

109TH CONGRESS
1ST SESSION

H. R. 3893

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2005

Received

OCTOBER 24, 2005

Read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To expedite the construction of new refining capacity in the United States, to provide reliable and affordable energy for the American people, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Gasoline for America’s Security Act of 2005”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—INCREASING REFINERY CAPACITY

- Sec. 101. State participation and presidential designation.
- Sec. 102. Process coordination and rules of procedure.
- Sec. 103. Refinery revitalization repeal.
- Sec. 104. Standby support for refineries.
- Sec. 105. Military use refinery.
- Sec. 106. Waiver authority for extreme fuel supply emergencies.
- Sec. 107. List of fuels.
- Sec. 108. Attainment dates for downwind ozone nonattainment areas.
- Sec. 109. Rebates for sales of royalty-in-kind oil to qualified small refineries.
- Sec. 110. Study and report relating to streamlining paperwork requirements.
- Sec. 111. Response to biomass debris emergency.

TITLE II—INCREASING DELIVERY INFRASTRUCTURE

- Sec. 201. Federal-State regulatory coordination.
- Sec. 202. Process coordination and rules of procedure.
- Sec. 203. Backup power capacity study.
- Sec. 204. Sunset of loan guarantees.
- Sec. 205. Offshore pipelines.
- Sec. 206. Savings clause.

TITLE III—CONSERVATION AND EDUCATION

- Sec. 301. Department of Energy carpooling and vanpooling program.
- Sec. 302. Evaluation and assessment of carpool and vanpool projects.
- Sec. 303. Internet utilization study.
- Sec. 304. Fuel consumption education campaign.
- Sec. 305. Procurement of energy efficient lighting devices.
- Sec. 306. Minority employment.

TITLE IV—GASOLINE PRICE REFORM

- Sec. 401. Short title.
- Sec. 402. Gasoline price gouging prohibited.
- Sec. 403. FTC investigation on price-gouging.
- Sec. 404. FTC study of petroleum prices on exchange.

TITLE V—STRATEGIC PETROLEUM RESERVE

- Sec. 501. Strategic Petroleum Reserve capacity.
- Sec. 502. Strategic Petroleum Reserve sale.

Sec. 503. Northeast Home Heating Oil Reserve capacity.

TITLE VI—CRITICAL ENERGY ASSURANCE

Sec. 601. Evacuation plan review.

Sec. 602. Disaster assistance.

Sec. 603. Critical Energy Assurance Account.

Sec. 604. Regulations.

1 **SEC. 2. FINDINGS.**

2 The Congress makes the following findings:

3 (1) No new refinery has been constructed in the
 4 United States since 1976. There are 148 operating
 5 refineries in the United States, down from 324 in
 6 1981. Refined petroleum product imports are cur-
 7 rently projected to grow from 7.9 percent to 10.7
 8 percent of total refined product by 2025 to satisfy
 9 increasing demand.

10 (2) While the number of American refineries in
 11 operation has reduced over the last 20 years, much
 12 of the resulting lost capacity has been replaced by
 13 gains from more efficient refineries.

14 (3) Hurricanes Katrina and Rita substantially
 15 disrupted petroleum production, refining, and pipe-
 16 line systems in the Gulf Coast region, affecting en-
 17 ergy prices and supply nationwide. In the immediate
 18 aftermath of Katrina alone, United States refining
 19 capacity was reduced by more than 2,000,000 bar-
 20 rels per day. However, before Hurricanes Katrina
 21 and Rita, United States refining capacity was al-
 22 ready significantly strained by increased levels of

1 production, with industry average utilization rates of
2 95 percent of capacity or higher.

3 (4) It serves the national interest to increase
4 refinery capacity for gasoline, heating oil, diesel fuel,
5 and jet fuel wherever located within the United
6 States, to bring more reliable and economic supply
7 to the American people.

8 (5) According to economic analysis, households
9 are conservatively estimated to spend an average of
10 \$1,948 this year on gasoline, up 45 percent from 3
11 years ago, and households with incomes under
12 \$15,000 ($\frac{1}{5}$ of all households) this year will spend,
13 on average, more than $\frac{1}{10}$ of their income just on
14 gasoline.

15 (6) According to economic analysis, rural Amer-
16 ican households will spend \$2,087 on gasoline this
17 year. Rural Americans are paying an estimated 22
18 percent more for gasoline than their urban counter-
19 parts because they must drive longer distances.

20 (7) A growing reliance on foreign sources of re-
21 fined petroleum products impairs our national secu-
22 rity interests and global competitiveness.

23 (8) Refiners are subject to significant environ-
24 mental and other regulations and face several new
25 Clean Air Act requirements over the next decade.

1 New Clean Air Act requirements will benefit the en-
2 vironment but will also require substantial capital
3 investment and additional government permits.
4 These new requirements increase business uncer-
5 tainty and dissuade investment in new refinery ca-
6 pacity.

7 (9) There is currently a lack of coordination in
8 permitting requirements and other regulations af-
9 fecting refineries at the Federal, State, and local lev-
10 els. There is no consistent national permitting pro-
11 gram for refineries, compared with the Federal En-
12 ergy Regulatory Commission's lead agency role over
13 interstate natural gas pipelines, liquefied natural
14 gas, and hydroelectric power and the Nuclear Regu-
15 latory Commission's role over nuclear plant licens-
16 ing. More regulatory certainty and coordination is
17 needed for refinery owners to stimulate investment
18 in increased refinery capacity.

19 **SEC. 3. DEFINITIONS.**

20 For purposes of this Act—

21 (1) the term “Administrator” means the Ad-
22 ministrator of the Environmental Protection Agency;

23 (2) the term “refinery” means—

24 (A) a facility designed and operated to re-
25 ceive, load, unload, store, transport, process,

and refine crude oil by any chemical or physical process, including distillation, fluid catalytic cracking, hydrocracking, coking, alkylation, etherification, polymerization, catalytic reforming, isomerization, hydrotreating, blending, and any combination thereof, in order to produce gasoline or other fuel; or

(B) a facility designed and operated to receive, load, unload, store, transport, process, and refine coal by any chemical or physical process, including liquefaction, in order to produce gasoline, diesel, or other liquid fuel as its primary output; and

(3) the term “Secretary” means the Secretary of Energy.

TITLE I—INCREASING REFINERY CAPACITY

SEC. 101. STATE PARTICIPATION AND PRESIDENTIAL DESIGNATION.

(a) FEDERAL-STATE REGULATORY COORDINATION AND ASSISTANCE.—

(1) GOVERNOR’S REQUEST.—The governor of a State may submit a request to the Secretary for the application of process coordination and rules of pro-

1 cedure under section 102 to the siting, construction,
2 expansion, or operation of any refinery in that State.

3 (2) STATE ASSISTANCE.—The Secretary and
4 the Administrator are authorized to provide financial
5 assistance to State governments to facilitate the hir-
6 ing of additional personnel with expertise in fields
7 relevant to consideration of applications to site, con-
8 struct, expand, or operate any refinery in that State.

9 (3) OTHER ASSISTANCE.—The Secretary and
10 the Administrator shall provide technical, legal, or
11 other assistance to State governments to facilitate
12 their review of applications to site, construct, ex-
13 pand, or operate any refinery in that State.

14 (b) PRESIDENTIAL DESIGNATION.—

15 (1) DESIGNATION REQUIREMENT.—Not later
16 than 90 days after the date of enactment of this
17 Act, the President shall designate sites on Federal
18 lands, including closed military installations subject
19 to paragraph (3), that are appropriate for the pur-
20 poses of siting a refinery.

21 (2) ANALYSIS OF REFINERY SITES.—In consid-
22 ering any site on Federal lands for possible designa-
23 tion under this subsection, the President shall con-
24 duct an analysis of—

1 (A) the availability of crude oil supplies to
2 the site, including supplies from domestic pro-
3 duction of shale oil and tar sands and other
4 strategic unconventional fuels;

5 (B) the distribution of the Nation's refined
6 petroleum product demand;

7 (C) whether such site is in close proximity
8 to substantial pipeline infrastructure, including
9 both crude oil and refined petroleum product
10 pipelines, and potential infrastructure feasi-
11 bility;

12 (D) the need to diversify the geographical
13 location of the domestic refining capacity;

14 (E) the effect that increased refined petro-
15 leum products from a refinery on that site may
16 have on the price and supply of gasoline to con-
17 sumers;

18 (F) the impact of locating a refinery on
19 the site on the readiness and operations of the
20 Armed Forces; and

21 (G) such other factors as the President
22 considers appropriate.

