Public Law 106–469
106th Congress

An Act

To extend energy conservation programs under the Energy Policy and Conservation Act through fiscal year 2003.

Nov. 9, 2000
[H.R. 2884]

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

Energy Act of 2000.
42 USC 6201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Act of 2000".

TITLE I—STRATEGIC PETROLEUM RESERVE

Energy Policy and Conservation Act Amendments of 2000.

SEC. 101. SHORT TITLE.

42 USC 6201 note.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 2000".

SEC. 102. AMENDMENT TO SECTION 2 OF THE ENERGY POLICY AND CONSERVATION ACT.

Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in paragraph (1) by striking "standby" and ", subject to congressional review, to impose rationing, to reduce demand for energy through the implementation of energy conservation plans, and"; and

(2) by striking paragraphs (3) and (6).

SEC. 103. AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.

Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(1) by striking section 102 (42 U.S.C. 6211) and its heading;

(2) by striking section 104(b)(1);

50 USC app. 2071 note.

(3) by striking section 106 (42 U.S.C. 6214) and its heading;

(4) by amending section 151(b) (42 U.S.C. 6231) to read as follows:

"(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products, to carry out obligations of the United States under the international energy program, and for other purposes as provided for in this Act.";

(5) in section 152 (42 U.S.C. 6232)—

(A) by striking paragraphs (1), (3), and (7); and

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(B) in paragraph (11) by striking "; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve".

(6) by striking section 153 (42 U.S.C. 6233) and its heading;

(7) in section 154 (42 U.S.C. 6234)—

(A) by amending subsection (a) to read as follows: "(a) A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.";

(B) by amending subsection (b) to read as follows: "(b) The Secretary, in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve."; and

(C) by striking subsections (c), (d), and (e);

(8) by striking section 155 (42 U.S.C. 6235) and its heading;

(9) by striking section 156 (42 U.S.C. 6236) and its heading;

(10) by striking section 157 (42 U.S.C. 6237) and its heading;

(11) by striking section 158 (42 U.S.C. 6238) and its heading;

(12) by amending the heading for section 159 (42 U.S.C. 6239) to read, "Development, Operation, and Maintenance of the Reserve";

(13) in section 159 (42 U.S.C. 6239)—

(A) by striking subsections (a), (b), (c), (d), and (e);

(B) by amending subsection (f) to read as follows: "(f) In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may—

"(1) issue rules, regulations, or orders;

"(2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;

"(3) construct, purchase, lease, or otherwise acquire storage and related facilities;

"(4) use, lease, maintain, sell or otherwise dispose of land or interests in land, or of storage and related facilities acquired under this part, under such terms and conditions as the Secretary considers necessary or appropriate;

"(5) acquire, subject to the provisions of section 160, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;

"(6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

"(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

"(8) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land."; and

(C) in subsection (g)—

(i) by striking "implementation" and inserting "development"; and

(ii) by striking "Plan";

(D) by striking subsections (h) and (i);

(E) by amending subsection (j) to read as follows:

"(j) If the Secretary determines expansion beyond 700,000,000 barrels of petroleum product inventory is appropriate, the Secretary shall submit a plan for expansion to the Congress."; and

(F) by amending subsection (l) to read as follows:

"(l) During a drawdown and sale of Strategic Petroleum Reserve petroleum products, the Secretary may issue implementing rules, regulations, or orders in accordance with section 553 of title 5, United States Code, without regard to rulemaking requirements in section 523 of this Act, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).";

(14) in section 160 (42 U.S.C. 6240)—

(A) in subsection (a), by striking all before the dash and inserting the following—

"(a) The Secretary may acquire, place in storage, transport, or exchange";

(B) in subsection (a)(1) by striking all after "Federal lands";

(C) in subsection (b), by striking ", including the Early Storage Reserve and the Regional Petroleum Reserve" and by striking paragraph (2); and

(D) by striking subsections (c), (d), (e), and (g);

(15) in section 161 (42 U.S.C. 6241)—

(A) by striking "Distribution of the Reserve" in the title of this section and inserting "Sale of Petroleum Products";

(B) in subsection (a), by striking "drawdown and distribute" and inserting "drawdown and sell petroleum products in";

(C) by striking subsections (b), (c), and (f);

(D) by amending subsection (d)(1) to read as follows:

"(d)(1) Drawdown and sale of petroleum products from the Strategic Petroleum Reserve may not be made unless the President has found drawdown and sale are required by a severe energy supply interruption or by obligations of the United States under the international energy program.";

(E) by amending subsection (e) to read as follows:

"(e)(1) The Secretary shall sell petroleum products withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale considered appropriate by the Secretary, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

"(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and sale under this section."; and

(F) in subsection (g)—

(i) by amending paragraph (1) to read as follows:

"(g)(1) The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures. In the conduct of an evaluation, the Secretary is authorized to carry out a test drawdown and sale or exchange of petroleum products from the Reserve. Such a test drawdown and sale or exchange may not exceed 5,000,000 barrels of petroleum products.";

(ii) by striking paragraph (2);

(iii) in paragraph (4), by striking "90" and inserting "95";

(iv) in paragraph (5), by striking "drawdown and distribution" and inserting "test";

(v) by amending paragraph (6) to read as follows:

"(6) In the case of a sale of any petroleum products under this subsection, the Secretary shall, to the extent funds are available in the SPR Petroleum Account as a result of such sale, acquire petroleum products for the Reserve within the 12-month period beginning after completion of the sale."; and

(vi) in paragraph (8), by striking "drawdown and distribution" and inserting "test";

(G) in subsection (h)—

(i) in paragraph (1) by striking "distribute" and inserting "sell petroleum products from";

(ii) by striking "and" at the end of paragraph (1)(A) and by striking "shortage," at the end of paragraph (1)(B) and inserting "shortage; and

"(C) the Secretary of Defense has found that action taken under this subsection will not impair national security,";

(iii) in paragraph (2) by striking "In no case may the Reserve" and inserting "Petroleum products from the Reserve may not"; and

(iv) in paragraph (3) by striking "distribution" each time it appears and inserting "sale";

(16) by striking section 164 (42 U.S.C. 6244) and its heading;

(17) by amending section 165 (42 U.S.C. 6245) and its heading to read as follows:

"ANNUAL REPORT

"SEC. 165. The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

"(1) the status of the physical capacity of the Reserve and the type and quantity of petroleum products in the Reserve;

"(2) an estimate of the schedule and cost to complete planned equipment upgrade or capital investment in the Reserve, including upgrades and investments carried out as part of operational maintenance or extension of life activities;

"(3) an identification of any life-limiting conditions or operational problems at any Reserve facility, and proposed remedial actions including an estimate of the schedule and cost of implementing those remedial actions;

"(4) a description of current withdrawal and distribution rates and capabilities, and an identification of any operational or other limitations on those rates and capabilities;

