modification to an authorized project or project study (including the surface water storage development project that is the subject of the proposed feasibility study or the proposed modification to an authorized project study); and

(II) the financial ability to provide the required non-Federal cost share.

(2) TRANSPARENCY.—The Secretary shall include in the annual report, for each project report, proposed project study, and proposed modification to a project or project study included under paragraph (1)(A)—

(A) the name of the associated non-Federal interest, including the name of any non-Federal interest that has contributed, or is expected to contribute, a non-Federal share of the cost of—

(i) the project report;

(ii) the proposed project study;

(iii) the authorized project study for which the modification is proposed; or

(iv) construction of—

(I) the project that is the subject of—

(aa) the water report;

(bb) the proposed project study; or

(cc) the authorized project study for which a modification is proposed; or

(II) the proposed modification to a project;

(B) a letter or statement of support for the water report, proposed project study, or proposed modification to a project or project study from each associated non-Federal interest;

(C) the purpose of the feasibility report, proposed feasibility study, or proposed modification to a project or project study;

(D) an estimate, to the extent practicable, of the Federal, non-Federal, and total costs of—

(i) the proposed modification to an authorized project study; and

(ii) construction of—

(I) the project that is the subject of—

(aa) the project report; or

(bb) the authorized project study for which a modification is proposed, with respect to the

change in costs resulting from such modification; or

(II) the proposed modification to an authorized project; and

(E) an estimate, to the extent practicable, of the monetary and nonmonetary benefits of—

(i) the project that is the subject of—

(I) the project report; or

(II) the authorized project study for which a modification is proposed, with respect to the benefits of such modification; or

(ii) the proposed modification to an authorized project.

(3) CERTIFICATION.—The Secretary shall include in the annual report a certification stating that each feasibility report, proposed feasibility study, and proposed modification to a project or project study included in the annual report meets the criteria established in paragraph (1)(A).

(4) APPENDIX.—The Secretary shall include in the annual report an appendix listing the proposals submitted under subsection (b) that were not included in the annual report under paragraph (1)(A) and a description of why the Secretary determined

that those proposals did not meet the criteria for inclusion under such paragraph.

(d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—Notwithstanding any other deadlines required by this section, the Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a notice required by subsection (b)(1); and

(2) include in such notice a requirement that non-Federal interests submit to the Secretary any proposals described in subsection (b)(1) by not later than 120 days after the date of publication of such notice in the Federal Register in order for such proposals to be considered for inclusion in the first annual report developed by the Secretary under this section.

(e) PUBLICATION.—Upon submission of an annual report to Congress, the Secretary shall make the annual report publicly available, including through publication on the Internet.

(f) DEFINITION.—In this section, the term ''project report'' means a final feasibility report developed under the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

# Subtitle I—Accelerated Revenue, Repayment, and Surface Water Storage Enhancement

**SEC. 1111. SHORT TITLE.**

This subtitle may be cited as the ''Accelerated Revenue, Repayment, and Surface Water Storage Enhancement Act''.

**SEC. 1112. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND CONTRACTORS OF FEDERALLY DEVELOPED WATER SUPPLIES.**

(a) CONVERSION AND PREPAYMENT OF CONTRACTS.—

(1) CONVERSION.—Upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this Act and between the United States and a water users' association to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions. The manner of conversion under this paragraph shall be as follows:

(A) Water service contracts that were entered into under section 9(e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted

under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195).

(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).

(2) PREPAYMENT.—Except for those repayment contracts under which the contractor has previously negotiated for prepayment, all repayment contracts under section 9(d) of that Act (53 Stat. 1195) in effect on the date of enactment of this Act at the request of the contractor, and all contracts converted pursuant to paragraph (1)(A) shall—

(A) provide for the repayment, either in lump sum or by accelerated prepayment, of the remaining construction costs identified in water project specific irrigation rate repayment schedules, as adjusted to reflect payment not reflected in such schedule, and properly assignable for ultimate return by the contractor, or if made in approximately equal installments, no later than 3 years after the effective date of the

repayment contract, such amount to be discounted by ½ the Treasury rate. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days following receipt of request of the contractor;

(B) require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversation under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law;

(C) provide that power revenues will not be available to aid in repayment of construction costs allocated to irrigation under the contract; and

(D) continue so long as the contractor pays applicable charges, consistent with section

9(d) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(3) CONTRACT REQUIREMENTS.—Except for those repayment contracts under which the contractor has previously negotiated for prepayment, the following shall apply with regard to all repayment contracts under subsection (c)(1) of section 9 of that Act (53 Stat. 1195) in effect on the date of enactment of this Act at the request of the contractor, and all contracts converted pursuant to paragraph (1)(B):

(A) Provide for the repayment in lump sum of the remaining construction costs identified in water project specific municipal and industrial rate repayment schedules, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days after receipt of request of contractor.

(B) The contract shall require that construction costs or other capitalized costs incurred after the effective date of the contract or

not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversation under this subsection of less than $5,000,000. If such amount is $5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law.

(C) Continue so long as the contractor pays applicable charges, consistent with section 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(4) CONDITIONS.—All contracts entered into pursuant to paragraphs (1), (2), and (3) shall—

(A) not be adjusted on the basis of the type of prepayment financing used by the water users' association;

(B) conform to any other agreements, such as applicable settlement agreements and new constructed appurtenant facilities; and

(C) not modify other water service, repayment, exchange and transfer contractual rights between the water users' association, and the

Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association and their landowners as provided under State law.

(b) ACCOUNTING.—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one year and not more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary shall credit such overpayment as an offset against any outstanding or future obligation of the contractor.

(c) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) EFFECT OF EXISTING LAW.—Upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs pursuant to a contract entered into pursuant to subsection

(a)(2)(A), subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

(2) EFFECT OF OTHER OBLIGATIONS.—The obligation of a contractor to repay construction costs or other capitalized costs described in subsection (a)(2)(B), (a)(3)(B), or (b) shall not affect a contractor's status as having repaid all of the construction costs assignable to the contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the amount required to be paid by the contractor under the repayment contract entered into pursuant to subsection (a)(2)(A) have been paid.

(d) EFFECT ON EXISTING LAW NOT ALTERED.—Implementation of the provisions of this subtitle shall not alter—

(1) the repayment obligation of any water service or repayment contractor receiving water from the same water project, or shift any costs that would otherwise have been properly assignable to the water users' association identified in subsections (a)(1), (a)(2), and (a)(3) absent this section, including operation and maintenance costs, construction costs, or

other capitalized costs incurred after the date of the enactment of this Act, or to other contractors; and

(2) specific requirements for the disposition of amounts received as repayments by the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(e) SURFACE WATER STORAGE ENHANCEMENT PROGRAM.—

(1) IN GENERAL.—Except as provided in subsection (d)(2), three years following the date of enactment of this Act, 50 percent of receipts generated from prepayment of contracts under this section beyond amounts necessary to cover the amount of receipts forgone from scheduled payments under current law for the 10-year period following the date of enactment of this Act shall be directed to the Reclamation Surface Water Storage Account under paragraph (2).

(2) SURFACE STORAGE ACCOUNT.—The Secretary shall allocate amounts collected under paragraph (1) into the ''Reclamation Surface Storage Account'' to fund the construction of surface water storage. The Secretary may also enter into cooperative agreements with water users' associations for

the construction of surface water storage and amounts within the Surface Storage Account may be used to fund such construction. Surface water storage projects that are otherwise not federally authorized shall not be considered Federal facilities as a result of any amounts allocated from the Surface Storage Account for part or all of such facilities.

(3) REPAYMENT.—Amounts used for surface water storage construction from the Account shall be fully reimbursed to the Account consistent with the requirements under Federal reclamation law (the law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093))), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.) except that all funds reimbursed shall be deposited in the Account established under paragraph (2).

(4) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Account under this subsection shall—

(A) be made available in accordance with this section, subject to appropriation; and

(B) be in addition to amounts appropriated for such purposes under any other provision of law.

(5) PURPOSES OF SURFACE WATER STORAGE.—Construction of surface water storage under this section shall be made for the following purposes:

(A) Increased municipal and industrial water supply.

(B) Agricultural floodwater, erosion, and sedimentation reduction.

(C) Agricultural drainage improvements.

(D) Agricultural irrigation.

(E) Increased recreation opportunities.

(F) Reduced adverse impacts to fish and wildlife from water storage or diversion projects within watersheds associated with water storage projects funded under this section.

(G) Any other purposes consistent with reclamation laws or other Federal law.

(f) DEFINITIONS.—For the purposes of this subtitle, the following definitions apply:

(1) ACCOUNT.—The term ''Account'' means the Reclamation Surface Water Storage Account established under subsection (e)(2).

(2) CONSTRUCTION.—The term ''construction'' means the designing, materials engineering and testing, surveying, and building of surface water storage including additions to existing surface water storage

and construction of new surface water storage facilities, exclusive of any Federal statutory or regulatory obligations relating to any permit, review, approval, or other such requirement.

(3) SURFACE WATER STORAGE.—The term ''surface water storage'' means any federally owned facility under the jurisdiction of the Bureau of Reclamation or any non-Federal facility used for the surface storage and supply of water resources.

(4) TREASURY RATE.—The term ''Treasury rate'' means the 20-year Constant Maturity Treasury (CMT) rate published by the United States Department of the Treasury existing on the effective date of the contract.

(5) WATER USERS' ASSOCIATION.—The term ''water users' association'' means—

(A) an entity organized and recognized under State laws that is eligible to enter into contracts with reclamation to receive contract water for delivery to and users of the water and to pay applicable charges; and

(B) includes a variety of entities with different names and differing functions, such as associations, conservatory district, irrigation

district, municipality, and water project contract unit.

# Subtitle J—Safety of Dams

**SEC. 1121. AUTHORIZATION OF ADDITIONAL PROJECT BENEFITS.**

The Reclamation Safety of Dams Act of 1978 is amended—

(1) in section 3, by striking ''Construction'' and inserting ''Except as provided in section 5B, construction''; and

(2) by inserting after section 5A (43 U.S.C. 509) the following:

**''SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BENEFITS.**

''Notwithstanding section 3, if the Secretary determines that additional project benefits, including but not limited to additional conservation storage capacity, are feasible and not inconsistent with the purposes of this Act, the Secretary is authorized to develop additional project benefits through the construction of new or supplementary works on a project in conjunction with the Secretary's activities under section 2 of this Act and subject to the conditions described in the feasibility study, provided—

''(1) the Secretary determines that developing additional project benefits through the construction

of new or supplementary works on a project will promote more efficient management of water and water-related facilities;

''(2) the feasibility study pertaining to additional project benefits has been authorized pursuant to section 8 of the Federal Water Project Recreation Act of 1965 (16 U.S.C. 4601–18); and

''(3) the costs associated with developing the additional project benefits are agreed to in writing between the Secretary and project proponents and shall be allocated to the authorized purposes of the structure and repaid consistent with all provisions of Federal Reclamation law (the Act of June 17, 1902, 43 U.S.C. 371 et seq.) and Acts supplemental to and amendatory of that Act.''.

# Subtitle K—Water Rights Protection

**SEC. 1131. SHORT TITLE.**

This subtitle may be cited as the ''Water Rights Protection Act''.

**SEC. 1132. DEFINITION OF WATER RIGHT.**

In this subtitle, the term ''water right'' means any surface or groundwater right filed, permitted, certified, confirmed, decreed, adjudicated, or otherwise recognized by a judicial proceeding or by the State in which the user

acquires possession of the water or puts the water to beneficial use, including water rights for federally recognized Indian tribes.

**SEC. 1133. TREATMENT OF WATER RIGHTS.**

The Secretary of the Interior and the Secretary of Agriculture shall not—

(1) condition or withhold, in whole or in part, the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on—

(A) limitation or encumbrance of any water right, or the transfer of any water right (including joint and sole ownership), directly or indirectly to the United States or any other designee; or

(B) any other impairment of any water right, in whole or in part, granted or otherwise recognized under State law, by Federal or State adjudication, decree, or other judgment, or pursuant to any interstate water compact;

(2) require any water user (including any federally recognized Indian tribe) to apply for or acquire a water right in the name of the United States under State law as a condition of the issuance, re-

newal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement;

(3) assert jurisdiction over groundwater withdrawals or impacts on groundwater resources, unless jurisdiction is asserted, and any regulatory or policy actions taken pursuant to such assertion are, consistent with, and impose no greater restrictions or regulatory requirements than, applicable State laws (including regulations) and policies governing the protection and use of groundwater resources; or

(4) infringe on the rights and obligations of a State in evaluating, allocating, and adjudicating the waters of the State originating on or under, or flowing from, land owned or managed by the Federal Government.

**SEC. 1134. RECOGNITION OF STATE AUTHORITY.**

(a) IN GENERAL.—In carrying out section 1133, the Secretary of the Interior and the Secretary of Agriculture shall—

(1) recognize the longstanding authority of the States relating to evaluating, protecting, allocating, regulating, and adjudicating groundwater by any means, including a rulemaking, permitting, directive,

water court adjudication, resource management planning, regional authority, or other policy; and

(2) coordinate with the States in the adoption and implementation by the Secretary of the Interior or the Secretary of Agriculture of any rulemaking, policy, directive, management plan, or other similar Federal action so as to ensure that such actions are consistent with, and impose no greater restrictions or regulatory requirements than, State groundwater laws and programs.

(b) EFFECT ON STATE WATER RIGHTS.—In carrying out this subtitle, the Secretary of the Interior and the Secretary of Agriculture shall not take any action that adversely affects—

(1) any water rights granted by a State;

(2) the authority of a State in adjudicating water rights;

(3) definitions established by a State with respect to the term ''beneficial use'', ''priority of water rights'', or ''terms of use'';

(4) terms and conditions of groundwater withdrawal, guidance and reporting procedures, and conservation and source protection measures established by a State;

(5) the use of groundwater in accordance with State law; or

(6) any other rights and obligations of a State established under State law.

**SEC. 1135. EFFECT OF TITLE.**

(a) EFFECT ON EXISTING AUTHORITY.—Nothing in this subtitle limits or expands any existing legally recognized authority of the Secretary of the Interior or the Secretary of Agriculture to issue, grant, or condition any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on Federal land subject to the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, respectively.

(b) EFFECT ON RECLAMATION CONTRACTS.—Nothing in this subtitle interferes with Bureau of Reclamation contracts entered into pursuant to the reclamation laws.

(c) EFFECT ON ENDANGERED SPECIES ACT.—Nothing in this subtitle affects the implementation of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(d) EFFECT ON FEDERAL RESERVED WATER RIGHTS.—Nothing in this subtitle limits or expands any existing or claimed reserved water rights of the Federal Government on land administered by the Secretary of the Interior or the Secretary of Agriculture.

(e) EFFECT ON FEDERAL POWER ACT.—Nothing in this subtitle limits or expands authorities under sections 4(e), 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e), 803(j), 811).

(f) EFFECT ON INDIAN WATER RIGHTS.—Nothing in this subtitle limits or expands any water right or treaty right of any federally recognized Indian tribe.

# TITLE II—SPORTSMEN'S HERITAGE AND RECREATIONAL ENHANCEMENT ACT

**SEC. 2001. SHORT TITLE.**

This title may be cited as the ''Sportsmen's Heritage and Recreational Enhancement Act'' or the ''SHARE Act''.

**SEC. 2002. REPORT ON ECONOMIC IMPACT.**

Not later than 12 months after the date of the enactment of this Act, the Secretary of Interior shall submit a report to Congress that assesses expected economic impacts of the Act. Such report shall include—

(1) a review of any expected increases in recreational hunting, fishing, shooting, and conservation activities;

(2) an estimate of any jobs created in each industry expected to support such activities described

in paragraph (1), including in the supply, manufacturing, distribution, and retail sectors;

(3) an estimate of wages related to jobs described in paragraph (2); and

(4) an estimate of anticipated new local, State, and Federal revenue related to jobs described in paragraph (2).

# Subtitle A—Hunting, Fishing and Recreational Shooting Protection Act

**SEC. 2011. SHORT TITLE.**

This subtitle may be cited as the ''Hunting, Fishing, and Recreational Shooting Protection Act''.

**SEC. 2012. MODIFICATION OF DEFINITION.**

Section 3(2)(B) of the Toxic Substances Control Act (15 U.S.C. 2602(2)(B)) is amended—

(1) in clause (v), by striking '', and'' and inserting '', or any component of any such article including, without limitation, shot, bullets and other projectiles, propellants, and primers,'';

(2) in clause (vi) by striking the period at the end and inserting '', and''; and

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

''(vii) any sport fishing equipment (as such term is defined in subsection (a) of section 4162 of

the Internal Revenue Code of 1986) the sale of which is subject to the tax imposed by section 4161(a) of such Code (determined without regard to any exemptions from such tax as provided by section 4162 or 4221 or any other provision of such Code), and sport fishing equipment components.''.

**SEC. 2013. LIMITATION ON AUTHORITY TO REGULATE AMMUNITION AND FISHING TACKLE.**

(a) LIMITATION.—Except as provided in section 20.21 of title 50, Code of Federal Regulations, as in effect on the date of the enactment of this Act, or any substantially similar successor regulation thereto, the Secretary of the Interior, the Secretary of Agriculture, and, except as provided by subsection (b), any bureau, service, or office of the Department of the Interior or the Department of Agriculture, may not regulate the use of ammunition cartridges, ammunition components, or fishing tackle based on the lead content thereof if such use is in compliance with the law of the State in which the use occurs.

(b) EXCEPTION.—The limitation in subsection (a) shall not apply to the United States Fish and Wildlife Service or the National Park Service.

# Subtitle B—Target Practice and Marksmanship Training Support Act

**SEC. 2021. SHORT TITLE.**

This subtitle may be cited as the ''Target Practice and Marksmanship Training Support Act''.

**SEC. 2022. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the use of firearms and archery equipment for target practice and marksmanship training activities on Federal land is allowed, except to the extent specific portions of that land have been closed to those activities;

(2) in recent years preceding the date of enactment of this Act, portions of Federal land have been closed to target practice and marksmanship training for many reasons;

(3) the availability of public target ranges on non-Federal land has been declining for a variety of reasons, including continued population growth and development near former ranges;

(4) providing opportunities for target practice and marksmanship training at public target ranges on Federal and non-Federal land can help—

(A) to promote enjoyment of shooting, recreational, and hunting activities; and

(B) to ensure safe and convenient locations for those activities;

(5) Federal law in effect on the date of enactment of this Act, including the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.), provides Federal support for construction and expansion of public target ranges by making available to States amounts that may be used for construction, operation, and maintenance of public target ranges; and

(6) it is in the public interest to provide increased Federal support to facilitate the construction or expansion of public target ranges.

(b) PURPOSE.—The purpose of this subtitle is to facilitate the construction and expansion of public target ranges, including ranges on Federal land managed by the Forest Service and the Bureau of Land Management.

**SEC. 2023. DEFINITION OF PUBLIC TARGET RANGE.**

In this subtitle, the term ''public target range'' means a specific location that—

(1) is identified by a governmental agency for recreational shooting;

(2) is open to the public;

(3) may be supervised; and

(4) may accommodate archery or rifle, pistol, or shotgun shooting.

**SEC. 2024. AMENDMENTS TO PITTMAN-ROBERTSON WILDLIFE RESTORATION ACT.**

(a) DEFINITIONS.—Section 2 of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669a) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) the term 'public target range' means a specific location that—

''(A) is identified by a governmental agency for recreational shooting;

''(B) is open to the public;

''(C) may be supervised; and

''(D) may accommodate archery or rifle, pistol, or shotgun shooting;''.

(b) EXPENDITURES FOR MANAGEMENT OF WILDLIFE AREAS AND RESOURCES.—Section 8(b) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669g(b)) is amended—

(1) by striking ''(b) Each State'' and inserting the following:

''(b) EXPENDITURES FOR MANAGEMENT OF WILDLIFE AREAS AND RESOURCES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each State'';

(2) in paragraph (1) (as so designated), by striking ''construction, operation,'' and inserting ''operation'';

(3) in the second sentence, by striking ''The non-Federal share'' and inserting the following:

''(3) NON-FEDERAL SHARE.—The non-Federal share'';

(4) in the third sentence, by striking ''The Secretary'' and inserting the following:

''(4) REGULATIONS.—The Secretary''; and

(5) by inserting after paragraph (1) (as designated by paragraph (1) of this subsection) the following:

''(2) EXCEPTION.—Notwithstanding the limitation described in paragraph (1), a State may pay up to 90 percent of the cost of acquiring land for, expanding, or constructing a public target range.''.

(c) FIREARM AND BOW HUNTER EDUCATION AND SAFETY PROGRAM GRANTS.—Section 10 of the Pittman-

Robertson Wildlife Restoration Act (16 U.S.C. 669h–1) is amended—

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

"(3) ALLOCATION OF ADDITIONAL AMOUNTS.—Of the amount apportioned to a State for any fiscal year under section 4(b), the State may elect to allocate not more than 10 percent, to be combined with the amount apportioned to the State under paragraph (1) for that fiscal year, for acquiring land for, expanding, or constructing a public target range.";

(2) by striking subsection (b) and inserting the following:

"(b) COST SHARING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of any activity carried out using a grant under this section shall not exceed 75 percent of the total cost of the activity.

"(2) PUBLIC TARGET RANGE CONSTRUCTION OR EXPANSION.—The Federal share of the cost of acquiring land for, expanding, or constructing a public target range in a State on Federal or non-Federal land pursuant to this section or section 8(b) shall

not exceed 90 percent of the cost of the activity.''; and

(3) in subsection (c)(1)—

(A) by striking ''Amounts made'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), amounts made''; and

(B) by adding at the end the following:

''(B) EXCEPTION.—Amounts provided for acquiring land for, constructing, or expanding a public target range shall remain available for expenditure and obligation during the 5-fiscal-year period beginning on October 1 of the first fiscal year for which the amounts are made available.''.

**SEC. 2025. LIMITS ON LIABILITY.**

(a) DISCRETIONARY FUNCTION.—For purposes of chapter 171 of title 28, United States Code (commonly referred to as the ''Federal Tort Claims Act''), any action by an agent or employee of the United States to manage or allow the use of Federal land for purposes of target practice or marksmanship training by a member of the public shall be considered to be the exercise or performance of a discretionary function.

(b) CIVIL ACTION OR CLAIMS.—Except to the extent provided in chapter 171 of title 28, United States Code, the United States shall not be subject to any civil action or claim for money damages for any injury to or loss of property, personal injury, or death caused by an activity occurring at a public target range that is—

(1) funded in whole or in part by the Federal Government pursuant to the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.); or

(2) located on Federal land.

**SEC. 2026. SENSE OF CONGRESS REGARDING COOPERATION.**

It is the sense of Congress that, consistent with applicable laws and regulations, the Chief of the Forest Service and the Director of the Bureau of Land Management should cooperate with State and local authorities and other entities to carry out waste removal and other activities on any Federal land used as a public target range to encourage continued use of that land for target practice or marksmanship training.

# Subtitle C—Polar Bear Conservation and Fairness Act

**SEC. 2031. SHORT TITLE.**

This subtitle may be cited as the ''Polar Bear Conservation and Fairness Act''.

**SEC. 2032. PERMITS FOR IMPORTATION OF POLAR BEAR TROPHIES TAKEN IN SPORT HUNTS IN CANADA.**

Section 104(c)(5)(D) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)(5)(D)) is amended to read as follows:

"(D)(i) The Secretary of the Interior shall, expeditiously after the expiration of the applicable 30-day period under subsection (d)(2), issue a permit for the importation of any polar bear part (other than an internal organ) from a polar bear taken in a sport hunt in Canada to any person—

"(I) who submits, with the permit application, proof that the polar bear was legally harvested by the person before February 18, 1997; or

"(II) who has submitted, in support of a permit application submitted before May 15, 2008, proof that the polar bear was legally harvested by the person before May 15, 2008, from a polar bear population from which a sport-hunted trophy could be imported before that date in accordance with section 18.30(i) of title 50, Code of Federal Regulations.

"(ii) The Secretary shall issue permits under clause (i)(I) without regard to subparagraphs (A)

and (C)(ii) of this paragraph, subsection (d)(3), and sections 101 and 102. Sections 101(a)(3)(B) and 102(b)(3) shall not apply to the importation of any polar bear part authorized by a permit issued under clause (i)(I). This clause shall not apply to polar bear parts that were imported before June 12, 1997.

"(iii) The Secretary shall issue permits under clause (i)(II) without regard to subparagraph (C)(ii) of this paragraph or subsection (d)(3). Sections 101(a)(3)(B) and 102(b)(3) shall not apply to the importation of any polar bear part authorized by a permit issued under clause (i)(II). This clause shall not apply to polar bear parts that were imported before the date of enactment of the Polar Bear Conservation and Fairness Act.".

# Subtitle D—Recreational Lands Self-Defense Act

**SEC. 2041. SHORT TITLE.**

This subtitle may be cited as the "Recreational Lands Self-Defense Act".

**SEC. 2042. PROTECTING AMERICANS FROM VIOLENT CRIME.**

(a) FINDINGS.—Congress finds the following:

(1) The Second Amendment to the Constitution provides that ''the right of the people to keep and bear Arms, shall not be infringed''.

(2) Section 327.13 of title 36, Code of Federal Regulations, provides that, except in special circumstances, ''possession of loaded firearms, ammunition, loaded projectile firing devices, bows and arrows, crossbows, or other weapons is prohibited'' at water resources development projects administered by the Secretary of the Army.

(3) The regulations described in paragraph (2) prevent individuals complying with Federal and State laws from exercising the second amendment rights of the individuals while at such water resources development projects.

(4) The Federal laws should make it clear that the second amendment rights of an individual at a water resources development project should not be infringed.

(b) PROTECTING THE RIGHT OF INDIVIDUALS TO BEAR ARMS AT WATER RESOURCES DEVELOPMENT PROJECTS.—The Secretary of the Army shall not promulgate or enforce any regulation that prohibits an individual from possessing a firearm, including an assembled or functional firearm, at a water resources development project

1 covered under section 327.0 of title 36, Code of Federal
2 Regulations (as in effect on the date of enactment of this
3 Act), if—
4 (1) the individual is not otherwise prohibited by
5 law from possessing the firearm; and
6 (2) the possession of the firearm is in compli-
7 ance with the law of the State in which the water
8 resources development project is located.

# 9 Subtitle E—Wildlife and Hunting
# 10 Heritage Conservation Council
# 11 Advisory Committee

12 **SEC. 2051. WILDLIFE AND HUNTING HERITAGE CONSERVA-**
13 **TION COUNCIL ADVISORY COMMITTEE.**

14 The Fish and Wildlife Coordination Act (16 U.S.C.
15 661 et seq.) is amended by adding at the end the fol-
16 lowing:

17 **"SEC. 10. WILDLIFE AND HUNTING HERITAGE CONSERVA-**
18 **TION COUNCIL ADVISORY COMMITTEE.**

19 "(a) ESTABLISHMENT.—There is hereby established
20 the Wildlife and Hunting Heritage Conservation Council
21 Advisory Committee (in this section referred to as the 'Ad-
22 visory Committee') to advise the Secretaries of the Interior
23 and Agriculture on wildlife and habitat conservation,
24 hunting, and recreational shooting.

1 "(b) CONTINUANCE AND ABOLISHMENT OF EXIST-
2 ING WILDLIFE AND HUNTING HERITAGE CONSERVATION
3 COUNCIL.—The Wildlife and Hunting Heritage Conserva-
4 tion Council established pursuant to section 441 of the
5 Revised Statutes (43 U.S.C. 1457), section 2 of the Fish
6 and Wildlife Act of 1956 (16 U.S.C. 742a), and other Acts
7 applicable to specific bureaus of the Department of the
8 Interior—
9 "(1) shall continue until the date of the first
10 meeting of the Wildlife and Hunting Heritage Con-
11 servation Council established by the amendment
12 made by subsection (a); and
13 "(2) is hereby abolished effective on that date.
14 "(c) DUTIES OF THE ADVISORY COMMITTEE.—The
15 Advisory Committee shall advise the Secretaries with re-
16 gard to—
17 "(1) implementation of Executive Order No.
18 13443: Facilitation of Hunting Heritage and Wild-
19 life Conservation, which directs Federal agencies 'to
20 facilitate the expansion and enhancement of hunting
21 opportunities and the management of game species
22 and their habitat';
23 "(2) policies or programs to conserve and re-
24 store wetlands, agricultural lands, grasslands, forest,
25 and rangeland habitats;

"(3) policies or programs to promote opportunities and access to hunting and shooting sports on Federal lands;

"(4) policies or programs to recruit and retain new hunters and shooters;

"(5) policies or programs that increase public awareness of the importance of wildlife conservation and the social and economic benefits of recreational hunting and shooting; and

"(6) policies or programs that encourage coordination among the public, the hunting and shooting sports community, wildlife conservation groups, and States, tribes, and the Federal Government.

"(d) MEMBERSHIP.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—The Advisory Committee shall consist of no more than 16 discretionary members and 8 ex officio members.

"(B) EX OFFICIO MEMBERS.—The ex officio members are—

"(i) the Director of the United States Fish and Wildlife Service or a designated representative of the Director;

"(ii) the Director of the Bureau of Land Management or a designated representative of the Director;

"(iii) the Director of the National Park Service or a designated representative of the Director;

"(iv) the Chief of the Forest Service or a designated representative of the Chief;

"(v) the Chief of the Natural Resources Conservation Service or a designated representative of the Chief;

"(vi) the Administrator of the Farm Service Agency or a designated representative of the Administrator;

"(vii) the Executive Director of the Association of Fish and Wildlife Agencies; and

"(viii) the Administrator of the Small Business Administration or designated representative.

"(C) DISCRETIONARY MEMBERS.—The discretionary members shall be appointed jointly by the Secretaries from at least one of each of the following:

"(i) State fish and wildlife agencies.

"(ii) Game bird hunting organizations.

"(iii) Wildlife conservation organizations.

"(iv) Big game hunting organizations.

"(v) Waterfowl hunting organizations.

"(vi) The tourism, outfitter, or guiding industry.

"(vii) The firearms or ammunition manufacturing industry.

"(viii) The hunting or shooting equipment retail industry.

"(ix) Tribal resource management organizations.

"(x) The agriculture industry.

"(xi) The ranching industry.

"(xii) Women's hunting and fishing advocacy, outreach, or education organization.

"(xiii) Minority hunting and fishing advocacy, outreach, or education organization.

"(xiv) Veterans service organization.

"(D) ELIGIBILITY.—Prior to the appointment of the discretionary members, the Secre-

taries shall determine that all individuals nominated for appointment to the Advisory Committee, and the organization each individual represents, actively support and promote sustainable-use hunting, wildlife conservation, and recreational shooting.

"(2) TERMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Advisory Committee shall be appointed for a term of 4 years. Members shall not be appointed for more than 3 consecutive or nonconsecutive terms.

"(B) TERMS OF INITIAL APPOINTEES.—As designated by the Secretary at the time of appointment, of the members first appointed—

"(i) 6 members shall be appointed for a term of 4 years;

"(ii) 5 members shall be appointed for a term of 3 years; and

"(iii) 5 members shall be appointed for a term of 2 years.