23 (3) SPECIAL RULES FOR CLOSED MILITARY IN-
24 STALLATIONS.—

1 (A) DESIGNATION FOR CONSIDERATION AS
2 REFINERY SITE.—Among the sites designated
3 pursuant to this subsection, the President shall
4 designate no less than 3 closed military installa-
5 tions, or portions thereof, as potentially suitable
6 for the construction of a refinery.

7 (B) EFFECT OF DESIGNATION.—In the
8 case of a closed military installation, or portion
9 thereof, designated by the President as a poten-
10 tially suitable refinery site pursuant to this sub-
11 section—

12 (i) the redevelopment authority for
13 the installation, in preparing or revising
14 the redevelopment plan for the installation,
15 shall consider the feasibility and practica-
16 bility of siting a refinery on the installa-
17 tion; and

18 (ii) the Secretary of Defense, in man-
19 aging and disposing of real property at the
20 installation pursuant to the base closure
21 law applicable to the installation, shall give
22 substantial deference to the recommenda-
23 tions of the redevelopment authority, as
24 contained in the redevelopment plan for

1 the installation, regarding the siting of a
2 refinery on the installation.

3 (c) USE OF DESIGNATED SITES.—

4 (1) LEASE.—Except as provided in paragraph
5 (2), the Federal Government shall offer for lease any
6 site designated by the President under subsection
7 (b) consistent with procedures for the disposition of
8 such site under applicable Federal property laws.
9 Notwithstanding any provision of such Federal prop-
10 erty laws providing for the disposition or reuse of
11 the site, a lease under this paragraph shall be
12 deemed to be the appropriate disposition of the site.
13 A site shall not be leased under this paragraph ex-
14 cept for the purpose of construction of a refinery.

15 (2) SPECIAL RULES FOR CLOSED MILITARY IN-
16 STALLATIONS.—Paragraph (1) shall not apply to a
17 closed military installation. The management and
18 disposal of real property at a closed military installa-
19 tion, even a closed military installation or portion
20 thereof found to be suitable for the siting of a refin-
21 ery under subsection (b)(3), shall be carried out in
22 the manner provided by the base closure law applica-
23 ble to the installation.

1 (d) APPLICABILITY.—Section 102 shall only apply to
2 a refinery sited or proposed to be sited or expanded or
3 proposed to be expanded—

4 (1) in a State whose governor has requested ap-
5 plicability of such section pursuant to subsection (a);

6 (2) on a site (other than a closed military in-
7 stallation or portion thereof) designated by the
8 President under subsection (b);

9 (3) on a closed military installation, or portion
10 thereof, made available for the siting of a refinery in
11 the manner provided by the base closure law applica-
12 ble to the installation; or

13 (4) on a site leased by the Secretary of a mili-
14 tary department under section 2667 of title 10,
15 United States Code, or by the Secretary of Defense
16 under section 2667a of such title for the siting of a
17 refinery.

18 (e) DEFINITION.—For purposes of this section—

19 (1) the term “base closure law” means the De-
20 fense Base Closure and Realignment Act of 1990
21 (part A of title XXIX of Public Law 101–510; 10
22 U.S.C. 2687 note) and title II of the Defense Au-
23 thorization Amendments and Base Closure and Re-
24 alignment Act (Public Law 100–526; 10 U.S.C.
25 2687 note);

1 (2) the term “closed military installation”
 2 means a military installation closed or approved for
 3 closure pursuant to a base closure law;

4 (3) the term “Federal lands” means all land
 5 owned by the United States, except that such term
 6 does not include land—

7 (A) within the National Park System;

8 (B) within the National Wilderness Preser-
 9 vation System;

10 (C) designated as a National Monument;

11 or

12 (D) under the jurisdiction of the Depart-
 13 ment of Defense or withdrawn from the public
 14 domain for use by the Armed Forces (other
 15 than a closed military installation); and

16 (4) the term “State” means a State, the Dis-
 17 trict of Columbia, the Commonwealth of Puerto
 18 Rico, and any other territory or possession of the
 19 United States.

20 **SEC. 102. PROCESS COORDINATION AND RULES OF PROCE-**
 21 **DURE.**

22 (a) DEFINITION.—For purposes of this section and
 23 section 105, the term “Federal refinery authorization”—

24 (1) means any authorization required under
 25 Federal law, whether administered by a Federal or

1 State administrative agency or official, with respect
2 to siting, construction, expansion, or operation of a
3 refinery; and

4 (2) includes any permits, special use authoriza-
5 tions, certifications, opinions, or other approvals re-
6 quired under Federal law with respect to siting, con-
7 struction, expansion, or operation of a refinery.

8 (b) DESIGNATION AS LEAD AGENCY.—

9 (1) IN GENERAL.—The Department of Energy
10 shall act as the lead agency for the purposes of co-
11 ordinating all applicable Federal refinery authoriza-
12 tions and related environmental reviews with respect
13 to a refinery.

14 (2) OTHER AGENCIES.—Each Federal and
15 State agency or official required to provide a Fed-
16 eral refinery authorization shall cooperate with the
17 Secretary and comply with the deadlines established
18 by the Secretary.

19 (c) SCHEDULE.—

20 (1) SECRETARY'S AUTHORITY TO SET SCHED-
21 ULE.—The Secretary shall establish a schedule for
22 all Federal refinery authorizations with respect to a
23 refinery. In establishing the schedule, the Secretary
24 shall—

1 (A) ensure expeditious completion of all
2 such proceedings; and

3 (B) accommodate the applicable schedules
4 established by Federal law for such proceedings.

5 (2) FAILURE TO MEET SCHEDULE.—If a Fed-
6 eral or State administrative agency or official does
7 not complete a proceeding for an approval that is re-
8 quired for a Federal refinery authorization in ac-
9 cordance with the schedule established by the Sec-
10 retary under this subsection, the applicant may pur-
11 sue remedies under subsection (e).

12 (d) CONSOLIDATED RECORD.—The Secretary shall,
13 with the cooperation of Federal and State administrative
14 agencies and officials, maintain a complete consolidated
15 record of all decisions made or actions taken by the Sec-
16 retary or by a Federal administrative agency or officer (or
17 State administrative agency or officer acting under dele-
18 gated Federal authority) with respect to any Federal re-
19 finery authorization. Such record shall be the record for
20 judicial review under subsection (e) of decisions made or
21 actions taken by Federal and State administrative agen-
22 cies and officials, except that, if the Court determines that
23 the record does not contain sufficient information, the
24 Court may remand the proceeding to the Secretary for fur-
25 ther development of the consolidated record.

1 (e) JUDICIAL REVIEW.—

2 (1) IN GENERAL.—The United States Court of
3 Appeals for the District of Columbia shall have
4 original and exclusive jurisdiction over any civil ac-
5 tion for the review of—

6 (A) an order or action, related to a Federal
7 refinery authorization, by a Federal or State
8 administrative agency or official; and

9 (B) an alleged failure to act by a Federal
10 or State administrative agency or official acting
11 pursuant to a Federal refinery authorization.

12 The failure of an agency or official to act on a Fed-
13 eral refinery authorization in accordance with the
14 Secretary's schedule established pursuant to sub-
15 section (c) shall be considered inconsistent with Fed-
16 eral law for the purposes of paragraph (2) of this
17 subsection.

18 (2) COURT ACTION.—If the Court finds that an
19 order or action described in paragraph (1)(A) is in-
20 consistent with the Federal law governing such Fed-
21 eral refinery authorization, or that a failure to act
22 as described in paragraph (1)(B) has occurred, and
23 the order, action, or failure to act would prevent the
24 siting, construction, expansion, or operation of the
25 refinery, the Court shall remand the proceeding to

1 the agency or official to take appropriate action con-
2 sistent with the order of the Court. If the Court re-
3 mands the order, action, or failure to act to the Fed-
4 eral or State administrative agency or official, the
5 Court shall set a reasonable schedule and deadline
6 for the agency or official to act on remand.

7 (3) SECRETARY'S ACTION.—For any civil action
8 brought under this subsection, the Secretary shall
9 promptly file with the Court the consolidated record
10 compiled by the Secretary pursuant to subsection
11 (d).

12 (4) EXPEDITED REVIEW.—The Court shall set
13 any civil action brought under this subsection for ex-
14 pedited consideration.

15 (5) ATTORNEY'S FEES.—In any action chal-
16 lenging a Federal refinery authorization that has
17 been granted, reasonable attorney's fees and other
18 expenses of litigation shall be awarded to the pre-
19 vailing party. This paragraph shall not apply to any
20 action seeking remedies for denial of a Federal refin-
21 ery authorization or failure to act on an application
22 for a Federal refinery authorization.

1 **SEC. 103. REFINERY REVITALIZATION REPEAL.**

2 Subtitle H of title III of the Energy Policy Act of
3 2005 and the items relating thereto in the table of con-
4 tents of such Act are repealed.