"(5) a listing of petroleum product acquisitions made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

"(6) a summary of the actions taken to develop, operate, and maintain the Reserve;

"(7) a summary of the financial status and financial transactions of the Strategic Petroleum Reserve and Strategic Petroleum Reserve Petroleum Accounts for the year;

"(8) a summary of expenses for the year, and the number of Federal and contractor employees;

"(9) the status of contracts for development, operation, maintenance, distribution, and other activities related to the implementation of this part;

"(10) a summary of foreign oil storage agreements and their implementation status;

"(11) any recommendations for supplemental legislation or policy or operational changes the Secretary considers necessary or appropriate to implement this part.";

(18) in section 166 (42 U.S.C. 6246) by striking "for fiscal year 1997.";

(19) in section 167 (42 U.S.C. 6247)—

(A) in subsection (b)—

(i) by striking "and the drawdown" and inserting "for test sales of petroleum products from the Reserve, and for the drawdown, sale,";

(ii) by striking paragraph (1); and

(iii) in paragraph (2), by striking "after fiscal year 1982"; and

(B) by striking subsection (e);

(20) in section 171 (42 U.S.C. 6249)—

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

"(B) the Secretary notifies each House of the Congress of the determination and identifies in the notification the location, type, and ownership of storage and related facilities proposed to be included, or the volume, type, and ownership of petroleum products proposed to be stored, in the Reserve, and an estimate of the proposed benefits.";

(B) in subsection (b)(3), by striking "distribution of" and inserting "sale of petroleum products from";

(21) in section 172 (42 U.S.C. 6249a), by striking subsections (a) and (b);

(22) by striking section 173 (42 U.S.C. 6249b) and its heading; and

(23) in section 181 (42 U.S.C. 6251), by striking "March 31, 2000" each time it appears and inserting "September 30, 2003".

SEC. 104. AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.

Title II of the Energy Policy and Conservation Act (42 U.S.C. 6211–6251) is amended—

(1) by striking part A (42 U.S.C. 6261 through 6264) and its heading;

(2) by adding at the end of section 256(h), "There are authorized to be appropriated for fiscal years 2000 through 2003, such sums as may be necessary.". 42 USC 6276.

(3) by striking part C (42 U.S.C. 6281 through 6282) and its heading; and

(4) in section 281 (42 U.S.C. 6285), by striking "March 31, 2000" each time it appears and inserting "September 30, 2003".

SEC. 105. CLERICAL AMENDMENTS.

The table of contents for the Energy Policy and Conservation Act is amended—

(1) by striking the items relating to sections 102, 106, 153, 155, 156, 157, 158, and 164;

(2) by amending the item relating to section 159 to read as follows: "Development, Operation, and Maintenance of the Reserve.";

(3) by amending the item relating to section 161 to read as follows: "Drawdown and Sale of Petroleum Products"; and

(4) by amending the item relating to section 165 to read as follows: "Annual Report".

TITLE II—HEATING OIL RESERVE

SEC. 201. NORTHEAST HOME HEATING OIL RESERVE.

(a) Title I of the Energy Policy and Conservation Act is amended by—

(1) redesignating part D as part E;

42 USC 6251.

(2) redesignating section 181 as section 191; and

(3) inserting after part C the following new part D:

"PART D—NORTHEAST HOME HEATING OIL RESERVE

"ESTABLISHMENT

42 USC 6250.

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

"(b) For the purposes of this part—

"(1) the term 'Northeast' means the States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, and New Jersey;

"(2) the term 'petroleum distillate' includes heating oil and diesel fuel; and

"(3) the term 'Reserve' means the Northeast Home Heating Oil Reserve established under this part.

"AUTHORITY

42 USC 6250a.

"SEC. 182. To the extent necessary or appropriate to carry out this part, the Secretary may—

"(1) purchase, contract for, lease, or otherwise acquire, in whole or in part, storage and related facilities, and storage services;

"(2) use, lease, maintain, sell, or otherwise dispose of storage and related facilities acquired under this part;

"(3) acquire by purchase, exchange (including exchange of petroleum products from the Strategic Petroleum Reserve or received as royalty from Federal lands), lease, or otherwise, petroleum distillate for storage in the Northeast Home Heating Oil Reserve;

"(4) store petroleum distillate in facilities not owned by the United States; and

"(5) sell, exchange, or otherwise dispose of petroleum distillate from the Reserve established under this part, including

to maintain the quality or quantity of the petroleum distillate in the Reserve or to maintain the operational capability of the Reserve.

"CONDITIONS FOR RELEASE; PLAN

"SEC. 183. (a) FINDING.—The Secretary may sell products from the Reserve only upon a finding by the President that there is a severe energy supply interruption. Such a finding may be made only if he determines that— 42 USC 6250a.

"(1) a dislocation in the heating oil market has resulted from such interruption; or

"(2) a circumstance, other than that described in paragraph (1), exists that constitutes a regional supply shortage of significant scope and duration and that action taken under this section would assist directly and significantly in reducing the adverse impact of such shortage.

"(b) DEFINITION.—For purposes of this section a 'dislocation in the heating oil market' shall be deemed to occur only when—

"(1) The price differential between crude oil, as reflected in an industry daily publication such as 'Platt's Oilgram Price Report' or 'Oil Daily' and No. 2 heating oil, as reported in the Energy Information Administration's retail price data for the Northeast, increases by more tan 60 percent over its 5 year rolling average for the months of mid-October through March, and continues for 7 consecutive days; and

"(2) The price differential continues to increase during the most recent week for which price information is available.

"(c) CONTINUING EVALUATION.—The Secretary shall conduct a continuing evaluation of the residential price data supplied by the Energy Information Administration for the Northeast and data on crude oil prices from published sources.

"(d) RELEASE OF PETROLEUM DISTILLATE.—After consultation with the heating oil industry, the Secretary shall determine procedures governing the release of petroleum distillate from the Reserve. The procedures shall provide that—

"(1) the Secretary may—

"(A) sell petroleum distillate from the Reserve through a competitive process, or

"(B) enter into exchange agreements for the petroleum distillate that results in the Secretary receiving a greater volume of petroleum distillate as repayment than the volume provided to the acquirer;

"(2) in all such sales or exchanges, the Secretary shall receive revenue or its equivalent in petroleum distillate that provides the Department with fair market value. At no time may the oil be sold or exchanged resulting in a loss of revenue or value to the United States; and

"(3) the Secretary shall only sell or dispose of the oil in the Reserve to entities customarily engaged in the sale and distribution of petroleum distillate.

"(e) PLAN.—Within 45 days of the date of the enactment of this section, the Secretary shall transmit to the President and, if the President approves, to the Congress a plan describing— Deadline.