"(3) PRESERVATION OF PUBLIC ADVISORY STATUS.—No individual may be appointed as a discretionary member of the Advisory Committee while

serving as an officer or employee of the Federal Government.

"(4) VACANCY AND REMOVAL.—

"(A) IN GENERAL.—Any vacancy on the Advisory Committee shall be filled in the manner in which the original appointment was made.

"(B) REMOVAL.—Advisory Committee members shall serve at the discretion of the Secretaries and may be removed at any time for good cause.

"(5) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed.

"(6) CHAIRPERSON.—The Chairperson of the Advisory Committee shall be appointed for a 3-year term by the Secretaries, jointly, from among the members of the Advisory Committee. An individual may not be appointed as Chairperson for more than 2 consecutive or nonconsecutive terms.

"(7) PAY AND EXPENSES.—Members of the Advisory Committee shall serve without pay for such service, but each member of the Advisory Committee may be reimbursed for travel and lodging incurred

through attending meetings of the Advisory Committee approved subgroup meetings in the same amounts and under the same conditions as Federal employees (in accordance with section 5703 of title 5, United States Code).

"(8) MEETINGS.—

"(A) IN GENERAL.—The Advisory Committee shall meet at the call of the Secretaries, the chairperson, or a majority of the members, but not less frequently than twice annually.

"(B) OPEN MEETINGS.—Each meeting of the Advisory Committee shall be open to the public.

"(C) PRIOR NOTICE OF MEETINGS.—Timely notice of each meeting of the Advisory Committee shall be published in the Federal Register and be submitted to trade publications and publications of general circulation.

"(D) SUBGROUPS.—The Advisory Committee may establish such workgroups or subgroups as it deems necessary for the purpose of compiling information or conducting research. However, such workgroups may not conduct business without the direction of the Advisory

Committee and must report in full to the Advisory Committee.

"(9) QUORUM.—Nine members of the Advisory Committee shall constitute a quorum.

"(e) EXPENSES.—The expenses of the Advisory Committee that the Secretaries determine to be reasonable and appropriate shall be paid by the Secretaries.

"(f) ADMINISTRATIVE SUPPORT, TECHNICAL SERVICES, AND ADVICE.—A designated Federal Officer shall be jointly appointed by the Secretaries to provide to the Advisory Committee the administrative support, technical services, and advice that the Secretaries determine to be reasonable and appropriate.

"(g) ANNUAL REPORT.—

"(1) REQUIRED.—Not later than September 30 of each year, the Advisory Committee shall submit a report to the Secretaries, the Committee on Natural Resources and the Committee on Agriculture of the House of Representatives, and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate. If circumstances arise in which the Advisory Committee cannot meet the September 30 deadline in any year, the Secretaries shall advise the Chairpersons of each such Committee of the reasons for

such delay and the date on which the submission of the report is anticipated.

"(2) CONTENTS.—The report required by paragraph (1) shall describe—

"(A) the activities of the Advisory Committee during the preceding year;

"(B) the reports and recommendations made by the Advisory Committee to the Secretaries during the preceding year; and

"(C) an accounting of actions taken by the Secretaries as a result of the recommendations.

"(h) FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).".

# Subtitle F—Recreational Fishing and Hunting Heritage Opportunities Act

**SEC. 2061. SHORT TITLE.**

This subtitle may be cited as the "Recreational Fishing and Hunting Heritage and Opportunities Act".

**SEC. 2062. FINDINGS.**

Congress finds that—

(1) recreational fishing and hunting are important and traditional activities in which millions of Americans participate;

(2) recreational anglers and hunters have been and continue to be among the foremost supporters of sound fish and wildlife management and conservation in the United States;

(3) recreational fishing and hunting are environmentally acceptable and beneficial activities that occur and can be provided on Federal lands and waters without adverse effects on other uses or users;

(4) recreational anglers, hunters, and sporting organizations provide direct assistance to fish and wildlife managers and enforcement officers of the Federal Government as well as State and local governments by investing volunteer time and effort to fish and wildlife conservation;

(5) recreational anglers, hunters, and the associated industries have generated billions of dollars of critical funding for fish and wildlife conservation, research, and management by providing revenues from purchases of fishing and hunting licenses, permits, and stamps, as well as excise taxes on fishing, hunting, and recreational shooting equipment that have generated billions of dollars of critical funding for fish and wildlife conservation, research, and management;

(6) recreational shooting is also an important and traditional activity in which millions of Americans participate;

(7) safe recreational shooting is a valid use of Federal lands, including the establishment of safe and convenient recreational shooting ranges on such lands, and participation in recreational shooting helps recruit and retain hunters and contributes to wildlife conservation;

(8) opportunities to recreationally fish, hunt, and shoot are declining, which depresses participation in these traditional activities, and depressed participation adversely impacts fish and wildlife conservation and funding for important conservation efforts; and

(9) the public interest would be served, and our citizens' fish and wildlife resources benefitted, by action to ensure that opportunities are facilitated to engage in fishing and hunting on Federal land as recognized by Executive Order No. 12962, relating to recreational fisheries, and Executive Order No. 13443, relating to facilitation of hunting heritage and wildlife conservation.

**SEC. 2063. FISHING, HUNTING, AND RECREATIONAL SHOOTING.**

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term ''Federal land'' means any land or water that is owned by the United States and under the administrative jurisdiction of the Bureau of Land Management or the Forest Service.

(2) FEDERAL LAND MANAGEMENT OFFICIALS.—The term ''Federal land management officials'' means—

(A) the Secretary of the Interior and Director of the Bureau of Land Management regarding Bureau of Land Management lands and interests in lands under the administrative jurisdiction of the Bureau of Land Management; and

(B) the Secretary of Agriculture and Chief of the Forest Service regarding National Forest System lands.

(3) HUNTING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''hunting'' means use of a firearm, bow, or other authorized means in the lawful—

(i) pursuit, shooting, capture, collection, trapping, or killing of wildlife;

(ii) attempt to pursue, shoot, capture, collect, trap, or kill wildlife; or

(iii) the training of hunting dogs, including field trials.

(B) EXCLUSION.—The term ''hunting'' does not include the use of skilled volunteers to cull excess animals (as defined by other Federal law).

(4) RECREATIONAL FISHING.—The term ''recreational fishing'' means the lawful—

(A) pursuit, capture, collection, or killing of fish; or

(B) attempt to capture, collect, or kill fish.

(5) RECREATIONAL SHOOTING.—The term ''recreational shooting'' means any form of sport, training, competition, or pastime, whether formal or informal, that involves the discharge of a rifle, handgun, or shotgun, or the use of a bow and arrow.

(b) IN GENERAL.—Subject to valid existing rights and subsection (e), and cooperation with the respective State fish and wildlife agency, Federal land management officials shall exercise authority under existing law, including provisions regarding land use planning, to facilitate

use of and access to Federal lands, including National Monuments, Wilderness Areas, Wilderness Study Areas, and lands administratively classified as wilderness eligible or suitable and primitive or semi-primitive areas, for fishing, hunting, and recreational shooting, except as limited by—

(1) statutory authority that authorizes action or withholding action for reasons of national security, public safety, or resource conservation;

(2) any other Federal statute that specifically precludes fishing, hunting, or recreational shooting on specific Federal lands, waters, or units thereof; and

(3) discretionary limitations on fishing, hunting, and recreational shooting determined to be necessary and reasonable as supported by the best scientific evidence and advanced through a transparent public process.

(c) MANAGEMENT.—Consistent with subsection (a), Federal land management officials shall exercise their land management discretion—

(1) in a manner that supports and facilitates fishing, hunting, and recreational shooting opportunities;

(2) to the extent authorized under applicable State law; and

(3) in accordance with applicable Federal law.

(d) PLANNING.—

(1) EVALUATION OF EFFECTS ON OPPORTUNITIES TO ENGAGE IN FISHING, HUNTING, OR RECREATIONAL SHOOTING.—Planning documents that apply to Federal lands, including land resources management plans, resource management plans, travel management plans, and general management plans shall include a specific evaluation of the effects of such plans on opportunities to engage in fishing, hunting, or recreational shooting.

(2) STRATEGIC GROWTH POLICY FOR THE NATIONAL WILDLIFE REFUGE SYSTEM.—Section 4(a)(3) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(3)) is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

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

''(C) the Secretary shall integrate wildlife-dependent recreational uses in accordance with their

status as priority general public uses into proposed or existing regulations, policies, criteria, plans, or other activities to alter or amend the manner in which individual refuges or the National Wildlife Refuge System (System) are managed, including, but not limited to, any activities which target or prioritize criteria for long and short term System acquisitions;''.

(3) NO MAJOR FEDERAL ACTION.—No action taken under this subtitle, or under section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd), either individually or cumulatively with other actions involving Federal lands or lands managed by the United States Fish and Wildlife Service, shall be considered to be a major Federal action significantly affecting the quality of the human environment, and no additional identification, analysis, or consideration of environmental effects, including cumulative effects, is necessary or required.

(4) OTHER ACTIVITY NOT CONSIDERED.—Federal land management officials are not required to consider the existence or availability of fishing, hunting, or recreational shooting opportunities on adjacent or nearby public or private lands in the plan-

ning for or determination of which Federal lands are open for these activities or in the setting of levels of use for these activities on Federal lands, unless the combination or coordination of such opportunities would enhance the fishing, hunting, or recreational shooting opportunities available to the public.

(e) FEDERAL LANDS.—

(1) LANDS OPEN.—Lands under the jurisdiction of the Bureau of Land Management and the Forest Service, including Wilderness Areas, Wilderness Study Areas, lands designated as wilderness or administratively classified as wilderness eligible or suitable and primitive or semi-primitive areas and National Monuments, but excluding lands on the Outer Continental Shelf, shall be open to fishing, hunting, and recreational shooting unless the managing Federal agency acts to close lands to such activity. Lands may be subject to closures or restrictions if determined by the head of the agency to be necessary and reasonable and supported by facts and evidence, for purposes including resource conservation, public safety, energy or mineral production, energy generation or transmission infrastructure, water supply facilities, protection of other permittees, protection of private property rights or in-

terest, national security, or compliance with other law.

(2) RECREATIONAL SHOOTING RANGES.—

(A) IN GENERAL.—The head of each Federal agency shall use his or her authorities in a manner consistent with this Act and other applicable law, to—

(i) lease or permit use of lands under the jurisdiction of the agency for recreational shooting ranges; and

(ii) designate specific lands under the jurisdiction of the agency for recreational shooting activities.

(B) LIMITATION ON LIABILITY.—Any designation under subparagraph (A)(ii) shall not subject the United States to any civil action or claim for monetary damages for injury or loss of property or personal injury or death caused by any activity occurring at or on such designated lands.

(f) NECESSITY IN WILDERNESS AREAS AND "WITHIN AND SUPPLEMENTAL TO" WILDERNESS PURPOSES.—

(1) MINIMUM REQUIREMENTS FOR ADMINISTRATION.—The provision of opportunities for fishing, hunting, and recreational shooting, and the con-

servation of fish and wildlife to provide sustainable use recreational opportunities on designated Federal wilderness areas shall constitute measures necessary to meet the minimum requirements for the administration of the wilderness area, provided that this determination shall not authorize or facilitate commodity development, use, or extraction, motorized recreational access or use that is not otherwise allowed under the Wilderness Act (16 U.S.C. 1131 et seq.), or permanent road construction or maintenance within designated wilderness areas.

(2) APPLICATION OF WILDERNESS ACT.—Provisions of the Wilderness Act (16 U.S.C. 1131 et seq.), stipulating that wilderness purposes are ''within and supplemental to'' the purposes of the underlying Federal land unit are reaffirmed. When seeking to carry out fish and wildlife conservation programs and projects or provide fish and wildlife dependent recreation opportunities on designated wilderness areas, each Federal land management official shall implement these supplemental purposes so as to facilitate, enhance, or both, but not to impede the underlying Federal land purposes when seeking to carry out fish and wildlife conservation programs and projects or provide fish and wildlife dependent

recreation opportunities in designated wilderness areas, provided that such implementation shall not authorize or facilitate commodity development, use or extraction, or permanent road construction or maintenance within designated wilderness areas.

(g) NO PRIORITY.—Nothing in this section requires a Federal land management official to give preference to fishing, hunting, or recreational shooting over other uses of Federal land or over land or water management priorities established by Federal law.

(h) CONSULTATION WITH COUNCILS.—In fulfilling the duties under this section, Federal land management officials shall consult with respective advisory councils as established in Executive Order Nos. 12962 and 13443.

(i) AUTHORITY OF THE STATES.—Nothing in this section shall be construed as interfering with, diminishing, or conflicting with the authority, jurisdiction, or responsibility of any State to exercise primary management, control, or regulation of fish and wildlife under State law (including regulations) on land or water within the State, including on Federal land.

(j) FEDERAL LICENSES.—Nothing in this section shall be construed to authorize a Federal land management official to require a license, fee, or permit to fish, hunt, or trap on land or water in a State, including on

1 Federal land in the States, except that this subsection
2 shall not affect the Migratory Bird Stamp requirement set
3 forth in the Migratory Bird Hunting and Conservation
4 Stamp Act (16 U.S.C. 718 et seq.).

5 **SEC. 2064. VOLUNTEER HUNTERS; REPORTS; CLOSURES**
6 **AND RESTRICTIONS.**

7 (a) DEFINITIONS.—For the purposes of this section:
8 (1) PUBLIC LAND.—The term ''public land''
9 means—
10 (A) units of the National Park System;
11 (B) National Forest System lands; and
12 (C) land and interests in land owned by
13 the United States and under the administrative
14 jurisdiction of—
15 (i) the Fish and Wildlife Service; or
16 (ii) the Bureau of Land Management.
17 (2) SECRETARY.—The term ''Secretary''
18 means—
19 (A) the Secretary of the Interior and in-
20 cludes the Director of the National Park Serv-
21 ice, with regard to units of the National Park
22 System;
23 (B) the Secretary of the Interior and in-
24 cludes the Director of the Fish and Wildlife

Service, with regard to Fish and Wildlife Service lands and waters;

(C) the Secretary of the Interior and includes the Director of the Bureau of Land Management, with regard to Bureau of Land Management lands and waters; and

(D) the Secretary of Agriculture and includes the Chief of the Forest Service, with regard to National Forest System lands.

(3) VOLUNTEER FROM THE HUNTING COMMUNITY.—The term ''volunteer from the hunting community'' means a volunteer who holds a valid hunting license issued by a State.

(b) VOLUNTEER HUNTERS.—When planning wildlife management involving reducing the size of a wildlife population on public land, the Secretary shall consider the use of and may use volunteers from the hunting community as agents to assist in carrying out wildlife management on public land. The Secretary shall not reject the use of volunteers from the hunting community as agents without the concurrence of the appropriate State wildlife management authorities.

(c) REPORT.—Beginning on the second October 1 after the date of the enactment of this Act and biennially on October 1 thereafter, the Secretary shall submit to the

Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) any public land administered by the Secretary that was closed to fishing, hunting, and recreational shooting at any time during the preceding year; and

(2) the reason for the closure.

(d) CLOSURES OR SIGNIFICANT RESTRICTIONS.—

(1) IN GENERAL.—Other than closures established or prescribed by land planning actions referred to in section 2064(e) or emergency closures described in paragraph (2), a permanent or temporary withdrawal, change of classification, or change of management status of public land that effectively closes or significantly restricts any acreage of public land to access or use for fishing, hunting, recreational shooting, or activities related to fishing, hunting, or recreational shooting, or a combination of those activities, shall take effect only if, before the date of withdrawal or change, the Secretary—

(A) publishes appropriate notice of the withdrawal or change, respectively;

(B) demonstrates that coordination has occurred with a State fish and wildlife agency; and

(C) submits to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate written notice of the withdrawal or change, respectively.

(2) EMERGENCY CLOSURES.—Nothing in this Act prohibits the Secretary from establishing or implementing emergency closures or restrictions of the smallest practicable area to provide for public safety, resource conservation, national security, or other purposes authorized by law. Such an emergency closure shall terminate after a reasonable period of time unless converted to a permanent closure consistent with this Act.

# Subtitle G—Farmer and Hunter Protection Act

**SEC. 2071. SHORT TITLE.**

This subtitle may be cited as the ''Hunter and Farmer Protection Act''.

**SEC. 2072. BAITING OF MIGRATORY GAME BIRDS.**

Section 3 of the Migratory Bird Treaty Act (16 U.S.C. 704) is amended by striking subsection (b) and inserting the following:

"(b) PROHIBITION OF BAITING.—

"(1) DEFINITIONS.—In this subsection:

"(A) BAITED AREA.—

"(i) IN GENERAL.—The term 'baited area' means—

"(I) any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if the salt, grain, or feed could lure or attract migratory game birds; and

"(II) in the case of waterfowl, cranes (family Gruidae), and coots (family Rallidae), a standing, unharvested crop that has been manipulated through activities such as mowing, discing, or rolling, unless the activities are normal agricultural practices.

"(ii) EXCLUSIONS.—An area shall not be considered to be a 'baited area' if the area—

"(I) has been treated with a normal agricultural practice;

"(II) has standing crops that have not been manipulated; or

"(III) has standing crops that have been or are flooded.

"(B) BAITING.—The term 'baiting' means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could lure or attract migratory game birds to, on, or over any areas on which a hunter is attempting to take migratory game birds.

"(C) MIGRATORY GAME BIRD.—The term 'migratory game bird' means migratory bird species—

"(i) that are within the taxonomic families of Anatidae, Columbidae, Gruidae, Rallidae, and Scolopacidae; and

"(ii) for which open seasons are prescribed by the Secretary of the Interior.

"(D) NORMAL AGRICULTURAL PRACTICE.—

"(i) IN GENERAL.—The term 'normal agricultural practice' means any practice in 1 annual growing season that—

"(I) is carried out in order to produce a marketable crop, including planting, harvest, postharvest, or soil conservation practices; and

"(II) is recommended for the successful harvest of a given crop by the applicable State office of the Cooperative Extension System of the Department of Agriculture, in consultation with, and if requested, the concurrence of, the head of the applicable State department of fish and wildlife.

"(ii) INCLUSIONS.—

"(I) IN GENERAL.—Subject to subclause (II), the term 'normal agricultural practice' includes the destruction of a crop in accordance with practices required by the Federal Crop Insurance Corporation for agricultural producers to obtain crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.)

on land on which a crop during the current or immediately preceding crop year was not harvestable due to a natural disaster (including any hurricane, storm, tornado, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, drought, fire, snowstorm, or other catastrophe that is declared a major disaster by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)).

''(II) LIMITATIONS.—The term 'normal agricultural practice' only includes a crop described in subclause (I) that has been destroyed or manipulated through activities that include (but are not limited to) mowing, discing, or rolling if the Federal Crop Insurance Corporation certifies that flooding was not an acceptable method of destruction to obtain crop insur-

ance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

"(E) WATERFOWL.—The term 'waterfowl' means native species of the family Anatidae.

"(2) PROHIBITION.—It shall be unlawful for any person—

"(A) to take any migratory game bird by baiting or on or over any baited area, if the person knows or reasonably should know that the area is a baited area; or

"(B) to place or direct the placement of bait on or adjacent to an area for the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by baiting or on or over the baited area.

"(3) REGULATIONS.—The Secretary of the Interior may promulgate regulations to implement this subsection.

"(4) REPORTS.—Annually, the Secretary of Agriculture shall submit to the Secretary of the Interior a report that describes any changes to normal agricultural practices across the range of crops grown by agricultural producers in each region of the United States in which the recommendations are provided to agricultural producers.".

# Subtitle H—Transporting Bows Across National Park Service Lands

**SEC. 2081. SHORT TITLE.**

This subtitle may be cited as the ''Hunter Access Corridors Act''.

**SEC. 2082. BOWHUNTING OPPORTUNITY AND WILDLIFE STEWARDSHIP.**

(a) IN GENERAL.—Subchapter II of chapter 1015 of title 54, United States Code, is amended by adding at the end the following:

**''§ 101513. Hunter access corridors**

''(a) DEFINITIONS.—In this section:

''(1) NOT READY FOR IMMEDIATE USE.—The term 'not ready for immediate use' means—

''(A) a bow or crossbow, the arrows of which are secured or stowed in a quiver or other arrow transport case; and

''(B) with respect to a crossbow, uncocked.

''(2) VALID HUNTING LICENSE.—The term 'valid hunting license' means a State-issued hunting license that authorizes an individual to hunt on private or public land adjacent to the System unit in which the individual is located while in possession of

a bow or crossbow that is not ready for immediate use.

"(b) TRANSPORTATION AUTHORIZED.—

"(1) IN GENERAL.—The Director shall not require a permit for, or promulgate or enforce any regulation that prohibits an individual from transporting bows and crossbows that are not ready for immediate use across any System unit if—

"(A) in the case of an individual traversing the System unit on foot—

"(i) the individual is not otherwise prohibited by law from possessing the bows and crossbows;

"(ii) the bows or crossbows are not ready for immediate use throughout the period during which the bows or crossbows are transported across the System unit;

"(iii) the possession of the bows and crossbows is in compliance with the law of the State in which the System unit is located; and

"(iv)(I) the individual possesses a valid hunting license;

"(II) the individual is traversing the System unit en route to a hunting access

corridor established under subsection (c)(1); or

"(III) the individual is traversing the System unit in compliance with any other applicable regulations or policies; or

"(B) the bows or crossbows are not ready for immediate use and remain inside a vehicle.

"(2) ENFORCEMENT.—Nothing in this subsection limits the authority of the Director to enforce laws (including regulations) prohibiting hunting or the taking of wildlife in any System unit.

"(c) ESTABLISHMENT OF HUNTER ACCESS CORRIDORS.—

"(1) IN GENERAL.—On a determination by the Director under paragraph (2), the Director may establish and publish (in accordance with section 1.5 of title 36, Code of Federal Regulations (or a successor regulation)), on a publicly available map, hunter access corridors across System units that are used to access public land that is—

"(A) contiguous to a System unit; and

"(B) open to hunting.

"(2) DETERMINATION BY DIRECTOR.—The determination referred to in paragraph (1) is a determination that the hunter access corridor would pro-

vide wildlife management or visitor experience benefits within the boundary of the System unit in which the hunter access corridor is located.

"(3) HUNTING SEASON.—The hunter access corridors shall be open for use during hunting seasons.

"(4) EXCEPTION.—The Director may establish limited periods during which access through the hunter access corridors is closed for reasons of public safety, administration, or compliance with applicable law. Such closures shall be clearly marked with signs and dates of closures, and shall not include gates, chains, walls, or other barriers on the hunter access corridor.

"(5) IDENTIFICATION OF CORRIDORS.—The Director shall—

"(A) make information regarding hunter access corridors available on the individual website of the applicable System unit; and

"(B) provide information regarding any processes established by the Director for transporting legally taken game through individual hunter access corridors.

"(6) REGISTRATION; TRANSPORTATION OF GAME.—The Director may—

"(A) provide registration boxes to be located at the trailhead of each hunter access corridor for self-registration;

"(B) provide a process for online self-registration; and

"(C) allow nonmotorized conveyances to transport legally taken game through a hunter access corridor established under this subsection, including game carts and sleds.

"(7) CONSULTATION WITH STATES.—The Director shall consult with each applicable State wildlife agency to identify appropriate hunter access corridors.

"(d) EFFECT.—Nothing in this section—

"(1) diminishes, enlarges, or modifies any Federal or State authority with respect to recreational hunting, recreational shooting, or any other recreational activities within the boundaries of a System unit; or

"(2) authorizes—

"(A) the establishment of new trails in System units; or

"(B) authorizes individuals to access areas in System units, on foot or otherwise, that are not open to such access.

"(e) NO MAJOR FEDERAL ACTION.—

"(1) IN GENERAL.—Any action taken under this section shall not be considered a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) NO ADDITIONAL ACTION REQUIRED.—No additional identification, analyses, or consideration of environmental effects (including cumulative environmental effects) is necessary or required with respect to an action taken under this section.".

(b) CLERICAL AMENDMENT.—The table of sections for title 54, United States Code, is amended by inserting after the item relating to section 101512 the following:

"101513. Hunter access corridors.".

# Subtitle I—Federal Land Transaction Facilitation Act Reauthorization (FLTFA)

**SEC. 2091. SHORT TITLE.**

This subtitle may be cited as the "Federal Land Transaction Facilitation Act Reauthorization".

**SEC. 2092. FEDERAL LAND TRANSACTION FACILITATION ACT.**

The Federal Land Transaction Facilitation Act is amended—

(1) in section 203(1) (43 U.S.C. 2302(1)), by striking ''cultural, or'' and inserting ''cultural, recreational access and use, or other'';

(2) in section 203(2) in the matter preceding subparagraph (A), by striking ''on the date of enactment of this Act was'' and inserting ''is'';

(3) in section 205 (43 U.S.C. 2304)—

(A) in subsection (a), by striking ''section 206'' and all that follows through the period and inserting the following: ''section 206—

''(1) to complete appraisals and satisfy other legal requirements for the sale or exchange of public land identified for disposal under approved land use plans under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712);

''(2) not later than 180 days after the date of the enactment of the Federal Land Transaction Facilitation Act Reauthorization, to establish and make available to the public, on the website of the Department of the Interior, a database containing a comprehensive list of all the land referred to in paragraph (1); and

''(3) to maintain the database referred to in paragraph (2).''; and

(B) in subsection (d), by striking ''11'' and inserting ''22'';

(4) by amending section 206(c)(1) (43 U.S.C. 2305(c)(1)) to read as follows:

''(1) USE OF FUNDS.—

''(A) IN GENERAL.—Funds in the Federal Land Disposal Account shall be expended, subject to appropriation, in accordance with this subsection.

''(B) PURPOSES.—Except as authorized under paragraph (2), funds in the Federal Land Disposal Account shall be used for one or more of the following purposes:

''(i) To purchase lands or interests therein that are otherwise authorized by law to be acquired and are one or more of the following:

''(I) Inholdings.

''(II) Adjacent to federally designated areas and contain exceptional resources.

''(III) Provide opportunities for hunting, recreational fishing, recreational shooting, and other recreational activities.

"(IV) Likely to aid in the performance of deferred maintenance or the reduction of operation and maintenance costs or other deferred costs.

"(ii) To perform deferred maintenance or other maintenance activities that enhance opportunities for recreational access.";

(5) in section 206(c)(2) (43 U.S.C. 2305(c)(2))—

(A) by striking subparagraph (A);

(B) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively;

(C) in subparagraph (C) (as so redesignated by this paragraph)—

(i) by striking "PURCHASES" and inserting "LAND PURCHASES AND PERFORMANCE OF DEFERRED MAINTENANCE ACTIVITIES";

(ii) by striking "subparagraph (C)" and inserting "subparagraph (B)"; and

(iii) by inserting "for the activities outlined in paragraph (2)" after "generated"; and

(D) by adding at the end the following:

"(D) Any funds made available under subparagraph (C) that are not obligated or expended by the end of the fourth full fiscal year after the date of the sale or exchange of land that generated the funds may be expended in any State.";

(6) in section 206(c)(3) (43 U.S.C. 2305(c)(3))—

(A) by inserting after subparagraph (A) the following:

"(B) the extent to which the acquisition of the land or interest therein will increase the public availability of resources for, and facilitate public access to, hunting, fishing, and other recreational activities;"; and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D);

(7) in section 206(f) (43 U.S.C. 2305(f)), by amending paragraph (2) to read as follows:

"(2) any remaining balance in the account shall be deposited in the Treasury and used for deficit reduction, except that in the case of a fiscal year for which there is no Federal budget deficit, such amounts shall be used to reduce the Federal debt (in

such manner as the Secretary of the Treasury considers appropriate).''; and

(8) in section 207(b) (43 U.S.C. 2306(b))—

(A) in paragraph (1)—

(i) by striking ''96–568'' and inserting ''96–586''; and

(ii) by striking ''; or'' and inserting a semicolon;

(B) in paragraph (2)—

(i) by inserting ''Public Law 105–263;'' before ''112 Stat.''; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(3) the White Pine County Conservation, Recreation, and Development Act of 2006 (Public Law 109–432; 120 Stat. 3028);

''(4) the Lincoln County Conservation, Recreation, and Development Act of 2004 (Public Law 108–424; 118 Stat. 2403);

''(5) subtitle F of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 1132 note; Public Law 111–11);

"(6) subtitle O of title I of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 460www note, 1132 note; Public Law 111–11);

"(7) section 2601 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1108); or

"(8) section 2606 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1121).".

# Subtitle J—African Elephant Conservation and Legal Ivory Possession Act

**SEC. 2101. SHORT TITLE.**

This subtitle may be cited as the "African Elephant Conservation and Legal Ivory Possession Act".

**SEC. 2102. REFERENCES.**

Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision, the reference shall be considered to be made to a provision of the African Elephant Conservation Act (16 U.S.C. 4201 et seq.).

**SEC. 2103. PLACEMENT OF UNITED STATES FISH AND WILDLIFE SERVICE LAW ENFORCEMENT OFFICERS IN EACH AFRICAN ELEPHANT RANGE COUNTRY.**

Part I (16 U.S.C. 4211 et seq.) is amended by adding at the end the following:

**"SEC. 2105. PLACEMENT OF UNITED STATES FISH AND WILDLIFE SERVICE LAW ENFORCEMENT OFFICERS IN EACH AFRICAN ELEPHANT RANGE COUNTRY.**

''The Secretary, in coordination with the Secretary of State, may station United States Fish and Wildlife Service law enforcement officers in the primary United States diplomatic or consular post in each African country that has a significant population of African elephants, who shall assist local wildlife rangers in the protection of African elephants and facilitate the apprehension of individuals who illegally kill, or assist the illegal killing of, African elephants.''.

**SEC. 2104. TREATMENT OF ELEPHANT IVORY.**

Section 2203 (16 U.S.C. 4223) is further amended by adding at the end the following:

''(c) TREATMENT OF ELEPHANT IVORY.—Nothing in this Act or the Endangered Species Act of 1973 (16 U.S.C. 1538) shall be construed—

"(1) to prohibit, or to authorize prohibiting, the possession, sale, delivery, receipt, shipment, or transportation of African elephant ivory, or any product containing African elephant ivory, that is in the United States because it has been lawfully imported or crafted in the United States; or

"(2) to authorize using any means of determining for purposes of this Act or the Endangered Species Act of 1973 whether African elephant ivory that is present in the United States has been lawfully imported, including any presumption or burden of proof applied in such determination, other than such means used by the Secretary as of February 24, 2014.".

**SEC. 2105. AFRICAN ELEPHANT CONSERVATION ACT FINANCIAL ASSISTANCE PRIORITY AND REAUTHORIZATION.**

(a) FINANCIAL ASSISTANCE PRIORITY.—Section 2101 (16 U.S.C. 4211) is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following:

"(e) PRIORITY.—In providing financial assistance under this section, the Secretary shall give priority to projects designed to facilitate the acquisition of equipment

and training of wildlife officials in ivory producing countries to be used in anti-poaching efforts.''.

(b) REAUTHORIZATION.—Section 2306(a) (16 U.S.C. 4245(a)) is amended by striking ''2007 through 2012'' and inserting ''2016 through 2020''.