5 **SEC. 104. STANDBY SUPPORT FOR REFINERIES.**

6 (a) DEFINITION.—For purposes of this section, the
7 term “authorization” means any authorization or permit
8 required under State or Federal law.

9 (b) CONTRACT AUTHORITY.—

10 (1) IN GENERAL.—The Secretary may enter
11 into contracts under this section with non-Federal
12 entities that the Secretary determines, at the sole
13 discretion of the Secretary, to be the first non-Fed-
14 eral entities to enter into firm contracts after the
15 date of enactment of this Act to construct new refin-
16 eries in the United States or refurbish and return to
17 commercial operation existing but nonoperating re-
18 fineries in the United States. The Secretary may
19 enter into contracts under this section with respect
20 to new refineries or refurbished refineries that add
21 a total of no more than 2,000,000 barrels per day
22 of refining capacity to the refining capacity of the
23 United States as in existence on the date of enact-
24 ment of this Act.

25 (2) CONDITIONS.—Except as provided in para-
26 graphs (4) and (5), under a contract authorized

1 under paragraph (1), the Secretary shall pay to the
2 non-Federal entity the costs specified in paragraph
3 (3), using funds deposited in the Standby Refinery
4 Support Account established under subsection (c),
5 if—

6 (A) the non-Federal entity has substan-
7 tially completed construction of the new refinery
8 or the refurbished refinery and the initial com-
9 mercial operation of the new refinery or of the
10 refurbished refinery is delayed because of—

11 (i) litigation that could not have been
12 reasonably foreseen by the non-Federal en-
13 tity at the time the non-Federal entity en-
14 tered into the firm contract to construct;
15 or

16 (ii) a failure of an agency of the Fed-
17 eral Government or of a State government
18 to grant an authorization within a period
19 specified in the contract authorized by this
20 section; or

21 (B) the throughput level of commercial op-
22 eration of the new or refurbished refinery is
23 substantially reduced due to—

1 (i) State or Federal law or regulations
2 enacted or implemented after the firm con-
3 tract was entered into; or

4 (ii) litigation, that could not have
5 been reasonably foreseen by the non-Fed-
6 eral entity, disputing actions taken by the
7 non-Federal entity to conform with and
8 satisfy Federal law or regulations enacted
9 or implemented after the firm contract was
10 entered into.

11 (3) COVERED COSTS.—Under a contract au-
12 thorized under this section, the Secretary shall
13 pay—

14 (A) in the case of a delay described in
15 paragraph (2)(A), all costs of the delay in the
16 initial commercial operation of a new refining
17 or a refurbished refinery, including the prin-
18 cipal or interest due on any debt obligation of
19 the new refinery or of the refurbished refinery
20 during the delay, and any consequential dam-
21 ages; and

22 (B) in the case of a substantial reduction
23 described in paragraph (2)(B), all costs nec-
24 essary to offset the costs of the reduced

1 throughput and the costs of complying with the
2 new State or Federal law or regulations.

3 (4) COSTS NOT COVERED.—The Secretary shall
4 not enter into a contract under this section that
5 would obligate the Secretary to pay any costs result-
6 ing from—

7 (A) except as provided in paragraph
8 (3)(B), a failure of the non-Federal entity to
9 take any action required by law or regulation;
10 or

11 (B) events within the control of the non-
12 Federal entity.

13 (5) DEPOSIT.—The Secretary shall not enter
14 into a contract authorized under this section until
15 the Secretary has deposited into the Standby Refin-
16 ery Support Account amounts sufficient to cover the
17 costs specified in paragraph (3).

18 (c) STANDBY REFINERY SUPPORT ACCOUNT.—There
19 is established in the Treasury an account known as the
20 Standby Refinery Support Account. The Secretary shall
21 deposit into this account amounts appropriated, in ad-
22 vance of entering into a contract authorized by this sec-
23 tion, to the Secretary for the purpose of carrying out this
24 section and payments paid to the Secretary by any non-
25 Federal source for the purpose of carrying out this section.

1 The Secretary may receive and accept payments from any
2 non-Federal source, which shall be made available without
3 further appropriation for the payment of the covered costs.

4 (d) REGULATIONS.—The Secretary may issue regula-
5 tions necessary or appropriate to carry out this section.

6 (e) REPORTS.—The Secretary shall file with Con-
7 gress annually a report of the Secretary’s activities under
8 this section and the activities of the non-Federal entity
9 under any contract entered into under this section.

10 (f) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary such
12 sums as are necessary to carry out this section.

13 (g) APPLICABILITY.—This section shall only apply to
14 refineries sited or proposed to be sited—

15 (1) in a State whose governor has requested ap-
16 plicability of this section pursuant to section
17 101(a)(1); or

18 (2) on a site designated by the President under
19 section 101(b).

20 **SEC. 105. MILITARY USE REFINERY.**

21 (a) AUTHORIZATION.—If the President determines
22 that there is not sufficient refining capacity in the United
23 States, the President may authorize the design and con-
24 struction of a refinery that will be—

25 (1) located at a site—

1 (A) designated by the President under sec-
2 tion 101(b), other than a closed military instal-
3 lation or portion thereof; or

4 (B) on a closed military installation, or
5 portion thereof, made available for the siting of
6 a refinery in the manner provided by the base
7 closure law applicable to the installation;

8 (2) disposed of in the manner provided in para-
9 graph (1) of section 101(c) or, in the case of a
10 closed military installation, or portion thereof, para-
11 graph (2) of such section; and

12 (3) reserved for the exclusive purpose of manu-
13 facturing petroleum products for consumption by the
14 Armed Forces.

15 (b) SOLICITATION FOR DESIGN, CONSTRUCTION, AND
16 OPERATION.—The President shall solicit proposals for the
17 design, construction, and operation of a refinery (or any
18 combination thereof) under this section. In selecting a pro-
19 posal or proposals under this subsection, the President
20 shall consider—

21 (1) the ability of the applicant to undertake and
22 complete the project;

23 (2) the extent to which the applicant's proposal
24 serves the purposes of the project; and

1 (3) the ability of the applicant to best satisfy
2 the criteria set forth in subsection (c).

3 (c) REFINERY CRITERIA.—A refinery constructed
4 under this section shall meet or exceed the industry aver-
5 age for—

6 (1) construction efficiencies; and

7 (2) operational efficiencies, including cost effi-
8 ciencies.

9 (d) USE OF PRODUCTS.—All petroleum products
10 manufactured at a refinery constructed under this section
11 shall be sold to the Federal Government, at a price not
12 to exceed the fair market value of the petroleum products,
13 for use by the Armed Forces of the United States.

14 (e) FUNDING.—A contract for the design or construc-
15 tion of a refinery may not be entered into under this sec-
16 tion in advance of the appropriation of funds sufficient
17 for such purpose. Funds appropriated for the Department
18 of Defense or for Department of Energy national security
19 programs may not be used to enter into contracts under
20 this section for the design, construction, or operation of
21 a refinery. Funds appropriated for the Department of De-
22 fense may be used to purchase petroleum products manu-
23 factured at a refinery constructed under this section for
24 use by the Armed Forces.

1 (f) DEFINITIONS.—For purposes of this section, the
2 terms “base closure law” and “closed military installa-
3 tion” have the meanings given those terms in section 101.

4 **SEC. 106. WAIVER AUTHORITY FOR EXTREME FUEL SUPPLY**
5 **EMERGENCIES.**

6 Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C.
7 7545) is amended—

8 (1) by redesignating the second clause (v) as
9 clause (viii);

10 (2) by redesignating clause (v) as clause (vii);

11 (3) by inserting after clause (iv) the following:

12 “(v)(I) For the purpose of alleviating an extreme and
13 unusual fuel or fuel additive supply emergency resulting
14 from a natural disaster, the President, in consultation
15 with the Administrator and the Secretary of Energy may
16 temporarily waive any control or prohibition respecting the
17 use of a fuel or fuel additive required by this subsection
18 or by subsection (h), (i), (k), or (m); and may, with respect
19 to a State implementation plan, temporarily waive any
20 equivalent control or prohibition respecting the use of a
21 fuel or fuel additive required by this subparagraph. Noth-
22 ing in this clause shall be construed to authorize the waiv-
23 er of, or to affect in any way, any Federal or State law
24 or regulation pertaining to ethanol or methyl tertiary butyl
25 ether.

1 “(II) The effective period of a waiver under this
2 clause shall be the time period necessary to permit the
3 correction of the extreme and unusual fuel or fuel additive
4 supply emergency caused by the natural disaster, except
5 that such period shall not be longer than 90 days.