"(1) the acquisition of storage and related facilities or storage services for the Reserve, including the potential use of storage facilities not currently in use;

"(2) the acquisition of petroleum distillate for storage in the Reserve;

"(3) the anticipated methods of disposition of petroleum distillate from the Reserve;

"(4) the estimated costs of establishment, maintenance, and operation of the Reserve;

"(5) efforts the Department will take to minimize any potential need for future drawdowns and ensure that distributors and importers are not discouraged from maintaining and increasing supplies to the Northeast; and

"(6) actions to ensure quality of the petroleum distillate in the Reserve.

"NORTHEAST HOME HEATING OIL RESERVE ACCOUNT

42 USC 6250c.

"SEC. 184. (a) Upon a decision of the Secretary of Energy to establish a Reserve under this part, the Secretary of the Treasury shall establish in the Treasury of the United States an account known as the 'Northeast Home Heating Oil Reserve Account' (referred to in this section as the 'Account').

"(b) the Secretary of the Treasury shall deposit in the Account any amounts appropriated to the Account and any receipts from the sale, exchange, or other disposition of petroleum distillate from the Reserve.

"(c) The Secretary of Energy may obligate amounts in the Account to carry out activities under this part without the need for further appropriation, and amounts available to the Secretary of Energy for obligation under this section shall remain available without fiscal year limitation.

"EXEMPTIONS

42 USC 6250d.

"SEC. 185. An action taken under this part is not subject to the rulemaking requirements of section 523 of this Act, section 501 of the Department of Energy Organization Act, or section 553 of title 5, United States Code.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6250e.

"SEC. 186. There are authorized to be appropriated for fiscal years 2001, 2002, and 2003 such sums as may be necessary to implement this part.".

SEC. 202. USE OF ENERGY FUTURES FOR FUEL PURCHASES.

(a) HEATING OIL STUDY.—The Secretary shall conduct a study on—

(1) the use of energy futures and options contracts to provide cost-effective protection from sudden surges in the price of heating oil (including No. 2 fuel oil, propane, and kerosene) for State and local government agencies, consumer cooperatives, and other organizations that purchase heating oil in bulk to market to end use consumers in the Northeast (as defined in section 201); and

(2) how to most effectively inform organizations identified in paragraph (1) about the benefits and risks of using energy futures and options contracts.

(b) REPORT.—The Secretary shall transmit the study required in this section to the Committee on Commerce of the House of Representatives and the Committee on Energy and Natural

Resources of the Senate not later than 180 days after the enactment of this section. The report shall contain a review of prior studies conducted on the subjects described in subsection (a). Deadline.

TITLE III—MARGINAL WELL PURCHASES

SEC. 301. PURCHASE OF OIL FROM MARGINAL WELLS.

(a) PURCHASE OF OIL FROM MARGINAL WELLS.—Part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6232 et seq.) is amended by adding the following new section after section 168:

"PURCHASE OF OIL FROM MARGINAL WELLS

"SEC. 169. (a) IN GENERAL.—From amounts authorized under section 166, in any case in which the price of oil decreases to an amount less than $15.00 per barrel (an amount equal to the annual average well head price per barrel for all domestic crude oil), adjusted for inflation, the Secretary may purchase oil from a marginal well at $15.00 per barrel, adjusted for inflation. 42 USC 6247b.

"(b) DEFINITION OF MARGINAL WELL.—The term 'marginal well' has the same meaning as the definition of 'stripper well property' in section 613A(c)(6)(E) of the Internal Revenue Code (26 U.S.C. 613A(c)(6)(E)).".

(b) CONFORMING AMENDMENT.—The table of contents for the Energy Policy and Conservation Act is amended by inserting after the item relating to section 168 the following:

"Sec. 169. Purchase of oil from marginal wells.".

TITLE IV—FEDERAL ENERGY MANAGEMENT

SEC. 401. FEMP.

Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)(2)(D)(iii), is amended by striking "$750,000" and inserting "$10,000,000".

TITLE V—ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS

SEC. 501. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

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

"SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS. 16 USC 823c.

"(a) DISCONTINUANCE OF REGULATION BY THE COMMISSION.—Notwithstanding sections 4(e) and 23(b), the Commission shall discontinue exercising licensing and regulatory authority under this

part over qualifying project works in the State of Alaska, effective on the date on which the Commission certifies that the State of Alaska has in place a regulatory program for water-power development that—

"(1) protects the public interest, the purposes listed in paragraph (2), and the environment to the same extent provided by licensing and regulation by the Commission under this part and other applicable Federal laws, including the Endangered Species Act (16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

"(2) gives equal consideration to the purposes of—

"(A) energy conservation;

"(B) the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat);

"(C) the protection of recreational opportunities;

"(D) the preservation of other aspects of environmental quality;

"(E) the interests of Alaska Natives; and

"(F) other beneficial public uses, including irrigation, flood control, water supply, and navigation; and

"(3) requires, as a condition of a license for any project works—

"(A) the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate;

"(B) the operation of any navigation facilities which may be constructed as part of any project to be controlled at all times by such reasonable rules and regulations as may be made by the Secretary of the Army; and

"(C) conditions for the protection, mitigation, and enhancement of fish and wildlife based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

"(b) DEFINITION OF 'QUALIFYING PROJECT WORKS'.—For purposes of this section, the term 'qualifying project works' means project works—

"(1) that are not part of a project licensed under this part or exempted from licensing under this part or section 405 of the Public Utility Regulatory Policies Act of 1978 prior to the date of the enactment of this section;

"(2) for which a preliminary permit, a license application, or an application for an exemption from licensing has not been accepted for filing by the Commission prior to the date of the enactment of subsection (c) (unless such application is withdrawn at the election of the applicant);

"(3) that are part of a project that has a power production capacity of 5,000 kilowatts or less;

"(4) that are located entirely within the boundaries of the State of Alaska; and

"(5) that are not located in whole or in part on any Indian reservation, a conservation system unit (as defined in section

102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4))), or segment of a river designated for study for addition to the Wild and Scenic Rivers System.

"(c) ELECTION OF STATE LICENSING.—In the case of nonqualifying project works that would be a qualifying project works but for the fact that the project has been licensed (or exempted from licensing) by the Commission prior to the enactment of this section, the licensee of such project may in its discretion elect to make the project subject to licensing and regulation by the State of Alaska under this section.

"(d) PROJECT WORKS ON FEDERAL LANDS.—With respect to projects located in whole or in part on a reservation, a conservation system unit, or the public lands, a State license or exemption from licensing shall be subject to—

"(1) the approval of the Secretary having jurisdiction over such lands; and

"(2) such conditions as the Secretary may prescribe.

"(e) CONSULTATION WITH AFFECTED AGENCIES.—The Commission shall consult with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce before certifying the State of Alaska's regulatory program.

"(f) APPLICATION OF FEDERAL LAWS.—Nothing in this section shall preempt the application of Federal environmental, natural resources, or cultural resources protection laws according to their terms.