**SEC. 2106. GOVERNMENT ACCOUNTABILITY OFFICE STUDY.**

Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study examining the effects of a ban of the trade in of fossilized ivory from mammoths and mastodons on the illegal importation and trade of African and Asian elephant ivory within the United States, with the exception of importation or trade thereof related to museum exhibitions or scientific research, and report to Congress the findings of such study.

# Subtitle K—Respect for Treaties and Rights

**SEC. 2111. RESPECT FOR TREATIES AND RIGHTS.**

Nothing in this Act or the amendments made by this Act shall be construed to affect or modify any treaty or other right of any federally recognized Indian tribe.

# Subtitle L—State Approval of Fishing Restriction

**SEC. 2131. STATE OR TERRITORIAL APPROVAL OF RESTRICTION OF RECREATIONAL OR COMMERCIAL FISHING ACCESS TO CERTAIN STATE OR TERRITORIAL WATERS.**

(a) APPROVAL REQUIRED.—The Secretary of the Interior and the Secretary of Commerce shall not restrict recreational or commercial fishing access to any State or territorial marine waters or Great Lakes waters within the jurisdiction of the National Park Service or the Office of National Marine Sanctuaries, respectively, unless those restrictions are developed in coordination with, and approved by, the fish and wildlife management agency of the State or territory that has fisheries management authority over those waters.

(b) DEFINITION.—In this section, the term ''marine waters'' includes coastal waters and estuaries.

# Subtitle M—Hunting and Recreational Fishing Within Certain National Forests

**SEC. 2141. DEFINITIONS.**

In this subtitle:

(1) HUNTING.—The term ''hunting'' means use of a firearm, bow, or other authorized means in the

lawful pursuit, shooting, capture, collection, trapping, or killing of wildlife; attempt to pursue, shoot, capture, collect, trap, or kill wildlife; or the training and use of hunting dogs, including field trials.

(2) RECREATIONAL FISHING.—The term ''recreational fishing'' means the lawful pursuit, capture, collection, or killing of fish; or attempt to capture, collect, or kill fish.

(3) FOREST PLAN.—The term ''forest plan'' means a land and resource management plan prepared by the Forest Service for a unit of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(4) NATIONAL FOREST SYSTEM.—The term ''National Forest System'' has the meaning given that term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))

**SEC. 2142. HUNTING AND RECREATIONAL FISHING WITHIN THE NATIONAL FOREST SYSTEM.**

(a) PROHIBITION OF RESTRICTIONS.—The Secretary of Agriculture or Chief of the Forest Service may not establish policies, directives, or regulations that restrict the type, season, or method of hunting or recreational fishing

on lands within the National Forest System that are otherwise open to those activities and are consistent with the applicable forest plan.

(b) PRIOR RESTRICTIONS VOID.—Any restrictions imposed by the Secretary of Agriculture or Chief of the Forest Service regarding the type, season, or method of hunting or recreational fishing on lands within the National Forest System that are otherwise open to those activities in force on the date of the enactment of this Act shall be void and have no force or effect.

(c) APPLICABILITY.—This section shall apply only to the Kisatchie National Forest in the State of Louisiana, the De Soto National Forest in the State of Mississippi, the Mark Twain National Forest in the State of Missouri, and the Ozark National Forest, the St. Francis National Forest and the Ouachita National Forest in the States of Arkansas and Oklahoma.

(d) STATE AUTHORITY.—Nothing in this section, section 1 of the Act of June 4, 1897 (16 U.S.C. 551), or section 32 of the Act of July 22, 1937 (7 U.S.C. 1011) shall affect the authority of States to manage hunting or recreational fishing on lands within the National Forest System.

**SEC. 2143. PUBLICATION OF CLOSURE OF ROADS IN FORESTS.**

The Chief of the Forest Service shall publish a notice in the Federal Register for the closure of any public road on Forest System lands, along with a justification for the closure.

# Subtitle N—Grand Canyon Bison Management Act

**SEC. 2151. SHORT TITLE.**

This subtitle may be cited as the ''Grand Canyon Bison Management Act''.

**SEC. 2152. DEFINITIONS.**

In this subtitle:

(1) MANAGEMENT PLAN.—The term ''management plan'' means the management plan published under section 2153(a).

(2) PARK.—The term ''Park'' means the Grand Canyon National Park.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) SKILLED PUBLIC VOLUNTEER.—The term ''skilled public volunteer'' means an individual who possesses—

(A) a valid hunting license issued by the State of Arizona; and

(B) such other qualifications as the Secretary may require, after consultation with the Arizona Game and Fish Commission.

**SEC. 2153. BISON MANAGEMENT PLAN FOR GRAND CANYON NATIONAL PARK.**

(a) PUBLICATION OF PLAN.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish a management plan to reduce, through humane lethal culling by skilled public volunteers and by other nonlethal means, the population of bison in the Park that the Secretary determines are detrimental to the use of the Park.

(b) REMOVAL OF ANIMAL.—Notwithstanding any other provision of law, a skilled public volunteer may remove a full bison harvested from the Park.

(c) COORDINATION.—The Secretary shall coordinate with the Arizona Game and Fish Commission regarding the development and implementation of the management plan.

(d) NEPA COMPLIANCE.—In developing the management plan, the Secretary shall comply with all applicable Federal environmental laws (including regulations), including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) LIMITATION.—Nothing in this subtitle applies to the taking of wildlife in the Park for any purpose other than the implementation of the management plan.

# Subtitle O—Open Book on Equal Access to Justice

**SEC. 2161. SHORT TITLE.**

This subtitle may be cited as the ''Open Book on Equal Access to Justice Act''.

**SEC. 2162. MODIFICATION OF EQUAL ACCESS TO JUSTICE PROVISIONS.**

(a) AGENCY PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(1) in subsection (c)(1), by striking '', United States Code'';

(2) by redesignating subsection (f) as subsection (i); and

(3) by striking subsection (e) and inserting the following:

''(e)(1) The Chairman of the Administrative Conference of the United States, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report to the Congress, not later than March 31 of each year through the 6th calendar year beginning after the initial report under this subsection is submitted, on the amount of fees and other expenses

1 awarded during the preceding fiscal year pursuant to this
2 section. The report shall describe the number, nature, and
3 amount of the awards, the claims involved in the con-
4 troversy, and any other relevant information that may aid
5 the Congress in evaluating the scope and impact of such
6 awards. The report shall be made available to the public
7 online.

8 ''(2)(A) The report required by paragraph (1) shall
9 account for all payments of fees and other expenses
10 awarded under this section that are made pursuant to a
11 settlement agreement, regardless of whether the settle-
12 ment agreement is sealed or otherwise subject to non-
13 disclosure provisions.

14 ''(B) The disclosure of fees and other expenses re-
15 quired under subparagraph (A) does not affect any other
16 information that is subject to nondisclosure provisions in
17 the settlement agreement.

18 ''(f) The Chairman of the Administrative Conference
19 shall create and maintain, during the period beginning on
20 the date the initial report under subsection (e) is sub-
21 mitted and ending one year after the date on which the
22 final report under that subsection is submitted, online a
23 searchable database containing the following information
24 with respect to each award of fees and other expenses
25 under this section:

"(1) The case name and number of the adversary adjudication, if available.

"(2) The name of the agency involved in the adversary adjudication.

"(3) A description of the claims in the adversary adjudication.

"(4) The name of each party to whom the award was made, as such party is identified in the order or other agency document making the award.

"(5) The amount of the award.

"(6) The basis for the finding that the position of the agency concerned was not substantially justified.

"(g) The online searchable database described in subsection (f) may not reveal any information the disclosure of which is prohibited by law or court order.

"(h) The head of each agency shall provide to the Chairman of the Administrative Conference in a timely manner all information requested by the Chairman to comply with the requirements of subsections (e), (f), and (g).".

(b) COURT CASES.—Section 2412(d) of title 28, United States Code, is amended by adding at the end the following:

1 "(5)(A) The Chairman of the Administrative Con-
2 ference of the United States shall submit to the Congress,
3 not later than March 31 of each year through the 6th cal-
4 endar year beginning after the initial report under this
5 paragraph is submitted, a report on the amount of fees
6 and other expenses awarded during the preceding fiscal
7 year pursuant to this subsection. The report shall describe
8 the number, nature, and amount of the awards, the claims
9 involved in each controversy, and any other relevant infor-
10 mation that may aid the Congress in evaluating the scope
11 and impact of such awards. The report shall be made
12 available to the public online.

13 "(B)(i) The report required by subparagraph (A)
14 shall account for all payments of fees and other expenses
15 awarded under this subsection that are made pursuant to
16 a settlement agreement, regardless of whether the settle-
17 ment agreement is sealed or otherwise subject to non-
18 disclosure provisions.

19 "(ii) The disclosure of fees and other expenses re-
20 quired under clause (i) does not affect any other informa-
21 tion that is subject to nondisclosure provisions in the set-
22 tlement agreement.

23 "(C) The Chairman of the Administrative Conference
24 shall include and clearly identify in the annual report

under subparagraph (A), for each case in which an award of fees and other expenses is included in the report—

"(i) any amounts paid from section 1304 of title 31 for a judgment in the case;

"(ii) the amount of the award of fees and other expenses; and

"(iii) the statute under which the plaintiff filed suit.

"(6) The Chairman of the Administrative Conference shall create and maintain, during the period beginning on the date the initial report under paragraph (5) is submitted and ending one year after the date on which the final report under that paragraph is submitted, online a searchable database containing the following information with respect to each award of fees and other expenses under this subsection:

"(A) The case name and number.

"(B) The name of the agency involved in the case.

"(C) The name of each party to whom the award was made, as such party is identified in the order or other court document making the award.

"(D) A description of the claims in the case.

"(E) The amount of the award.

"(F) The basis for the finding that the position of the agency concerned was not substantially justified.

"(7) The online searchable database described in paragraph (6) may not reveal any information the disclosure of which is prohibited by law or court order.

"(8) The head of each agency (including the Attorney General of the United States) shall provide to the Chairman of the Administrative Conference of the United States in a timely manner all information requested by the Chairman to comply with the requirements of paragraphs (5), (6), and (7).".

(c) CLERICAL AMENDMENTS.—Section 2412 of title 28, United States Code, is amended—

(1) in subsection (d)(3), by striking "United States Code,"; and

(2) in subsection (e)—

(A) by striking "of section 2412 of title 28, United States Code," and inserting "of this section"; and

(B) by striking "of such title" and inserting "of this title".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall first apply with respect

to awards of fees and other expenses that are made on or after the date of the enactment of this Act.

(2) INITIAL REPORTS.—The first reports required by section 504(e) of title 5, United States Code, and section 2412(d)(5) of title 28, United States Code, shall be submitted not later than March 31 of the calendar year following the first calendar year in which a fiscal year begins after the date of the enactment of this Act.

(3) ONLINE DATABASES.—The online databases required by section 504(f) of title 5, United States Code, and section 2412(d)(6) of title 28, United States Code, shall be established as soon as practicable after the date of the enactment of this Act, but in no case later than the date on which the first reports under section 504(e) of title 5, United States Code, and section 2412(d)(5) of title 28, United States Code, are required to be submitted under paragraph (2) of this subsection.

# Subtitle P—Utility Terrain Vehicles

## SEC. 2171. UTILITY TERRAIN VEHICLES IN KISATCHIE NATIONAL FOREST.

(a) IN GENERAL.—The Forest Administrator shall amend the applicable travel plan to allow utility terrain vehicles access on all roads nominated by the Secretary

of Louisiana Wildlife and Fisheries in the Kisatchie National Forest, except when such designation would pose an unacceptable safety risk, in which case the Forest Administrator shall publish a notice in the Federal Register with a justification for the closure.

(b) UTILITY TERRAIN VEHICLES DEFINED.—For purposes of this section, the term ''utility terrain vehicle''—

(1) means any recreational motor vehicle designed for and capable of travel over designated roads, traveling on four or more tires with a maximum tire width of 27 inches, a maximum wheel cleat or lug of ¾ of an inch, a minimum width of 50 inches but not exceeding 74 inches, a minimum weight of at least 700 pounds but not exceeding 2,000 pounds, and a minimum wheelbase of 61 inches but not exceeding 110 inches;

(2) includes vehicles not equipped with a certification label as required by part 567.4 of title 49, Code of Federal Regulations; and

(3) does not include golf carts, vehicles specially designed to carry a disabled person, or vehicles otherwise registered under section 32.299 of the Louisiana State statutes.

# Subtitle Q—Good Samaritan Search and Recovery

**SEC. 2181. SHORT TITLE.**

This subtitle may be cited as the ''Good Samaritan Search and Recovery Act''.

**SEC. 2182. EXPEDITED ACCESS TO CERTAIN FEDERAL LAND.**

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE.—The term ''eligible'', with respect to an organization or individual, means that the organization or individual, respectively, is—

(A) acting in a not-for-profit capacity; and

(B) composed entirely of members who, at the time of the good Samaritan search-and-recovery mission, have attained the age of majority under the law of the State where the mission takes place.

(2) GOOD SAMARITAN SEARCH-AND-RECOVERY MISSION.—The term ''good Samaritan search-and-recovery mission'' means a search conducted by an eligible organization or individual for 1 or more missing individuals believed to be deceased at the time that the search is initiated.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior or the Secretary of Agriculture, as applicable.

(b) PROCESS.—

(1) IN GENERAL.—Each Secretary shall develop and implement a process to expedite access to Federal land under the administrative jurisdiction of the Secretary for eligible organizations and individuals to request access to Federal land to conduct good Samaritan search-and-recovery missions.

(2) INCLUSIONS.—The process developed and implemented under this subsection shall include provisions to clarify that—

(A) an eligible organization or individual granted access under this section—

(i) shall be acting for private purposes; and

(ii) shall not be considered to be a Federal volunteer;

(B) an eligible organization or individual conducting a good Samaritan search-and-recovery mission under this section shall not be considered to be a volunteer under section 102301(c) of title 54, United States Code;

(C) chapter 171 of title 28, United States Code (commonly known as the ''Federal Tort Claims Act''), shall not apply to an eligible organization or individual carrying out a privately requested good Samaritan search-and-recovery mission under this section; and

(D) an eligible organization or entity who conducts a good Samaritan search-and-recovery mission under this section shall serve without pay from the Federal Government for such service.

(c) RELEASE OF FEDERAL GOVERNMENT FROM LIABILITY.—The Secretary shall not require an eligible organization or individual to have liability insurance as a condition of accessing Federal land under this section, if the eligible organization or individual—

(1) acknowledges and consents, in writing, to the provisions described in subparagraphs (A) through (D) of subsection (b)(2); and

(2) signs a waiver releasing the Federal Government from all liability relating to the access granted under this section and agrees to indemnify and hold harmless the United States from any claims or lawsuits arising from any conduct by the eligible organization or individual on Federal land.

(d) APPROVAL AND DENIAL OF REQUESTS.—

(1) IN GENERAL.—The Secretary shall notify an eligible organization or individual of the approval or denial of a request by the eligible organization or individual to carry out a good Samaritan search-and-recovery mission under this section by not later than 48 hours after the request is made.

(2) DENIALS.—If the Secretary denies a request from an eligible organization or individual to carry out a good Samaritan search-and-recovery mission under this section, the Secretary shall notify the eligible organization or individual of—

(A) the reason for the denial of the request; and

(B) any actions that the eligible organization or individual can take to meet the requirements for the request to be approved.

(e) PARTNERSHIPS.—Each Secretary shall develop search-and-recovery-focused partnerships with search-and-recovery organizations—

(1) to coordinate good Samaritan search-and-recovery missions on Federal land under the administrative jurisdiction of the Secretary; and

(2) to expedite and accelerate good Samaritan search-and-recovery mission efforts for missing indi-

viduals on Federal land under the administrative jurisdiction of the Secretary.

(f) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretaries shall submit to Congress a joint report describing—

(1) plans to develop partnerships described in subsection (e)(1); and

(2) efforts carried out to expedite and accelerate good Samaritan search-and-recovery mission efforts for missing individuals on Federal land under the administrative jurisdiction of each Secretary pursuant to subsection (e)(2).

# Subtitle R—Interstate Transportation of Firearms or Ammunition

## SEC. 2191. INTERSTATE TRANSPORTATION OF FIREARMS OR AMMUNITION.

(a) IN GENERAL.—Section 926A of title 18, United States Code, is amended to read as follows:

### "§ 926A. Interstate transportation of firearms or ammunition

''(a) Notwithstanding any provision of any law, rule, or regulation of a State or any political subdivision thereof:

"(1) A person who is not prohibited by this chapter from possessing, transporting, shipping, or receiving a firearm or ammunition shall be entitled to transport a firearm for any lawful purpose from any place where the person may lawfully possess, carry, or transport the firearm to any other such place if, during the transportation, the firearm is unloaded, and—

"(A) if the transportation is by motor vehicle, the firearm is not directly accessible from the passenger compartment of the vehicle, and, if the vehicle is without a compartment separate from the passenger compartment, the firearm is in a locked container other than the glove compartment or console, or is secured by a secure gun storage or safety device; or

"(B) if the transportation is by other means, the firearm is in a locked container or secured by a secure gun storage or safety device.

"(2) A person who is not prohibited by this chapter from possessing, transporting, shipping, or receiving a firearm or ammunition shall be entitled to transport ammunition for any lawful purpose from any place where the person may lawfully pos-

sess, carry, or transport the ammunition, to any other such place if, during the transportation, the ammunition is not loaded into a firearm, and—

"(A) if the transportation is by motor vehicle, the ammunition is not directly accessible from the passenger compartment of the vehicle, and, if the vehicle is without a compartment separate from the passenger compartment, the ammunition is in a locked container other than the glove compartment or console; or

"(B) if the transportation is by other means, the ammunition is in a locked container.

"(b) In subsection (a), the term 'transport' includes staying in temporary lodging overnight, stopping for food, fuel, vehicle maintenance, an emergency, medical treatment, and any other activity incidental to the transport, but does not include transportation—

"(1) with the intent to commit a crime punishable by imprisonment for a term exceeding one year that involves the use or threatened use of force against another; or

"(2) with knowledge, or reasonable cause to believe, that such a crime is to be committed in the course of, or arising from, the transportation.

1 ''(c)(1) A person who is transporting a firearm or
2 ammunition may not be arrested or otherwise detained for
3 violation of any law or any rule or regulation of a State
4 or any political subdivision thereof related to the posses-
5 sion, transportation, or carrying of firearms, unless there
6 is probable cause to believe that the person is doing so
7 in a manner not provided for in subsection (a).

8 ''(2) When a person asserts this section as a defense
9 in a criminal proceeding, the prosecution shall bear the
10 burden of proving, beyond a reasonable doubt, that the
11 conduct of the person did not satisfy the conditions set
12 forth in subsection (a).

13 ''(3) When a person successfully asserts this section
14 as a defense in a criminal proceeding, the court shall
15 award the prevailing defendant a reasonable attorney's
16 fee.

17 ''(d)(1) A person who is deprived of any right, privi-
18 lege, or immunity secured by this section, section 926B
19 or 926C, under color of any statute, ordinance, regulation,
20 custom, or usage of any State or any political subdivision
21 thereof, may bring an action in any appropriate court
22 against any other person, including a State or political
23 subdivision thereof, who causes the person to be subject
24 to the deprivation, for damages and other appropriate re-
25 lief.

"(2) The court shall award a plaintiff prevailing in an action brought under paragraph (1) damages and such other relief as the court deems appropriate, including a reasonable attorney's fee.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended in the item relating to section 926A by striking "firearms" and inserting "firearms or ammunition".

# Subtitle S—Gray Wolves

**SEC. 2201. REISSUANCE OF FINAL RULE REGARDING GRAY WOLVES IN THE WESTERN GREAT LAKES.**

Before the end of the 60-day period beginning on the date of enactment of this Act, the Secretary of the Interior shall reissue the final rule published on December 28, 2011 (76 Fed. Reg. 81666), without regard to any other provision of statute or regulation that applies to issuance of such rule. Such reissuance shall not be subject to judicial review.

**SEC. 2202. REISSUANCE OF FINAL RULE REGARDING GRAY WOLVES IN WYOMING.**

Before the end of the 60-day period beginning on the date of enactment of this Act, the Secretary of the Interior shall reissue the final rule published on September 10, 2012 (77 Fed. Reg. 55530), without regard to any other provision of statute or regulation that applies to issuance

of such rule. Such reissuance shall not be subject to judicial review.

# Subtitle T—Miscellaneous Provisions

**SEC. 2211. PROHIBITION ON ISSUANCE OF FINAL RULE.**

The Director of the United States Fish and Wildlife Service shall not issue a final rule that—

(1) succeeds the proposed rule entitled ''Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska'' (81 Fed. Reg. 887 (January 8, 2016)); or

(2) is substantially similar to that proposed rule.

**SEC. 2212. WITHDRAWAL OF EXISTING RULE REGARDING HUNTING AND TRAPPING IN ALASKA.**

The Director of the National Park Service shall withdraw the final rule entitled ''Alaska; Hunting and Trapping in National Preserves'' (80 Fed. Reg. 64325 (October 23, 2015)) by not later than 30 days after the date of the enactment of this Act, and shall not issue a rule that is substantially similar to that rule.

# TITLE III—NATIONAL STRATEGIC AND CRITICAL MINERALS PRODUCTION ACT

**SEC. 3001. SHORT TITLE.**

This title may be cited as the ''National Strategic and Critical Minerals Production Act of 2015''.

**SEC. 3002. FINDINGS.**

Congress finds the following:

(1) The industrialization of developing nations has driven demand for nonfuel minerals necessary for telecommunications, military technologies, healthcare technologies, and conventional and renewable energy technologies.

(2) The availability of minerals and mineral materials are essential for economic growth, national security, technological innovation, and the manufacturing and agricultural supply chain.

(3) The exploration, production, processing, use, and recycling of minerals contribute significantly to the economic well-being, security, and general welfare of the Nation.

(4) The United States has vast mineral resources, but is becoming increasingly dependent upon foreign sources of these mineral materials, as demonstrated by the following:

(A) Twenty-five years ago the United States was dependent on foreign sources for 45 nonfuel mineral materials, 8 of which the United States imported 100 percent of the Nation's requirements, and for another 19 commodities the United States imported more than 50 percent of the Nation's needs.

(B) By 2014 the United States import dependence for nonfuel mineral materials increased from 45 to 65 commodities, 19 of which the United States imported for 100 percent of the Nation's requirements, and an additional 24 of which the United States imported for more than 50 percent of the Nation's needs.

(C) The United States share of worldwide mineral exploration dollars was 7 percent in 2014, down from 19 percent in the early 1990s.

(D) In the 2014 Ranking of Countries for Mining Investment (out of 25 major mining countries), found that 7- to 10-year permitting delays are the most significant risk to mining projects in the United States.

**SEC. 3003. DEFINITIONS.**

In this title:

(1) STRATEGIC AND CRITICAL MINERALS.—The term ''strategic and critical minerals'' means minerals that are necessary—

(A) for national defense and national security requirements;

(B) for the Nation's energy infrastructure, including pipelines, refining capacity, electrical power generation and transmission, and renewable energy production;

(C) to support domestic manufacturing, agriculture, housing, telecommunications, healthcare, and transportation infrastructure; or

(D) for the Nation's economic security and balance of trade.

(2) AGENCY.—The term ''agency'' means any agency, department, or other unit of Federal, State, local, or tribal government, or Alaska Native Corporation.

(3) MINERAL EXPLORATION OR MINE PERMIT.—The term ''mineral exploration or mine permit'' includes—

(A) Bureau of Land Management and Forest Service authorizations for pre-mining activities that require environmental analyses pursu-

ant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) plans of operation issued by the Bureau of Land Management and the Forest Service pursuant to 43 CFR 3809 and 36 CFR 228A or the authorities listed in 43 CFR 3503.13, respectively, as amended from time to time.

# Subtitle A—Development of Domestic Sources of Strategic and Critical Minerals

### SEC. 3011. IMPROVING DEVELOPMENT OF STRATEGIC AND CRITICAL MINERALS.

Domestic mines that will provide strategic and critical minerals shall be considered an ''infrastructure project'' as described in Presidential order ''Improving Performance of Federal Permitting and Review of Infrastructure Projects'' dated March 22, 2012.

### SEC. 3012. RESPONSIBILITIES OF THE LEAD AGENCY.

(a) IN GENERAL.—The lead agency with responsibility for issuing a mineral exploration or mine permit shall appoint a project lead within the lead agency who shall coordinate and consult with cooperating agencies and any other agency involved in the permitting process, project proponents and contractors to ensure that agencies

1 minimize delays, set and adhere to timelines and schedules
2 for completion of the permitting process, set clear permit-
3 ting goals and track progress against those goals.
4 (b) DETERMINATION UNDER NEPA.—
5 (1) IN GENERAL.—To the extent that the Na-
6 tional Environmental Policy Act of 1969 (42 U.S.C.
7 4321 et seq.) applies to the issuance of any mineral
8 exploration or mine permit, the requirements of such
9 Act shall be deemed to have been procedurally and
10 substantively satisfied if the lead agency determines
11 that any State and/or Federal agency acting pursu-
12 ant to State or Federal (or both) statutory or proce-
13 dural authorities, has addressed or will address the
14 following factors:
15 (A) The environmental impact of the ac-
16 tion to be conducted under the permit.
17 (B) Possible adverse environmental effects
18 of actions under the permit.
19 (C) Possible alternatives to issuance of the
20 permit.
21 (D) The relationship between local long-
22 and short-term uses of man's environment and
23 the maintenance and enhancement of long-term
24 productivity.

(E) Any irreversible and irretrievable commitment of resources that would be involved in the proposed action.

(F) That public participation will occur during the decisionmaking process for authorizing actions under the permit.

(2) WRITTEN REQUIREMENT.—In reaching a determination under paragraph (1), the lead agency shall, by no later than 90 days after receipt of an application for the permit, in a written record of decision—

(A) explain the rationale used in reaching its determination;

(B) state the facts in the record that are the basis for the determination; and

(C) show that the facts in the record could allow a reasonable person to reach the same determination as the lead agency did.

(c) COORDINATION ON PERMITTING PROCESS.—The lead agency with responsibility for issuing a mineral exploration or mine permit shall enhance government coordination for the permitting process by avoiding duplicative reviews, minimizing paperwork, and engaging other agencies and stakeholders early in the process. For purposes of this

subsection, the lead agency shall consider the following practices:

(1) Deferring to and relying upon baseline data, analyses and reviews performed by State agencies with jurisdiction over the proposed project.

(2) Conducting any consultations or reviews concurrently rather than sequentially to the extent practicable and when such concurrent review will expedite rather than delay a decision.

(d) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or local planning agency, the lead agency with responsibility for issuing a mineral exploration or mine permit, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State and local governments, and other appropriate entities to accomplish the early coordination activities described in subsection (c).

(e) SCHEDULE FOR PERMITTING PROCESS.—For any project for which the lead agency cannot make the determination described in 102(b), at the request of a project proponent the lead agency, cooperating agencies, and any other agencies involved with the mineral exploration or mine permitting process shall enter into an agreement

with the project proponent that sets time limits for each part of the permitting process, including for the following:

(1) The decision on whether to prepare a document required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) A determination of the scope of any document required under the National Environmental Policy Act of 1969.

(3) The scope of and schedule for the baseline studies required to prepare a document required under the National Environmental Policy Act of 1969.

(4) Preparation of any draft document required under the National Environmental Policy Act of 1969.

(5) Preparation of a final document required under the National Environmental Policy Act of 1969.

(6) Consultations required under applicable laws.

(7) Submission and review of any comments required under applicable law.

(8) Publication of any public notices required under applicable law.

(9) A final or any interim decisions.

(f) TIME LIMIT FOR PERMITTING PROCESS.—In no case should the total review process described in subsection (d) exceed 30 months unless extended by the signatories of the agreement.

(g) LIMITATION ON ADDRESSING PUBLIC COMMENTS.—The lead agency is not required to address agency or public comments that were not submitted during any public comment periods or consultation periods provided during the permitting process or as otherwise required by law.

(h) FINANCIAL ASSURANCE.—The lead agency will determine the amount of financial assurance for reclamation of a mineral exploration or mining site, which must cover the estimated cost if the lead agency were to contract with a third party to reclaim the operations according to the reclamation plan, including construction and maintenance costs for any treatment facilities necessary to meet Federal, State or tribal environmental standards.

(i) APPLICATION TO EXISTING PERMIT APPLICATIONS.—This section shall apply with respect to a mineral exploration or mine permit for which an application was submitted before the date of the enactment of this Act if the applicant for the permit submits a written request to the lead agency for the permit. The lead agency shall

begin implementing this section with respect to such application within 30 days after receiving such written request.

(j) STRATEGIC AND CRITICAL MINERALS WITHIN NATIONAL FORESTS.—With respect to strategic and critical minerals within a federally administered unit of the National Forest System, the lead agency shall—

(1) exempt all areas of identified mineral resources in Land Use Designations, other than Non-Development Land Use Designations, in existence as of the date of the enactment of this Act from the procedures detailed at and all rules promulgated under part 294 of title 36, Code of Federal Regulations;

(2) apply such exemption to all additional routes and areas that the lead agency finds necessary to facilitate the construction, operation, maintenance, and restoration of the areas of identified mineral resources described in paragraph (1); and

(3) continue to apply such exemptions after approval of the Minerals Plan of Operations for the unit of the National Forest System.

**SEC. 3013. CONSERVATION OF THE RESOURCE.**

In evaluating and issuing any mineral exploration or mine permit, the priority of the lead agency shall be to maximize the development of the mineral resource, while

mitigating environmental impacts, so that more of the mineral resource can be brought to the marketplace.

**SEC. 3014. FEDERAL REGISTER PROCESS FOR MINERAL EXPLORATION AND MINING PROJECTS.**

(a) PREPARATION OF FEDERAL NOTICES FOR MINERAL EXPLORATION AND MINE DEVELOPMENT PROJECTS.—The preparation of Federal Register notices required by law associated with the issuance of a mineral exploration or mine permit shall be delegated to the organization level within the agency responsible for issuing the mineral exploration or mine permit. All Federal Register notices regarding official document availability, announcements of meetings, or notices of intent to undertake an action shall be originated and transmitted to the Federal Register from the office where documents are held, meetings are held, or the activity is initiated.

(b) DEPARTMENTAL REVIEW OF FEDERAL REGISTER NOTICES FOR MINERAL EXPLORATION AND MINING PROJECTS.—Absent any extraordinary circumstance or except as otherwise required by any Act of Congress, each Federal Register notice described in subsection (a) shall undergo any required reviews within the Department of the Interior or the Department of Agriculture and be published in its final form in the Federal Register no later than 30 days after its initial preparation.

# Subtitle B—Judicial Review of Agency Actions Relating to Exploration and Mine Permits

**SEC. 3021. DEFINITIONS FOR TITLE.**

In this subtitle the term ''covered civil action'' means a civil action against the Federal Government containing a claim under section 702 of title 5, United States Code, regarding agency action affecting a mineral exploration or mine permit.