6 “(III) A temporary waiver issued under this clause
7 shall not permit an alteration of the properties of the fuel
8 to the extent that the use of the fuel prevents the normal
9 functioning of the vehicle, engine, component, system, or
10 equipment in which the fuel is used or would materially
11 degrade such functioning over the useful life of the vehicle,
12 engine, component, system, or equipment.”; and

13 (4) by inserting after clause (v) (as inserted by
14 paragraph (3)) the following:

15 “(vi) A State shall not be subject to any finding, dis-
16 approval, or determination by the Administrator under
17 section 179, no person may bring an action against a
18 State or the Administrator under section 304, and the Ad-
19 ministrator shall not take any action under section 110(c)
20 to require the revision of an applicable implementation
21 plan, because of any emissions attributable to a waiver
22 granted by the Administrator under clause (ii) or by the
23 President under clause (v).”.

1 **SEC. 107. LIST OF FUELS.**

2 (a) LIST OF FUELS.—Section 211(c)(4)(C) of the
3 Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended as
4 follows:

5 (1) By redesignating subclause (VI) of clause
6 (viii) (as so redesignated by section 107(1) of this
7 Act) as clause (x).

8 (2) In such redesignated clause (x) by striking
9 “this clause” and inserting “clause (viii) or clause
10 (ix)”.

11 (3) By inserting the following new subclause at
12 the end of clause (viii) (as so redesignated by section
13 107(1) of this Act):

14 “(VI) The provisions of this clause, including the lim-
15 itations of the authority of the Administrator and the limit
16 on the total number of fuels permitted, shall remain in
17 effect until the publication of the list under subclause (III)
18 of clause (ix).”.

19 (4) By inserting the following new clause after
20 clause (viii) (as so redesignated):

21 “(ix)(I) The Administrator, in coordination with the
22 Secretary of Energy (hereinafter in this clause referred
23 to as the ‘Secretary’), shall identify and publish in the
24 Federal Register, within 12 months after the enactment
25 of this subclause and after notice and opportunity for pub-
26 lic comment, a list of 6 gasoline and diesel fuels to be

1 used in States that have not received a waiver under sec-
2 tion 209(b) of this Act or any State dependent on refin-
3 eries in such State for gasoline or diesel fuel supplies. The
4 list shall be referred to as the ‘Federal Fuels List’ and
5 shall include one Federal diesel fuel, one other diesel fuel,
6 one conventional gasoline for ozone attainment areas, one
7 reformulated gasoline (RFG) meeting the requirements of
8 subsection (k), and 2 additional gasolines with Reid vapor
9 pressure (RVP) controls for use in ozone nonattainment
10 areas of varying degrees of severity. None of the fuels
11 identified under this subclause shall control fuel sulfur or
12 toxics levels beyond levels required by regulations of the
13 Administrator.

14 “(II) Gasoline and diesel fuels shall be included on
15 the Federal Fuels List based on the Administrator’s anal-
16 ysis of their ability to reduce ozone emissions to assist
17 States in attaining established ozone standards under this
18 Act, and on an analysis by the Secretary that the adoption
19 of the Federal Fuels List will not result in a reduction
20 in supply or in producibility, including that caused by a
21 reduction in domestic refining capacity triggered by this
22 clause. In the event the Secretary concludes that adoption
23 of the Federal Fuels List will result in a reduction in sup-
24 ply or in producibility, the Administrator and the Sec-
25 retary shall report that conclusion to Congress, and sus-

1 pend implementation of this clause. The Administrator
2 and the Secretary shall conduct the study required under
3 section 1541(c) of the Energy Policy Act of 2005 on the
4 timetable required in that section to provide Congress with
5 legislative recommendations for modifications to the pro-
6 posed Federal Fuels List only if the Secretary concludes
7 that adoption of the Federal Fuels List will result in a
8 reduction in supply or in producibility.

9 “(III) Upon publication of the Federal Fuels List,
10 the Administrator shall have no authority, when consid-
11 ering a State implementation plan or State implementa-
12 tion plan revision, to approve under this subparagraph any
13 fuel included in such plan or plan revision if the fuel pro-
14 posed is not one of the fuels included on the Federal Fuels
15 List; or to approve such plan or revision unless, after con-
16 sultation with the Secretary, the Administrator publishes
17 in the Federal Register, after notice and opportunity for
18 public comment, a finding that, in the Administrator’s
19 judgment, such revisions to newly adopt one of the fuels
20 included on the Federal Fuels List will not cause fuel sup-
21 ply or distribution interruptions or have a significant ad-
22 verse impact on fuel producibility in the affected area or
23 contiguous area. The Administrator’s findings shall in-
24 clude an assessment of reasonably foreseeable supply dis-
25 tribution emergencies that could occur in the affected area

1 or contiguous area and how adoption of the particular fuel
2 revision would effect supply opportunities during reason-
3 ably foreseeable supply distribution emergencies.

4 “(IV) The Administrator, in consultation with the
5 Secretary, shall develop a plan to harmonize the currently
6 approved fuels in State implementation plans with the
7 fuels included on the Federal Fuels List and shall promul-
8 gate implementing regulations for this plan not later than
9 18 months after enactment of this subclause. This harmo-
10 nization shall be fully implemented by the States by De-
11 cember 31, 2008.”.

12 (b) STUDY.—Section 1541(c)(2) of the Energy Policy
13 Act of 2005 is amended to read as follows:

14 “(2) FOCUS OF STUDY.—The primary focus of
15 the study required under paragraph (1) shall be to
16 determine how to develop a Federal fuels system
17 that maximizes motor fuel fungibility and supply,
18 preserves air quality standards, and reduces motor
19 fuel price volatility that results from the prolifera-
20 tion of boutique fuels, and to recommend to Con-
21 gress such legislative changes as are necessary to
22 implement such a system. The study should include
23 the impacts on overall energy supply, distribution,
24 and use as a result of the legislative changes rec-
25 ommended. The study should include an analysis of

1 the impact on ozone emissions and supply of a man-
 2 datory reduction in the number of fuels to 6, includ-
 3 ing one Federal diesel fuel, one other diesel fuel, one
 4 conventional gasoline for ozone attainment areas,
 5 one reformulated gasoline (RFG) meeting the re-
 6 quirements of subsection (k), and 2 additional gaso-
 7 lines with Reid vapor pressure (RVP) controls for
 8 use in ozone nonattainment areas of varying degrees
 9 of severity.”.

10 **SEC. 108. ATTAINMENT DATES FOR DOWNWIND OZONE**
 11 **NONATTAINMENT AREAS.**

12 Section 181 of the Clean Air Act (42 U.S.C. 7511)
 13 is amended by adding the following new subsection at the
 14 end thereof:

15 “(d) EXTENDED ATTAINMENT DATE FOR CERTAIN
 16 DOWNWIND AREAS.—

17 “(1) DEFINITIONS.—In this subsection:

18 “(A) The term ‘upwind area’ means an
 19 area that—

20 “(i) affects nonattainment in another
 21 area, hereinafter referred to as a downwind
 22 area; and

23 “(ii) is either—

1 “(I) a nonattainment area with a
2 later attainment date than the down-
3 wind area, or

4 “(II) an area in another State
5 that the Administrator has found to
6 be significantly contributing to non-
7 attainment in the downwind area in
8 violation of section 110(a)(2)(D) and
9 for which the Administrator has es-
10 tablished requirements through notice
11 and comment rulemaking to eliminate
12 the emissions causing such significant
13 contribution.

14 “(B) The term ‘current classification’
15 means the classification of a downwind area
16 under this section at the time of the determina-
17 tion under paragraph (2).

18 “(2) EXTENSION.—Notwithstanding the provi-
19 sions of subsection (b)(2) of this section, a down-
20 wind area that is not in attainment within 18
21 months of the attainment deadline required under
22 this section may seek an extension of time to come
23 into attainment by petitioning the Administrator for
24 such an extension. If the Administrator—

1 “(A) determines that any area is a down-
2 wind area with respect to a particular national
3 ambient air quality standard for ozone;

4 “(B) approves a plan revision for such
5 area as provided in paragraph (3) prior to a re-
6 classification under subsection (b)(2)(A); and

7 “(C) determines that the petitioning down-
8 wind area has demonstrated that it is affected
9 by transport from an upwind area to a degree
10 that affects the area’s ability to attain,
11 the Administrator, in lieu of such reclassification,
12 may extend the attainment date for such downwind
13 area for such standard in accordance with paragraph
14 (5).