"(g) OVERSIGHT BY THE COMMISSION.—The State of Alaska shall notify the Commission not later than 30 days after making any significant modification to its regulatory program. The Commission shall periodically review the State's program to ensure compliance with the provisions of this section. Notification. Deadline.

"(h) RESUMPTION OF COMMISSION AUTHORITY.—Notwithstanding subsection (a), the Commission shall reassert its licensing and regulatory authority under this part if the Commission finds that the State of Alaska has not complied with one or more of the requirements of this section.

"(i) DETERMINATION BY THE COMMISSION.—(1) Upon application by the Governor of the State of Alaska, the Commission shall within 30 days commence a review of the State of Alaska's regulatory program for water-power development to determine whether it complies with the requirements of subsection (a). Deadline.

"(2) The Commission's review required by paragraph (1) shall be completed within 1 year of initiation, and the Commission shall within 30 days thereafter issue a final order determining whether or not the State of Alaska's regulatory program for water-power development complies with the requirements of subsection (a). Deadline.

"(3) If the Commission fails to issue a final order in accordance with paragraph (2) the State of Alaska's regulatory program for water-power development shall be deemed to be in compliance with subsection (a).".

TITLE VI—WEATHERIZATION, SUMMER FILL, HYDROELECTRIC LICENSING PROCEDURES, AND INVENTORY OF OIL AND GAS RESERVES

SEC. 601. CHANGES IN WEATHERIZATION PROGRAM TO PROTECT LOW-INCOME PERSONS.

42 USC 6863 note.

(a) The matter under the heading, "ENERGY CONSERVATION (INCLUDING TRANSFER OF FUNDS)" in title II of the Department of the Interior and Related Agencies Appropriations Act, 2000 (113 Stat. 1535, 1501A–180), is amended by striking "grants:" and all that follows and inserting "grants.".

(b) Section 415 of the Energy Conservation and Production Act (42 U.S.C. 6865) is amended—

(1) in subsection (a)(1) by striking the first sentence;

(2) in subsection (a)(2) by—

(A) striking "(A)";

(B) striking "approve a State's application to waive the 40 percent requirement established in paragraph (1) if the State includes in its plan" and inserting "establish"; and

(C) striking subparagraph (B);

(3) in subsection (c)(1) by—

(A) striking "paragraphs (3) and (4)" and inserting "paragraph (3)";

(B) striking "$1,600" and inserting "$2,500";

(C) striking "and" at the end of subparagraph (C);

(D) striking the period and inserting ", and" in subparagraph (D); and

(E) inserting after subparagraph (D) the following new subparagraph:

"(E) the cost of making heating and cooling modifications, including replacement";

(4) in subsection (c)(3) by—

(A) striking "1991, the $1,600 per dwelling unit limitation" and inserting "2000, the $2,500 per dwelling unit average";

(B) striking "limitation" and inserting "average" each time it appears; and

(C) inserting "the" after "beginning of" in subparagraph (B); and

(5) by striking subsection (c)(4).

SEC. 602. SUMMER FILL AND FUEL BUDGETING PROGRAMS.

(a) Part C of title II of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended by adding at the end the following:

42 USC 6283.

"SEC. 273. SUMMER FILL AND FUEL BUDGETING PROGRAMS.

"(a) DEFINITIONS.—In this section:

"(1) BUDGET CONTRACT.—The term 'budget contract' means a contract between a retailer and a consumer under which the heating expenses of the consumer are spread evenly over a period of months.

"(2) FIXED-PRICE CONTRACT.—The term 'fixed-price contract' means a contract between a retailer and a consumer under which the retailer charges the consumer a set price for propane, kerosene, or heating oil without regard to market price fluctuations.

"(3) PRICE CAP CONTRACT.—The term 'price cap contract' means a contract between a retailer and a consumer under which the retailer charges the consumer the market price for propane, kerosene, or heating oil, but the cost of the propane, kerosene, or heating oil may exceed a maximum amount stated in the contract.

"(b) ASSISTANCE.—At the request of the chief executive officer of a State, the Secretary shall provide information, technical assistance, and funding—

"(1) to develop education and outreach programs to encourage consumers to fill their storage facilities for propane, kerosene, and heating oil during the summer months; and

"(2) to promote the use of budget contracts, price cap contracts, fixed-price contracts, and other advantageous financial arrangements,

to avoid severe seasonal price increases for and supply shortages of those products.

"(c) PREFERENCE.—In implementing this section, the Secretary shall give preference to States that contribute public funds or leverage private funds to develop State summer fill and fuel budgeting programs.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $25,000,000 for fiscal year 2001; and

"(2) such sums as are necessary for each fiscal year thereafter.

"(e) INAPPLICABILITY OF EXPIRATION PROVISION.—Section 281 does not apply to this section.".

(b) The table of contents in the first section of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 272 the following:

"Sec. 273. Summer fill and fuel budgeting programs.".

SEC. 603. EXPEDITED FERC HYDROELECTRIC LICENSING PROCEDURES.

The Federal Energy Regulatory Commission shall, in consultation with other appropriate agencies, immediately undertake a comprehensive review of policies, procedures, and regulations for the licensing of hydroelectric projects to determine how to reduce the cost and time of obtaining a license. The Commission shall report its findings within 6 months of the date of the enactment of this section to the Congress, including any recommendations for legislative changes.

Reports.

Deadline.

SEC. 604. SCIENTIFIC INVENTORY OF OIL AND GAS RESERVES.

42 USC 6217.

(a) IN GENERAL.—The Secretary of the Interior, in consultation with the Secretaries of Agriculture and Energy, shall conduct an inventory of all onshore Federal lands. The inventory shall identify—

(1) the United States Geological Survey reserve estimates of the oil and gas resources underlying these lands; and

(2) the extent and nature of any restrictions or impediments to the development of such resources.

(b) REGULAR UPDATE.—Once completed, the USGS reserve estimates and the surface availability data as provided in subsection (a)(2) shall be regularly updated and made publically available.

(c) INVENTORY.—The inventory shall be provided to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate within 2 years after the date of the enactment of this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 605. ANNUAL HOME HEATING READINESS REPORTS.

(a) IN GENERAL.—Part A of title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended by adding at the end the following:

42 USC 6216.

"SEC. 108. ANNUAL HOME HEATING READINESS REPORTS.

Deadline.

"(a) IN GENERAL.—On or before September 1 of each year, the Secretary, acting through the Administrator of the Energy Information Agency, shall submit to Congress a Home Heating Readiness Report on the readiness of the natural gas, heating oil and propane industries to supply fuel under various weather conditions, including rapid decreases in temperature.