**SEC. 3022. TIMELY FILINGS.**

A covered civil action is barred unless filed no later than the end of the 60-day period beginning on the date of the final Federal agency action to which it relates.

**SEC. 3023. RIGHT TO INTERVENE.**

The holder of any mineral exploration or mine permit may intervene as of right in any covered civil action by a person affecting rights or obligations of the permit holder under the permit.

**SEC. 3024. EXPEDITION IN HEARING AND DETERMINING THE ACTION.**

The court shall endeavor to hear and determine any covered civil action as expeditiously as possible.

**SEC. 3025. LIMITATION ON PROSPECTIVE RELIEF.**

In a covered civil action, the court shall not grant or approve any prospective relief unless the court finds

that such relief is narrowly drawn, extends no further than necessary to correct the violation of a legal requirement, and is the least intrusive means necessary to correct that violation.

**SEC. 3026. LIMITATION ON ATTORNEYS' FEES.**

Section 504 of title 5, United States Code, and section 2412 of title 28, United States Code (together commonly called the Equal Access to Justice Act) do not apply to a covered civil action, nor shall any party in such a covered civil action receive payment from the Federal Government for their attorneys' fees, expenses, and other court costs.

## Subtitle C—Miscellaneous Provisions

**SEC. 3031. SECRETARIAL ORDER NOT AFFECTED.**

This title shall not apply to any mineral described in Secretarial Order No. 3324, issued by the Secretary of the Interior on December 3, 2012, in any area to which the order applies.

# TITLE IV—NATIVE AMERICAN ENERGY ACT

**SEC. 4001. SHORT TITLE.**

This title may be cited as the ''Native American Energy Act''.

**SEC. 4002. APPRAISALS.**

(a) AMENDMENT.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended by adding at the end the following:

**"SEC. 2607. APPRAISAL REFORMS.**

''(a) OPTIONS TO INDIAN TRIBES.—With respect to a transaction involving Indian land or the trust assets of an Indian tribe that requires the approval of the Secretary, any appraisal relating to fair market value required to be conducted under applicable law, regulation, or policy may be completed by—

''(1) the Secretary;

''(2) the affected Indian tribe; or

''(3) a certified, third-party appraiser pursuant to a contract with the Indian tribe.

''(b) TIME LIMIT ON SECRETARIAL REVIEW AND ACTION.—Not later than 30 days after the date on which the Secretary receives an appraisal conducted by or for an Indian tribe pursuant to paragraphs (2) or (3) of subsection (a), the Secretary shall—

''(1) review the appraisal; and

''(2) provide to the Indian tribe a written notice of approval or disapproval of the appraisal.

''(c) FAILURE OF SECRETARY TO APPROVE OR DISAPPROVE.—If, after 60 days, the Secretary has failed to

approve or disapprove any appraisal received, the appraisal shall be deemed approved.

"(d) OPTION TO INDIAN TRIBES TO WAIVE APPRAISAL.—

"(1) An Indian tribe wishing to waive the requirements of subsection (a), may do so after it has satisfied the requirements of paragraphs (2) and (3).

"(2) An Indian tribe wishing to forego the necessity of a waiver pursuant to this section must provide to the Secretary a written resolution, statement, or other unambiguous indication of tribal intent, duly approved by the governing body of the Indian tribe.

"(3) The unambiguous indication of intent provided by the Indian tribe to the Secretary under paragraph (2) must include an express waiver by the Indian tribe of any claims for damages it might have against the United States as a result of the lack of an appraisal undertaken.

"(e) DEFINITION.—For purposes of this subsection, the term 'appraisal' includes appraisals and other estimates of value.

"(f) REGULATIONS.—The Secretary shall develop regulations for implementing this section, including stand-

ards the Secretary shall use for approving or disapproving an appraisal.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. 13201 note) is amended by adding at the end of the items relating to title XXVI the following:

''Sec. 2607. Appraisal reforms.''.

**SEC. 4003. STANDARDIZATION.**

As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall implement procedures to ensure that each agency within the Department of the Interior that is involved in the review, approval, and oversight of oil and gas activities on Indian lands shall use a uniform system of reference numbers and tracking systems for oil and gas wells.

**SEC. 4004. ENVIRONMENTAL REVIEWS OF MAJOR FEDERAL ACTIONS ON INDIAN LANDS.**

Section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) is amended by inserting ''(a) IN GENERAL.—'' before the first sentence, and by adding at the end the following:

''(b) REVIEW OF MAJOR FEDERAL ACTIONS ON INDIAN LANDS.—

''(1) REVIEW AND COMMENT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the statement required

under subsection (a)(2)(C) for a major Federal action regarding an activity on Indian lands of an Indian tribe shall only be available for review and comment by the members of the Indian tribe, other individuals residing within the affected area, and State, federally recognized tribal, and local governments within the affected area.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a statement for a major Federal action regarding an activity on Indian lands of an Indian tribe related to gaming under the Indian Gaming Regulatory Act.

"(2) REGULATIONS.—The Chairman of the Council on Environmental Quality shall develop regulations to implement this section, including descriptions of affected areas for specific major Federal actions, in consultation with Indian tribes.

"(3) DEFINITIONS.—In this subsection, each of the terms 'Indian land' and 'Indian tribe' has the meaning given that term in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501).

"(4) CLARIFICATION OF AUTHORITY.—Nothing in the Native American Energy Act, except section 6 of that Act, shall give the Secretary any additional

authority over energy projects on Alaska Native Claims Settlement Act lands.''.

**SEC. 4005. JUDICIAL REVIEW.**

(a) TIME FOR FILING COMPLAINT.—Any energy related action must be filed not later than the end of the 60-day period beginning on the date of the final agency action. Any energy related action not filed within this time period shall be barred.

(b) DISTRICT COURT VENUE AND DEADLINE.—All energy related actions—

(1) shall be brought in the United States District Court for the District of Columbia; and

(2) shall be resolved as expeditiously as possible, and in any event not more than 180 days after such cause of action is filed.

(c) APPELLATE REVIEW.—An interlocutory order or final judgment, decree or order of the district court in an energy related action may be reviewed by the United States Court of Appeals for the District of Columbia Circuit. The District of Columbia Circuit Court of Appeals shall resolve such appeal as expeditiously as possible, and in any event not more than 180 days after such interlocutory order or final judgment, decree or order of the district court was issued.

(d) LIMITATION ON CERTAIN PAYMENTS.—Notwithstanding section 1304 of title 31, United States Code, no award may be made under section 504 of title 5, United States Code, or under section 2412 of title 28, United States Code, and no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay any fees or other expenses under such sections, to any person or party in an energy related action.

(e) LEGAL FEES.—In any energy related action in which the plaintiff does not ultimately prevail, the court shall award to the defendant (including any intervenor-defendants), other than the United States, fees and other expenses incurred by that party in connection with the energy related action, unless the court finds that the position of the plaintiff was substantially justified or that special circumstances make an award unjust. Whether or not the position of the plaintiff was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the energy related action for which fees and other expenses are sought.

(f) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) AGENCY ACTION.—The term ''agency action'' has the same meaning given such term in section 551 of title 5, United States Code.

(2) INDIAN LAND.—The term ''Indian Land'' has the same meaning given such term in section 203(c)(3) of the Energy Policy Act of 2005 (Public Law 109–58; 25 U.S.C. 3501), including lands owned by Native Corporations under the Alaska Native Claims Settlement Act (Public Law 92–203; 43 U.S.C. 1601).

(3) ENERGY RELATED ACTION.—The term ''energy related action'' means a cause of action that—

(A) is filed on or after the effective date of this Act; and

(B) seeks judicial review of a final agency action to issue a permit, license, or other form of agency permission allowing:

(i) any person or entity to conduct activities on Indian Land, which activities involve the exploration, development, production or transportation of oil, gas, coal, shale gas, oil shale, geothermal resources, wind or solar resources, underground coal gasification, biomass, or the generation of electricity; or

(ii) any Indian Tribe, or any organization of two or more entities, at least one of which is an Indian tribe, to conduct activities involving the exploration, development, production or transportation of oil, gas, coal, shale gas, oil shale, geothermal resources, wind or solar resources, underground coal gasification, biomass, or the generation of electricity, regardless of where such activities are undertaken.

(4) ULTIMATELY PREVAIL.—The phrase ''ultimately prevail'' means, in a final enforceable judgment, the court rules in the party's favor on at least one cause of action which is an underlying rationale for the preliminary injunction, administrative stay, or other relief requested by the party, and does not include circumstances where the final agency action is modified or amended by the issuing agency unless such modification or amendment is required pursuant to a final enforceable judgment of the court or a court-ordered consent decree.

**SEC. 4006. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

The Tribal Forest Protection Act of 2004 is amended by inserting after section 2 (25 U.S.C. 3115a) the following:

**"SEC. 3. TRIBAL BIOMASS DEMONSTRATION PROJECT.**

"(a) IN GENERAL.—For each of fiscal years 2016 through 2020, the Secretary shall enter into stewardship contracts or other agreements, other than agreements that are exclusively direct service contracts, with Indian tribes to carry out demonstration projects to promote biomass energy production (including biofuel, heat, and electricity generation) on Indian forest land and in nearby communities by providing reliable supplies of woody biomass from Federal land.

"(b) DEFINITIONS.—The definitions in section 2 shall apply to this section.

"(c) DEMONSTRATION PROJECTS.—In each fiscal year for which projects are authorized, the Secretary shall enter into contracts or other agreements described in subsection (a) to carry out at least 4 new demonstration projects that meet the eligibility criteria described in subsection (d).

"(d) ELIGIBILITY CRITERIA.—To be eligible to enter into a contract or other agreement under this subsection, an Indian tribe shall submit to the Secretary an application—

"(1) containing such information as the Secretary may require; and

"(2) that includes a description of—

"(A) the Indian forest land or rangeland under the jurisdiction of the Indian tribe; and

"(B) the demonstration project proposed to be carried out by the Indian tribe.

"(e) SELECTION.—In evaluating the applications submitted under subsection (c), the Secretary—

"(1) shall take into consideration the factors set forth in paragraphs (1) and (2) of section 2(e) of Public Law 108–278; and whether a proposed demonstration project would—

"(A) increase the availability or reliability of local or regional energy;

"(B) enhance the economic development of the Indian tribe;

"(C) improve the connection of electric power transmission facilities serving the Indian tribe with other electric transmission facilities;

"(D) improve the forest health or watersheds of Federal land or Indian forest land or rangeland; or

"(E) otherwise promote the use of woody biomass; and

"(2) shall exclude from consideration any merchantable logs that have been identified by the Secretary for commercial sale.

"(f) IMPLEMENTATION.—The Secretary shall—

"(1) ensure that the criteria described in subsection (c) are publicly available by not later than 120 days after the date of enactment of this section; and

"(2) to the maximum extent practicable, consult with Indian tribes and appropriate intertribal organizations likely to be affected in developing the application and otherwise carrying out this section.

"(g) REPORT.—Not later than one year subsequent to the date of enactment of this section, the Secretary shall submit to Congress a report that describes, with respect to the reporting period—

"(1) each individual tribal application received under this section; and

"(2) each contract and agreement entered into pursuant to this section.

"(h) INCORPORATION OF MANAGEMENT PLANS.—In carrying out a contract or agreement under this section, on receipt of a request from an Indian tribe, the Secretary shall incorporate into the contract or agreement, to the extent practicable, management plans (including forest management and integrated resource management plans) in effect on the Indian forest land or rangeland of the respective Indian tribe.

"(i) TERM.—A stewardship contract or other agreement entered into under this section—

"(1) shall be for a term of not more than 20 years; and

"(2) may be renewed in accordance with this section for not more than an additional 10 years.

**"SEC. 4. TRIBAL FOREST MANAGEMENT DEMONSTRATION PROJECT.**

"The Secretary of the Interior and the Secretary of Agriculture may carry out demonstration projects by which federally recognized Indian tribes or tribal organizations may contract to perform administrative, management, and other functions of programs of the Tribal Forest Protection Act of 2004 (25 U.S.C. 3115a et seq.) through contracts entered into under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).".

**SEC. 4007. TRIBAL RESOURCE MANAGEMENT PLANS.**

Unless otherwise explicitly exempted by Federal law enacted after the date of the enactment of this Act, any activity conducted or resources harvested or produced pursuant to a tribal resource management plan or an integrated resource management plan approved by the Secretary of the Interior under the National Indian Forest Resources Management Act (25 U.S.C. 3101 et seq.) or

the American Indian Agricultural Resource Management Act (25 U.S.C. 3701 et seq.), shall be considered a sustainable management practice for purposes of any Federal standard, benefit, or requirement that requires a demonstration of such sustainability.

**SEC. 4008. LEASES OF RESTRICTED LANDS FOR THE NAVAJO NATION.**

Subsection (e)(1) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(e)(1); commonly referred to as the ''Long-Term Leasing Act''), is amended—

(1) by striking '', except a lease for'' and inserting '', including leases for'';

(2) in subparagraph (A), by striking ''25'' the first place it appears and all that follows and inserting ''99 years;'';

(3) in subparagraph (B), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(C) in the case of a lease for the exploration, development, or extraction of mineral resources, including geothermal resources, 25 years, except that any such lease may include an option to renew for one additional term not to exceed 25 years.''.

**SEC. 4009. NONAPPLICABILITY OF CERTAIN RULES.**

No rule promulgated by the Department of the Interior regarding hydraulic fracturing used in the development or production of oil or gas resources shall have any effect on any land held in trust or restricted status for the benefit of Indians except with the express consent of the beneficiary on whose behalf such land is held in trust or restricted status.

# TITLE V—NORTHPORT IRRIGATION EARLY REPAYMENT

**SEC. 5001. EARLY REPAYMENT OF CONSTRUCTION COSTS.**

(a) IN GENERAL.—Notwithstanding section 213 of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm), any landowner within the Northport Irrigation District in the State of Nebraska (referred to in this section as the ''District'') may repay, at any time, the construction costs of project facilities allocated to the landowner's land within the District.

(b) APPLICABILITY OF FULL-COST PRICING LIMITATIONS.—On discharge, in full, of the obligation for repayment of all construction costs described in subsection (a) that are allocated to all land the landowner owns in the District in question, the parcels of land shall not be subject to the ownership and full-cost pricing limitations under Federal reclamation law (the Act of June 17, 1902, 32 Stat. 388, chapter 1093), and Acts supplemental to

and amendatory of that Act (43 U.S.C. 371 et seq.), including the Reclamation Reform Act of 1982 (13 U.S.C. 390aa et seq.).

(c) CERTIFICATION.—On request of a landowner that has repaid, in full, the construction costs described in subsection (a), the Secretary of the Interior shall provide to the landowner a certificate described in section 213(b)(1) of the Reclamation Reform Act of 1982 (43 U.S.C. 390mm(b)(1)).

(d) EFFECT.—Nothing in this section—

(1) modifies any contractual rights under, or amends or reopens, the reclamation contract between the District and the United States; or

(2) modifies any rights, obligations, or relationships between the District and landowners in the District under Nebraska State law.

# TITLE VI—OCMULGEE MOUNDS NATIONAL HISTORICAL PARK BOUNDARY REVISION ACT

**SEC. 6001. SHORT TITLE.**

This title may be cited as the ''Ocmulgee Mounds National Historical Park Boundary Revision Act of 2016''.

**SEC. 6002. DEFINITIONS.**

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''Ocmulgee National Monument Proposed Boundary Adjustment, numbered 363/125996'', and dated January 2016.

(2) HISTORICAL PARK.—The term ''Historical Park'' means the Ocmulgee Mounds National Historical Park in the State of Georgia, as redesignated in section 6003.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 6003. OCMULGEE MOUNDS NATIONAL HISTORICAL PARK.**

(a) REDESIGNATION.—Ocmulgee National Monument, established pursuant to the Act of June 14, 1934 (48 Stat. 958), shall be known and designated as ''Ocmulgee Mounds National Historical Park''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to ''Ocmulgee National Monument'', other than in this Act, shall be deemed to be a reference to ''Ocmulgee Mounds National Historical Park''.

**SEC. 6004. BOUNDARY ADJUSTMENT.**

(a) IN GENERAL.—The boundary of the Historical Park is revised to include approximately 2,100 acres, as generally depicted on the map.

(b) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service, the Department of the Interior.

**SEC. 6005. LAND ACQUISITION; NO BUFFER ZONES.**

(a) LAND ACQUISITION.—The Secretary is authorized to acquire land and interests in land within the boundaries of the Historical Park by donation or exchange only (and in the case of an exchange, no payment may be made by the Secretary to any landowner). The Secretary may not acquire by condemnation any land or interest in land within the boundaries of the Historical Park. No private property or non-Federal public property shall be included within the boundaries of the Historical Park without the written consent of the owner of such property.

(b) NO BUFFER ZONES.—Nothing in this Act, the establishment of the Historical Park, or the management of the Historical Park shall be construed to create buffer zones outside of the Historical Park. That an activity or use can be seen or heard from within the Historical Park shall not preclude the conduct of that activity or use outside the Historical Park.

**SEC. 6006. ADMINISTRATION.**

The Secretary shall administer any land acquired under section 6005 as part of the Historical Park in accordance with applicable laws and regulations.

**SEC. 6007. OCMULGEE RIVER CORRIDOR SPECIAL RESOURCE STUDY.**

(a) IN GENERAL.—The Secretary shall conduct a special resource study of the Ocmulgee River corridor between the cities of Macon, Georgia, and Hawkinsville, Georgia, to determine—

(1) the national significance of the study area;

(2) the suitability and feasibility of adding lands in the study area to the National Park System; and

(3) the methods and means for the protection and interpretation of the study area by the National Park Service, other Federal, State, local government entities, affiliated federally recognized Indian tribes, or private or nonprofit organizations.

(b) CRITERIA.—The Secretary shall conduct the study authorized by this Act in accordance with section 100507 of title 54, United States Code.

(c) RESULTS OF STUDY.—Not later than 3 years after the date on which funds are made available to carry out this section, the Secretary shall submit to the Committee on Natural Resources of the House of Representa-

tives and the Committee on Energy and Natural Resources of the Senate—

(1) the results of the study; and

(2) any findings, conclusions, and recommendations of the Secretary.

# TITLE VII—MEDGAR EVERS HOUSE STUDY ACT

**SEC. 7001. SHORT TITLE.**

This title may be cited as the ''Medgar Evers House Study Act''.

**SEC. 7002. SPECIAL RESOURCE STUDY.**

(a) STUDY.—The Secretary of the Interior shall conduct a special resource study of the home of the late civil rights activist Medgar Evers, located at 2332 Margaret Walker Alexander Drive in Jackson, Mississippi.

(b) CONTENTS.—In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the national significance of the site;

(2) determine the suitability and feasibility of designating the site as a unit of the National Park System;

(3) consider other alternatives for preservation, protection, and interpretation of the site by Federal,

State, or local governmental entities, or private and nonprofit organizations;

(4) consult with interested Federal, State, or local governmental entities, private and nonprofit organizations or any other interested individuals;

(5) determine the effect of the designation of the site as a unit of the National Park System on existing commercial and recreational uses, and the effect on State and local governments to manage those activities;

(6) identify any authorities, including condemnation, that will compel or permit the Secretary to influence or participate in local land use decisions (such as zoning) or place restrictions on non-Federal land if the site is designated a unit of the National Park System; and

(7) identify cost estimates for any Federal acquisition, development, interpretation, operation, and maintenance associated with the alternatives.

(c) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with section 100507 of title 54, United States Code.

(d) STUDY RESULTS.—Not later than 3 years after the date on which funds are first made available for the study under subsection (a), the Secretary shall submit to

the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate the results of the study and any conclusions and recommendations of the Secretary.

# TITLE VIII—SKY POINT MOUNTAIN DESIGNATION

**SEC. 8001. FINDINGS.**

Congress finds the following:

(1) Staff Sergeant Sky Mote, USMC, grew up in El Dorado, California.

(2) Staff Sergeant Mote graduated from Union Mine High School.

(3) Upon graduation, Staff Sergeant Mote promptly enlisted in the Marine Corps.

(4) Staff Sergeant Mote spent 9 years serving his country in the United States Marine Corps, including a deployment to Iraq and two deployments to Afghanistan.

(5) By his decisive actions, heroic initiative, and resolute dedication to duty, Staff Sergeant Mote gave his life to protect fellow Marines on August 10, 2012, by gallantly rushing into action during an attack by a rogue Afghan policeman inside the base perimeter in Helmand province.

(6) Staff Sergeant Mote was awarded the Navy Cross, a Purple Heart, the Navy-Marine Corps Commendation Medal, a Navy-Marine Corps Achievement Medal, two Combat Action Ribbons, and three Good Conduct Medals.

(7) The Congress of the United States, in acknowledgment of this debt that cannot be repaid, honors Staff Sergeant Mote for his ultimate sacrifice and recognizes his service to his country, faithfully executed to his last, full measure of devotion.

(8) A presently unnamed peak in the center of Humphrey Basin holds special meaning to the friends and family of Sky Mote, as their annual hunting trips set up camp beneath this point; under the stars, the memories made beneath this rounded peak will be cherished forever.

**SEC. 8002. SKY POINT.**

(a) DESIGNATION.—The mountain in the John Muir Wilderness of the Sierra National Forest in California, located at 37°15′16.10091″N 118°43′39.54102″W, shall be known and designated as ''Sky Point''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, record, or other paper of the United States to the mountain described in subsection (a) shall be considered to be a reference to ''Sky Point''.

# TITLE IX—CHIEF STANDING BEAR TRAIL STUDY

## SEC. 9001. CHIEF STANDING BEAR NATIONAL HISTORIC TRAIL FEASIBILITY STUDY.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following:

"(46) CHIEF STANDING BEAR NATIONAL HISTORIC TRAIL.—

"(A) IN GENERAL.—The Chief Standing Bear Trail, extending approximately 550 miles from Niobrara, Nebraska, to Ponca City, Oklahoma, which follows the route taken by Chief Standing Bear and the Ponca people during Federal Indian removal, and approximately 550 miles from Ponca City, Oklahoma, through Omaha, Nebraska, to Niobrara, Nebraska, which follows the return route taken by Chief Standing Bear and the Ponca people, as generally depicted on the map entitled 'Chief Standing Bear National Historic Trail Feasibility Study', numbered 903/125,630, and dated November 2014.

"(B) AVAILABILITY OF MAP.—The map described in subparagraph (A) shall be on file

and available for public inspection in the appropriate offices of the Department of the Interior.

"(C) COMPONENTS.—The feasibility study conducted under subparagraph (A) shall include a determination on whether the Chief Standing Bear Trail meets the criteria described in subsection (b) for designation as a national historic trail.

"(D) CONSIDERATIONS.—In conducting the feasibility study under subparagraph (A), the Secretary of the Interior shall consider input from owners of private land within or adjacent to the study area.".

# TITLE X—JOHN MUIR NATIONAL HISTORIC SITE EXPANSION ACT

**SEC. 10001. SHORT TITLE.**

This title may be cited as the "John Muir National Historic Site Expansion Act".

**SEC. 10002. JOHN MUIR NATIONAL HISTORIC SITE LAND ACQUISITION.**

(a) ACQUISITION.—The Secretary of the Interior may acquire by donation the approximately 44 acres of land, and interests in such land, that are identified on the map entitled "John Muir National Historic Site Proposed

Boundary Expansion'', numbered 426/127150, and dated November, 2014.

(b) BOUNDARY.—Upon the acquisition of the land authorized by subsection (a), the Secretary of the Interior shall adjust the boundaries of the John Muir Historic Site in Martinez, California, to include the land identified on the map referred to in subsection (a).

(c) ADMINISTRATION.—The land and interests in land acquired under subsection (a) shall be administered as part of the John Muir National Historic Site established by the Act of August 31, 1964 (Public Law 88–547; 78 Stat. 753; 16 U.S.C. 461 note).

# TITLE XI—ARAPAHO NATIONAL FOREST BOUNDARY ADJUSTMENT ACT

**SEC. 11001. SHORT TITLE.**

This title may be cited as the ''Arapaho National Forest Boundary Adjustment Act of 2015''.

**SEC. 11002. ARAPAHO NATIONAL FOREST BOUNDARY ADJUSTMENT.**

(a) IN GENERAL.—The boundary of the Arapaho National Forest in the State of Colorado is adjusted to incorporate the approximately 92.95 acres of land generally depicted as ''The Wedge'' on the map entitled ''Arapaho National Forest Boundary Adjustment'' and dated November

6, 2013, and described as lots three, four, eight, and nine of section 13, Township 4 North, Range 76 West, Sixth Principal Meridian, Colorado. A lot described in this subsection may be included in the boundary adjustment only after the Secretary of Agriculture obtains written permission for such action from the lot owner or owners.

(b) BOWEN GULCH PROTECTION AREA.—The Secretary of Agriculture shall include all Federal land within the boundary described in subsection (a) in the Bowen Gulch Protection Area established under section 6 of the Colorado Wilderness Act of 1993 (16 U.S.C. 539j).

(c) LAND AND WATER CONSERVATION FUND.—For purposes of section 200306(a)(2)(B)(i) of title 54, United States Code, the boundaries of the Arapaho National Forest, as modified under subsection (a), shall be considered to be the boundaries of the Arapaho National Forest as in existence on January 1, 1965.

(d) PUBLIC MOTORIZED USE.—Nothing in this Act opens privately owned lands within the boundary described in subsection (a) to public motorized use.

(e) ACCESS TO NON-FEDERAL LANDS.—Notwithstanding the provisions of section 6(f) of the Colorado Wilderness Act of 1993 (16 U.S.C. 539j(f)) regarding motorized travel, the owners of any non-Federal lands within the boundary described in subsection (a) who historically

have accessed their lands through lands now or hereafter owned by the United States within the boundary described in subsection (a) shall have the continued right of motorized access to their lands across the existing roadway.

# TITLE XII—PRESERVATION RESEARCH AT INSTITUTIONS SERVING MINORITIES ACT

**SEC. 12001. SHORT TITLE.**

This title may be cited as the ''Preservation Research at Institutions Serving Minorities Act'' or the ''PRISM Act''.

**SEC. 12002. ELIGIBILITY OF HISPANIC-SERVING INSTITUTIONS AND ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTIONS FOR ASSISTANCE FOR PRESERVATION EDUCATION AND TRAINING PROGRAMS.**

Section 303903(3) of title 54, United States Code, is amended by inserting ''to Hispanic-serving institutions (as defined in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a))) and Asian American and Native American Pacific Islander-serving institutions (as defined in section 320(b) of the Higher Education Act of 1965 (20 U.S.C. 1059g(b))),'' after ''universities,''.

# TITLE XIII—ELKHORN RANCH AND WHITE RIVER NATIONAL FOREST CONVEYANCE ACT

**SEC. 13001. SHORT TITLE.**

This title may be cited as the ''Elkhorn Ranch and White River National Forest Conveyance Act of 2015''.

**SEC. 13002. LAND CONVEYANCE, ELKHORN RANCH AND WHITE RIVER NATIONAL FOREST, COLORADO.**

(a) LAND CONVEYANCE REQUIRED.—Consistent with the purpose of the Act of March 3, 1909 (43 U.S.C. 772), all right, title, and interest of the United States (subject to subsection (b)) in and to a parcel of land consisting of approximately 148 acres as generally depicted on the map entitled ''Elkhorn Ranch Land Parcel–White River National Forest'' and dated March 2015 shall be conveyed by patent to the Gordman-Leverich Partnership, a Colorado Limited Liability Partnership (in this section referred to as ''GLP'').

(b) EXISTING RIGHTS.—The conveyance under subsection (a)—

(1) is subject to the valid existing rights of the lessee of Federal oil and gas lease COC–75070 and any other valid existing rights; and

(2) shall reserve to the United States the right to collect rent and royalty payments on the lease referred to in paragraph (1) for the duration of the lease.

(c) EXISTING BOUNDARIES.—The conveyance under subsection (a) does not modify the exterior boundary of the White River National Forest or the boundaries of Sections 18 and 19 of Township 7 South, Range 93 West, Sixth Principal Meridian, Colorado, as such boundaries are in effect on the date of the enactment of this Act.

(d) TIME FOR CONVEYANCE; PAYMENT OF COSTS.—The conveyance directed under subsection (a) shall be completed not later than 180 days after the date of the enactment of this Act. The conveyance shall be without consideration, except that all costs incurred by the Secretary of the Interior relating to any survey, platting, legal description, or other activities carried out to prepare and issue the patent shall be paid by GLP to the Secretary prior to the land conveyance.

# TITLE XIV—NATIONAL LIBERTY MEMORIAL CLARIFICATION ACT

**SEC. 14001. SHORT TITLE.**

This title may be cited as the ''National Liberty Memorial Clarification Act of 2015''.

**SEC. 14002. COMPLIANCE WITH CERTAIN STANDARDS FOR COMMEMORATIVE WORKS IN ESTABLISHMENT OF NATIONAL LIBERTY MEMORIAL.**

Section 2860(c) of the Military Construction Authorization Act for Fiscal Year 2013 (division B of Public Law 112–239; 40 U.S.C. 8903 note) is amended by striking the period at the end and inserting the following: ", except that, under subsections (a)(2) and (b) of section 8905, the Secretary of Agriculture, rather than the Secretary of the Interior or the Administrator of General Services, shall be responsible for the consideration of site and design proposals and the submission of such proposals on behalf of the sponsor to the Commission of Fine Arts and National Capital Planning Commission.".

# TITLE XV—CRAGS, COLORADO LAND EXCHANGE ACT

**SEC. 15001. SHORT TITLE.**

This title may be cited as the "Crags, Colorado Land Exchange Act of 2015".

**SEC. 15002. PURPOSES.**

The purposes of this title are—

(1) to authorize, direct, expedite, and facilitate the land exchange set forth herein; and

(2) to promote enhanced public outdoor recreational and natural resource conservation opportunities in the Pike National Forest near Pikes Peak,

Colorado, via acquisition of the non-Federal land and trail easement.

**SEC. 15003. DEFINITIONS.**

In this Act:

(1) BHI.—The term ''BHI'' means Broadmoor Hotel, Inc., a Colorado corporation.

(2) FEDERAL LAND.—The term ''Federal land'' means all right, title, and interest of the United States in and to approximately 83 acres of land within the Pike National Forest, El Paso County, Colorado, together with a non-exclusive perpetual access easement to BHI to and from such land on Forest Service Road 371, as generally depicted on the map entitled ''Proposed Crags Land Exchange–Federal Parcel–Emerald Valley Ranch'', dated March 2015.

(3) NON-FEDERAL LAND.—The term ''non-Federal land'' means the land and trail easement to be conveyed to the Secretary by BHI in the exchange and is—

(A) approximately 320 acres of land within the Pike National Forest, Teller County, Colorado, as generally depicted on the map entitled ''Proposed Crags Land Exchange–Non-Federal

Parcel–Crags Property'', dated March 2015; and

(B) a permanent trail easement for the Barr Trail in El Paso County, Colorado, as generally depicted on the map entitled ''Proposed Crags Land Exchange–Barr Trail Easement to United States'', dated March 2015, and which shall be considered as a voluntary donation to the United States by BHI for all purposes of law.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, unless otherwise specified.