15 “(3) APPROVAL.—In order to extend the attain-
16 ment date for a downwind area under this sub-
17 section, the Administrator may approve a revision of
18 the applicable implementation plan for the downwind
19 area for such standard that—

20 “(A) complies with all requirements of this
21 Act applicable under the current classification
22 of the downwind area, including any require-
23 ments applicable to the area under section
24 172(c) for such standard;

1 “(B) includes any additional measures
2 needed to demonstrate attainment by the ex-
3 tended attainment date provided under this
4 subsection, and provides for implementation of
5 those measures as expeditiously as practicable;
6 and

7 “(C) provides appropriate measures to en-
8 sure that no area downwind of the area receiv-
9 ing the extended attainment date will be af-
10 fected by transport to a degree that affects the
11 area’s ability to attain, from the area receiving
12 the extension.

13 “(4) PRIOR RECLASSIFICATION DETERMINA-
14 TION.—If, after April 1, 2003, and prior to the time
15 the 1-hour ozone standard no longer applies to a
16 downwind area, the Administrator made a reclassi-
17 fication determination under subsection (b)(2)(A)
18 for such downwind area, and the Administrator ap-
19 proves a plan consistent with subparagraphs (A) and
20 (B) for such area, the reclassification shall be with-
21 drawn and, for purposes of implementing the 8-hour
22 ozone national ambient air quality standard, the
23 area shall be treated as if the reclassification never
24 occurred. Such plan must be submitted no later than

1 12 months following enactment of this subsection,
2 and—

3 “(A) the plan revision for the downwind
4 area must comply with all control and planning
5 requirements of this Act applicable under the
6 classification that applied immediately prior to
7 reclassification, including any requirements ap-
8 plicable to the area under section 172(c) for
9 such standard; and

10 “(B) the plan must include any additional
11 measures needed to demonstrate attainment no
12 later than the date on which the last reductions
13 in pollution transport that have been found by
14 the Administrator to significantly contribute to
15 nonattainment are required to be achieved by
16 the upwind area or areas.

17 The attainment date extended under this subsection
18 shall provide for attainment of such national ambi-
19 ent air quality standard for ozone in the downwind
20 area as expeditiously as practicable but no later than
21 the end of the first complete ozone season following
22 the date on which the last reductions in pollution
23 transport that have been found by the Administrator
24 to significantly contribute to nonattainment are re-
25 quired to be achieved by the upwind area or areas.

1 “(5) EXTENDED DATE.—The attainment date
2 extended under this subsection shall provide for at-
3 tainment of such national ambient air quality stand-
4 ard for ozone in the downwind area as expeditiously
5 as practicable but no later than the new date that
6 the area would have been subject to had it been re-
7 classified under subsection (b)(2).

8 “(6) RULEMAKING.—Within 12 months after
9 the enactment of this subsection, the Administrator
10 shall, through notice and comment, promulgate rules
11 to define the term ‘affected by transport to a degree
12 that affects an areas ability to attain’ in order to en-
13 sure that downwind areas are not unjustly penalized,
14 and for purposes of paragraphs (2) and (3) of this
15 subsection.”.

16 **SEC. 109. REBATES FOR SALES OF ROYALTY-IN-KIND OIL TO**
17 **QUALIFIED SMALL REFINERIES.**

18 (a) REQUIREMENT.—The Secretary of the Interior
19 shall issue and begin implementing regulations by not
20 later than 60 days after the date of the enactment of this
21 Act, under which the Secretary of the Interior shall pay
22 to a qualified small refinery a rebate for any sale to the
23 qualified small refinery of crude oil obtained by the United
24 States as royalty-in-kind.

1 (b) AMOUNT OF REBATE.—The amount of any rebate
 2 paid pursuant to this section with respect to any sale of
 3 crude oil to a qualified small refinery—

4 (1) shall reflect the actual costs of transporting
 5 such oil from the point of origin to the qualified
 6 small refinery; and

7 (2) shall not exceed \$4.50 per barrel of oil sold.

8 (c) SUBJECT TO APPROPRIATIONS.—The require-
 9 ment to pay rebates under this section is subject to the
 10 availability of funds provided in advance in appropriations
 11 Acts.

12 (d) TERMINATION.—This section and any regulations
 13 issued under this section shall not apply on and after any
 14 date on which the Secretary of Energy determines that
 15 United States domestic refining capacity is sufficient.

16 (e) QUALIFIED SMALL REFINERY DEFINED.—In this
 17 section the term “qualified small refinery” means a refin-
 18 ery of a small business refiner (as that term is defined
 19 in section 45H(c)(1) of the Internal Revenue Code of
 20 1986) that demonstrates to the Secretary of the Interior
 21 that it had unused crude oil processing capacity in 2004.

22 **SEC. 110. STUDY AND REPORT RELATING TO STREAM-**
 23 **LINING PAPERWORK REQUIREMENTS.**

24 (a) STUDY.—The Administrator shall study ways to
 25 streamline the paperwork requirements associated with

1 title V of the Clean Air Act and corresponding require-
2 ments under State laws, particularly with regard to States
3 that have more stringent requirements than the Federal
4 Government in this area.

5 (b) REPORT.—Not later than one year after the date
6 of the enactment of this Act, the Administrator shall re-
7 port to Congress the results of the study made under sub-
8 section (a), together with recommendations on how to
9 streamline those paperwork requirements.

10 **SEC. 111. RESPONSE TO BIOMASS DEBRIS EMERGENCY.**

11 (a) USE OF BIOMASS DEBRIS AS FUEL.—Notwith-
12 standing any other provision of law, the Secretary of En-
13 ergy may authorize any facility to use as fuel biomass de-
14bris if—

15 (1) the debris results from a major disaster de-
16 clared in accordance with section 401 of the Robert
17 T. Stafford Disaster Relief and Emergency Assist-
18 ance Act (42 U.S.C. 5170);

19 (2) the debris is located in the area for which
20 the major disaster is declared; and

21 (3) the requirements of subsection (b) are met.

22 (b) CERTIFICATION.—A facility described in sub-
23 section (a)—

24 (1) shall certify to the State in which the facil-
25 ity is located that no significant impact on meeting

1 national ambient air quality standards will result
 2 and shall propose emission limits adequate to sup-
 3 port such certification; and

4 (2) may begin burning biomass debris fuel upon
 5 filing the certification required by paragraph (1) un-
 6 less the State notifies the facility to the contrary.

7 (c) EMISSION LIMITS.—The State in which a facility
 8 described in subsection (a) is located shall—

9 (1) adopt (or as appropriate amend) the pro-
 10 posed emission limits for the biomass burning at the
 11 facility; and

12 (2) retain other existing emissions limits wher-
 13 ever they are necessary and reasonable.

14 (d) NEW SOURCE REVIEW.—No activities needed to
 15 qualify a facility to burn biomass debris as fuel in accord-
 16 ance with this section shall trigger the requirements of
 17 new source review or new source performance standards
 18 under the Clean Air Act.

19 **TITLE II—INCREASING** 20 **DELIVERY INFRASTRUCTURE**

21 **SEC. 201. FEDERAL-STATE REGULATORY COORDINATION.**

22 (a) GOVERNOR’S REQUEST.—The Governor of a
 23 State may submit a request to the Commission for the
 24 application of process coordination and rules of procedure

1 under section 202 to the siting of a crude oil or refined
 2 petroleum product pipeline facility in that State.

3 (b) APPLICABILITY.—Section 202 shall only apply to
 4 crude oil or refined petroleum product pipeline facilities
 5 sited or proposed to be sited in a State whose Governor
 6 has requested such applicability under subsection (a).

7 (c) INTERSTATE COMPACTS.—(1) The consent of
 8 Congress is given for 2 or more contiguous States to enter
 9 into an interstate compact, subject to approval by Con-
 10 gress, establishing regional pipeline siting agencies to fa-
 11 cilitate siting of future crude oil or refined petroleum
 12 product pipeline facilities within those States.

13 (2) The Secretary may provide technical assistance
 14 to regional pipeline siting agencies established under this
 15 subsection.

16 **SEC. 202. PROCESS COORDINATION AND RULES OF PROCE-**
 17 **DURE.**

18 (a) DEFINITIONS.—For purposes of this title—

19 (1) the term “Commission” means the Federal
 20 Energy Regulatory Commission; and

21 (2) the term “Federal pipeline authorization”—

22 (A) means any authorization required
 23 under Federal law, whether administered by a
 24 Federal or State administrative agency or offi-
 25 cial, with respect to siting of a crude oil or re-

1 refined petroleum product pipeline facility in
2 interstate commerce; and

3 (B) includes any permits, special use au-
4 thorizations, certifications, opinions, or other
5 approvals required under Federal law with re-
6 spect to siting of a crude oil or refined petro-
7 leum product pipeline facility in interstate com-
8 merce.

9 (b) DESIGNATION AS LEAD AGENCY.—

10 (1) IN GENERAL.—The Commission shall act as
11 the lead agency for the purposes of coordinating all
12 applicable Federal pipeline authorizations and re-
13 lated environmental reviews with respect to a crude
14 oil or refined petroleum product pipeline facility.