"(b) CONTENTS.—The Home Heating Readiness Report shall include—

"(1) estimates of the consumption, expenditures, and average price per gallon of heating oil and propane and thousand cubic feet of natural gas for the upcoming period of October through March for various weather conditions, with special attention to extreme weather, and various regions of the country;

"(2) an evaluation of—

"(A) global and regional crude oil and refined product supplies;

"(B) the adequacy and utilization of refinery capacity;

"(C) the adequacy, utilization, and distribution of regional refined product storage capacity;

"(D) weather conditions;

"(E) the refined product transportation system;

"(F) market inefficiencies; and

"(G) any other factor affecting the functional capability of the heating oil industry and propane industry that has the potential to affect national or regional supplies and prices;

"(3) recommendations on steps that the Federal, State, and local governments can take to prevent or alleviate the impact of sharp and sustained increases in the price of natural gas, heating oil, and propane; and

"(4) recommendations on steps that companies engaged in the production, refining, storage, transportation of heating oil or propane, or any other activity related to the heating oil industry or propane industry, can take to prevent or alleviate the impact of sharp and sustained increases in the price of heating oil and propane.

"(c) INFORMATION REQUESTS.—The Secretary may request information necessary to prepare the Home Heating Readiness Report from companies described in subsection (b)(4).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—The Energy Policy and Conservation Act is amended—

(1) in the table of contents in the first section (42 U.S.C. prec. 6201), by inserting after the item relating to section 106 the following:

"Sec. 107. Major fuel burning stationary source.
"Sec. 108. Annual home heating readiness reports.";

and

(2) in section 107 (42 U.S.C. 6215), by striking "SEC. 107. (a) No Governor" and inserting the following:

"SEC. 107. MAJOR FUEL BURNING STATIONARY SOURCE.

"(a) No Governor".

TITLE VII—NATIONAL OIL HEAT RESEARCH ALLIANCE ACT OF 2000

National Oilheat Research Alliance Act of 2000.

SEC. 701. SHORT TITLE.

42 USC 6201 note.

This title may be cited as the "National Oilheat Research Alliance Act of 2000".

SEC. 702. FINDINGS.

42 USC 6201 note.

Congress finds that—

(1) oilheat is an important commodity relied on by approximately 30,000,000 Americans as an efficient and economical energy source for commercial and residential space and hot water heating;

(2) oilheat equipment operates at efficiencies among the highest of any space heating energy source, reducing fuel costs and making oilheat an economical means of space heating;

(3) the production, distribution, and marketing of oilheat and oilheat equipment plays a significant role in the economy of the United States, accounting for approximately $12,900,000,000 in expenditures annually and employing millions of Americans in all aspects of the oilheat industry;

(4) only very limited Federal resources have been made available for oilheat research, development, safety, training, and education efforts, to the detriment of both the oilheat industry and its 30,000,000 consumers; and

(5) the cooperative development, self-financing, and implementation of a coordinated national oilheat industry program of research and development, training, and consumer education is necessary and important for the welfare of the oilheat industry, the general economy of the United States, and the millions of Americans that rely on oilheat for commercial and residential space and hot water heating.

SEC. 703. DEFINITIONS.

42 USC 6201 note.

In this title:

(1) ALLIANCE.—The term "Alliance" means a national oilheat research alliance established under section 704.

(2) CONSUMER EDUCATION.—The term "consumer education" means the provision of information to assist consumers and other persons in making evaluations and decisions regarding oilheat and other nonindustrial commercial or residential space or hot water heating fuels.

(3) EXCHANGE.—The term "exchange" means an agreement that—

(A) entitles each party or its customers to receive oilheat from the other party; and

(B) requires only an insubstantial portion of the volumes involved in the exchange to be settled in cash or property other than the oilheat.

(4) INDUSTRY TRADE ASSOCIATION.—The term "industry trade association" means an organization described in paragraph (3) or (6) of section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code and is organized for the purpose of representing the oilheat industry.

(5) NO. 1 DISTILLATE.—The term "No. 1 distillate" means fuel oil classified as No. 1 distillate by the American Society for Testing and Materials.

(6) NO. 2 DYED DISTILLATE.—The term "No. 2 dyed distillate" means fuel oil classified as No. 2 distillate by the American Society for Testing and Materials that is indelibly dyed in accordance with regulations prescribed by the Secretary of the Treasury under section 4082(a)(2) of the Internal Revenue Code of 1986.

(7) OILHEAT.—The term "oilheat" means—

(A) No. 1 distillate; and

(B) No. 2 dyed distillate,

that is used as a fuel for nonindustrial commercial or residential space or hot water heating.

(8) OILHEAT INDUSTRY.—

(A) IN GENERAL.—The term "oilheat industry" means—

(i) persons in the production, transportation, or sale of oilheat; and

(ii) persons engaged in the manufacture or distribution of oilheat utilization equipment.

(B) EXCLUSION.—The term "oilheat industry" does not include ultimate consumers of oilheat.

(9) PUBLIC MEMBER.—The term "public member" means a member of the Alliance described in section 705(c)(1)(F).

(10) QUALIFIED INDUSTRY ORGANIZATION.—The term "qualified industry organization" means the National Association for Oilheat Research and Education or a successor organization.

(11) QUALIFIED STATE ASSOCIATION.—The term "qualified State association" means the industry trade association or other organization that the qualified industry organization or the Alliance determines best represents retail marketers in a State.

(12) RETAIL MARKETER.—The term "retail marketer" means a person engaged primarily in the sale of oilheat to ultimate consumers.

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

(14) WHOLESALE DISTRIBUTOR.—The term "wholesale distributor" means a person that—

(A)(i) produces No. 1 distillate or No. 2 dyed distillate;

(ii) imports No. 1 distillate or No. 2 dyed distillate; or

(iii) transports No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas; and

(B) sells the distillate to another person that does not produce, import, or transport No. 1 distillate or No. 2 dyed distillate across State boundaries or among local marketing areas.

(15) STATE.—The term "State" means the several States, except the State of Alaska.

SEC. 704. REFERENDA.

42 USC 6201 note.

(a) CREATION OF PROGRAM.—

(1) IN GENERAL.—The oilheat industry, through the qualified industry organization, may conduct, at its own expense, a referendum among retail marketers and wholesale distributors for the establishment of a national oilheat research alliance.

(2) REIMBURSEMENT OF COST.—The Alliance, if established, shall reimburse the qualified industry organization for the cost of accounting and documentation for the referendum.

(3) CONDUCT.—A referendum under paragraph (1) shall be conducted by an independent auditing firm.

(4) VOTING RIGHTS.—

(A) RETAIL MARKETERS.—Voting rights of retail marketers in a referendum under paragraph (1) shall be based on the volume of oilheat sold in a State by each retail marketer in the calendar year previous to the year in which the referendum is conducted or in another representative period.

(B) WHOLESALE DISTRIBUTORS.—Voting rights of wholesale distributors in a referendum under paragraph (1) shall be based on the volume of No. 1 distillate and No. 2 dyed distillate sold in a State by each wholesale distributor in the calendar year previous to the year in which the referendum is conducted or in another representative period, weighted by the ratio of the total volume of No. 1 distillate and No. 2 dyed distillate sold for nonindustrial commercial and residential space and hot water heating in the State to the total volume of No. 1 distillate and No. 2 dyed distillate sold in that State.