**SEC. 15004. LAND EXCHANGE.**

(a) IN GENERAL.—If BHI offers to convey to the Secretary all right, title, and interest of BHI in and to the non-Federal land, the Secretary shall accept the offer and simultaneously convey to BHI the Federal land.

(b) LAND TITLE.—Title to the non-Federal land conveyed and donated to the Secretary under this Act shall be acceptable to the Secretary and shall conform to the title approval standards of the Attorney General of the United States applicable to land acquisitions by the Federal Government.

(c) PERPETUAL ACCESS EASEMENT TO BHI.—The nonexclusive perpetual access easement to be granted to BHI as shown on the map referred to in section 15003(2) shall allow—

(1) BHI to fully maintain, at BHI's expense, and use Forest Service Road 371 from its junction with Forest Service Road 368 in accordance with historic use and maintenance patterns by BHI; and

(2) full and continued public and administrative access and use of FSR 371 in accordance with the existing Forest Service travel management plan, or as such plan may be revised by the Secretary.

(d) ROUTE AND CONDITION OF ROAD.—BHI and the Secretary may mutually agree to improve, relocate, reconstruct, or otherwise alter the route and condition of all or portions of such road as the Secretary, in close consultation with BHI, may determine advisable.

(e) EXCHANGE COSTS.—BHI shall pay for all land survey, appraisal, and other costs to the Secretary as may be necessary to process and consummate the exchange directed by this Act, including reimbursement to the Secretary, if the Secretary so requests, for staff time spent in such processing and consummation.

**SEC. 15005. EQUAL VALUE EXCHANGE AND APPRAISALS.**

(a) APPRAISALS.—The values of the lands to be exchanged under this Act shall be determined by the Secretary through appraisals performed in accordance with—

(1) the Uniform Appraisal Standards for Federal Land Acquisitions;

(2) the Uniform Standards of Professional Appraisal Practice;

(3) appraisal instructions issued by the Secretary; and

(4) shall be performed by an appraiser mutually agreed to by the Secretary and BHI.

(b) EQUAL VALUE EXCHANGE.—The values of the Federal and non-Federal land parcels exchanged shall be equal, or if they are not equal, shall be equalized as follows:

(1) SURPLUS OF FEDERAL LAND VALUE.—If the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land parcel identified in section 15003(3)(A), BHI shall make a cash equalization payment to the United States as necessary to achieve equal value, including, if necessary, an amount in excess of that authorized pursuant to section 206(b) of the Federal Land Policy and Management Act of l976 (43 U.S.C. 1716(b)).

(2) USE OF FUNDS.—Any cash equalization moneys received by the Secretary under paragraph (1) shall be—

(A) deposited in the fund established under Public Law 90–171 (commonly known as the ''Sisk Act''; 16 U.S.C. 484a); and

(B) made available to the Secretary for the acquisition of land or interests in land in Region 2 of the Forest Service.

(3) SURPLUS OF NON-FEDERAL LAND VALUE.—If the final appraised value of the non-Federal land parcel identified in section 15003(3)(A) exceeds the final appraised value of the Federal land, the United States shall not make a cash equalization payment to BHI, and surplus value of the non-Federal land shall be considered a donation by BHI to the United States for all purposes of law.

(c) APPRAISAL EXCLUSIONS.—

(1) SPECIAL USE PERMIT.—The appraised value of the Federal land parcel shall not reflect any increase or diminution in value due to the special use permit existing on the date of the enactment of this Act to BHI on the parcel and improvements thereunder.

(2) BARR TRAIL EASEMENT.—The Barr Trail easement donation identified in section 15003(3)(B) shall not be appraised for purposes of this Act.

**SEC. 15006. MISCELLANEOUS PROVISIONS.**

(a) WITHDRAWAL PROVISIONS.—

(1) WITHDRAWAL.—Lands acquired by the Secretary under this Act shall, without further action by the Secretary, be permanently withdrawn from all forms of appropriation and disposal under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1930 (30 U.S.C. 1001 et seq.).

(2) WITHDRAWAL REVOCATION.—Any public land order that withdraws the Federal land from appropriation or disposal under a public land law shall be revoked to the extent necessary to permit disposal of the Federal land parcel to BHI.

(3) WITHDRAWAL OF FEDERAL LAND.—All Federal land authorized to be exchanged under this Act, if not already withdrawn or segregated from appropriation or disposal under the public lands laws upon enactment of this Act, is hereby so withdrawn, subject to valid existing rights, until the date of conveyance of the Federal land to BHI.

(b) POSTEXCHANGE LAND MANAGEMENT.—Land acquired by the Secretary under this Act shall become part of the Pike-San Isabel National Forest and be managed in accordance with the laws, rules, and regulations applicable to the National Forest System.

(c) EXCHANGE TIMETABLE.—It is the intent of Congress that the land exchange directed by this Act be consummated no later than 1 year after the date of the enactment of this Act.

(d) MAPS, ESTIMATES, AND DESCRIPTIONS.—

(1) MINOR ERRORS.—The Secretary and BHI may by mutual agreement make minor boundary adjustments to the Federal and non-Federal lands involved in the exchange, and may correct any minor errors in any map, acreage estimate, or description of any land to be exchanged.

(2) CONFLICT.—If there is a conflict between a map, an acreage estimate, or a description of land under this Act, the map shall control unless the Secretary and BHI mutually agree otherwise.

(3) AVAILABILITY.—Upon enactment of this Act, the Secretary shall file and make available for public inspection in the headquarters of the Pike-San Isabel National Forest a copy of all maps referred to in this Act.

# TITLE XVI—REMOVE REVERSIONARY INTEREST IN ROCKINGHAM COUNTY LAND

**SEC. 16001. REMOVAL OF USE RESTRICTION.**

Public Law 101–479 (104 Stat. 1158) is amended—

(1) by striking section 2(d); and

(2) by adding at the end the following:

**"SEC. 4. REMOVAL OF USE RESTRICTION.**

''(a) The approximately 1-acre portion of the land referred to in section 3 that is used for purposes of a child care center, as authorized by this Act, shall not be subject to the use restriction imposed in the deed referred to in section 3.

''(b) Upon enactment of this section, the Secretary of the Interior shall execute an instrument to carry out subsection (a).''.

# TITLE XVII—COLTSVILLE NATIONAL HISTORICAL PARK

**SEC. 17001. AMENDMENT TO COLTSVILLE NATIONAL HISTORICAL PARK DONATION SITE.**

Section 3032(b) of Public Law 113–291 (16 U.S.C. 410qqq) is amended—

(1) in paragraph (2)(B), by striking ''East Armory'' and inserting ''Colt Armory Complex''; and

(2) by adding at the end the following:

"(4) ADDITIONAL ADMINISTRATIVE CONDITIONS.—No non-Federal property may be included in the park without the written consent of the owner. The establishment of the park or the management of the park shall not be construed to create buffer zones outside of the park. That activities or uses can be seen, heard or detected from areas within the park shall not preclude, limit, control, regulate, or determine the conduct or management of activities or uses outside of the park.".

# TITLE XVIII—MARTIN LUTHER KING, JR. NATIONAL HISTORICAL PARK ACT

**SEC. 18001. SHORT TITLE.**

This title may be cited as the "Martin Luther King, Jr. National Historical Park Act of 2016".

**SEC. 18002. MARTIN LUTHER KING, JR. NATIONAL HISTORICAL PARK.**

The Act entitled "An Act to establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes" (Public Law 96–428) is amended—

(1) in subsection (a) of the first section, by striking "the map entitled 'Martin Luther King, Junior, National Historic Site Boundary Map', num-

ber 489/80,013B, and dated September 1992'' and inserting ''the map entitled 'Martin Luther King, Jr. National Historical Park Proposed Boundary Revision', numbered 489/128,786 and dated June 2015'';

(2) by striking ''Martin Luther King, Junior, National Historic Site'' each place it appears and inserting ''Martin Luther King, Jr. National Historical Park'';

(3) by striking ''national historic site'' each place it appears and inserting ''national historical park'';

(4) by striking ''historic site'' each place it appears and inserting ''historical park''; and

(5) by striking ''historic sites'' in section 2(a) and inserting ''historical parks''.

**SEC. 18003. REFERENCES.**

Any reference in a law (other than this Act), map, regulation, document, paper, or other record of the United States to ''Martin Luther King, Junior, National Historic Site'' shall be deemed to be a reference to ''Martin Luther King, Jr. National Historical Park''.

# TITLE XIX—EXTENSION OF THE AUTHORIZATION FOR THE GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR COMMISSION

**SEC. 19001. EXTENSION OF THE AUTHORIZATION FOR THE GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR COMMISSION.**

Section 295D(d) of the Gullah/Geechee Cultural Heritage Act (Public Law 109–338; 120 Stat. 1833; 16 U.S.C. 461 note) is amended by striking ''10 years'' and inserting ''15 years''.

# TITLE XX—9/11 MEMORIAL ACT

**SEC. 20001. SHORT TITLE.**

This title may be cited as the ''9/11 Memorial Act''.

**SEC. 20002. DEFINITIONS.**

For purposes of this Act:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means a nonprofit organization as defined in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) in existence on the date of enactment of this Act.

(2) MAP.—The term ''map'' means the map titled ''National September 11 Memorial Proposed

Boundary'', numbered 903/128928, and dated June 2015.

(3) NATIONAL SEPTEMBER 11 MEMORIAL.—The term ''National September 11 Memorial'' means the area approximately bounded by Fulton, Greenwich, Liberty and West Streets as generally depicted on the map.

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

**SEC. 20003. DESIGNATION OF MEMORIAL.**

(a) DESIGNATION.—The National September 11 Memorial is hereby designated as a national memorial.

(b) MAP.—The map shall be available for public inspection and kept on file at the appropriate office of the Secretary.

(c) EFFECT OF DESIGNATION.—The national memorial designated under this section shall not be a unit of the National Park System and the designation of the national memorial shall not be construed to require or authorize Federal funds to be expended for any purpose related to the national memorial except as provided under section 20004.

**SEC. 20004. COMPETITIVE GRANTS FOR CERTAIN MEMORIALS.**

(a) COMPETITIVE GRANTS.—Subject to the availability of appropriations, the Secretary may award a single grant per year through a competitive process to an eligible entity for the operation and maintenance of any memorial located within the United States established to commemorate the events of and honor—

(1) the victims of the terrorist attacks on the World Trade Center, the Pentagon, and United Airlines Flight 93 on September 11, 2001; and

(2) the victims of the terrorist attack on the World Trade Center on February 26, 1993.

(b) AVAILABILITY.—Funds made available under this section shall remain available until expended.

(c) CRITERIA.—In awarding grants under this section, the Secretary shall give greatest weight in the selection of eligible entities using the following criteria:

(1) Experience in managing a public memorial that will benefit the largest number of visitors each calendar year.

(2) Experience in managing a memorial of significant size (4 acres or more).

(3) Successful coordination and cooperation with Federal, State, and local governments in operating and managing the memorial.

(4) Ability and commitment to use grant funds to enhance security at the memorial.

(5) Ability to use grant funds to increase the numbers of economically disadvantaged visitors to the memorial and surrounding areas.

(d) SUMMARIES.—Not later than 30 days after the end of each fiscal year in which an eligible entity obligates or expends any part of a grant under this section, the eligible entity shall prepare and submit to the Secretary and Congress a summary that—

(1) specifies the amount of grant funds obligated or expended in the preceding fiscal year;

(2) specifies the purpose for which the funds were obligated or expended; and

(3) includes any other information the Secretary may require to more effectively administer the grant program.

(e) SUNSET.—The authority to award grants under this section shall expire on the date that is 7 years after the date of the enactment of this Act.

# TITLE XXI—KENNESAW MOUNTAIN NATIONAL BATTLEFIELD PARK BOUNDARY ADJUSTMENT ACT

**SEC. 21001. SHORT TITLE.**

This title may be cited as the ''Kennesaw Mountain National Battlefield Park Boundary Adjustment Act of 2015''.

**SEC. 21002. FINDINGS.**

The Congress finds the following:

(1) Kennesaw Mountain National Battlefield Park was authorized as a unit of the National Park System on June 26, 1935. Prior to 1935, parts of the park had been acquired and protected by Civil War veterans and the War Department.

(2) Kennesaw Mountain National Battlefield Park protects Kennesaw Mountain and Kolb's Farm, which are battle sites along the route of General Sherman's 1864 campaign to take Atlanta.

(3) Most of the park protects Confederate positions and strategy. The Wallis House is one of the few original structures remaining from the Battle of Kennesaw Mountain associated with Union positions and strategy.

(4) The Wallis House is strategically located next to a Union signal station at Harriston Hill.

**SEC. 21003. BOUNDARY ADJUSTMENT; LAND ACQUISITION; ADMINISTRATION.**

(a) BOUNDARY ADJUSTMENT.—The boundary of the Kennesaw Mountain National Battlefield Park is modified to include the approximately 8 acres identified as ''Wallis House and Harriston Hill'', and generally depicted on the map titled ''Kennesaw Mountain National Battlefield Park, Proposed Boundary Adjustment'', numbered 325/80,020, and dated February 2010.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for inspection in the appropriate offices of the National Park Service.

(c) LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire, from willing owners only, land or interests in land described in subsection (a) by donation or exchange.

(d) ADMINISTRATION OF ACQUIRED LANDS.—The Secretary of the Interior shall administer land and interests in land acquired under this section as part of the Kennesaw Mountain National Battlefield Park in accordance with applicable laws and regulations.

(e) WRITTEN CONSENT OF OWNER.—No non-Federal property may be included in the Kennesaw Mountain

National Battlefield Park without the written consent of the owner. This provision shall apply only to those portions of the Park added under subsection (a).

(f) NO USE OF CONDEMNATION.—The Secretary of the Interior may not acquire by condemnation any land or interests in land under this Act or for the purposes of this Act.

(g) NO BUFFER ZONE CREATED.—Nothing in this Act, the establishment of the Kennesaw Mountain National Battlefield Park, or the management plan for the Kennesaw Mountain National Battlefield Park shall be construed to create buffer zones outside of the Park. That activities or uses can be seen, heard, or detected from areas within the Kennesaw Mountain National Battlefield Park shall not preclude, limit, control, regulate or determine the conduct or management of activities or uses outside the Park.

# TITLE XXII—VEHICLE ACCESS AT DELAWARE WATER GAP NATIONAL RECREATION AREA

**SEC. 22001. VEHICULAR ACCESS AND FEES.**

Section 4 of the Delaware Water Gap National Recreation Area Improvement Act (Public Law 109–156) is amended to read as follows:

**"SEC. 4. USE OF CERTAIN ROADS WITHIN THE RECREATION AREA.**

"(a) IN GENERAL.—Except as otherwise provided in this section, Highway 209, a federally owned road within the boundaries of the Recreation Area, shall be closed to all commercial vehicles.

"(b) EXCEPTION FOR LOCAL BUSINESS USE.—Until September 30, 2020, subsection (a) shall not apply with respect to the use of commercial vehicles that have four or fewer axles and are—

"(1) owned and operated by a business physically located in—

"(A) the Recreation Area; or

"(B) one or more adjacent municipalities; or

"(2) necessary to provide services to businesses or persons located in—

"(A) the Recreation Area; or

"(B) one of more adjacent municipalities.

"(c) FEE.—The Secretary shall establish a fee and permit program for the use by commercial vehicles of Highway 209 under subsection (b). The program shall include an annual fee not to exceed $200 per vehicle. All fees received under the program shall be set aside in a special account and be available, without further appropriation, to the Secretary for the administration and en-

forcement of the program, including registering vehicles, issuing permits and vehicle identification stickers, and personnel costs.

"(d) EXCEPTIONS.—The following vehicles may use Highway 209 and shall not be subject to a fee or permit requirement under subsection (c):

"(1) Local school buses.

"(2) Fire, ambulance, and other safety and emergency vehicles.

"(3) Commercial vehicles using Federal Road Route 209, from—

"(A) Milford to the Delaware River Bridge leading to U.S. Route 206 in New Jersey; and

"(B) mile 0 of Federal Road Route 209 to Pennsylvania State Route 2001.".

**SEC. 22002. DEFINITIONS.**

Section 2 of the Delaware Water Gap National Recreation Area Improvement Act (Public Law 109–156) is amended—

(1) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(2) by inserting before paragraph (2) (as so redesignated by paragraph (1) of this section) the following:

"(1) ADJACENT MUNICIPALITIES.—The term 'adjacent municipalities' means Delaware Township, Dingman Township, Lehman Township, Matamoras Borough, Middle Smithfield Township, Milford Borough, Milford Township, Smithfield Township and Westfall Township, in Pennsylvania.".

**SEC. 22003. CONFORMING AMENDMENT.**

Section 702 of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104–333) is repealed.

# TITLE XXIII—GULF ISLANDS NATIONAL SEASHORE LAND EXCHANGE ACT

**SEC. 23001. SHORT TITLE.**

This title may be cited as the "Gulf Islands National Seashore Land Exchange Act of 2016".

**SEC. 23002. LAND EXCHANGE, GULF ISLANDS NATIONAL SEASHORE, JACKSON COUNTY, MISSISSIPPI.**

(a) LAND EXCHANGE AUTHORIZED.—The Secretary of the Interior, acting through the Director of the National Park Service (in this section referred to as the "Secretary") may convey to the Veterans of Foreign Wars Post 5699 (in this section referred to as the "Post") all right, title, and interest of the United States in and to a parcel of real property, consisting of approximately 1.542 acres

and located within the Gulf Islands National Seashore in Jackson County, Mississippi, section 34, township 7 north, range 8 east.

(b) LAND TO BE ACQUIRED.—In exchange for the property described in subsection (a), the Post shall convey to the Secretary all right, title, and interest of the Post in and to a parcel of real property, consisting of approximately 2.161 acres and located in Jackson County, Mississippi, section 34, township 7 north, range 8 east.

(c) EQUAL VALUE EXCHANGE.—The values of the parcels of real property to be exchanged under this section are deemed to be equal.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the Post to cover costs to be incurred by the Secretary, or to reimburse the Secretary for such costs incurred by the Secretary, to carry out the land exchange under this section, including survey costs, costs related to environmental documentation, and any other administrative costs related to the land exchange. If amounts are collected from the Secretary in advance of the Secretary incurring the actual costs and the amount collected exceeds the costs actually incurred by the Secretary to carry out

the land exchange, the Secretary shall refund the excess amount to the Post.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover those costs incurred by the Secretary in carrying out the land exchange. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of property to be exchanged under this section shall be determined by surveys satisfactory to the Secretary and the Post.

(f) CONVEYANCE AGREEMENT.—The exchange of real property under this section shall be accomplished using a quit claim deed or other legal instrument and upon terms and conditions mutually satisfactory to the Secretary and the Post, including such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(g) TREATMENT OF ACQUIRED LAND.—Land and interests in land acquired by the United States under sub-

section (b) shall be administered by the Secretary as part of the Gulf Islands National Seashore.

(h) MODIFICATION OF BOUNDARY.—Upon completion of the land exchange under this section, the Secretary shall modify the boundary of the Gulf Islands National Seashore to reflect such land exchange.

# TITLE XXIV—KOREAN WAR VETERANS MEMORIAL WALL OF REMEMBRANCE ACT

**SEC. 24001. SHORT TITLE.**

This title may be cited as the ''Korean War Veterans Memorial Wall of Remembrance Act of 2016''.

**SEC. 24002. WALL OF REMEMBRANCE.**

Section 1 of the Act titled ''An Act to authorize the erection of a memorial on Federal Land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War'', approved October 25, 1986 (Public Law 99–572), is amended by adding at the end the following:

''Such memorial shall include a Wall of Remembrance, which shall be constructed without the use of Federal funds. The American Battle Monuments Commission shall request and consider design recommendations from the Korean War Veterans Memorial Foundation, Inc. for the

establishment of the Wall of Remembrance. The Wall of Remembrance shall include—

"(1) a list by name of members of the Armed Forces of the United States who died in theatre in the Korean War;

"(2) the number of members of the Armed Forces of the United States who, in regards to the Korean War—

"(A) were wounded in action;

"(B) are listed as missing in action; or

"(C) were prisoners of war; and

"(3) the number of members of the Korean Augmentation to the United States Army, the Republic of Korea Armed Forces, and the other nations of the United Nations Command who, in regards to the Korean War—

"(A) were killed in action;

"(B) were wounded in action;

"(C) are listed as missing in action; or

"(D) were prisoners of war.".

# TITLE XXV—NATIONAL FOREST SMALL TRACTS ACT AMENDMENTS ACT

**SEC. 25001. SHORT TITLE.**

This title may be cited as the ''National Forest Small Tracts Act Amendments Act of 2015''.

**SEC. 25002. ADDITIONAL AUTHORITY FOR SALE OR EXCHANGE OF SMALL PARCELS OF NATIONAL FOREST SYSTEM LAND.**

(a) INCREASE IN MAXIMUM VALUE OF SMALL PARCELS.—Section 3 of Public Law 97–465 (commonly known as the Small Tracts Act; 16 U.S.C. 521e) is amended in the matter preceding paragraph (1) by striking ''$150,000'' and inserting ''$500,000''.

(b) ADDITIONAL CONVEYANCE PURPOSES.—Section 3 of Public Law 97–465 (16 U.S.C. 521e) is further amended—

(1) in the matter preceding paragraph (1), by striking ''which are—'' and inserting ''which involve any one of the following:'';

(2) in paragraph (1)—

(A) by striking ''parcels'' and inserting ''Parcels''; and

(B) by striking the semicolon at the end and inserting a period;

(3) in paragraph (2)—

(A) by striking ''parcels'' the first place it appears and inserting ''Parcels''; and

(B) by striking ''; or'' at the end and inserting a period;

(4) in paragraph (3), by striking ''road'' and inserting ''Road''; and

(5) by adding at the end the following new paragraphs:

''(4) Parcels of 40 acres or less which are determined by the Secretary to be physically isolated, to be inaccessible, or to have lost their National Forest character.

''(5) Parcels of 10 acres or less which are not eligible for conveyance under paragraph (2), but which are encroached upon by permanent habitable improvements for which there is no evidence that the encroachment was intentional or negligent.

''(6) Parcels used as a cemetery, a landfill, or a sewage treatment plant under a special use authorization issued by the Secretary. In the case of a cemetery expected to reach capacity within 10 years, the sale, exchange, or interchange may include, in the sole discretion of the Secretary, up to 1 addi-

tional acre abutting the permit area to facilitate expansion of the cemetery.''.

(c) DISPOSITION OF PROCEEDS.—Section 2 of Public Law 97–465 (16 U.S.C. 521d) is amended—

(1) by striking ''The Secretary is authorized'' and inserting the following:

''(a) CONVEYANCE AUTHORITY; CONSIDERATION.—The Secretary is authorized'';

(2) by striking ''The Secretary shall insert'' and inserting the following:

''(b) INCLUSION OF TERMS, COVENANTS, CONDITIONS, AND RESERVATIONS.—The Secretary shall insert'';

(3) by striking ''convenants'' and inserting ''covenants''; and

(4) by adding at the end the following new subsection:

''(c) DISPOSITION OF PROCEEDS.—

''(1) DEPOSIT IN SISK FUND.—The net proceeds derived from any sale or exchange conducted under the authority of paragraph (4), (5), or (6) of section 3 shall be deposited in the fund established by Public Law 90–171 (commonly known as the Sisk Act; 16 U.S.C. 484a).

"(2) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary until expended for—

"(A) the acquisition of land or interests in land for administrative sites for the National Forest System in the State from which the amounts were derived;

"(B) the acquisition of land or interests in land for inclusion in the National Forest System in that State, including land or interests in land which enhance opportunities for recreational access;

"(C) the performance of deferred maintenance on administrative sites for the National Forest System in that State or other deferred maintenance activities in that State which enhance opportunities for recreational access; or

"(D) the reimbursement of the Secretary for costs incurred in preparing a sale conducted under the authority of section 3 if the sale is a competitive sale.".

# TITLE XXVI—WESTERN OREGON TRIBAL FAIRNESS ACT

**SEC. 26001. SHORT TITLE.**

This title may be cited as the ''Western Oregon Tribal Fairness Act''.

## Subtitle A—Cow Creek Umpqua Land Conveyance

**SEC. 26011. SHORT TITLE.**

This subtitle may be cited as the ''Cow Creek Umpqua Land Conveyance Act''.

**SEC. 26012. DEFINITIONS.**

In this subtitle:

(1) COUNCIL CREEK LAND.—The term ''Council Creek land'' means the approximately 17,519 acres of land, as generally depicted on the map entitled ''Canyon Mountain Land Conveyance'' and dated June 27, 2013.

(2) TRIBE.—The term ''Tribe'' means the Cow Creek Band of Umpqua Tribe of Indians.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 26013. CONVEYANCE.**

(a) IN GENERAL.—Subject to valid existing rights, including rights-of-way, all right, title, and interest of the United States in and to the Council Creek land, including

any improvements located on the land, appurtenances to the land, and minerals on or in the land, including oil and gas, shall be—

(1) held in trust by the United States for the benefit of the Tribe; and

(2) part of the reservation of the Tribe.

(b) SURVEY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a survey of the boundary lines to establish the boundaries of the land taken into trust under subsection (a).

**SEC. 26014. MAP AND LEGAL DESCRIPTION.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Council Creek land with—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Natural Resources of the House of Representatives.

(b) FORCE AND EFFECT.—The map and legal description filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any clerical or typographical errors in the map or legal description.

(c) PUBLIC AVAILABILITY.—The map and legal description filed under subsection (a) shall be on file and available for public inspection in the Office of the Secretary.

**SEC. 26015. ADMINISTRATION.**

(a) IN GENERAL.—Unless expressly provided in this subtitle, nothing in this subtitle affects any right or claim of the Tribe existing on the date of enactment of this Act to any land or interest in land.

(b) PROHIBITIONS.—

(1) EXPORTS OF UNPROCESSED LOGS.—Federal law (including regulations) relating to the export of unprocessed logs harvested from Federal land shall apply to any unprocessed logs that are harvested from the Council Creek land.

(2) NON-PERMISSIBLE USE OF LAND.—Any real property taken into trust under section 26013 shall not be eligible, or used, for any gaming activity carried out under Public Law 100–497 (25 U.S.C. 2701 et seq.).

(c) FOREST MANAGEMENT.—Any forest management activity that is carried out on the Council Creek land shall be managed in accordance with all applicable Federal laws.

**SEC. 26016. LAND RECLASSIFICATION.**

(a) IDENTIFICATION OF OREGON AND CALIFORNIA RAILROAD GRANT LAND.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary shall identify any Oregon and California Railroad grant land that is held in trust by the United States for the benefit of the Tribe under section 26013.

(b) IDENTIFICATION OF PUBLIC DOMAIN LAND.—Not later than 18 months after the date of enactment of this Act, the Secretary shall identify public domain land in the State of Oregon that—

(1) is approximately equal in acreage and condition as the Oregon and California Railroad grant land identified under subsection (a); and

(2) is located in the vicinity of the Oregon and California Railroad grant land.

(c) MAPS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress and publish in the Federal Register one or more maps depicting the land identified in subsections (a) and (b).

(d) RECLASSIFICATION.—

(1) IN GENERAL.—After providing an opportunity for public comment, the Secretary shall re-

classify the land identified in subsection (b) as Oregon and California Railroad grant land.

(2) APPLICABILITY.—The Act of August 28, 1937 (43 U.S.C. 1181a et seq.), shall apply to land reclassified as Oregon and California Railroad grant land under paragraph (1).

# Subtitle B—Coquille Forest Fairness

**SEC. 26021. SHORT TITLE.**

This subtitle may be cited as the ''Coquille Forest Fairness Act''.

**SEC. 26022. AMENDMENTS TO COQUILLE RESTORATION ACT.**

Section 5(d) of the Coquille Restoration Act (25 U.S.C. 715c(d)) is amended—

(1) by striking paragraph (5) and inserting the following:

''(5) MANAGEMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary, acting through the Assistant Secretary for Indian Affairs, shall manage the Coquille Forest in accordance with the laws pertaining to the management of Indian trust land.

''(B) ADMINISTRATION.—

"(i) UNPROCESSED LOGS.—Unprocessed logs harvested from the Coquille Forest shall be subject to the same Federal statutory restrictions on export to foreign nations that apply to unprocessed logs harvested from Federal land.

"(ii) SALES OF TIMBER.—Notwithstanding any other provision of law, all sales of timber from land subject to this subsection shall be advertised, offered, and awarded according to competitive bidding practices, with sales being awarded to the highest responsible bidder.";

(2) by striking paragraph (9); and

(3) by redesignating paragraphs (10) through (12) as paragraphs (9) through (11), respectively.

# Subtitle C—Oregon Coastal Lands

**SEC. 26031. SHORT TITLE.**

This subtitle may be cited as the "Oregon Coastal Lands Act".

**SEC. 26032. DEFINITIONS.**

In this subtitle:

(1) CONFEDERATED TRIBES.—The term "Confederated Tribes" means the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

(2) OREGON COASTAL LAND.—The term ''Oregon Coastal land'' means the approximately 14,408 acres of land, as generally depicted on the map entitled ''Oregon Coastal Land Conveyance'' and dated March 27, 2013.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 26033. CONVEYANCE.**

(a) IN GENERAL.—Subject to valid existing rights, including rights-of-way, all right, title, and interest of the United States in and to the Oregon Coastal land, including any improvements located on the land, appurtenances to the land, and minerals on or in the land, including oil and gas, shall be—

(1) held in trust by the United States for the benefit of the Confederated Tribes; and

(2) part of the reservation of the Confederated Tribes.

(b) SURVEY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete a survey of the boundary lines to establish the boundaries of the land taken into trust under subsection (a).

**SEC. 26034. MAP AND LEGAL DESCRIPTION.**

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a

map and legal description of the Oregon Coastal land with—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Natural Resources of the House of Representatives.

(b) FORCE AND EFFECT.—The map and legal description filed under subsection (a) shall have the same force and effect as if included in this subtitle, except that the Secretary may correct any clerical or typographical errors in the map or legal description.

(c) PUBLIC AVAILABILITY.—The map and legal description filed under subsection (a) shall be on file and available for public inspection in the Office of the Secretary.

**SEC. 26035. ADMINISTRATION.**

(a) IN GENERAL.—Unless expressly provided in this subtitle, nothing in this subtitle affects any right or claim of the Confederated Tribes existing on the date of enactment of this Act to any land or interest in land.

(b) PROHIBITIONS.—

(1) EXPORTS OF UNPROCESSED LOGS.—Federal law (including regulations) relating to the export of unprocessed logs harvested from Federal land shall apply to any unprocessed logs that are

harvested from the Oregon Coastal land taken into trust under section 26033.

(2) NON-PERMISSIBLE USE OF LAND.—Any real property taken into trust under section 26033 shall not be eligible, or used, for any gaming activity carried out under Public Law 100–497 (25 U.S.C. 2701 et seq.).

(c) LAWS APPLICABLE TO COMMERCIAL FORESTRY ACTIVITY.—Any commercial forestry activity that is carried out on the Oregon Coastal land taken into trust under section 26033 shall be managed in accordance with all applicable Federal laws.