15 (2) OTHER AGENCIES.—Each Federal and
16 State agency or official required to provide Federal
17 pipeline authorization shall cooperate with the Com-
18 mission and comply with the deadlines established by
19 the Commission.

20 (c) SCHEDULE.—

21 (1) COMMISSION'S AUTHORITY TO SET SCHED-
22 ULE.—The Commission shall establish a schedule
23 for all Federal pipeline authorizations with respect
24 to a crude oil or refined petroleum product pipeline

1 facility. In establishing the schedule, the Commission
2 shall—

3 (A) ensure expeditious completion of all
4 such proceedings; and

5 (B) accommodate the applicable schedules
6 established by Federal law for such proceedings.

7 (2) FAILURE TO MEET SCHEDULE.—If a Fed-
8 eral or State administrative agency or official does
9 not complete a proceeding for an approval that is re-
10 quired for a Federal pipeline authorization in ac-
11 cordance with the schedule established by the Com-
12 mission under this subsection, the applicant may
13 pursue remedies under subsection (e).

14 (d) CONSOLIDATED RECORD.—The Commission
15 shall, with the cooperation of Federal and State adminis-
16 trative agencies and officials, maintain a complete consoli-
17 dated record of all decisions made or actions taken by the
18 Commission or by a Federal administrative agency or offi-
19 cer (or State administrative agency or officer acting under
20 delegated Federal authority) with respect to any Federal
21 pipeline authorization. Such record shall be the record for
22 judicial review under subsection (e) of decisions made or
23 actions taken by Federal and State administrative agen-
24 cies and officials, except that, if the Court determines that
25 the record does not contain sufficient information, the

1 Court may remand the proceeding to the Commission for
2 further development of the consolidated record.

3 (e) JUDICIAL REVIEW.—

4 (1) IN GENERAL.—The United States Court of
5 Appeals for the District of Columbia shall have
6 original and exclusive jurisdiction over any civil ac-
7 tion for the review of—

8 (A) an order or action related to a Federal
9 pipeline authorization by a Federal or State ad-
10 ministrative agency or official; and

11 (B) an alleged failure to act by a Federal
12 or State administrative agency or official acting
13 pursuant to a Federal pipeline authorization.

14 The failure of an agency or official to act on a Fed-
15 eral pipeline authorization in accordance with the
16 Commission's schedule established pursuant to sub-
17 section (c) shall be considered inconsistent with Fed-
18 eral law for the purposes of paragraph (2) of this
19 subsection.

20 (2) COURT ACTION.—If the Court finds that an
21 order or action described in paragraph (1)(A) is in-
22 consistent with the Federal law governing such Fed-
23 eral pipeline authorization, or that a failure to act
24 as described in paragraph (1)(B) has occurred, and
25 the order, action, or failure to act would prevent the

1 siting of the crude oil or refined petroleum product
2 pipeline facility, the Court shall remand the pro-
3 ceeding to the agency or official to take appropriate
4 action consistent with the order of the Court. If the
5 Court remands the order, action, or failure to act to
6 the Federal or State administrative agency or offi-
7 cial, the Court shall set a reasonable schedule and
8 deadline for the agency or official to act on remand.

9 (3) COMMISSION'S ACTION.—For any civil ac-
10 tion brought under this subsection, the Commission
11 shall promptly file with the Court the consolidated
12 record compiled by the Commission pursuant to sub-
13 section (d).

14 (4) EXPEDITED REVIEW.—The Court shall set
15 any civil action brought under this subsection for ex-
16 pedited consideration.

17 (5) ATTORNEY'S FEES.—In any action chal-
18 lenging a Federal pipeline authorization that has
19 been granted, reasonable attorney's fees and other
20 expenses of litigation shall be awarded to the pre-
21 vailing party. This paragraph shall not apply to any
22 action seeking remedies for denial of a Federal pipe-
23 line authorization or failure to act on an application
24 for a Federal pipeline authorization.

1 **SEC. 203. BACKUP POWER CAPACITY STUDY.**

2 Not later than 6 months after the date of enactment
3 of this Act, the Secretary shall transmit to the Congress
4 a report assessing the adequacy of backup power capacity
5 in place as of the date of enactment of this Act, and the
6 need for any additional capacity, to provide for the con-
7 tinuing operation during any reasonably foreseeable emer-
8 gency situation, of those crude oil or refined petroleum
9 product pipeline facilities that the Secretary finds to be
10 significant to the Nation's supply needs, in areas that have
11 historically been subject to higher incidents of natural dis-
12 asters such as hurricanes, earthquakes, and tornados.

13 **SEC. 204. SUNSET OF LOAN GUARANTEES.**

14 Section 116(a) of the Alaska Natural Gas Pipeline
15 Act is amended by adding at the end the following new
16 paragraph:

17 “(4) The Secretary shall not enter into an agreement
18 under paragraph (1) or (2) after the date that is 24
19 months after the date of enactment of the Gasoline for
20 America's Security Act of 2005 if the State of Alaska has
21 not entered into an agreement pursuant to the Alaska
22 Stranded Gas Development Act which in good faith con-
23 tractually binds the parties to deliver North Slope natural
24 gas to markets via the proposed Alaska Natural Gas Pipe-
25 line.”.

1 **SEC. 205. OFFSHORE PIPELINES.**

2 The Natural Gas Act is amended—

3 (1) in section 1(b) 15 U.S.C. 717(b)) by insert-
4 ing after “to the production or” the following: “, ex-
5 cept as provided in section 4(g),”; and

6 (2) in section 4 (15 U.S.C. 717(b)) by adding
7 at the end the following:

8 “(g)(1) For the purposes of this subsection—

9 “(A) the term ‘gas service provider’ means an
10 entity that operates a facility located in the outer
11 Continental Shelf that is used to gather or transport
12 natural gas on or across the outer Continental Shelf;
13 and

14 “(B) the term ‘outer Continental Shelf’ has the
15 meaning given that term in section 2(a) of the Outer
16 Continental Shelf Lands Act (43 U.S.C. 1331(a)).

17 “(2) All gas service providers shall submit to the
18 Commission annually the conditions of service for each
19 shipper served, consisting of—

20 “(A) the full legal name of the shipper receiving
21 service;

22 “(B) a notation of shipper affiliation;

23 “(C) the type of service provided;

24 “(D) primary receipt points;

25 “(E) primary delivery points;

26 “(F) rates between each pair of points; and

1 “(G) other conditions of service deemed rel-
2 evant by the gas service provider.

3 “(3) This subsection shall not apply to—

4 “(A) a gas service provider that serves exclu-
5 sively a single entity (either itself or one other
6 party), until such time as—

7 “(i) the gas service provider agrees to
8 serve a second shipper; or

9 “(ii) a determination is made that the gas
10 service provider’s denial of a request for service
11 is unjustified;

12 “(B) a gas service provider that serves exclu-
13 sively shippers with ownership interests in both the
14 pipeline operated by the gas service provider and the
15 gas produced from a field or fields connected to a
16 single pipeline, until such time as—

17 “(i) the gas service provider offers to serve
18 a nonowner shipper; or

19 “(ii) a determination is made that the gas
20 service provider’s denial of a request for service
21 is unjustified;

22 “(C) service rendered over facilities that feed
23 into a facility where natural gas is first collected,
24 separated, dehydrated, or otherwise processed; and

1 “(D) gas service providers’ facilities and service
2 regulated by the Commission under section 7 of this
3 Act.

4 “(4) When a gas service provider subject to this sub-
5 section alters its affiliates, customers, rates, conditions of
6 service, or facilities, within any calendar quarter, it must
7 then file with the Commission, on the first business day
8 of the subsequent quarter, a revised report describing the
9 status of its services and facilities.”.

10 **SEC. 206. SAVINGS CLAUSE.**

11 Nothing in this title shall be construed to amend,
12 alter, or in any way affect the jurisdiction or responsibil-
13 ities of the Department of Transportation with respect to
14 pipeline safety issues under chapter 601 of title 49, United
15 States Code, or any other law.

16 **TITLE III—CONSERVATION AND**
17 **EDUCATION**

18 **SEC. 301. DEPARTMENT OF ENERGY CARPOOLING AND**
19 **VANPOOLING PROGRAM.**

20 (a) FINDINGS.—Congress finds the following:

21 (1) Metropolitan transit organizations have re-
22 ported heightened interest in carpooling and van-
23 pooling projects in light of recent increases in gaso-
24 line prices.

1 (2) The National Transportation Database re-
2 ports that, in 2003, American commuters traveled
3 over 440,000 miles using public transportation van-
4 pools, an increase of 60 percent since 1996.