(5) ESTABLISHMENT BY APPROVAL OF TWO-THIRDS.—

(A) IN GENERAL.—Subject to subparagraph (B), on approval of persons representing two-thirds of the total volume of oilheat voted in the retail marketer class and two-thirds of the total weighted volume of No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class, the Alliance shall be established and shall be authorized to levy assessments under section 707.

(B) REQUIREMENT OF MAJORITY OF RETAIL MARKETERS.—Except as provided in subsection (b), the oilheat industry in a State shall not participate in the Alliance if less than 50 percent of the retail marketer vote in the State approves establishment of the Alliance.

(6) CERTIFICATION OF VOLUMES.—Each person voting in the referendum shall certify to the independent auditing firm

the volume of oilheat, No. 1 distillate, or No. 2 dyed distillate represented by the vote of the person.

Deadline.

(7) NOTIFICATION.—Not later than 90 days after the date of the enactment of this title, a qualified State association may notify the qualified industry organization in writing that a referendum under paragraph (1) will not be conducted in the State.

(b) SUBSEQUENT STATE PARTICIPATION.—The oilheat industry in a State that has not participated initially in the Alliance may subsequently elect to participate by conducting a referendum under subsection (a).

(c) TERMINATION OR SUSPENSION.—

(1) IN GENERAL.—On the initiative of the Alliance or on petition to the Alliance by retail marketers and wholesale distributors representing 25 percent of the volume of oilheat or weighted No. 1 distillate and No. 2 dyed distillate in each class, the Alliance shall, at its own expense, hold a referendum, to be conducted by an independent auditing firm selected by the Alliance, to determine whether the oilheat industry favors termination or suspension of the Alliance.

(2) VOLUME PERCENTAGES REQUIRED TO TERMINATE OR SUSPEND.—Termination or suspension shall not take effect unless termination or suspension is approved by persons representing more than one-half of the total volume of oilheat voted in the retail marketer class or more than one-half of the total volume of weighted No. 1 distillate and No. 2 dyed distillate voted in the wholesale distributor class.

(3) TERMINATION BY A STATE.—A State may elect to terminate participation by notifying the Alliance that 50 percent of the oilheat volume in the State has voted in a referendum to withdraw.

(d) CALCULATION OF OILHEAT SALES.—For the purposes of this section and section 705, the volume of oilheat sold annually in a State shall be determined on the basis of information provided by the Energy Information Administration with respect to a calendar year or other representative period.

42 USC 6201 note.

SEC. 705. MEMBERSHIP.

(a) SELECTION.—

(1) IN GENERAL.—Except as provided in subsection (c)(1)(C), the qualified industry organization shall select members of the Alliance representing the oilheat industry in a State from a list of nominees submitted by the qualified State association in the State.

(2) VACANCIES.—A vacancy in the Alliance shall be filled in the same manner as the original selection.

(b) REPRESENTATION.—In selecting members of the Alliance, the qualified industry organization shall make best efforts to select members that are representative of the oilheat industry, including representation of—

(1) interstate and intrastate operators among retail marketers;

(2) wholesale distributors of No. 1 distillate and No. 2 dyed distillate;

(3) large and small companies among wholesale distributors and retail marketers; and

(4) diverse geographic regions of the country.

(c) NUMBER OF MEMBERS.—

(1) IN GENERAL.—The membership of the Alliance shall be as follows:

(A) One member representing each State with oilheat sales in excess of 32,000,000 gallons per year.

(B) If fewer than 24 States are represented under subparagraph (A), one member representing each of the States with the highest volume of annual oilheat sales, as necessary to cause the total number of States represented under subparagraph (A) and this subparagraph to equal 24.

(C) Five representatives of retail marketers, one each to be selected by the qualified State associations of the five States with the highest volume of annual oilheat sales.

(D) Five additional representatives of retail marketers.

(E) Twenty-one representatives of wholesale distributors.

(F) Six public members, who shall be representatives of significant users of oilheat, the oilheat research community, State energy officials, or other groups knowledgeable about oilheat.

(2) FULL-TIME OWNERS OR EMPLOYEES.—Other than the public members, Alliance members shall be full-time owners or employees of members of the oilheat industry, except that members described in subparagraphs (C), (D), and (E) of paragraph (1) may be employees of the qualified industry organization or an industry trade association.

(d) COMPENSATION.—Alliance members shall receive no compensation for their service, nor shall Alliance members be reimbursed for expenses relating to their service, except that public members, on request, may be reimbursed for reasonable expenses directly related to participation in meetings of the Alliance.

(e) TERMS.—

(1) IN GENERAL.—Subject to paragraph (4), a member of the Alliance shall serve a term of 3 years, except that a member filling an unexpired term may serve a total of 7 consecutive years.

(2) TERM LIMIT.—A member may serve not more than two full consecutive terms.

(3) FORMER MEMBERS.—A former member of the Alliance may be returned to the Alliance if the member has not been a member for a period of 2 years.

(4) INITIAL APPOINTMENTS.—Initial appointments to the Alliance shall be for terms of 1, 2, and 3 years, as determined by the qualified industry organization, staggered to provide for the subsequent selection of one-third of the members each year.

SEC. 706. FUNCTIONS.

42 USC 6201 note.

(a) IN GENERAL.—

(1) PROGRAMS, PROJECTS; CONTRACTS AND OTHER AGREEMENTS.—The Alliance—

(A) shall develop programs and projects and enter into contracts or other agreements with other persons and entities for implementing this title, including programs—

(i) to enhance consumer and employee safety and training;

(ii) to provide for research, development, and demonstration of clean and efficient oilheat utilization equipment; and

(iii) for consumer education; and

(B) may provide for the payment of the costs of carrying out subparagraph (A) with assessments collected under section 707.

(2) COORDINATION.—The Alliance shall coordinate its activities with industry trade associations and other persons as appropriate to provide efficient delivery of services and to avoid unnecessary duplication of activities.

(3) ACTIVITIES.—

(A) EXCLUSIONS.—Activities under clause (i) or (ii) of paragraph (1)(A) shall not include advertising, promotions, or consumer surveys in support of advertising or promotions.

(B) RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES.—

(i) IN GENERAL.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall include—

(I) all activities incidental to research, development, and demonstration of clean and efficient oilheat utilization equipment; and

(II) the obtaining of patents, including payment of attorney's fees for making and perfecting a patent application.

(ii) EXCLUDED ACTIVITIES.—Research, development, and demonstration activities under paragraph (1)(A)(ii) shall not include research, development, and demonstration of oilheat utilization equipment with respect to which technically feasible and commercially feasible operations have been verified, except that funds may be provided for improvements to existing equipment until the technical feasibility and commercial feasibility of the operation of those improvements have been verified.