(d) AGREEMENTS.—The Confederated Tribes shall consult with the Secretary and other parties as necessary to develop agreements to provide for access to the Oregon Coastal land taken into trust under section 26033 that provide for—

(1) honoring existing reciprocal right-of-way agreements;

(2) administrative access by the Bureau of Land Management; and

(3) management of the Oregon Coastal lands that are acquired or developed under chapter 2003 of title 54, United States Code (commonly known as the ''Land and Water Conservation Fund Act of

1965''), consistent with section 200305(f)(3) of that title.

(e) LAND USE PLANNING REQUIREMENTS.—Except as provided in subsection (c), once the Oregon Coastal land is taken into trust under section 26033, the land shall not be subject to the land use planning requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

**SEC. 26036. LAND RECLASSIFICATION.**

(a) IDENTIFICATION OF OREGON AND CALIFORNIA RAILROAD GRANT LAND.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary shall identify any Oregon and California Railroad grant land that is held in trust by the United States for the benefit of the Confederated Tribes under section 26033.

(b) IDENTIFICATION OF PUBLIC DOMAIN LAND.—Not later than 18 months after the date of enactment of this Act, the Secretary shall identify public domain land in the State of Oregon that—

(1) is approximately equal in acreage and condition as the Oregon and California Railroad grant land identified under subsection (a); and

(2) is located in the vicinity of the Oregon and California Railroad grant land.

(c) MAPS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress and publish in the Federal Register one or more maps depicting the land identified in subsections (a) and (b).

(d) RECLASSIFICATION.—

(1) IN GENERAL.—After providing an opportunity for public comment, the Secretary shall reclassify the land identified in subsection (b) as Oregon and California Railroad grant land.

(2) APPLICABILITY.—The Act of August 28, 1937 (43 U.S.C. 1181a et seq.), shall apply to land reclassified as Oregon and California Railroad grant land under paragraph (1).

# DIVISION D—SCIENCE

# TITLE V—DEPARTMENT OF ENERGY SCIENCE

**SEC. 501. MISSION.**

Section 209 of the Department of Energy Organization Act (42 U.S.C. 7139) is amended by adding at the end the following:

''(c) MISSION.—The mission of the Office of Science shall be the delivery of scientific discoveries, capabilities,

and major scientific tools to transform the understanding of nature and to advance the energy, economic, and national security of the United States. In support of this mission, the Director shall carry out programs on basic energy sciences, advanced scientific computing research, high energy physics, biological and environmental research, fusion energy sciences, and nuclear physics, including as provided under subtitle A of title V of the America COMPETES Reauthorization Act of 2015, through activities focused on—

"(1) fundamental scientific discoveries through the study of matter and energy;

"(2) science in the national interest, including—

"(A) advancing an agenda for American energy security through research on energy production, storage, transmission, efficiency, and use; and

"(B) advancing our understanding of the Earth's climate through research in atmospheric and environmental sciences; and

"(3) National Scientific User Facilities to deliver the 21st century tools of science, engineering, and technology and provide the Nation's researchers with the most advanced tools of modern science in-

cluding accelerators, colliders, supercomputers, light sources and neutron sources, and facilities for studying materials science.

"(d) COORDINATION WITH OTHER DEPARTMENT OF ENERGY PROGRAMS.—The Under Secretary for Science and Energy shall ensure the coordination of Office of Science activities and programs with other activities of the Department.".

**SEC. 502. BASIC ENERGY SCIENCES.**

(a) PROGRAM.—The Director shall carry out a program in basic energy sciences, including materials sciences and engineering, chemical sciences, physical biosciences, and geosciences, for the purpose of providing the scientific foundations for new energy technologies.

(b) MISSION.—The mission of the program described in subsection (a) shall be to support fundamental research to understand, predict, and ultimately control matter and energy at the electronic, atomic, and molecular levels in order to provide the foundations for new energy technologies and to support Department missions in energy, environment, and national security.

(c) BASIC ENERGY SCIENCES USER FACILITIES.—The Director shall carry out a subprogram for the development, construction, operation, and maintenance of national user facilities to support the program under this

section. As practicable, these facilities shall serve the needs of the Department, industry, the academic community, and other relevant entities to create and examine new materials and chemical processes for the purposes of advancing new energy technologies and improving the competitiveness of the United States. These facilities shall include—

(1) x-ray light sources;

(2) neutron sources;

(3) nanoscale science research centers; and

(4) other facilities the Director considers appropriate, consistent with section 209 of the Department of Energy Organization Act (42 U.S.C. 7139).

(d) LIGHT SOURCE LEADERSHIP INITIATIVE.—

(1) ESTABLISHMENT.—In support of the subprogram authorized in subsection (c), the Director shall establish an initiative to sustain and advance global leadership of light source user facilities.

(2) LEADERSHIP STRATEGY.—Not later than 9 months after the date of enactment of this Act, and biennially thereafter, the Director shall prepare, in consultation with relevant stakeholders, and submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee

on Energy and Natural Resources of the Senate a light source leadership strategy that—

(A) identifies, prioritizes, and describes plans for the development, construction, and operation of light sources over the next decade;

(B) describes plans for optimizing management and use of existing light source facilities; and

(C) assesses the international outlook for light source user facilities and describes plans for United States cooperation in such projects.

(3) ADVISORY COMMITTEE FEEDBACK AND RECOMMENDATIONS.—Not later than 45 days after submission of the strategy described in paragraph (2), the Basic Energy Sciences Advisory Committee shall provide the Director, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a report of the Advisory Committee's analyses, findings, and recommendations for improving the strategy, including a review of the most recent budget request for the initiative.

(4) PROPOSED BUDGET.—The Director shall transmit annually to Congress a proposed budget

corresponding to the activities identified in the strategy.

(e) ACCELERATOR RESEARCH AND DEVELOPMENT.—The Director shall carry out research and development on advanced accelerator and storage ring technologies relevant to the development of Basic Energy Sciences user facilities, in consultation with the Office of Science's High Energy Physics and Nuclear Physics programs.

(f) ENERGY FRONTIER RESEARCH CENTERS.—

(1) IN GENERAL.—The Director shall carry out a program to provide awards, on a competitive, merit-reviewed basis, to multi-institutional collaborations or other appropriate entities to conduct fundamental and use-inspired energy research to accelerate scientific breakthroughs.

(2) COLLABORATIONS.—A collaboration receiving an award under this subsection may include multiple types of institutions and private sector entities.

(3) SELECTION AND DURATION.—

(A) IN GENERAL.—A collaboration under this subsection shall be selected for a period of 5 years. An Energy Frontier Research Center already in existence and supported by the Director on the date of enactment of this Act may

continue to receive support for a period of 5 years beginning on the date of establishment of that center.

(B) REAPPLICATION.—After the end of the period described in subparagraph (A), an awardee may reapply for selection for a second period of 5 years on a competitive, merit-reviewed basis.

(C) TERMINATION.—Consistent with the existing authorities of the Department, the Director may terminate an underperforming center for cause during the performance period.

(4) NO FUNDING FOR CONSTRUCTION.—No funding provided pursuant to this subsection may be used for the construction of new buildings or facilities.

**SEC. 503. ADVANCED SCIENTIFIC COMPUTING RESEARCH.**

(a) PROGRAM.—The Director shall carry out a research, development, and demonstration program to advance computational and networking capabilities to analyze, model, simulate, and predict complex phenomena relevant to the development of new energy technologies and the competitiveness of the United States.

(b) FACILITIES.—The Director, as part of the program described in subsection (a), shall develop and main-

1 tain world-class computing and network facilities for
2 science and deliver critical research in applied mathe-
3 matics, computer science, and advanced networking to
4 support the Department's missions.

5 (c) DEFINITIONS.—Section 2 of the Department of
6 Energy High-End Computing Revitalization Act of 2004
7 (15 U.S.C. 5541) is amended by striking paragraphs (1)
8 through (5) and inserting the following:

9 "(1) CO-DESIGN.—The term 'co-design' means
10 the joint development of application algorithms,
11 models, and codes with computer technology archi-
12 tectures and operating systems to maximize effective
13 use of high-end computing systems.

14 "(2) DEPARTMENT.—The term 'Department'
15 means the Department of Energy.

16 "(3) EXASCALE.—The term 'exascale' means
17 computing system performance at or near 10 to the
18 18th power floating point operations per second.

19 "(4) HIGH-END COMPUTING SYSTEM.—The
20 term 'high-end computing system' means a com-
21 puting system with performance that substantially
22 exceeds that of systems that are commonly available
23 for advanced scientific and engineering applications.

24 "(5) INSTITUTION OF HIGHER EDUCATION.—
25 The term 'institution of higher education' has the

meaning given the term in section 2 of the Energy Policy Act of 2005 (42 U.S.C. 15801).

"(6) LEADERSHIP SYSTEM.—The term 'leadership system' means a high-end computing system that is among the most advanced in the world in terms of performance in solving scientific and engineering problems.

"(7) NATIONAL LABORATORY.—The term 'National Laboratory' means any one of the seventeen laboratories owned by the Department.

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

"(9) SOFTWARE TECHNOLOGY.—The term 'software technology' includes optimal algorithms, programming environments, tools, languages, and operating systems for high-end computing systems.".

(d) DEPARTMENT OF ENERGY HIGH-END COMPUTING RESEARCH AND DEVELOPMENT PROGRAM.—Section 3 of the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5542) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "program" and inserting "coordinated program across the Department";

(B) by striking ''and'' at the end of paragraph (1);

(C) by striking the period at the end of paragraph (2) and inserting ''; and''; and

(D) by adding at the end the following new paragraph:

''(3) partner with universities, National Laboratories, and industry to ensure the broadest possible application of the technology developed in this program to other challenges in science, engineering, medicine, and industry.'';

(2) in subsection (b)(2), by striking ''vector'' and all that follows through ''architectures'' and inserting ''computer technologies that show promise of substantial reductions in power requirements and substantial gains in parallelism of multicore processors, concurrency, memory and storage, bandwidth, and reliability''; and

(3) by striking subsection (d) and inserting the following:

''(d) EXASCALE COMPUTING PROGRAM.—

''(1) IN GENERAL.—The Secretary shall conduct a coordinated research program to develop exascale computing systems to advance the missions of the Department.

"(2) EXECUTION.—The Secretary shall, through competitive merit review, establish two or more National Laboratory-industry-university partnerships to conduct integrated research, development, and engineering of multiple exascale architectures, and—

"(A) conduct mission-related co-design activities in developing such exascale platforms;

"(B) develop those advancements in hardware and software technology required to fully realize the potential of an exascale production system in addressing Department target applications and solving scientific problems involving predictive modeling and simulation and large-scale data analytics and management; and

"(C) explore the use of exascale computing technologies to advance a broad range of science and engineering.

"(3) ADMINISTRATION.—In carrying out this program, the Secretary shall—

"(A) provide, on a competitive, merit-reviewed basis, access for researchers in United States industry, institutions of higher education, National Laboratories, and other Fed-

eral agencies to these exascale systems, as appropriate; and

"(B) conduct outreach programs to increase the readiness for the use of such platforms by domestic industries, including manufacturers.

"(4) REPORTS.—

"(A) INTEGRATED STRATEGY AND PROGRAM MANAGEMENT PLAN.—The Secretary shall submit to Congress, not later than 90 days after the date of enactment of the America COMPETES Reauthorization Act of 2015, a report outlining an integrated strategy and program management plan, including target dates for prototypical and production exascale platforms, interim milestones to reaching these targets, functional requirements, roles and responsibilities of National Laboratories and industry, acquisition strategy, and estimated resources required, to achieve this exascale system capability. The report shall include the Secretary's plan for Departmental organization to manage and execute the Exascale Computing Program, including definition of the roles and responsibilities within the Department to ensure an inte-

grated program across the Department. The report shall also include a plan for ensuring balance and prioritizing across ASCR subprograms in a flat or slow-growth budget environment.

"(B) STATUS REPORTS.—At the time of the budget submission of the Department for each fiscal year, the Secretary shall submit a report to Congress that describes the status of milestones and costs in achieving the objectives of the exascale computing program.

"(C) EXASCALE MERIT REPORT.—At least 18 months prior to the initiation of construction or installation of any exascale-class computing facility, the Secretary shall transmit a plan to the Congress detailing—

"(i) the proposed facility's cost projections and capabilities to significantly accelerate the development of new energy technologies;

"(ii) technical risks and challenges that must be overcome to achieve successful completion and operation of the facility; and

"(iii) an independent assessment of the scientific and technological advances

expected from such a facility relative to those expected from a comparable investment in expanded research and applications at terascale-class and petascale-class computing facilities, including an evaluation of where investments should be made in the system software and algorithms to enable these advances.''.

**SEC. 504. HIGH ENERGY PHYSICS.**

(a) PROGRAM.—The Director shall carry out a research program on the fundamental constituents of matter and energy and the nature of space and time.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Director should incorporate the findings and recommendations of the Particle Physics Project Prioritization Panel's report entitled ''Building for Discovery: Strategic Plan for U.S. Particle Physics in the Global Context'', into the Department's planning process as part of the program described in subsection (a);

(2) the Director should prioritize domestically hosted research projects that will maintain the United States position as a global leader in particle physics and attract the world's most talented physi-

cists and foreign investment for international collaboration; and

(3) the nations that lead in particle physics by hosting international teams dedicated to a common scientific goal attract the world's best talent and inspire future generations of physicists and technologists.

(c) NEUTRINO RESEARCH.—As part of the program described in subsection (a), the Director shall carry out research activities on rare decay processes and the nature of the neutrino, which may include collaborations with the National Science Foundation or international collaborations.

(d) DARK ENERGY AND DARK MATTER RESEARCH.—As part of the program described in subsection (a), the Director shall carry out research activities on the nature of dark energy and dark matter, which may include collaborations with the National Aeronautics and Space Administration or the National Science Foundation, or international collaborations.

(e) ACCELERATOR RESEARCH AND DEVELOPMENT.—The Director shall carry out research and development in advanced accelerator concepts and technologies, including laser technologies, to reduce the necessary scope and cost for the next generation of particle accelerators.

The Director shall ensure access to national laboratory accelerator facilities, infrastructure, and technology for users and developers of accelerators that advance applications in energy and the environment, medicine, industry, national security, and discovery science.

(f) INTERNATIONAL COLLABORATION.—The Director, as practicable and in coordination with other appropriate Federal agencies as necessary, shall ensure the access of United States researchers to the most advanced accelerator facilities and research capabilities in the world, including the Large Hadron Collider.

**SEC. 505. BIOLOGICAL AND ENVIRONMENTAL RESEARCH.**

(a) PROGRAM.—The Director shall carry out a program of research, development, and demonstration in the areas of biological systems science and climate and environmental science to support the energy and environmental missions of the Department.

(b) PRIORITY RESEARCH.—In carrying out this section, the Director shall prioritize fundamental research on biological systems and genomics science with the greatest potential to enable scientific discovery.

(c) ASSESSMENT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall submit a report to Congress identifying climate science-related initiatives under this section that overlap

or duplicate initiatives of other Federal agencies and the extent of such overlap or duplication.

(d) LIMITATION.—The Director shall not approve new climate science-related initiatives to be carried out through the Office of Science without making a determination that such work is unique and not duplicative of work by other Federal agencies. Not later than 3 months after receiving the assessment required under subsection (c), the Director shall cease those climate science-related initiatives identified in the assessment as overlapping or duplicative, unless the Director justifies that such work is critical to achieving American energy security.

(e) LOW DOSE RADIATION RESEARCH PROGRAM.—

(1) IN GENERAL.—The Director of the Department of Energy Office of Science shall carry out a research program on low dose radiation. The purpose of the program is to enhance the scientific understanding of and reduce uncertainties associated with the effects of exposure to low dose radiation in order to inform improved risk management methods.

(2) STUDY.—Not later than 60 days after the date of enactment of this Act, the Director shall enter into an agreement with the National Academies to conduct a study assessing the current status and development of a long-term strategy for low

dose radiation research. Such study shall be completed not later than 18 months after the date of enactment of this Act. The study shall be conducted in coordination with Federal agencies that perform ionizing radiation effects research and shall leverage the most current studies in this field. Such study shall—

(A) identify current scientific challenges for understanding the long-term effects of ionizing radiation;

(B) assess the status of current low dose radiation research in the United States and internationally;

(C) formulate overall scientific goals for the future of low-dose radiation research in the United States;

(D) recommend a long-term strategic and prioritized research agenda to address scientific research goals for overcoming the identified scientific challenges in coordination with other research efforts;

(E) define the essential components of a research program that would address this research agenda within the universities and the National Laboratories; and

(F) assess the cost-benefit effectiveness of such a program.

(3) RESEARCH PLAN.—Not later than 90 days after the completion of the study performed under paragraph (2) the Secretary of Energy shall deliver to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a 5-year research plan that responds to the study's findings and recommendations and identifies and prioritizes research needs.

(4) DEFINITION.—In this subsection, the term ''low dose radiation'' means a radiation dose of less than 100 millisieverts.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to subject any research carried out by the Director under the research program under this subsection to any limitations described in section 977(e) of the Energy Policy Act of 2005 (42 U.S.C. 16317(e)).

**SEC. 506. FUSION ENERGY.**

(a) PROGRAM.—The Director shall carry out a fusion energy sciences research program to expand the fundamental understanding of plasmas and matter at very high

temperatures and densities and to build the scientific foundation necessary to enable fusion power.

(b) FUSION MATERIALS RESEARCH AND DEVELOPMENT.—As part of the activities authorized in section 978 of the Energy Policy Act of 2005 (42 U.S.C. 16318)—

(1) the Director, in coordination with the Assistant Secretary for Nuclear Energy of the Department, shall carry out research and development activities to identify, characterize, and demonstrate materials that can endure the neutron, plasma, and heat fluxes expected in a fusion power system; and

(2) the Secretary shall—

(A) provide an assessment of the need for a facility or facilities that can examine and test potential fusion and next generation fission materials and other enabling technologies relevant to the development of fusion power; and

(B) provide an assessment of whether a single new facility that substantially addresses magnetic fusion and next generation fission materials research needs is feasible, in conjunction with the expected capabilities of facilities operational as of the date of enactment of this Act.

(c) TOKAMAK RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—As part of the program described in subsection (a), the Director shall support research and development activities and facility operations to optimize the tokamak approach to fusion energy.

(2) ITER.—

(A) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report providing an assessment of—

(i) the most recent schedule for ITER that has been approved by the ITER Council; and

(ii) progress of the ITER Council and the ITER Director General toward implementation of the recommendations of the Third Biennial International Organization Management Assessment Report.

(B) FAIRNESS IN COMPETITION FOR SOLICITATIONS FOR INTERNATIONAL PROJECT ACTIVITIES.—Section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) is amended by adding at the end the following: ''For purposes of this section, with respect to international research projects, the term 'private facilities or

laboratories' shall refer to facilities or laboratories located in the United States.''.

(C) SENSE OF CONGRESS.—It is the sense of Congress that the United States should support a robust, diverse fusion program. It is further the sense of Congress that developing the scientific basis for fusion, providing research results key to the success of ITER, and training the next generation of fusion scientists are of critical importance to the United States and should in no way be diminished by participation of the United States in the ITER project.

(d) INERTIAL FUSION ENERGY RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary shall carry out a program of research and technology development in inertial fusion for energy applications, including ion beam, laser, and pulsed power fusion systems.

(e) ALTERNATIVE AND ENABLING CONCEPTS.—

(1) IN GENERAL.—As part of the program described in subsection (a), the Director shall support research and development activities and facility operations at United States universities, national laboratories, and private facilities for a portfolio of alternative and enabling fusion energy concepts that may provide solutions to significant challenges to the es-

tablishment of a commercial magnetic fusion power plant, prioritized based on the ability of the United States to play a leadership role in the international fusion research community. Fusion energy concepts and activities explored under this paragraph may include—

(A) high magnetic field approaches facilitated by high temperature superconductors;

(B) advanced stellarator concepts;

(C) non-tokamak confinement configurations operating at low magnetic fields;

(D) magnetized target fusion energy concepts;

(E) liquid metals to address issues associated with fusion plasma interactions with the inner wall of the encasing device;

(F) immersion blankets for heat management and fuel breeding;

(G) advanced scientific computing activities; and

(H) other promising fusion energy concepts identified by the Director.

(2) COORDINATION WITH ARPA–E.—The Under Secretary and the Director shall coordinate with the Director of the Advanced Research Projects Agency–

Energy (in this paragraph referred to as ''ARPA–E'') to—

(A) assess the potential for any fusion energy project supported by ARPA–E to represent a promising approach to a commercially viable fusion power plant;

(B) determine whether the results of any fusion energy project supported by ARPA–E merit the support of follow-on research activities carried out by the Office of Science; and

(C) avoid unintentional duplication of activities.

(f) GENERAL PLASMA SCIENCE AND APPLICATIONS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall provide to Congress an assessment of opportunities in which the United States can provide world-leading contributions to advancing plasma science and non-fusion energy applications, and identify opportunities for partnering with other Federal agencies both within and outside of the Department of Energy.

(g) IDENTIFICATION OF PRIORITIES.—

(1) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the Department's proposed fusion energy research and development

activities over the following 10 years under at least 3 realistic budget scenarios, including a scenario based on 3 percent annual growth in the non-ITER portion of the budget for fusion energy research and development activities. The report shall—

(A) identify specific areas of fusion energy research and enabling technology development in which the United States can and should establish or solidify a lead in the global fusion energy development effort;

(B) identify priorities for initiation of facility construction and facility decommissioning under each of those scenarios; and

(C) assess the ability of the United States fusion workforce to carry out the activities identified in subparagraphs (A) and (B), including the adequacy of college and university programs to train the leaders and workers of the next generation of fusion energy researchers.

(2) PROCESS.—In order to develop the report required under paragraph (1), the Secretary shall leverage best practices and lessons learned from the process used to develop the most recent report of the Particle Physics Project Prioritization Panel of the High Energy Physics Advisory Panel. No member of

the Fusion Energy Sciences Advisory Committee shall be excluded from participating in developing or voting on final approval of the report required under paragraph (1).

**SEC. 507. NUCLEAR PHYSICS.**

(a) PROGRAM.—The Director shall carry out a program of experimental and theoretical research, and support associated facilities, to discover, explore, and understand all forms of nuclear matter.

(b) ISOTOPE DEVELOPMENT AND PRODUCTION FOR RESEARCH APPLICATIONS.—The Director shall carry out a program for the production of isotopes, including the development of techniques to produce isotopes, that the Secretary determines are needed for research, medical, industrial, or other purposes. In making this determination, the Secretary shall—

(1) ensure that, as has been the policy of the United States since the publication in 1965 of Federal Register notice 30 Fed. Reg. 3247, isotope production activities do not compete with private industry unless critical national interests necessitate the Federal Government's involvement;

(2) ensure that activities undertaken pursuant to this section, to the extent practicable, promote the

growth of a robust domestic isotope production industry; and

(3) consider any relevant recommendations made by Federal advisory committees, the National Academies, and interagency working groups in which the Department participates.

**SEC. 508. SCIENCE LABORATORIES INFRASTRUCTURE PROGRAM.**

(a) PROGRAM.—The Director shall carry out a program to improve the safety, efficiency, and mission readiness of infrastructure at Office of Science laboratories. The program shall include projects to—

(1) renovate or replace space that does not meet research needs;

(2) replace facilities that are no longer cost effective to renovate or operate;

(3) modernize utility systems to prevent failures and ensure efficiency;

(4) remove excess facilities to allow safe and efficient operations; and

(5) construct modern facilities to conduct advanced research in controlled environmental conditions.

(b) APPROACH.—In carrying out this section, the Director shall utilize all available approaches and mecha-

nisms, including capital line items, minor construction projects, energy savings performance contracts, utility energy service contracts, alternative financing, and expense funding, as appropriate.

**SEC. 509. DOMESTIC MANUFACTURING.**

Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the current ability of domestic manufacturers to meet the procurement requirements for major ongoing projects funded by the Office of Science of the Department, including a calculation of the percentage of equipment acquired from domestic manufacturers for this purpose.

**SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

(a) FISCAL YEAR 2016.—There are authorized to be appropriated to the Secretary for the Office of Science for fiscal year 2016 $5,339,800,000, of which—

(1) $1,850,000,000 shall be for Basic Energy Science;

(2) $788,000,000 shall be for High Energy Physics;

(3) $550,000,000 shall be for Biological and Environmental Research;

(4) $624,700,000 shall be for Nuclear Physics;

(5) $621,000,000 shall be for Advanced Scientific Computing Research;

(6) $488,000,000 shall be for Fusion Energy Sciences;

(7) $113,600,000 shall be for Science Laboratories Infrastructure;

(8) $181,000,000 shall be for Science Program Direction;

(9) $103,000,000 shall be for Safeguards and Security; and

(10) $20,500,000 shall be for Workforce Development for Teachers and Scientists.

(b) FISCAL YEAR 2017.—There are authorized to be appropriated to the Secretary for the Office of Science for fiscal year 2017 $5,339,800,000, of which—

(1) $1,850,000,000 shall be for Basic Energy Science;

(2) $788,000,000 shall be for High Energy Physics;

(3) $550,000,000 shall be for Biological and Environmental Research;

(4) $624,700,000 shall be for Nuclear Physics;

(5) $621,000,000 shall be for Advanced Scientific Computing Research;

(6) $488,000,000 shall be for Fusion Energy Sciences;

(7) $113,600,000 shall be for Science Laboratories Infrastructure;

(8) $181,000,000 shall be for Science Program Direction;

(9) $103,000,000 shall be for Safeguards and Security; and

(10) $20,500,000 shall be for Workforce Development for Teachers and Scientists.

**SEC. 511. DEFINITIONS.**

In this title—

(1) the term ''Department'' means the Department of Energy;

(2) the term ''Director'' means the Director of the Office of Science of the Department; and

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

# TITLE VI—DEPARTMENT OF ENERGY APPLIED RESEARCH AND DEVELOPMENT

## Subtitle A—Crosscutting Research and Development

**SEC. 601. CROSSCUTTING RESEARCH AND DEVELOPMENT.**

(a) CROSSCUTTING RESEARCH AND DEVELOPMENT.—The Secretary shall, through the Under Secretary for Science and Energy, utilize the capabilities of the Department to identify strategic opportunities for collaborative research, development, demonstration, and commercial application of innovative science and technologies for—

(1) advancing the understanding of the energy-water-land use nexus;

(2) modernizing the electric grid by improving energy transmission and distribution systems security and resiliency;

(3) utilizing supercritical carbon dioxide in electric power generation;

(4) subsurface technology and engineering;

(5) high performance computing;

(6) cybersecurity; and

(7) critical challenges identified through comprehensive energy studies, evaluations, and reviews.

(b) CROSSCUTTING APPROACHES.—To the maximum extent practicable, the Secretary shall seek to leverage existing programs, and consolidate and coordinate activities, throughout the Department to promote collaboration and crosscutting approaches within programs.

(c) ADDITIONAL ACTIONS.—The Secretary shall—

(1) prioritize activities that promote the utilization of all affordable domestic resources;

(2) develop a rigorous and realistic planning, evaluation, and technical assessment framework for setting objective, long-term strategic goals and evaluating progress that ensures the integrity and independence to insulate planning from political influence and the flexibility to adapt to market dynamics;

(3) ensure that activities shall be undertaken in a manner that does not duplicate other activities within the Department or other Federal Government activities; and

(4) identify programs that may be more effectively left to the States, industry, nongovernmental organizations, institutions of higher education, or other stakeholders.

**SEC. 602. STRATEGIC RESEARCH PORTFOLIO ANALYSIS AND COORDINATION PLAN.**

Section 994 of Energy Policy Act of 2005 (42 U.S.C. 16358) is amended to read as follows:

**"SEC. 994. STRATEGIC RESEARCH PORTFOLIO ANALYSIS AND COORDINATION PLAN.**

"(a) IN GENERAL.—The Secretary shall periodically review all of the science and technology activities of the Department in a strategic framework that takes into account the frontiers of science to which the Department can contribute, the national needs relevant to the Department's statutory missions, and global energy dynamics.

"(b) COORDINATION ANALYSIS AND PLAN.—As part of the review under subsection (a), the Secretary shall develop a plan to improve coordination and collaboration in research, development, demonstration, and commercial application activities across Department organizational boundaries.

"(c) PLAN CONTENTS.—The plan shall describe—

"(1) crosscutting scientific and technical issues and research questions that span more than one program or major office of the Department;

"(2) how the applied technology programs of the Department are coordinating their activities, and addressing those questions;

"(3) ways in which the technical interchange within the Department, particularly between the Office of Science and the applied technology programs, can be enhanced, including limited ways in which the research agendas of the Office of Science and the applied programs can better interact and assist each other;

"(4) a description of how the Secretary will ensure that the Department's overall research agenda include, in addition to fundamental, curiosity-driven research, fundamental research related to topics of concern to the applied programs, and applications in Departmental technology programs of research results generated by fundamental, curiosity-driven research;

"(5) critical assessments of any ongoing programs that have experienced sub-par performance or cost over-runs of 10 percent or more over 1 or more years;

"(6) activities that may be more effectively left to the States, industry, nongovernmental organizations, institutions of higher education, or other stakeholders; and

"(7) detailed proposals for innovation hubs, institutes, and research centers prior to establishment or renewal by the Department, including—

"(A) certification that all hubs, institutes, and research centers will advance the mission of the Department, and prioritize research, development, and demonstration;

"(B) certification that the establishment or renewal of hubs, institutes, or research centers will not diminish funds available for basic research and development within the Office of Science; and

"(C) certification that all hubs, institutes, and research centers established or renewed within the Office of Science are consistent with the mission of the Office of Science as described in section 209(c) of the Department of Energy Organization Act (42 U.S.C. 7139(c)).

"(d) PLAN TRANSMITTAL.—Not later than 1 year after the date of enactment of the America COMPETES Reauthorization Act of 2015, and every 4 years thereafter, the Secretary shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of

the Senate the results of the review under subsection (a) and the coordination plan under subsection (b).''.

**SEC. 603. STRATEGY FOR FACILITIES AND INFRASTRUCTURE.**

(a) AMENDMENTS.—Section 993 of the Energy Policy Act of 2005 (42 U.S.C. 16357) is amended—

(1) by amending the section heading to read as follows: ''**STRATEGY FOR FACILITIES AND INFRASTRUCTURE**''; and

(2) in subsection (b)(1), by striking ''2008'' and inserting ''2018''.

(b) TABLE OF CONTENTS AMENDMENT.—The item relating to section 993 in the table of contents of the Energy Policy Act of 2005 is amended to read as follows:

''Sec. 993. Strategy for facilities and infrastructure.''.

**SEC. 604. ENERGY INNOVATION HUBS.**

(a) AUTHORIZATION OF PROGRAM.—

(1) IN GENERAL.—The Secretary of Energy shall carry out a program to enhance the Nation's economic, environmental, and energy security by making awards to consortia for establishing and operating Energy Innovation Hubs to conduct and support, whenever practicable at one centralized location, multidisciplinary, collaborative research, development, and demonstration of advanced energy technologies.