5 (3) According to the Natural Resource Defense
6 Council, if each commuter car carried just one more
7 passenger once a week, American gasoline consump-
8 tion would be reduced by about 2 percent.

9 (b) ESTABLISHMENT OF PROGRAM.—The Secretary
10 shall establish and carry out a program to encourage the
11 use of carpooling and vanpooling to reduce the consump-
12 tion of gasoline. The program shall focus on carpool and
13 vanpool operations, outreach activities, and marketing
14 programs, including utilization of the Internet for mar-
15 keting and outreach.

16 (c) GRANTS TO STATE AND LOCAL GOVERNMENTS.—
17 As part of the program established under subsection (b),
18 the Secretary may make grants to State and local govern-
19 ments for carpooling or vanpooling projects. The Secretary
20 may make such a grant only if at least 50 percent of the
21 costs of the project will be provided by the State or local
22 government. If a private sector entity provides vehicles for
23 use in a carpooling or vanpooling project supported under
24 this subsection, the value of those vehicles may be counted
25 as part of the State or local contribution to the project.

1 (d) CONSIDERATIONS.—In making grants for
2 projects under subsection (c), the Secretary shall consider
3 each of the following:

4 (1) The potential of the project to promote oil
5 conservation.

6 (2) The contribution of the project to State or
7 local disaster evacuation plans.

8 (3) Whether the area in which the project is lo-
9 cated is a nonattainment area (as that term is de-
10 fined in section 171 of the Clean Air Act (42 U.S.C.
11 7501)).

12 **SEC. 302. EVALUATION AND ASSESSMENT OF CARPOOL AND**
13 **VANPOOL PROJECTS.**

14 (a) IN GENERAL.—The Administrator, in consulta-
15 tion with the Secretary, shall evaluate and assess carpool
16 and vanpool projects funded under the congestion mitiga-
17 tion and air quality program established under section 149
18 of title 23, United States Code, to—

19 (1) reduce consumption of gasoline;

20 (2) determine the direct and indirect impact of
21 the projects on air quality and congestion levels; and

22 (3) ensure the effective implementation of the
23 projects under such program.

24 (b) REPORT.—Not later than 180 days after the date
25 of enactment of this Act, the Administrator, in consulta-

1 tion with the Secretary, shall submit to Congress a report
2 including recommendations and findings that would im-
3 prove the operation and evaluation of carpool and vanpool
4 projects funded under the congestion mitigation and air
5 quality improvement program and shall make such report
6 available to all State and local metropolitan planning orga-
7 nizations.

8 **SEC. 303. INTERNET UTILIZATION STUDY.**

9 (a) IN GENERAL.—The Secretary, under the program
10 established in section 301, shall evaluate the capacity of
11 the Internet to facilitate carpool and vanpool operations
12 through—

13 (1) linking riders with local carpools and van-
14 pools;

15 (2) providing real-time messaging communica-
16 tion between drivers and riders;

17 (3) assisting employers to establish intercom-
18 pany vanpool and carpool programs; and

19 (4) marketing existing vanpool and carpool pro-
20 grams.

21 (b) REPORT.—Not later than 180 days after the date
22 of enactment of this Act, the Secretary shall submit to
23 Congress a report including recommendations and find-
24 ings that would improve Internet utilization in carpool and

1 vanpool operations and shall make such report available
2 to all State and local metropolitan planning organizations.

3 **SEC. 304. FUEL CONSUMPTION EDUCATION CAMPAIGN.**

4 (a) PARTNERSHIP.—The Secretary shall enter into a
5 partnership with interested industry groups to create an
6 education campaign that provides information to United
7 States drivers about measures that may be taken to con-
8 serve gasoline.

9 (b) ACCESSIBILITY.—The public information cam-
10 paign shall be designed to reach the widest audience pos-
11 sible. The education campaign may include television,
12 print, Internet website, or any method designed to maxi-
13 mize the dissemination of gasoline savings information to
14 drivers.

15 (c) COST SHARING.—The Secretary shall provide no
16 more than 50 percent of the cost of the campaign created
17 under this section.

18 (d) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary
20 \$2,500,000 for carrying out this section.

21 **SEC. 305. PROCUREMENT OF ENERGY EFFICIENT LIGHTING**
22 **DEVICES.**

23 Section 553(d) of the National Energy Conservation
24 Policy Act is amended by adding at the end the following
25 new paragraph:

1 “(3) The head of an agency shall procure the most
 2 energy efficient and cost-effective light bulbs or other elec-
 3 trical lighting products, consistent with safety consider-
 4 ations, for use in that agency’s facilities and buildings.”.

5 **SEC. 306. MINORITY EMPLOYMENT.**

6 Section 385 of the Energy Policy Act of 2005 is
 7 amended by adding at the end the following:

8 “(d) PROGRAM.—The Secretary of Energy is author-
 9 ized and directed to establish a program to encourage mi-
 10 nority students to study the earth sciences and enter the
 11 field of geology in order to qualify for employment in the
 12 oil, gas, and mineral industries. There are authorized to
 13 be appropriated for the program established under the
 14 preceding sentence \$10,000,000.”.

15 **TITLE IV—GASOLINE PRICE**
 16 **REFORM**

17 **SEC. 401. SHORT TITLE.**

18 This title may be cited as the “Gas Price Gouging
 19 Prevention Act”.

20 **SEC. 402. GASOLINE PRICE GOUGING PROHIBITED.**

21 (a) UNLAWFUL CONDUCT.—During a period of a
 22 major disaster, it shall be an unfair or deceptive act or
 23 practice in violation of section 5 of the Federal Trade
 24 Commission Act for any person to sell crude oil, gasoline,
 25 diesel fuel, or home heating oil at a price which constitutes

1 price gouging as defined by rule pursuant to subsection
2 (b).

3 (b) PRICE GOUGING.—Not later than 6 months after
4 the date of the enactment of this Act, the Federal Trade
5 Commission shall promulgate any rules necessary for the
6 enforcement of this section. Such rules shall define “price
7 gouging” for purposes of this section, and shall be con-
8 sistent with the requirements for declaring unfair acts or
9 practices in section 5(n) of the Federal Trade Commission
10 Act (15 U.S.C. 45(n)).

11 (c) ENFORCEMENT BY FTC.—

12 (1) IN GENERAL.—A violation of subsection (a)
13 shall be treated as a violation of a rule defining an
14 unfair or deceptive act or practice prescribed under
15 section 18(a)(1)(B) of the Federal Trade Commis-
16 sion Act (15 U.S.C. 57a(a)(1)(B)). The Federal
17 Trade Commission shall enforce this section in the
18 same manner, by the same means, and with the
19 same jurisdiction as though all applicable terms and
20 provisions of the Federal Trade Commission Act
21 were incorporated into and made a part of this sec-
22 tion.

23 (2) EXCLUSIVE ENFORCEMENT.—Notwith-
24 standing any other provision of law, no person or
25 State or political subdivision of a State other than

1 the Federal Trade Commission, or the Attorney
2 General to the extent provided for in section 5 of the
3 Federal Trade Commission Act, shall have any au-
4 thority to enforce this section, or any rule prescribed
5 pursuant to this section.

6 (d) PENALTIES.—Any person who violates subsection
7 (a), or the rules promulgated pursuant to this section,
8 shall be subject to a civil penalty of not more than \$11,000
9 per violation.

10 (e) DEFINITION OF MAJOR DISASTER.—

11 (1) DETERMINATION.—As used in this section,
12 and for purposes of any rule promulgated pursuant
13 to this section, the term “major disaster” means a
14 major disaster declared by the President as defined
15 in section 102(2) of the Robert T. Stafford Disaster
16 Relief and Emergency Assistance Act (42 U.S.C
17 5122(2)) that the Secretary of Energy determines to
18 have substantially disrupted the production, distribu-
19 tion, or supply of crude oil, gasoline, diesel fuel, or
20 home heating oil.

21 (2) APPLICABLE AREA AND PERIOD.—The pro-
22 hibition in subsection (a) shall apply to the United
23 States or to a specific geographic region of the
24 United States as determined by the President and
25 the Secretary of Energy at the time in which a de-

1 termination under paragraph (1) is made, and for a
2 period of 30 days after such determination is made.
3 The President may extend the prohibition for such
4 additional 30-day periods as the President deter-
5 mines necessary.