(b) PRIORITIES.—In the development of programs and projects, the Alliance shall give priority to issues relating to—

(1) research, development, and demonstration;

(2) safety;

(3) consumer education; and

(4) training.

(c) ADMINISTRATION.—

(1) OFFICERS; COMMITTEES; BYLAWS.—The Alliance—

(A) shall select from among its members a chairperson and other officers as necessary;

(B) may establish and authorize committees and subcommittees of the Alliance to take specific actions that the Alliance is authorized to take; and

(C) shall adopt bylaws for the conduct of business and the implementation of this title.

(2) SOLICITATION OF OILHEAT INDUSTRY COMMENT AND RECOMMENDATIONS.—The Alliance shall establish procedures for the solicitation of oilheat industry comment and recommendations on any significant contracts and other agreements, programs, and projects to be funded by the Alliance.

(3) ADVISORY COMMITTEES.—The Alliance may establish advisory committees consisting of persons other than Alliance members.

(4) VOTING.—Each member of the Alliance shall have one vote in matters before the Alliance.

(d) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—The administrative expenses of operating the Alliance (not including costs incurred in the collection of assessments under section 707) plus amounts paid under paragraph (2) shall not exceed 7 percent of the amount of assessments collected in any calendar year, except that during the first year of operation of the Alliance such expenses and amounts shall not exceed 10 percent of the amount of assessments.

(2) REIMBURSEMENT OF THE SECRETARY.—

(A) IN GENERAL.—The Alliance shall annually reimburse the Secretary for costs incurred by the Federal Government relating to the Alliance.

(B) LIMITATION.—Reimbursement under subparagraph (A) for any calendar year shall not exceed the amount that the Secretary determines is twice the average annual salary of one employee of the Department of Energy.

(e) BUDGET.—

(1) PUBLICATION OF PROPOSED BUDGET.—Before August 1 of each year, the Alliance shall publish for public review and comment a proposed budget for the next calendar year, including the probable costs of all programs, projects, and contracts and other agreements.

(2) SUBMISSION TO THE SECRETARY AND CONGRESS.—After review and comment under paragraph (1), the Alliance shall submit the proposed budget to the Secretary and Congress.

(3) RECOMMENDATIONS BY THE SECRETARY.—The Secretary may recommend for inclusion in the budget programs and activities that the Secretary considers appropriate.

(4) IMPLEMENTATION.—The Alliance shall not implement a proposed budget until the expiration of 60 days after submitting the proposed budget to the Secretary.

(f) RECORDS; AUDITS.—

(1) RECORDS.—The Alliance shall—

(A) keep records that clearly reflect all of the acts and transactions of the Alliance; and

(B) make the records available to the public.

Public information.

(2) AUDITS.—

(A) IN GENERAL.—The records of the Alliance (including fee assessment reports and applications for refunds under section 707(b)(4)) shall be audited by a certified public accountant at least once each year and at such other times as the Alliance may designate.

(B) AVAILABILITY OF AUDIT REPORTS.—Copies of each audit report shall be provided to the Secretary, the members of the Alliance, and the qualified industry organization, and, on request, to other members of the oilheat industry.

(C) POLICIES AND PROCEDURES.—

(i) IN GENERAL.—The Alliance shall establish policies and procedures for auditing compliance with this title.

(ii) CONFORMITY WITH GAAP.—The policies and procedures established under clause (i) shall conform with generally accepted accounting principles.

(g) PUBLIC ACCESS TO ALLIANCE PROCEEDINGS.—

(1) PUBLIC NOTICE.—The Alliance shall give at least 30 days' public notice of each meeting of the Alliance.

(2) MEETINGS OPEN TO THE PUBLIC.—Each meeting of the Alliance shall be open to the public.

(3) MINUTES.—The minutes of each meeting of the Alliance shall be made available to and readily accessible by the public.

(h) ANNUAL REPORT.—Each year the Alliance shall prepare and make publicly available a report that—

(1) includes a description of all programs, projects, and contracts and other agreements undertaken by the Alliance during the previous year and those planned for the current year; and

(2) details the allocation of Alliance resources for each such program and project.

42 USC 6201 note.

SEC. 707. ASSESSMENTS.

(a) RATE.—The assessment rate shall be equal to two-tenths-cent per gallon of No. 1 distillate and No. 2 dyed distillate.

(b) COLLECTION RULES.—

(1) COLLECTION AT POINT OF SALE.—The assessment shall be collected at the point of sale of No. 1 distillate and No. 2 dyed distillate by a wholesale distributor to a person other than a wholesale distributor, including a sale made pursuant to an exchange.

(2) RESPONSIBILITY FOR PAYMENT.—A wholesale distributor—

(A) shall be responsible for payment of an assessment to the Alliance on a quarterly basis; and

(B) shall provide to the Alliance certification of the volume of fuel sold.

(3) NO OWNERSHIP INTEREST.—A person that has no ownership interest in No. 1 distillate or No. 2 dyed distillate shall not be responsible for payment of an assessment under this section.

(4) FAILURE TO RECEIVE PAYMENT.—

(A) REFUND.—A wholesale distributor that does not receive payments from a purchaser for No. 1 distillate or No. 2 dyed distillate within 1 year of the date of sale may apply for a refund from the Alliance of the assessment paid.

(B) AMOUNT.—The amount of a refund shall not exceed the amount of the assessment levied on the No. 1 distillate or No. 2 dyed distillate for which payment was not received.

(5) IMPORTATION AFTER POINT OF SALE.—The owner of No. 1 distillate or No. 2 dyed distillate imported after the point of sale—

(A) shall be responsible for payment of the assessment to the Alliance at the point at which the product enters the United States; and

(B) shall provide to the Alliance certification of the volume of fuel imported.

(6) LATE PAYMENT CHARGE.—The Alliance may establish a late payment charge and rate of interest to be imposed

on any person who fails to remit or pay to the Alliance any amount due under this title.

(7) ALTERNATIVE COLLECTION RULES.—The Alliance may establish, or approve a request of the oilheat industry in a State for, an alternative means of collecting the assessment if another means is determined to be more efficient or more effective.

(c) SALE FOR USE OTHER THAN AS OILHEAT.—No. 1 distillate and No. 2 dyed distillate sold for uses other than as oilheat are excluded from the assessment.

(d) INVESTMENT OF FUNDS.—Pending disbursement under a program, project or contract or other agreement the Alliance may invest funds collected through assessments, and any other funds received by the Alliance, only—

(1) in obligations of the United States or any agency of the United States;

(2) in general obligations of any State or any political subdivision of a State;

(3) in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(4) in obligations fully guaranteed as to principal and interest by the United States.