(2) TECHNOLOGY DEVELOPMENT FOCUS.—The Secretary shall designate for each Hub a unique advanced energy technology focus.

(3) COORDINATION.—The Secretary shall ensure the coordination of, and avoid unnecessary duplication of, the activities of Hubs with those of other Department of Energy research entities, including the National Laboratories, the Advanced Research Projects Agency-Energy, Energy Frontier Research Centers, and within industry.

(b) CONSORTIA.—

(1) ELIGIBILITY.—To be eligible to receive an award under this section for the establishment and operation of a Hub, a consortium shall—

(A) be composed of no fewer than two qualifying entities; and

(B) operate subject to an agreement entered into by its members that documents—

(i) the proposed partnership agreement, including the governance and management structure of the Hub;

(ii) measures to enable cost-effective implementation of the program under this section;

(iii) a proposed budget, including financial contributions from non-Federal sources;

(iv) a plan for managing intellectual property rights; and

(v) an accounting structure that enables the Secretary to ensure that the consortium has complied with the requirements of this section.

(2) APPLICATION.—A consortium seeking to establish and operate a Hub under this section, acting through a prime applicant, shall transmit to the Secretary an application at such time, in such form, and accompanied by such information as the Secretary shall require, including a detailed description of the elements of the consortium agreement required under paragraph (1)(B). If the consortium members will not be located at one centralized location, such application shall include a communications plan that ensures close coordination and integration of the Hub's activities.

(c) SELECTION AND SCHEDULE.—The Secretary shall select consortia for awards for the establishment and operation of Hubs through competitive selection processes. In selecting consortia, the Secretary shall consider the in-

formation a consortium must disclose according to subsection (b), as well as any existing facilities a consortium will provide for Hub activities. Awards made to a Hub shall be for a period not to exceed 5 years, subject to the availability of appropriations, after which the award may be renewed, subject to a rigorous merit review. A Hub already in existence on the date of enactment of this Act may continue to receive support for a period of 5 years, subject to the availability of appropriations, beginning on the date of establishment of that Hub.

(d) HUB OPERATIONS.—

(1) IN GENERAL.—Each Hub shall conduct or provide for multidisciplinary, collaborative research, development, and demonstration of advanced energy technologies within the technology development focus designated under subsection (a)(2). Each Hub shall—

(A) encourage collaboration and communication among the member qualifying entities of the consortium and awardees by conducting activities whenever practicable at one centralized location;

(B) develop and publish on the Department of Energy's website proposed plans and programs;

(C) submit an annual report to the Secretary summarizing the Hub's activities, including detailing organizational expenditures, and describing each project undertaken by the Hub; and

(D) monitor project implementation and coordination.

(2) CONFLICTS OF INTEREST.—

(A) PROCEDURES.—Hubs shall maintain conflict of interest procedures, consistent with those of the Department of Energy, to ensure that employees and consortia designees for Hub activities who are in decisionmaking capacities disclose all material conflicts of interest, and avoid such conflicts.

(B) DISQUALIFICATION AND REVOCATION.—The Secretary may disqualify an application or revoke funds distributed to a Hub if the Secretary discovers a failure to comply with conflict of interest procedures established under subparagraph (A).

(3) PROHIBITION ON CONSTRUCTION.—

(A) IN GENERAL.—No funds provided pursuant to this section may be used for construction of new buildings or facilities for Hubs.

Construction of new buildings or facilities shall not be considered as part of the non-Federal share of a Hub cost-sharing agreement.

(B) TEST BED AND RENOVATION EXCEPTION.—Nothing in this subsection shall prohibit the use of funds provided pursuant to this section, or non-Federal cost share funds, for research or for the construction of a test bed or renovations to existing buildings or facilities for the purposes of research if the Secretary determines that the test bed or renovations are limited to a scope and scale necessary for the research to be conducted.

(e) TERMINATION.—Consistent with the existing authorities of the Department, the Secretary may terminate an underperforming Hub for cause during the performance period.

(f) DEFINITIONS.—For purposes of this section:

(1) ADVANCED ENERGY TECHNOLOGY.—The term ''advanced energy technology'' means—

(A) an innovative technology—

(i) that produces energy from solar, wind, geothermal, biomass, tidal, wave, ocean, or other renewable energy resources;

(ii) that produces nuclear energy;

(iii) for carbon capture and sequestration;

(iv) that enables advanced vehicles, vehicle components, and related technologies that result in significant energy savings;

(v) that generates, transmits, distributes, utilizes, or stores energy more efficiently than conventional technologies, including through Smart Grid technologies; or

(vi) that enhances the energy independence and security of the United States by enabling improved or expanded supply and production of domestic energy resources, including coal, oil, and natural gas;

(B) research, development, and demonstration activities necessary to ensure the long-term, secure, and sustainable supply of energy critical elements; or

(C) another innovative energy technology area identified by the Secretary.

(2) HUB.—The term ''Hub'' means an Energy Innovation Hub established or operating in accord-

ance with this section, including any Energy Innovation Hub existing as of the date of enactment of this Act.

(3) QUALIFYING ENTITY.—The term ''qualifying entity'' means—

(A) an institution of higher education;

(B) an appropriate State or Federal entity, including the Department of Energy Federally Funded Research and Development Centers;

(C) a nongovernmental organization with expertise in advanced energy technology research, development, demonstration, or commercial application; or

(D) any other relevant entity the Secretary considers appropriate.

# Subtitle B—Electricity Delivery and Energy Reliability Research and Development

## SEC. 611. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

Section 921 of the Energy Policy Act of 2005 (42 U.S.C. 16211) is amended to read as follows:

**"SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.**

''(a) IN GENERAL.—The Secretary shall carry out programs of research, development, demonstration, and commercial application on distributed energy resources and systems reliability and efficiency, to improve the reliability and efficiency of distributed energy resources and systems, integrating advanced energy technologies with grid connectivity, including activities described in this subtitle. The programs shall address advanced energy technologies and systems and advanced grid security, resiliency, and reliability technologies.

''(b) OBJECTIVES.—To the maximum extent practicable, the Secretary shall seek to—

''(1) leverage existing programs;

''(2) consolidate and coordinate activities throughout the Department to promote collaboration and crosscutting approaches;

''(3) ensure activities are undertaken in a manner that does not duplicate other activities within the Department or other Federal Government activities; and

''(4) identify programs that may be more effectively left to the States, industry, nongovernmental organizations, institutions of higher education, or other stakeholders.''.

**SEC. 612. ELECTRIC TRANSMISSION AND DISTRIBUTION RESEARCH AND DEVELOPMENT.**

(a) AMENDMENTS.—Section 925 of the Energy Policy Act of 2005 (42 U.S.C. 16215) is amended—

(1) by amending the section heading to read as follows: ''**ELECTRIC TRANSMISSION AND DISTRIBUTION RESEARCH AND DEVELOPMENT**'';

(2) by amending subsection (a) to read as follows:

''(a) 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 innovations for—

''(1) advanced energy delivery technologies, energy storage technologies, materials, and systems;

''(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) technologies to enhance security for electrical transmission and distributions systems; and

"(11) any other infrastructure technologies, as appropriate."; and

(3) by amending subsection (c) to read as follows:

"(c) IMPLEMENTATION.—

"(1) CONSORTIUM.—The Secretary shall consider implementing the program under this section using a consortium of participants from industry, in-

stitutions of higher education, and National Laboratories.

"(2) OBJECTIVES.—To the maximum extent practicable the Secretary shall seek to—

"(A) leverage existing programs;

"(B) consolidate and coordinate activities, throughout the Department to promote collaboration and crosscutting approaches;

"(C) ensure activities are undertaken in a manner that does not duplicate other activities within the Department or other Federal Government activities; and

"(D) identify programs that may be more effectively left to the States, industry, nongovernmental organizations, institutions of higher education, or other stakeholders.".

(b) TABLE OF CONTENTS AMENDMENT.—The item relating to section 925 in the table of contents of the Energy Policy Act of 2005 is amended to read as follows:

"Sec. 925. Electric transmission and distribution research and development.".

# Subtitle C—Nuclear Energy Research and Development

**SEC. 621. OBJECTIVES.**

Section 951 of the Energy Policy Act of 2005 (42 U.S.C. 16271) is amended—

(1) by amending subsection (a) to read as follows:

"(a) IN GENERAL.—The Secretary shall conduct programs of civilian nuclear energy research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall take into consideration the following objectives:

"(1) Enhancing nuclear power's viability as part of the United States energy portfolio.

"(2) Reducing used nuclear fuel and nuclear waste products generated by civilian nuclear energy.

"(3) Supporting technological advances in areas that industry by itself is not likely to undertake because of technical and financial uncertainty.

"(4) Providing the technical means to reduce the likelihood of nuclear proliferation.

"(5) Maintaining a cadre of nuclear scientists and engineers.

"(6) Maintaining National Laboratory and university nuclear programs, including their infrastructure.

"(7) Supporting both individual researchers and multidisciplinary teams of researchers to pioneer new approaches in nuclear energy, science, and technology.

"(8) Developing, planning, constructing, acquiring, and operating special equipment and facilities for the use of researchers.

"(9) Supporting technology transfer and other appropriate activities to assist the nuclear energy industry, and other users of nuclear science and engineering, including activities addressing reliability, availability, productivity, component aging, safety, and security of nuclear power plants.

"(10) Reducing the environmental impact of nuclear energy-related activities.

"(11) Researching and developing technologies and processes to meet Federal and State requirements and standards for nuclear power systems.";

(2) by striking subsections (b) through (d); and

(3) by redesignating subsection (e) as subsection (b).

**SEC. 622. PROGRAM OBJECTIVES STUDY.**

Section 951 of the Energy Policy Act of 2005 (42 U.S.C. 16271) is further amended by adding at the end the following new subsection:

"(c) PROGRAM OBJECTIVES STUDY.—In furtherance of the program objectives listed in subsection (a) of this section, the Government Accountability Office shall, within 1 year after the date of enactment of this subsection,

transmit to the Congress a report on the results of a study on the scientific and technical merit of major Federal and State requirements and standards, including moratoria, that delay or impede the further development and commercialization of nuclear power, and how the Department can assist in overcoming such delays or impediments.''.

**SEC. 623. NUCLEAR ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.**

Section 952 of the Energy Policy Act of 2005 (42 U.S.C. 16272) is amended by striking subsections (c) through (e) and inserting the following:

''(c) REACTOR CONCEPTS.—

''(1) IN GENERAL.—The Secretary shall carry out a program of research, development, demonstration, and commercial application to advance nuclear power systems as well as technologies to sustain currently deployed systems.

''(2) DESIGNS AND TECHNOLOGIES.—In conducting the program under this subsection, the Secretary shall examine advanced reactor designs and nuclear technologies, including those that—

''(A) have higher efficiency, lower cost, and improved safety compared to reactors in operation as of the date of enactment of the America COMPETES Reauthorization Act of 2015;

"(B) utilize passive safety features;

"(C) minimize proliferation risks;

"(D) substantially reduce production of high-level waste per unit of output;

"(E) increase the life and sustainability of reactor systems currently deployed;

"(F) use improved instrumentation;

"(G) are capable of producing large-scale quantities of hydrogen or process heat;

"(H) minimize water usage or use alternatives to water as a cooling mechanism; or

"(I) use nuclear energy as part of an integrated energy system.

"(3) INTERNATIONAL COOPERATION.—In carrying out the program under this subsection, the Secretary shall seek opportunities to enhance the progress of the program through international cooperation through such organizations as the Generation IV International Forum or any other international collaboration the Secretary considers appropriate.

"(4) EXCEPTIONS.—No funds authorized to be appropriated to carry out the activities described in this subsection shall be used to fund the activities authorized under sections 641 through 645.".

**SEC. 624. SMALL MODULAR REACTOR PROGRAM.**

Section 952 of the Energy Policy Act of 2005 (42 U.S.C. 16272) is further amended by adding at the end the following new subsection:

"(d) SMALL MODULAR REACTOR PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a small modular reactor program to promote research, development, demonstration, and commercial application of small modular reactors, including through cost-shared projects for commercial application of reactor systems designs.

"(2) CONSULTATION.—The Secretary shall consult with and utilize the expertise of the Secretary of the Navy in establishing and carrying out such program.

"(3) ADDITIONAL ACTIVITIES.—Activities may also include development of advanced computer modeling and simulation tools, by Federal and non-Federal entities, which demonstrate and validate new design capabilities of innovative small modular reactor designs.

"(4) DEFINITION.—For the purposes of this subsection, the term 'small modular reactor' means a nuclear reactor meeting generally accepted industry standards—

"(A) with a rated capacity of less than 300 electrical megawatts;

"(B) with respect to which most parts can be factory assembled and shipped as modules to a reactor plant site for assembly; and

"(C) that can be constructed and operated in combination with similar reactors at a single site.".

**SEC. 625. FUEL CYCLE RESEARCH AND DEVELOPMENT.**

(a) AMENDMENTS.—Section 953 of the Energy Policy Act of 2005 (42 U.S.C. 16273) is amended—

(1) in the section heading by striking "**ADVANCED FUEL CYCLE INITIATIVE**" and inserting "**FUEL CYCLE RESEARCH AND DEVELOPMENT**";

(2) by striking subsection (a);

(3) by redesignating subsections (b) through (d) as subsections (d) through (f), respectively; and

(4) by inserting before subsection (d), as so redesignated by paragraph (3) of this subsection, the following new subsections:

"(a) IN GENERAL.—The Secretary shall conduct a fuel cycle research, development, demonstration, and commercial application program (referred to in this section as the 'program') on fuel cycle options that improve uranium resource utilization, maximize energy generation, minimize

nuclear waste creation, improve safety, mitigate risk of proliferation, and improve waste management in support of a national strategy for spent nuclear fuel and the reactor concepts research, development, demonstration, and commercial application program under section 952(c).

"(b) FUEL CYCLE OPTIONS.—Under this section the Secretary may consider implementing the following initiatives:

"(1) OPEN CYCLE.—Developing fuels, including the use of nonuranium materials and alternate claddings, for use in reactors that increase energy generation, improve safety performance and margins, and minimize the amount of nuclear waste produced in an open fuel cycle.

"(2) RECYCLE.—Developing advanced recycling technologies, including advanced reactor concepts to improve resource utilization, reduce proliferation risks, and minimize radiotoxicity, decay heat, and mass and volume of nuclear waste to the greatest extent possible.

"(3) ADVANCED STORAGE METHODS.—Developing advanced storage technologies for both onsite and long-term storage that substantially prolong the effective life of current storage devices or that sub-

stantially improve upon existing nuclear waste storage technologies and methods, including repositories.

"(4) FAST TEST REACTOR.—Investigating the potential research benefits of a fast test reactor user facility to conduct experiments on fuels and materials related to fuel forms and fuel cycles that will increase fuel utilization, reduce proliferation risks, and reduce nuclear waste products.

"(5) ADVANCED REACTOR INNOVATION.—Developing an advanced reactor innovation testbed where national laboratories, universities, and industry can address advanced reactor design challenges to enable construction and operation of privately funded reactor prototypes to resolve technical uncertainty for United States-based designs for future domestic and international markets.

"(6) OTHER TECHNOLOGIES.—Developing any other technology or initiative that the Secretary determines is likely to advance the objectives of the program.

"(c) ADDITIONAL ADVANCED RECYCLING AND CROSSCUTTING ACTIVITIES.—In addition to and in support of the specific initiatives described in paragraphs (1) through (5) of subsection (b), the Secretary may support the following activities:

"(1) Development and testing of integrated process flow sheets for advanced nuclear fuel recycling processes.

"(2) Research to characterize the byproducts and waste streams resulting from fuel recycling processes.

"(3) Research and development on reactor concepts or transmutation technologies that improve resource utilization or reduce the radiotoxicity of waste streams.

"(4) Research and development on waste treatment processes and separations technologies, advanced waste forms, and quantification of proliferation risks.

"(5) Identification and evaluation of test and experimental facilities necessary to successfully implement the advanced fuel cycle initiative.

"(6) Advancement of fuel cycle-related modeling and simulation capabilities.

"(7) Research to understand the behavior of high-burnup fuels.".

(b) CONFORMING AMENDMENT.—The item relating to section 953 in the table of contents of the Energy Policy Act of 2005 is amended to read as follows:

"Sec. 953. Fuel cycle research and development.".

**SEC. 626. NUCLEAR ENERGY ENABLING TECHNOLOGIES PROGRAM.**

(a) AMENDMENT.—Subtitle E of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16271 et seq.) is amended by adding at the end the following new section:

**"SEC. 958. NUCLEAR ENERGY ENABLING TECHNOLOGIES.**

"(a) IN GENERAL.—The Secretary shall conduct a program to support the integration of activities undertaken through the reactor concepts research, development, demonstration, and commercial application program under section 952(c) and the fuel cycle research and development program under section 953, and support crosscutting nuclear energy concepts. Activities commenced under this section shall be concentrated on broadly applicable research and development focus areas.

"(b) ACTIVITIES.—Activities conducted under this section may include research involving—

"(1) advanced reactor materials;

"(2) advanced radiation mitigation methods;

"(3) advanced proliferation and security risk assessment methods;

"(4) advanced sensors and instrumentation;

"(5) high performance computation modeling, including multiphysics, multidimensional modeling simulation for nuclear energy systems, and continued development of advanced modeling simulation

capabilities through national laboratory, industry, and university partnerships for operations and safety performance improvements of light water reactors for currently deployed and near-term reactors and advanced reactors and for the development of small modular reactors; and

"(6) any crosscutting technology or transformative concept aimed at establishing substantial and revolutionary enhancements in the performance of future nuclear energy systems that the Secretary considers relevant and appropriate to the purpose of this section.

"(c) REPORT.—The Secretary shall submit, as part of the annual budget submission of the Department, a report on the activities of the program conducted under this section, which shall include a brief evaluation of each activity's progress.".

(b) CONFORMING AMENDMENT.—The table of contents of the Energy Policy Act of 2005 is amended by adding at the end of the items for subtitle E of title IX the following new item:

"Sec. 958. Nuclear energy enabling technologies.".

**SEC. 627. TECHNICAL STANDARDS COLLABORATION.**

(a) IN GENERAL.—The Director of the National Institute of Standards and Technology shall establish a nuclear energy standards committee (in this section referred

to as the ''technical standards committee'') to facilitate and support, consistent with the National Technology Transfer and Advancement Act of 1995, the development or revision of technical standards for new and existing nuclear power plants and advanced nuclear technologies.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The technical standards committee shall include representatives from appropriate Federal agencies and the private sector, and be open to materially affected organizations involved in the development or application of nuclear energy-related standards.

(2) CO-CHAIRS.—The technical standards committee shall be co-chaired by a representative from the National Institute of Standards and Technology and a representative from a private sector standards organization.

(c) DUTIES.—The technical standards committee shall, in cooperation with appropriate Federal agencies—

(1) perform a needs assessment to identify and evaluate the technical standards that are needed to support nuclear energy, including those needed to support new and existing nuclear power plants and advanced nuclear technologies, including developing

the technical basis for regulatory frameworks for advanced reactors;

(2) formulate, coordinate, and recommend priorities for the development of new technical standards and the revision of existing technical standards to address the needs identified under paragraph (1);

(3) facilitate and support collaboration and cooperation among standards developers to address the needs and priorities identified under paragraphs (1) and (2);

(4) as appropriate, coordinate with other national, regional, or international efforts on nuclear energy-related technical standards in order to avoid conflict and duplication and to ensure global compatibility; and

(5) promote the establishment and maintenance of a database of nuclear energy-related technical standards.

(d) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided for in advance by appropriations Acts, the Secretary may transfer to the Director of the National Institute of Standards and Technology not to exceed $1,000,000 for fiscal year 2016 for the Secretary of Commerce to carry out this section from amounts appropriated for nuclear energy research and development within the

Nuclear Energy Enabling Technologies account for the Department.

**SEC. 628. AVAILABLE FACILITIES DATABASE.**

The Secretary shall prepare a database of non-Federal user facilities receiving Federal funds that may be used for unclassified nuclear energy research. The Secretary shall make this database accessible on the Department's website.

# Subtitle D—Energy Efficiency and Renewable Energy Research and Development

**SEC. 641. ENERGY EFFICIENCY.**

Section 911 of the Energy Policy Act of 2005 (42 U.S.C. 16191) is amended to read as follows:

**"SEC. 911. ENERGY EFFICIENCY.**

''(a) OBJECTIVES.—The Secretary shall conduct programs of energy efficiency research, development, demonstration, and commercial application, including activities described in this subtitle. Such programs shall prioritize activities that industry by itself is not likely to undertake because of technical challenges or regulatory uncertainty, and take into consideration the following objectives:

''(1) Increasing energy efficiency.

''(2) Reducing the cost of energy.

"(3) Reducing the environmental impact of energy-related activities.

"(b) PROGRAMS.—Programs under this subtitle shall include research, development, demonstration, and commercial application of—

"(1) innovative, affordable technologies to improve the energy efficiency and environmental performance of vehicles, including weight and drag reduction technologies, technologies, modeling, and simulation for increasing vehicle connectivity and automation, and whole-vehicle design optimization;

"(2) cost-effective technologies, for new construction and retrofit, to improve the energy efficiency and environmental performance of buildings, using a whole-buildings approach;

"(3) advanced technologies to improve the energy efficiency, environmental performance, and process efficiency of energy-intensive and waste-intensive industries;

"(4) technologies to improve the energy efficiency of appliances and mechanical systems for buildings in extreme climates, including cogeneration, trigeneration, and polygeneration units;

"(5) advanced battery technologies; and

"(6) fuel cell and hydrogen technologies.".

**SEC. 642. NEXT GENERATION LIGHTING INITIATIVE.**

Section 912 of the Energy Policy Act of 2005 (42 U.S.C. 16192) and the item relating thereto in the table of contents of that Act are repealed.

**SEC. 643. BUILDING STANDARDS.**

Section 914 of the Energy Policy Act of 2005 (42 U.S.C. 16194) is amended by striking subsection (c).

**SEC. 644. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.**

Section 915 of the Energy Policy Act of 2005 (42 U.S.C. 16195) and the item relating thereto in the table of contents of that Act are repealed.

**SEC. 645. NETWORK FOR MANUFACTURING INNOVATION PROGRAM.**

To the extent provided for in advance by appropriations Acts, the Secretary may transfer to the National Institute of Standards and Technology up to $150,000,000 for the period encompassing fiscal years 2015 through 2017 from amounts appropriated for advanced manufacturing research and development under this subtitle (and the amendments made by this subtitle) for the Secretary of Commerce to carry out the Network for Manufacturing Innovation Program authorized under section 34 of the National Institute of Standards and Technology Act (15 U.S.C. 278s).

**SEC. 646. ADVANCED ENERGY TECHNOLOGY TRANSFER CENTERS.**

Section 917 of the Energy Policy Act of 2005 (42 U.S.C. 16197) is amended—

(1) in subsection (a)—

(A) by inserting ''and'' at the end of paragraph (2)(B);

(B) by striking ''; and'' at the end of paragraph (3) and inserting a period; and

(C) by striking paragraph (4);

(2) in subsection (b)—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively; and

(C) by striking paragraph (6);

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

''(g) PROHIBITION.—None of the funds awarded under this section may be used for the construction of facilities or the deployment of commercially available technologies.''; and

(4) by striking subsection (i).

**SEC. 647. RENEWABLE ENERGY.**

Section 931 of the Energy Policy Act of 2005 (42 U.S.C. 16231) is amended to read as follows:

1 **"SEC. 931. RENEWABLE ENERGY.**

2 "(a) IN GENERAL.—

3 "(1) OBJECTIVES.—The Secretary shall con-
4 duct programs of renewable energy research, devel-
5 opment, demonstration, and commercial application,
6 including activities described in this subtitle. Such
7 programs shall prioritize discovery research and de-
8 velopment and take into consideration the following
9 objectives:

10 "(A) Increasing the conversion efficiency of
11 all forms of renewable energy through improved
12 technologies.

13 "(B) Decreasing the cost of renewable en-
14 ergy generation and delivery.

15 "(C) Promoting the diversity of the energy
16 supply.

17 "(D) Decreasing the dependence of the
18 United States on foreign mineral resources.

19 "(E) Decreasing the environmental impact
20 of renewable energy-related activities.

21 "(F) Increasing the export of renewable
22 generation technologies from the United States.

23 "(2) PROGRAMS.—

24 "(A) SOLAR ENERGY.—The Secretary shall
25 conduct a program of research, development,

demonstration, and commercial application for solar energy, including innovations in—

"(i) photovoltaics;

"(ii) solar heating;

"(iii) concentrating solar power;

"(iv) lighting systems that integrate sunlight and electrical lighting in complement to each other; and

"(v) development of technologies that can be easily integrated into new and existing buildings.

"(B) WIND ENERGY.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for wind energy, including innovations in—

"(i) low speed wind energy;

"(ii) testing and verification technologies;

"(iii) distributed wind energy generation; and

"(iv) transformational technologies for harnessing wind energy.

"(C) GEOTHERMAL.—The Secretary shall conduct a program of research, development,

1 demonstration, and commercial application for
2 geothermal energy, including technologies for—
3 ''(i) improving detection of geothermal
4 resources;
5 ''(ii) decreasing drilling costs;
6 ''(iii) decreasing maintenance costs
7 through improved materials;
8 ''(iv) increasing the potential for other
9 revenue sources, such as mineral produc-
10 tion; and
11 ''(v) increasing the understanding of
12 reservoir life cycle and management.
13 ''(D) HYDROPOWER.—The Secretary shall
14 conduct a program of research, development,
15 demonstration, and commercial application for
16 technologies that enable the development of new
17 and incremental hydropower capacity, including:
18 ''(i) Advanced technologies to enhance
19 environmental performance and yield
20 greater energy efficiencies.
21 ''(ii) Ocean energy, including wave en-
22 ergy.
23 ''(E) MISCELLANEOUS PROJECTS.—The
24 Secretary shall conduct research, development,

demonstration, and commercial application programs for—

"(i) the combined use of renewable energy technologies with one another and with other energy technologies, including the combined use of renewable power and fossil technologies;

"(ii) renewable energy technologies for cogeneration of hydrogen and electricity; and

"(iii) kinetic hydro turbines.

"(b) RURAL DEMONSTRATION PROJECTS.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall give priority to demonstrations that assist in delivering electricity to rural and remote locations including—

"(1) advanced renewable power technology, including combined use with fossil technologies;

"(2) biomass; and

"(3) geothermal energy systems.

"(c) ANALYSIS AND EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct analysis and evaluation in support of the renewable energy programs under this subtitle. These

activities shall be used to guide budget and program decisions, and shall include—

"(A) economic and technical analysis of renewable energy potential, including resource assessment;

"(B) analysis of past program performance, both in terms of technical advances and in market introduction of renewable energy;

"(C) assessment of domestic and international market drivers, including the impacts of any Federal, State, or local grants, loans, loan guarantees, tax incentives, statutory or regulatory requirements, or other government initiatives; and

"(D) any other analysis or evaluation that the Secretary considers appropriate.

"(2) FUNDING.—The Secretary may designate up to 1 percent of the funds appropriated for carrying out this subtitle for analysis and evaluation activities under this subsection.

"(3) SUBMITTAL TO CONGRESS.—This analysis and evaluation shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least 30 days be-

fore each annual budget request is submitted to Congress.''.

**SEC. 648. BIOENERGY PROGRAM.**

Section 932 of the Energy Policy Act of 2005 (42 U.S.C. 16232) is amended to read as follows:

**''SEC. 932. BIOENERGY PROGRAM.**

''(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including innovations in—

''(1) biopower energy systems;

''(2) biofuels;

''(3) bioproducts;

''(4) integrated biorefineries that may produce biopower, biofuels, and bioproducts; and

''(5) crosscutting research and development in feedstocks.

''(b) 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 fossil-based fuels and fully compatible with ei-

ther internal combustion engines or fuel cell-powered vehicles;

"(2) advanced conversion of biomass to biofuels and bioproducts as part of integrated biorefineries based on either biochemical processes, thermochemical processes, or hybrids of these processes; and

"(3) other advanced processes that will enable the development of cost-effective bioproducts, including biofuels.

"(c) RETROFIT TECHNOLOGIES FOR THE DEVELOPMENT OF ETHANOL FROM CELLULOSIC MATERIALS.—The Secretary shall establish a program of research, development, demonstration, and commercial application for technologies and processes to enable biorefineries that exclusively use corn grain or corn starch as a feedstock to produce ethanol to be retrofitted to accept a range of biomass, including lignocellulosic feedstocks.

"(d) LIMITATIONS.—None of the funds authorized for carrying out this section may be used to fund commercial biofuels production for defense purposes.

"(e) DEFINITIONS.—In this section:

"(1) BIOMASS.—The term 'biomass' means—

"(A) any organic material grown for the purpose of being converted to energy;

"(B) any organic byproduct of agriculture (including wastes from food production and processing) that can be converted into energy; or

"(C) any waste material that can be converted to energy, is segregated from other waste materials, and is derived from—

"(i) any of the following forest-related resources: mill residues, precommercial thinnings, slash, brush, or otherwise nonmerchantable material;

"(ii) wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste, gas derived from the biodegradation of municipal solid waste, or paper that is commonly recycled; or

"(iii) solids derived from waste water treatment processes.

"(2) LIGNOCELLULOSIC FEEDSTOCK.—The term 'lignocellulosic feedstock' means any portion of

a plant or coproduct from conversion, including crops, trees, forest residues, grasses, and agricultural residues not specifically grown for food, including from barley grain, grapeseed, rice bran, rice hulls, rice straw, soybean matter, cornstover, and sugarcane bagasse.''.

**SEC. 649. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.**

Section 934 of the Energy Policy Act of 2005 (42 U.S.C. 16234) and the item relating thereto in the table of contents of that Act are repealed.

**SEC. 650. RENEWABLE ENERGY IN PUBLIC BUILDINGS.**

Section 935 of the Energy Policy Act of 2005 (42 U.S.C. 16235) and the item relating thereto in the table of contents of that Act are repealed.

# Subtitle E—Fossil Energy Research and Development

**SEC. 661. FOSSIL ENERGY.**

Section 961 of Energy Policy Act of 2005 (42 U.S.C. 16291) is amended to read as follows:

**''SEC. 961. FOSSIL ENERGY.**

''(a) IN GENERAL.—The Secretary shall carry out research, development, demonstration, and commercial application programs in fossil energy, including activities under this subtitle, with the goal of improving the effi-

ciency, effectiveness, and environmental performance of fossil energy production, upgrading, conversion, and consumption. Such programs shall take into consideration the following objectives:

"(1) Increasing the energy conversion efficiency of all forms of fossil energy through improved technologies.

"(2) Decreasing the cost of all fossil energy production, generation, and delivery.

"(3) Promoting diversity of energy supply.

"(4) Decreasing the dependence of the United States on foreign energy supplies.

"(5) Decreasing the environmental impact of energy-related activities.

"(6) Increasing the export of fossil energy-related equipment, technology, and services from the United States.