6 **SEC. 403. FTC INVESTIGATION ON PRICE-GOUGING.**

7 (a) STUDY.—The Federal Trade Commission shall
8 conduct an investigation into nationwide gasoline prices
9 in the aftermath of Hurricane Katrina, including any evi-
10 dence of price-gouging by subject companies described in
11 subsection (b). Such investigation shall include—

12 (1) a comparison of, and analysis of the reasons
13 for changes in, profit levels of subject companies
14 during the 12-month period ending on August 31,
15 2005, and their profit levels for the month of Sep-
16 tember, 2005, including information for particular
17 companies on a basis that does not permit the iden-
18 tification of any company to which the information
19 relates;

20 (2) a summary of tax expenditures (as defined
21 in section 3(3) of the Congressional Budget and Im-
22 poundment Control Act of 1974 (2 U.S.C. 622(3))
23 for such companies;

1 (3) an examination of the effects of increased
2 gasoline prices and gasoline price-gouging on eco-
3 nomic activity in the United States;

4 (4) an analysis of the overall cost of increased
5 gasoline prices and gasoline price-gouging to the
6 economy, including the impact on consumers' pur-
7 chasing power in both declared State and National
8 disaster areas and elsewhere; and

9 (5) an analysis of the role and overall cost of
10 credit card interchange rates on gasoline and diesel
11 fuel retail prices.

12 (b) SUBJECT COMPANIES.—The companies subject to
13 the investigation required by this section shall be—

14 (1) any company with total United States
15 wholesale sales of gasoline and petroleum distillates
16 for calendar year 2004 in excess of \$500,000,000;
17 and

18 (2) any retail distributor of gasoline and petro-
19 leum distillates against which multiple formal com-
20 plaints (that identify the location of the particular
21 retail distributor and provide contact information for
22 the complainant) of price-gouging were filed in Au-
23 gust or September 2005, with a Federal or State
24 consumer protection agency.

1 (c) EVIDENCE OF PRICE-GOUGING.—In conducting
2 its investigation, the Commission shall treat as evidence
3 of price-gouging any finding that the average price of gas-
4 oline available for sale to the public in September, 2005,
5 or thereafter in a market area located in an area des-
6 ignated as a State or National disaster area because of
7 Hurricane Katrina, or in any other area where price-
8 gouging complaints have been filed because of Hurricane
9 Katrina with a Federal or State consumer protection
10 agency, exceeded the average price of such gasoline in that
11 area for the month of August, 2005, unless the Commis-
12 sion finds substantial evidence that the increase is sub-
13 stantially attributable to additional costs in connection
14 with the production, transportation, delivery, and sale of
15 gasoline in that area or to national or international market
16 trends.

17 (d) REPORTS.—

18 (1) NOTIFICATION TO STATE AGENCIES.—In
19 any areas of markets in which the Commission de-
20 termines price increases are due to factors other
21 than the additional costs, it shall also notify the ap-
22 propriate State agency of its findings.

23 (2) PROGRESS AND FINAL REPORTS TO CON-
24 GRESS.—The Commission shall provide information
25 on the progress of the investigation to the Appro-

1 priations Committees of the House of Representa-
2 tives and the Senate, the Committee on Energy and
3 Commerce of the House of Representatives, and the
4 Committee on Commerce, Science, and Transpor-
5 tation of the Senate, every 30 days after the date of
6 enactment of this Act. The Commission shall provide
7 those Committees a written interim report 90 days
8 after such date, and shall transmit a final report to
9 those Committees, together with its findings and
10 recommendations, no later than 180 days after the
11 date of enactment of this Act. Such reports shall in-
12 clude recommendations, based on its findings, for
13 any legislation necessary to protect consumers from
14 gasoline price-gouging in both State and National
15 disaster areas and elsewhere.

16 (e) EVIDENCE OF CRIMINAL MISCONDUCT.—If, dur-
17 ing the investigation required by this section, the Commis-
18 sion obtains evidence that a person may have violated a
19 criminal law, the Commission may transmit that evidence
20 to appropriate Federal or State authorities.

21 **SEC. 404. FTC STUDY OF PETROLEUM PRICES ON EX-**
22 **CHANGE.**

23 Not later than 180 days after the date of enactment
24 of this Act, the Federal Trade Commission shall transmit
25 to Congress a report on the price of refined petroleum

1 products on the New York Mercantile Exchange and the
 2 effects on such price, if any, of the following:

3 (1) The geographic size of the delivery market
 4 and the number of delivery points.

5 (2) The proximity of energy futures markets in
 6 relation to the source of supply.

7 (3) The specified grade of gasoline deliverable
 8 on the exchange.

9 (4) The control of the storage and delivery mar-
 10 ket infrastructure.

11 (5) The effectiveness of temporary trading halts
 12 and the monetary threshold for such temporary
 13 trading halts.

14 **TITLE V—STRATEGIC** 15 **PETROLEUM RESERVE**

16 **SEC. 501. STRATEGIC PETROLEUM RESERVE CAPACITY.**

17 (a) AUTHORITY TO DRAWDOWN AND SELL PETRO-
 18 LEUM PRODUCTS FOR EXPANSION OF RESERVE.—In ad-
 19 dition to the authority provided under part B of title I
 20 of the Energy Policy and Conservation Act (42 U.S.C.
 21 6231 et seq.), the Secretary may drawdown and sell petro-
 22 leum products from the Strategic Petroleum Reserve to
 23 construct, purchase, lease, or otherwise acquire additional
 24 capacity sufficient to permit filling the Strategic Petro-
 25 leum Reserve to its maximum authorized level.

1 (b) ESTABLISHMENT OF SPR EXPANSION FUND.—

2 The Secretary of the Treasury shall establish in the Treas-
3 ury of the United States an account to be known as the
4 “SPR Expansion Fund” (in this section referred to as the
5 “Fund”), and the proceeds from any sale pursuant to sub-
6 section (a) shall be deposited into the Fund.

7 (c) OBLIGATION OF FUNDS FOR EXPANSION.—

8 Amounts in the Fund may be obligated by the Secretary
9 to carry out the purposes in subsection (a) to the extent
10 and in such aggregate amounts as may be appropriated
11 in advance in appropriations Acts for such purposes.

12 **SEC. 502. STRATEGIC PETROLEUM RESERVE SALE.**

13 Section 161(e) of the Energy Policy and Conservation
14 Act (42 U.S.C. 6241(e)) is amended by inserting after
15 paragraph (2) a new paragraph as follows:

16 “(3) Any contract under which petroleum products
17 are sold under this section shall include a requirement that
18 the person or entity that acquires the petroleum products
19 agrees—

20 “(A) not to resell the petroleum products before
21 the products are refined; and

22 “(B) to refine the petroleum products primarily
23 for consumption in the United States.”.

1 **SEC. 503. NORTHEAST HOME HEATING OIL RESERVE CA-**
2 **PACITY.**

3 Section 181(a) of the Energy Policy and Conserva-
4 tion Act (42 U.S.C. 6250(a)) is amended by striking “2
5 million barrels” and inserting “5 million barrels”.

6 **TITLE VI—CRITICAL ENERGY**
7 **ASSURANCE**

8 **SEC. 601. EVACUATION PLAN REVIEW.**

9 Not later than 6 months after the date of enactment
10 of this Act, the Secretary shall transmit to the Congress
11 a report of the Secretary’s review of the fuel supply plan
12 components of State evacuation plans and the National
13 Capitol region. Such report shall determine the sufficiency
14 of such plans, and shall include recommendations for im-
15 provements thereto. Annually after the transmittal of a
16 report under the preceding sentence, the Secretary shall
17 transmit a report to the Congress assessing plans found
18 insufficient under previous reports.

19 **SEC. 602. DISASTER ASSISTANCE.**

20 (a) **AUTHORITY.**—During any federally declared
21 emergency or disaster, the Secretary may provide direct
22 assistance to private sector entities that operate critical
23 energy infrastructure, including refineries.

24 (b) **ASSISTANCE.**—Assistance under this section may
25 include emergency preparation and recovery assistance, in-
26 cluding power generation equipment, other protective or

1 emergency recovery equipment, assistance to restore ac-
2 cess to water, power, or other raw materials, and transpor-
3 tation and housing for critical employees. The Secretary
4 may request assistance from other Federal agencies in
5 carrying out this section.

6 **SEC. 603. CRITICAL ENERGY ASSURANCE ACCOUNT.**

7 There is established in the Treasury an account
8 known as the Critical Energy Assurance Account. The
9 Secretary shall deposit into this account amounts appro-
10 priated to the Secretary for the purpose of carrying out
11 this title and payments paid to the Secretary by any non-
12 Federal source for the purpose of carrying out this title.
13 The Secretary may receive and accept payments from any
14 non-Federal source, which shall be available to the Sec-
15 retary, without further appropriation, for carrying out this
16 title.

17 **SEC. 604. REGULATIONS.**

18 The Secretary may issue regulations necessary or ap-
19 propriate to carry out this title.

Passed the House of Representatives October 7,
2005.

Attest:

JEFF TRANDAHL,

Clerk.

By GERASIMOS C. VANS,

Deputy Clerk.