(e) STATE, LOCAL, AND REGIONAL PROGRAMS.—

(1) COORDINATION.—The Alliance shall establish a program coordinating the operation of the Alliance with the operator of any similar State, local, or regional program created under State law (including a regulation), or similar entity.

(2) FUNDS MADE AVAILABLE TO QUALIFIED STATE ASSOCIATIONS.—

(A) IN GENERAL.—

(i) BASE AMOUNT.—The Alliance shall make available to the qualified State association of each State an amount equal to 15 percent of the amount of assessments collected in the State.

(ii) ADDITIONAL AMOUNT.—

(I) IN GENERAL.—A qualified State association may request that the Alliance provide to the association any portion of the remaining 85 percent of the amount of assessments collected in the State.

(II) REQUEST REQUIREMENTS.—A request under this clause shall—

(aa) specify the amount of funds requested;

(bb) describe in detail the specific uses for which the requested funds are sought;

(cc) include a commitment to comply with this title in using the requested funds; and

(dd) be made publicly available.

Public information.

(III) DIRECT BENEFIT.—The Alliance shall not provide any funds in response to a request under this clause unless the Alliance determines that the funds will be used to directly benefit the oilheat industry.

(IV) MONITORING; TERMS, CONDITIONS, AND REPORTING REQUIREMENTS.—The Alliance shall—

(aa) monitor the use of funds provided under this clause; and

(bb) impose whatever terms, conditions, and reporting requirements that the Alliance considers necessary to ensure compliance with this title.

42 USC 6201 note.

SEC. 708. MARKET SURVEY AND CONSUMER PROTECTION.

(a) PRICE ANALYSIS.—Beginning 2 years after establishment of the Alliance and annually thereafter, the Secretary of Commerce, using only data provided by the Energy Information Administration and other public sources, shall prepare and make available to the Congress, the Alliance, the Secretary of Energy, and the public, an analysis of changes in the price of oilheat relative to other energy sources. The oilheat price analysis shall compare indexed changes in the price of consumer grade oilheat to a composite of indexed changes in the price of residential electricity, residential natural gas, and propane on an annual national average basis. For purposes of indexing changes in oilheat, residential electricity, residential natural gas, and propane prices, the Secretary of Commerce shall use a 5-year rolling average price beginning with the year 4 years prior to the establishment of the Alliance.

(b) AUTHORITY TO RESTRICT ACTIVITIES.—If in any year the 5-year average price composite index of consumer grade oilheat exceeds the 5-year rolling average price composite index of residential electricity, residential natural gas, and propane in an amount greater than 10.1 percent, the activities of the Alliance shall be restricted to research and development, training, and safety matters. The Alliance shall inform the Secretary of Energy and the Congress of any restriction of activities under this subsection. Upon expiration of 180 days after the beginning of any such restriction of activities, the Secretary of Commerce shall again conduct the oilheat price analysis described in subsection (a). Activities of the Alliance shall continue to be restricted under this subsection until the price index excess is 10.1 percent or less.

42 USC 6201 note.

SEC. 709. COMPLIANCE.

(a) IN GENERAL.—The Alliance may bring a civil action in United States district court to compel payment of an assessment under section 707.

(b) COSTS.—A successful action for compliance under this section may also require payment by the defendant of the costs incurred by the Alliance in bringing the action.

42 USC 6201 note.

SEC. 710. LOBBYING RESTRICTIONS.

No funds derived from assessments under section 707 collected by the Alliance shall be used to influence legislation or elections, except that the Alliance may use such funds to formulate and submit to the Secretary recommendations for amendments to this title or other laws that would further the purposes of this title.

42 USC 6201 note.

SEC. 711. DISCLOSURE.

Any consumer education activity undertaken with funds provided by the Alliance shall include a statement that the activities were supported, in whole or in part, by the Alliance.

SEC. 712. VIOLATIONS.

42 USC 6201 note.

(a) PROHIBITION.—It shall be unlawful for any person to conduct a consumer education activity, undertaken with funds derived from assessments collected by the Alliance under section 707, that includes—

(1) a reference to a private brand name;

(2) a false or unwarranted claim on behalf of oilheat or related products; or

(3) a reference with respect to the attributes or use of any competing product.

(b) COMPLAINTS.—

(1) IN GENERAL.—A public utility that is aggrieved by a violation described in subsection (a) may file a complaint with the Alliance.

(2) TRANSMITTAL TO QUALIFIED STATE ASSOCIATION.- -A complaint shall be transmitted concurrently to any qualified State association undertaking the consumer education activity with respect to which the complaint is made.

(3) CESSATION OF ACTIVITIES.—On receipt of a complaint under this subsection, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made, shall cease that consumer education activity until—

(A) the complaint is withdrawn; or

(B) a court determines that the conduct of the activity complained of does not constitute a violation of subsection (a).

(c) RESOLUTION BY PARTIES.—

(1) IN GENERAL.—Not later than 10 days after a complaint is filed and transmitted under subsection (b), the complaining party, the Alliance, and any qualified State association undertaking the consumer education activity with respect to which the complaint is made shall meet to attempt to resolve the complaint.

Deadline.

(2) WITHDRAWAL OF COMPLAINT.—If the issues in dispute are resolved in those discussions, the complaining party shall withdraw its complaint.

(d) JUDICIAL REVIEW.—

(1) IN GENERAL.—A public utility filing a complaint under this section, the Alliance, a qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made, or any person aggrieved by a violation of subsection (a) may seek appropriate relief in United States district court.

(2) RELIEF.—A public utility filing a complaint under this section shall be entitled to temporary and injunctive relief enjoining the consumer education activity with respect to which a complaint under this section is made until—

(A) the complaint is withdrawn; or

(B) the court has determined that the consumer education activity complained of does not constitute a violation of subsection (a).

(e) ATTORNEY'S FEES.—

(1) MERITORIOUS CASE.—In a case in Federal court in which the court grants a public utility injunctive relief under subsection (d), the public utility shall be entitled to recover an

attorney's fee from the Alliance and any qualified State association undertaking the consumer education activity with respect to which a complaint under this section is made.

(2) NONMERITORIOUS CASE.—In any case under subsection (d) in which the court determines a complaint under subsection (b) to be frivolous and without merit, the prevailing party shall be entitled to recover an attorney's fee.

(f) SAVINGS CLAUSE.—Nothing in this section shall limit causes of action brought under any other law.

42 USC 6201 note. Effective date.

SEC. 713. SUNSET.

This title shall cease to be effective as of the date that is 4 years after the date on which the Alliance is established.

Approved November 9, 2000.

LEGISLATIVE HISTORY—H.R. 2884:

HOUSE REPORTS: No. 106–359 (Comm. on Commerce).
CONGRESSIONAL RECORD, Vol. 146 (2000):
Apr. 11, 12, considered and passed House.
Oct. 19, considered and passed Senate, amended.
Oct. 24, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):
Nov. 9, Presidential statement.