"(b) OBJECTIVES.—To the maximum extent practicable, the Secretary shall seek to—

"(1) leverage existing programs;

"(2) consolidate and coordinate activities throughout the Department to promote collaboration and crosscutting approaches;

"(3) ensure activities are undertaken in a manner that does not duplicate other activities within

the Department or other Federal Government activities; and

"(4) identify programs that may be more effectively left to the States, industry, nongovernmental organizations, institutions of higher education, or other stakeholders.

"(c) LIMITATIONS.—

"(1) USES.—None of the funds authorized for carrying out this section may be used for Fossil Energy Environmental Restoration.

"(2) INSTITUTIONS OF HIGHER EDUCATION.—Not less than 20 percent of the funds appropriated for carrying out section 964 of this Act for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

"(3) USE FOR REGULATORY ASSESSMENTS OR DETERMINATIONS.—The results of any research, development, demonstration, or commercial application projects or activities of the Department authorized under this subtitle may not be used for regulatory assessments or determinations by Federal regulatory authorities.

"(d) ASSESSMENTS.—

"(1) CONSTRAINTS AGAINST BRINGING RESOURCES TO MARKET.—Not later than 1 year after

the date of enactment of the America COMPETES Reauthorization Act of 2015, the Secretary shall transmit to Congress an assessment of the technical, institutional, policy, and regulatory constraints to bringing new domestic fossil resources to market.

"(2) TECHNOLOGY CAPABILITIES.—Not later than 2 years after the date of enactment of the America COMPETES Reauthorization Act of 2015, the Secretary shall transmit to Congress a long-term assessment of existing and projected technological capabilities for expanded production from domestic unconventional oil, gas, and methane reserves.".

**SEC. 662. COAL RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION PROGRAMS.**

(a) IN GENERAL.—Section 962 of the Energy Policy Act of 2005 (42 U.S.C. 16292) is amended—

(1) in subsection (a)—

(A) in paragraph (10), by striking "and" at the end;

(B) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(12) specific additional programs to address water use and reuse;

"(13) the testing, including the construction of testing facilities, of high temperature materials for use in advanced systems for combustion or use of coal; and

"(14) innovations to application of existing coal conversion systems designed to increase efficiency of conversion, flexibility of operation, and other modifications to address existing usage requirements.";

(2) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively;

(3) by inserting after subsection (a) the following:

"(b) TRANSFORMATIONAL COAL TECHNOLOGY PROGRAM.—

"(1) IN GENERAL.—As part of the program established under subsection (a), the Secretary may carry out a program designed to undertake research, development, demonstration, and commercial application of technologies, including the accelerated development of—

"(A) chemical looping technology;

"(B) supercritical carbon dioxide power generation cycles;

"(C) pressurized oxycombustion, including new and retrofit technologies; and

"(D) other technologies that are characterized by the use of—

"(i) alternative energy cycles;

"(ii) thermionic devices using waste heat;

"(iii) fuel cells;

"(iv) replacement of chemical processes with biotechnology;

"(v) nanotechnology;

"(vi) new materials in applications (other than extending cycles to higher temperature and pressure), such as membranes or ceramics;

"(vii) carbon utilization, such as in construction materials, using low quality energy to reconvert back to a fuel, or manufactured food;

"(viii) advanced gas separation concepts; and

"(ix) other technologies, including—

"(I) modular, manufactured components; and

"(II) innovative production or research techniques, such as using 3–D printer systems, for the production of

early research and development prototypes.

"(2) COST SHARE.—In carrying out the program described in paragraph (1), the Secretary shall enter into partnerships with private entities to share the costs of carrying out the program. The Secretary may reduce the non-Federal cost share requirement if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project."; and

(4) in subsection (c) (as so redesignated) by striking paragraph (1) and inserting the following:

"(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, transportation fuels, and other marketable products.".

(b) ADVISORY COMMITTEE; AUTHORIZATION OF APPROPRIATIONS.—Section 963 of the Energy Policy Act of 2005 (42 U.S.C. 16293) is amended—

(1) by amending paragraph (6) of subsection (c) to read as follows:

"(6) ADVISORY COMMITTEE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish an advisory committee to undertake, not less frequently than once every 3 years, a review and prepare a report on the progress being made by the Department of Energy to achieve the goals described in subsections (a) and (b) of section 962 and subsection (b) of this section.

"(B) MEMBERSHIP REQUIREMENTS.—Members of the advisory committee established under subparagraph (A) shall be appointed by the Secretary, except that three members shall be appointed by the Speaker of the House of Representatives and two members shall be appointed by the Majority Leader of the Senate. The total number of members of the advisory committee shall be 15."; and

(2) by amending subsection (d) to read as follows:

"(d) STUDY OF CARBON DIOXIDE PIPELINES.—Not later than 1 year after the date of enactment of the America COMPETES Reauthorization Act of 2015, the Secretary shall transmit to Congress the results of a study to assess the cost and feasibility of engineering, permit-

ting, building, maintaining, regulating, and insuring a national system of carbon dioxide pipelines.''.

**SEC. 663. HIGH EFFICIENCY GAS TURBINES RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Secretary, through the Office of Fossil Energy, shall carry out a multiyear, multiphase program of research, development, demonstration, and commercial application to innovate technologies to maximize the efficiency of gas turbines used in power generation systems.

(b) PROGRAM ELEMENTS.—The program under this section shall—

(1) support innovative engineering and detailed gas turbine design for megawatt-scale and utility-scale electric power generation, including—

(A) high temperature materials, including superalloys, coatings, and ceramics;

(B) improved heat transfer capability;

(C) manufacturing technology required to construct complex three-dimensional geometry parts with improved aerodynamic capability;

(D) combustion technology to produce higher firing temperature while lowering nitrogen oxide and carbon monoxide emissions per unit of output;

(E) advanced controls and systems integration;

(F) advanced high performance compressor technology; and

(G) validation facilities for the testing of components and subsystems;

(2) include technology demonstration through component testing, subscale testing, and full scale testing in existing fleets;

(3) include field demonstrations of the developed technology elements so as to demonstrate technical and economic feasibility; and

(4) assess overall combined cycle and simple cycle system performance.

(c) PROGRAM GOALS.—The goals of the multiphase program established under subsection (a) shall be—

(1) in phase I—

(A) to develop the conceptual design of advanced high efficiency gas turbines that can achieve at least 62 percent combined cycle efficiency or 47 percent simple cycle efficiency on a lower heating value basis; and

(B) to develop and demonstrate the technology required for advanced high efficiency gas turbines that can achieve at least 62 percent

combined cycle efficiency or 47 percent simple cycle efficiency on a lower heating value basis; and

(2) in phase II, to develop the conceptual design for advanced high efficiency gas turbines that can achieve at least 65 percent combined cycle efficiency or 50 percent simple cycle efficiency on a lower heating value basis.

(d) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit grant and contract proposals from industry, small businesses, universities, and other appropriate parties for conducting activities under this section. In selecting proposals, the Secretary shall emphasize—

(1) the extent to which the proposal will stimulate the creation or increased retention of jobs in the United States; and

(2) the extent to which the proposal will promote and enhance United States technology leadership.

(e) COMPETITIVE AWARDS.—The provision of funding under this section shall be on a competitive basis with an emphasis on technical merit.

(f) COST SHARING.—Section 988 of the Energy Policy Act of 2005 (42 U.S.C. 16352) shall apply to an award of financial assistance made under this section.

# Subtitle F—Advanced Research Projects Agency–Energy

**SEC. 671. ARPA–E AMENDMENTS.**

Section 5012 of the America COMPETES Act (42 U.S.C. 16538) is amended—

(1) by amending paragraph (1) of subsection (c) to read as follows:

"(1) IN GENERAL.—The goals of ARPA–E shall be to enhance the economic and energy security of the United States and to ensure that the United States maintains a technological lead through the development of advanced energy technologies.";

(2) in subsection (i)(1), by inserting "ARPA–E shall not provide funding for a project unless the prospective grantee demonstrates sufficient attempts to secure private financing or indicates that the project is not independently commercially viable." after "relevant research agencies.";

(3) in subsection (l)(1), by inserting "and once every 6 years thereafter," after "operation for 6 years,"; and

(4) by redesignating subsection (n) as subsection (o) and inserting after subsection (m) the following new subsection:

"(n) PROTECTION OF PROPRIETARY INFORMATION.—

"(1) IN GENERAL.—The following categories of information collected by the Advanced Research Projects Agency–Energy from recipients of financial assistance awards shall be considered privileged and confidential and not subject to disclosure pursuant to section 552 of title 5, United States Code:

"(A) Plans for commercialization of technologies developed under the award, including business plans, technology to market plans, market studies, and cost and performance models.

"(B) Investments provided to an awardee from third parties, such as venture capital, hedge fund, or private equity firms, including amounts and percentage of ownership of the awardee provided in return for such investments.

"(C) Additional financial support that the awardee plans to invest or has invested into the

technology developed under the award, or that the awardee is seeking from third parties.

"(D) Revenue from the licensing or sale of new products or services resulting from the research conducted under the award.

"(2) EFFECT OF SUBSECTION.—Nothing in this subsection affects—

"(A) the authority of the Secretary to use information without publicly disclosing such information; or

"(B) the responsibility of the Secretary to transmit information to Congress as required by law.".

# Subtitle G—Authorization of Appropriations

**SEC. 681. AUTHORIZATION OF APPROPRIATIONS.**

(a) ELECTRICITY DELIVERY AND ENERGY RELIABILITY RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application for electrical delivery and energy reliability technology activities within the Office of Electricity $113,000,000 for each of fiscal years 2016 and 2017.

(b) NUCLEAR ENERGY.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application for nuclear energy technology activities within the Office of Nuclear Energy $504,600,000 for each of fiscal years 2016 and 2017.

(2) LIMITATION.—Any amounts made available pursuant to the authorization of appropriations under paragraph (1) shall not be derived from the Nuclear Waste Fund established under section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

(c) ENERGY EFFICIENCY AND RENEWABLE ENERGY.—There are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application for energy efficiency and renewable energy technology activities within the Office of Energy Efficiency and Renewable Energy $1,193,500,000 for each of fiscal years 2016 and 2017.

(d) FOSSIL ENERGY.—There are authorized to be appropriated to the Secretary for research, development, demonstration, and commercial application for fossil energy technology activities within the Office of Fossil Energy $605,000,000 for each of fiscal years 2016 and 2017.

(e) ARPA–E.—There are authorized to be appropriated to the Secretary for the Advanced Research Projects Agency–Energy $140,000,000 for each of fiscal years 2016 and 2017.

## Subtitle H—Definitions

**SEC. 691. DEFINITIONS.**

In this title—

(1) the term ''Department'' means the Department of Energy; and

(2) the term ''Secretary'' means the Secretary of Energy.

# TITLE VII—DEPARTMENT OF ENERGY TECHNOLOGY TRANSFER

## Subtitle A—In General

**SEC. 701. DEFINITIONS.**

In this title:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) NATIONAL LABORATORY.—The term ''National Laboratory'' means a Department of Energy nonmilitary national laboratory, including—

(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) National Energy Technology Laboratory;

(H) National Renewable Energy Laboratory;

(I) Oak Ridge National Laboratory;

(J) Pacific Northwest National Laboratory;

(K) Princeton Plasma Physics Laboratory;

(L) Savannah River National Laboratory;

(M) Stanford Linear Accelerator Center;

(N) Thomas Jefferson National Accelerator Facility; and

(O) any laboratory operated by the National Nuclear Security Administration, but only with respect to the civilian energy activities thereof.

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

**SEC. 702. SAVINGS CLAUSE.**

Nothing in this title or an amendment made by this title abrogates or otherwise affects the primary responsibilities of any National Laboratory to the Department.

# Subtitle B—Innovation Management at Department of Energy

**SEC. 712. TECHNOLOGY TRANSFER AND TRANSITIONS ASSESSMENT.**

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report which shall include—

(1) an assessment of the Department's current ability to carry out the goals of section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391), including an assessment of the role and effectiveness of the Director of the Office of Technology Transitions; and

(2) recommended departmental policy changes and legislative changes to section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391) to improve the Department's ability to successfully transfer new energy technologies to the private sector.

**SEC. 713. SENSE OF CONGRESS.**

It is the sense of the Congress that the Secretary should encourage the National Laboratories and federally funded research and development centers to inform small businesses of the opportunities and resources that exist pursuant to this title.

**SEC. 714. NUCLEAR ENERGY INNOVATION.**

Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the National Laboratories, relevant Federal agencies, and other stakeholders, shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report assessing the Department's capabilities to authorize, host, and oversee privately funded fusion and non-light water reactor prototypes and related demonstration facilities at Department-owned sites. For purposes of this report, the Secretary shall consider the Department's capabilities to facilitate privately-funded prototypes up to 20 megawatts thermal output. The report shall address the following:

(1) The Department's safety review and oversight capabilities.

(2) Potential sites capable of hosting research, development, and demonstration of prototype reac-

tors and related facilities for the purpose of reducing technical risk.

(3) The Department's and National Laboratories' existing physical and technical capabilities relevant to research, development, and oversight.

(4) The efficacy of the Department's available contractual mechanisms, including cooperative research and development agreements, work for others agreements, and agreements for commercializing technology.

(5) Potential cost structures related to physical security, decommissioning, liability, and other long-term project costs.

(6) Other challenges or considerations identified by the Secretary, including issues related to potential cases of demonstration reactors up to 2 gigawatts of thermal output.

## Subtitle C—Cross-Sector Partnerships and Grant Competitiveness

### SEC. 721. AGREEMENTS FOR COMMERCIALIZING TECHNOLOGY PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out the Agreements for Commercializing Technology pilot pro-

gram of the Department, as announced by the Secretary on December 8, 2011, in accordance with this section.

(b) TERMS.—Each agreement entered into pursuant to the pilot program referred to in subsection (a) shall provide to the contractor of the applicable National Laboratory, to the maximum extent determined to be appropriate by the Secretary, increased authority to negotiate contract terms, such as intellectual property rights, payment structures, performance guarantees, and multiparty collaborations.

(c) ELIGIBILITY.—

(1) IN GENERAL.—Any director of a National Laboratory may enter into an agreement pursuant to the pilot program referred to in subsection (a).

(2) AGREEMENTS WITH NON-FEDERAL ENTITIES.—To carry out paragraph (1) and subject to paragraph (3), the Secretary shall permit the directors of the National Laboratories to execute agreements with a non-Federal entity, including a non-Federal entity already receiving Federal funding that will be used to support activities under agreements executed pursuant to paragraph (1), provided that such funding is solely used to carry out the purposes of the Federal award.

(3) RESTRICTION.—The requirements of chapter 18 of title 35, United States Code (commonly known as the ''Bayh-Dole Act'') shall apply if—

(A) the agreement is a funding agreement (as that term is defined in section 201 of that title); and

(B) at least one of the parties to the funding agreement is eligible to receive rights under that chapter.

(d) SUBMISSION TO SECRETARY.—Each affected director of a National Laboratory shall submit to the Secretary, with respect to each agreement entered into under this section—

(1) a summary of information relating to the relevant project;

(2) the total estimated costs of the project;

(3) estimated commencement and completion dates of the project; and

(4) other documentation determined to be appropriate by the Secretary.

(e) CERTIFICATION.—The Secretary shall require the contractor of the affected National Laboratory to certify that each activity carried out under a project for which an agreement is entered into under this section—

(1) is not in direct competition with the private sector; and

(2) does not present, or minimizes, any apparent conflict of interest, and avoids or neutralizes any actual conflict of interest, as a result of the agreement under this section.

(f) EXTENSION.—The pilot program referred to in subsection (a) shall be extended until October 31, 2017.

(g) REPORTS.—

(1) OVERALL ASSESSMENT.—Not later than 60 days after the date described in subsection (f), the Secretary, in coordination with directors of the National Laboratories, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that—

(A) assesses the overall effectiveness of the pilot program referred to in subsection (a);

(B) identifies opportunities to improve the effectiveness of the pilot program;

(C) assesses the potential for program activities to interfere with the responsibilities of the National Laboratories to the Department; and

(D) provides a recommendation regarding the future of the pilot program.

(2) TRANSPARENCY.—The Secretary, in coordination with directors of the National Laboratories, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report that accounts for all incidences of, and provides a justification for, non-Federal entities using funds derived from a Federal contract or award to carry out agreements pursuant to this section.

**SEC. 722. PUBLIC-PRIVATE PARTNERSHIPS FOR COMMERCIALIZATION.**

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary shall delegate to directors of the National Laboratories signature authority with respect to any agreement described in subsection (b) the total cost of which (including the National Laboratory contributions and project recipient cost share) is less than $1 million.

(b) AGREEMENTS.—Subsection (a) applies to—

(1) a cooperative research and development agreement;

(2) a non-Federal work-for-others agreement; and

(3) any other agreement determined to be appropriate by the Secretary, in collaboration with the directors of the National Laboratories.

(c) ADMINISTRATION.—

(1) ACCOUNTABILITY.—The director of the affected National Laboratory and the affected contractor shall carry out an agreement under this section in accordance with applicable policies of the Department, including by ensuring that the agreement does not compromise any national security, economic, or environmental interest of the United States.

(2) CERTIFICATION.—The director of the affected National Laboratory and the affected contractor shall certify that each activity carried out under a project for which an agreement is entered into under this section does not present, or minimizes, any apparent conflict of interest, and avoids or neutralizes any actual conflict of interest, as a result of the agreement under this section.

(3) AVAILABILITY OF RECORDS.—On entering an agreement under this section, the director of a National Laboratory shall submit to the Secretary for monitoring and review all records of the National Laboratory relating to the agreement.

(4) RATES.—The director of a National Laboratory may charge higher rates for services performed under a partnership agreement entered into pursuant to this section, regardless of the full cost of recovery, if such funds are used exclusively to support further research and development activities at the respective National Laboratory.

(d) EXCEPTION.—This section does not apply to any agreement with a majority foreign-owned company.

(e) CONFORMING AMENDMENT.—Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately;

(B) by striking ''Each Federal agency'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), each Federal agency''; and

(C) by adding at the end the following:

''(2) EXCEPTION.—Notwithstanding paragraph (1), in accordance with section 722(a) of the America COMPETES Reauthorization Act of 2015, approval by the Secretary of Energy shall not be re-

quired for any technology transfer agreement proposed to be entered into by a National Laboratory of the Department of Energy, the total cost of which (including the National Laboratory contributions and project recipient cost share) is less than $1 million.''; and

(2) in subsection (b), by striking ''subsection (a)(1)'' each place it appears and inserting ''subsection (a)(1)(A)''.

**SEC. 723. INCLUSION OF EARLY-STAGE TECHNOLOGY DEMONSTRATION IN AUTHORIZED TECHNOLOGY TRANSFER ACTIVITIES.**

Section 1001 of the Energy Policy Act of 2005 (42 U.S.C. 16391) is amended by—

(1) redesignating subsection (g) as subsection (h); and

(2) inserting after subsection (f) the following:

''(g) EARLY-STAGE TECHNOLOGY DEMONSTRATION.—The Secretary shall permit the directors of the National Laboratories to use funds authorized to support technology transfer within the Department to carry out early-stage and pre-commercial technology demonstration activities to remove technology barriers that limit private sector interest and demonstrate potential commercial ap-

plications of any research and technologies arising from National Laboratory activities.''.

**SEC. 724. FUNDING COMPETITIVENESS FOR INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT INSTITUTIONS.**

Section 988(b) of the Energy Policy Act of 2005 (42 U.S.C. 16352(b)) is amended—

(1) in paragraph (1), by striking ''Except as provided in paragraphs (2) and (3)'' and inserting ''Except as provided in paragraphs (2), (3), and (4)''; and

(2) by adding at the end the following:

''(4) EXEMPTION FOR INSTITUTIONS OF HIGHER EDUCATION AND OTHER NONPROFIT INSTITUTIONS.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to a research or development activity performed by an institution of higher education or nonprofit institution (as defined in section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703)).

''(B) TERMINATION DATE.—The exemption under subparagraph (A) shall apply during the 6-year period beginning on the date of enactment of this paragraph.''.

**SEC. 725. PARTICIPATION IN THE INNOVATION CORPS PROGRAM.**

The Secretary may enter into an agreement with the Director of the National Science Foundation to enable researchers funded by the Department to participate in the National Science Foundation Innovation Corps program.

# Subtitle D—Assessment of Impact

**SEC. 731. REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.**

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report—

(1) describing the results of the projects developed under sections 721, 722, and 723, including information regarding—

(A) partnerships initiated as a result of those projects and the potential linkages presented by those partnerships with respect to national priorities and other taxpayer-funded research; and

(B) whether the activities carried out under those projects result in—

(i) fiscal savings;

(ii) expansion of National Laboratory capabilities;

(iii) increased efficiency of technology transfers; or

(iv) an increase in general efficiency of the National Laboratory system; and

(2) assess the scale, scope, efficacy, and impact of the Department's efforts to promote technology transfer and private sector engagement at the National Laboratories, and make recommendations on how the Department can improve these activities.

# TITLE XXXIII—NUCLEAR ENERGY INNOVATION CAPABILITIES

**SEC. 3301. SHORT TITLE.**

This title may be cited as the ''Nuclear Energy Innovation Capabilities Act''.

**SEC. 3302. NUCLEAR ENERGY.**

Section 951 of the Energy Policy Act of 2005 (42 U.S.C. 16271) is amended to read as follows:

**''SEC. 951. NUCLEAR ENERGY.**

''(a) MISSION.—The Secretary shall conduct programs of civilian nuclear research, development, demonstration, and commercial application, including activities in this subtitle. Such programs shall take into consideration the following objectives:

"(1) Providing research infrastructure to promote scientific progress and enable users from academia, the National Laboratories, and the private sector to make scientific discoveries relevant for nuclear, chemical, and materials science engineering.

"(2) Maintaining National Laboratory and university nuclear energy research and development programs, including their infrastructure.

"(3) Providing the technical means to reduce the likelihood of nuclear weapons proliferation and increasing confidence margins for public safety of nuclear energy systems.

"(4) Reducing the environmental impact of nuclear energy related activities.

"(5) Supporting technology transfer from the National Laboratories to the private sector.

"(6) Enabling the private sector to partner with the National Laboratories to demonstrate novel reactor concepts for the purpose of resolving technical uncertainty associated with the aforementioned objectives in this subsection.

"(b) DEFINITIONS.—In this subtitle:

"(1) ADVANCED NUCLEAR REACTOR.—The term 'advanced nuclear reactor' means—

"(A) a nuclear fission reactor with significant improvements over the most recent generation of nuclear fission reactors, which may include inherent safety features, lower waste yields, greater fuel utilization, superior reliability, resistance to proliferation, and increased thermal efficiency; or

"(B) a nuclear fusion reactor.

"(2) FAST NEUTRON.—The term 'fast neutron' means a neutron with kinetic energy above 100 kiloelectron volts.

"(3) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given that term in paragraph (3) of section 2, except that with respect to subparagraphs (G), (H), and (N) of such paragraph, for purposes of this subtitle the term includes only the civilian activities thereof.

"(4) NEUTRON FLUX.—The term 'neutron flux' means the intensity of neutron radiation measured as a rate of flow of neutrons applied over an area.

"(5) NEUTRON SOURCE.—The term 'neutron source' means a research machine that provides neutron irradiation services for research on materials sciences and nuclear physics as well as testing of ad-

vanced materials, nuclear fuels, and other related components for reactor systems.''.

**SEC. 3303. NUCLEAR ENERGY RESEARCH PROGRAMS.**

Section 952 of the Energy Policy Act of 2005 (42 U.S.C. 16272) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

**SEC. 3304. ADVANCED FUEL CYCLE INITIATIVE.**

Section 953(a) of the Energy Policy Act of 2005 (42 U.S.C. 16273(a)) is amended by striking '', acting through the Director of the Office of Nuclear Energy, Science and Technology,''.

**SEC. 3305. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.**

Section 954(d)(4) of the Energy Policy Act of 2005 (42 U.S.C. 16274(d)(4)) is amended by striking ''as part of a taking into consideration effort that emphasizes'' and inserting ''that emphasize''.

**SEC. 3306. DEPARTMENT OF ENERGY CIVILIAN NUCLEAR INFRASTRUCTURE AND FACILITIES.**

Section 955 of the Energy Policy Act of 2005 (42 U.S.C. 16275) is amended—

(1) by striking subsections (c) and (d); and

(2) by adding at the end the following:

"(c) VERSATILE NEUTRON SOURCE.—

"(1) MISSION NEED.—Not later than December 31, 2016, the Secretary shall determine the mission need for a versatile reactor-based fast neutron source, which shall operate as a national user facility. During this process, the Secretary shall consult with the private sector, universities, National Laboratories, and relevant Federal agencies to ensure that this user facility will meet the research needs of the largest possible majority of prospective users.

"(2) ESTABLISHMENT.—Upon the determination of mission need made under paragraph (1), the Secretary shall, as expeditiously as possible, provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a detailed plan for the establishment of the user facility.

"(3) FACILITY REQUIREMENTS.—

"(A) CAPABILITIES.—The Secretary shall ensure that this user facility will provide, at a minimum, the following capabilities:

"(i) Fast neutron spectrum irradiation capability.

"(ii) Capacity for upgrades to accommodate new or expanded research needs.

"(B) CONSIDERATIONS.—In carrying out the plan provided under paragraph (2), the Secretary shall consider the following:

"(i) Capabilities that support experimental high-temperature testing.

"(ii) Providing a source of fast neutrons at a neutron flux, higher than that at which current research facilities operate, sufficient to enable research for an optimal base of prospective users.

"(iii) Maximizing irradiation flexibility and irradiation volume to accommodate as many concurrent users as possible.

"(iv) Capabilities for irradiation with neutrons of a lower energy spectrum.

"(v) Multiple loops for fuels and materials testing in different coolants.

"(vi) Additional pre-irradiation and post-irradiation examination capabilities.

"(vii) Lifetime operating costs and lifecycle costs.

"(4) REPORTING PROGRESS.—The Department shall, in its annual budget requests, provide an ex-

planation for any delay in its progress and otherwise make every effort to complete construction and approve the start of operations for this facility by December 31, 2025.

"(5) COORDINATION.—The Secretary shall leverage the best practices for management, construction, and operation of national user facilities from the Office of Science.".

**SEC. 3307. SECURITY OF NUCLEAR FACILITIES.**

Section 956 of the Energy Policy Act of 2005 (42 U.S.C. 16276) is amended by striking ", acting through the Director of the Office of Nuclear Energy, Science and Technology,".

**SEC. 3308. HIGH-PERFORMANCE COMPUTATION AND SUPPORTIVE RESEARCH.**

Section 957 of the Energy Policy Act of 2005 (42 U.S.C. 16277) is amended to read as follows:

**"SEC. 957. HIGH-PERFORMANCE COMPUTATION AND SUPPORTIVE RESEARCH.**

"(a) MODELING AND SIMULATION.—The Secretary shall carry out a program to enhance the Nation's capabilities to develop new reactor technologies through high-performance computation modeling and simulation techniques. This program shall coordinate with relevant Federal agencies through the National Strategic Computing

Initiative created under Executive Order No. 13702 (July 29, 2015) while taking into account the following objectives:

"(1) Utilizing expertise from the private sector, universities, and National Laboratories to develop computational software and capabilities that prospective users may access to accelerate research and development of advanced nuclear reactor systems, and reactor systems for space exploration.

"(2) Developing computational tools to simulate and predict nuclear phenomena that may be validated through physical experimentation.

"(3) Increasing the utility of the Department's research infrastructure by coordinating with the Advanced Scientific Computing Research program within the Office of Science.

"(4) Leveraging experience from the Energy Innovation Hub for Modeling and Simulation.

"(5) Ensuring that new experimental and computational tools are accessible to relevant research communities.

"(b) SUPPORTIVE RESEARCH ACTIVITIES.—The Secretary shall consider support for additional research activities to maximize the utility of its research facilities, including physical processes to simulate degradation of materials

and behavior of fuel forms and for validation of computational tools.''.

**SEC. 3309. ENABLING NUCLEAR ENERGY INNOVATION.**

Subtitle E of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16271 et seq.) is amended by adding at the end the following:

**''SEC. 958. ENABLING NUCLEAR ENERGY INNOVATION.**

''(a) NATIONAL REACTOR INNOVATION CENTER.—The Secretary shall carry out a program to enable the testing and demonstration of reactor concepts to be proposed and funded by the private sector. The Secretary shall leverage the technical expertise of relevant Federal agencies and National Laboratories in order to minimize the time required to enable construction and operation of privately funded experimental reactors at National Laboratories or other Department-owned sites. Such reactors shall operate to meet the following objectives:

''(1) Enabling physical validation of novel reactor concepts.

''(2) Resolving technical uncertainty and increasing practical knowledge relevant to safety, resilience, security, and functionality of first-of-a-kind reactor concepts.

''(3) General research and development to improve nascent technologies.

"(b) REPORTING REQUIREMENT.—Not later than 180 days after the date of enactment of the Nuclear Energy Innovation Capabilities Act, the Secretary, in consultation with the National Laboratories, relevant Federal agencies, and other stakeholders, shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report assessing the Department's capabilities to authorize, host, and oversee privately funded experimental advanced nuclear reactors as described under subsection (a). The report shall address the following:

"(1) The Department's oversight capabilities, including options to leverage expertise from the Nuclear Regulatory Commission and National Laboratories.

"(2) Potential sites capable of hosting activities described under subsection (a).

"(3) The efficacy of the Department's available contractual mechanisms to partner with the private sector and Federal agencies, including cooperative research and development agreements, strategic partnership projects, and agreements for commercializing technology.

"(4) Potential cost structures related to long-term projects, including physical security, distribution of liability, and other related costs.

"(5) Other challenges or considerations identified by the Secretary.".

**SEC. 3310. BUDGET PLAN.**

(a) IN GENERAL.—Subtitle E of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16271 et seq.) is further amended by adding at the end the following:

**"SEC. 959. BUDGET PLAN.**

"Not later than 12 months after the date of enactment of the Nuclear Energy Innovation Capabilities Act, the Department shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate 2 alternative 10-year budget plans for civilian nuclear energy research and development by the Department. The first shall assume constant annual funding for 10 years at the appropriated level for the Department's civilian nuclear energy research and development for fiscal year 2016. The second shall be an unconstrained budget. The two plans shall include—

"(1) a prioritized list of the Department's programs, projects, and activities to best support the

development of advanced nuclear reactor technologies;

"(2) realistic budget requirements for the Department to implement sections 955(c), 957, and 958 of this Act; and

"(3) the Department's justification for continuing or terminating existing civilian nuclear energy research and development programs.".

(b) REPORT ON FUSION INNOVATION.—Not later than 6 months after the date of enactment of this title, the Secretary of the Department of Energy shall transmit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that will identify engineering designs for innovative fusion energy systems that have the potential to demonstrate net energy production not later than 15 years after the start of construction. In this report, the Secretary will identify budgetary requirements that would be necessary for the Department to carry out a fusion innovation initiative to accelerate research and development of these designs.

**SEC. 3311. CONFORMING AMENDMENTS.**

The table of contents for the Energy Policy Act of 2005 is amended by striking the item relating to section 957 and inserting the following:

"957. High-performance computation and supportive research.

''958. Enabling nuclear energy innovation.
''959. Budget plan.''.