to authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area, and for other purposes.

SA 2870. Mr. PRYOR (for Mr. ENZI) proposed an amendment to the resolution S. Res. 472, designating October 7, 2012, as ''Operation Enduring Freedom Veterans Day''.

TEXT OF AMENDMENTS

SA 2849. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 3576, to provide limitations on United States assistance, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. LIMITATION ON FOREIGN ASSISTANCE.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided under paragraph (2), beginning 60 days after the date of the enactment of this Act, no amounts may be obligated or expended to provide any direct United States assistance, loan guarantee, or debt relief to a Government described under subsection (b).

(2) EXCEPTION.—With respect to the Government of Pakistan, the prohibition under paragraph (1) shall be effective as of the date of the enactment of this Act.

(b) COVERED GOVERNMENTS.—The Governments referred to in subsection (a) are as follows:

(1) The Government of Libya.

(2) The Government of Egypt.

(3) The Government of Pakistan.

(c) CERTIFICATION.—The President may certify to Congress that a Government described under subsection (b)—

(1) is cooperating or has cooperated fully with investigations into an attack, trespass, breach, or attempted attack, trespass, or breach;

(2) is facilitating or has facilitated any security improvements at United States diplomatic facilities, as requested by the United States Government; and

(3) is taking or has taken sufficient steps to strengthen and improve reliability of local security in order to prevent any future attack, trespass, or breach.

(d) REQUEST TO SUSPEND PROHIBITION ON FOREIGN ASSISTANCE.—

(1) IN GENERAL.—Except as provided under paragraph (2), upon submitting a certification under subsection (c) with respect to a Government described under subsection (b), the President may submit a request to Congress to suspend the prohibition on foreign assistance to the Government.

(2) PAKISTAN.—No request under paragraph (1) may be submitted with respect to the Government of Pakistan until—

(A) Dr. Shakil Afridi has been released alive from prison in Pakistan;

(B) any criminal charges brought against Dr. Afridi, including treason, have been dropped; and

(C) if necessary to ensure his freedom, Dr. Afridi has been allowed to leave Pakistan alive.

(e) EXPEDITED CONSIDERATION OF PRESIDENTIAL REQUEST.—

(1) IN GENERAL.—For purposes of this subsection, the term ''joint resolution'' means only a joint resolution introduced in the period beginning on the date on which a request under subsection (d) is received by Congress and ending 60 days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: ''That Congress approves the request submitted by the President to suspend the prohibition on foreign assistance to the Government of ____ in effect since ____, and such prohibition shall have no force or effect.''(The blank spaces being appropriately filled in).

(2) REFERRAL.—A joint resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction.

(3) SUBMISSION DATE DEFINED.—For purposes of this section, the term ''submission date'' means the date on which a House of Congress receives the request submitted under subsection (d).

(4) DISCHARGE OF SENATE COMMITTEE.—In the Senate, if the committee to which is referred a joint resolution described in paragraph (1) has not reported such joint resolution (or an identical joint resolution) at the end of 20 calendar days after the submission date, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Senators, and such joint resolution shall be placed on the calendar.

(5) SENATE CONSIDERATION OF RESOLUTION.—

(A) MOTIONS.—In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under paragraph (4)) from further consideration of a joint resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

(B) DEBATE.—In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(C) VOTE ON FINAL PASSAGE.—In the Senate, immediately following the conclusion of the debate on a joint resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

(D) APPEALS OF DECISIONS OF THE CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in paragraph (1) shall be decided without debate.

(6) INAPPLICABILITY OF CERTAIN PROVISIONS.—In the Senate, the procedures specified in paragraph (4) or (5) shall not apply to the consideration of a joint resolution respecting a request—

(A) after the expiration of the 60 session days beginning with the applicable submission date; or

(B) if the request submitted under subsection (d) was submitted during the period beginning on the date occurring—

(i) in the case of the Senate, 60 session days, or

(ii) in the case of the House of Representatives, 60 legislative days,

before the date the Congress adjourns a session of Congress through the date on which the same or succeeding Congress first convenes its next session, after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

(7) RECEIPT OF JOINT RESOLUTION FROM OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House described in paragraph (1), that House receives from the other House a joint resolution described in paragraph (1), then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution described in paragraph (1) of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(f) REPORT ON UNSECURED WEAPONS IN LIBYA.—Not later than 90 days after the date of the enactment of this Act, the President shall submit a report to Congress examining the extent to which advanced weaponry remaining unsecured after the fall of Moammar Qaddafi was used by the individuals responsible for the September 11, 2012, attack on the United States consulate in Benghazi, Libya.

(g) RULE OF CONSTRUCTION.—Nothing in this section may be construed as an authorization for the use of military force.

SA 2850. Ms. MURKOWSKI (for herself and Mr. MANCHIN) submitted an amendment intended to be proposed by her to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, after line 21, add the following:

SEC. 104. HERITAGE OF RECREATIONAL FISHING, HUNTING, AND RECREATIONAL SHOOTING ON FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) FEDERAL PUBLIC LAND.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''Federal public land'' means any land or water that is—

(i) owned by the United States; and

(ii) managed by a Federal agency (including the Department of the Interior and the Forest Service) for purposes that include the conservation of natural resources.

(B) EXCLUSIONS.—The term ''Federal public land'' does not include—

(i) land or water held or managed in trust for the benefit of Indians or other Native Americans;

(ii) land managed by the Director of the National Park Service or the Director of the United States Fish and Wildlife Service;

(iii) fish hatcheries; or

(iv) conservation easements on private land.

(2) HUNTING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''hunting'' means use of a firearm, bow, or other authorized means in the lawful—

(i) pursuit, shooting, capture, collection, trapping, or killing of wildlife; or

(ii) attempt to pursue, shoot, capture, collect, trap, or kill wildlife.

(B) EXCLUSION.—The term ''hunting'' does not include the use of skilled volunteers to

cull excess animals (as defined by other Federal law).

(3) RECREATIONAL FISHING.—The term ''recreational fishing'' means—

(A) an activity for sport or for pleasure that involves—

(i) the lawful catching, taking, or harvesting of fish; or

(ii) the lawful attempted catching, taking, or harvesting of fish; or

(B) any other activity for sport or pleasure that can reasonably be expected to result in the lawful catching, taking, or harvesting of fish.

(4) RECREATIONAL SHOOTING.—The term ''recreational shooting'' means any form of sport, training, competition, or pastime, whether formal or informal, that involves the discharge of a rifle, handgun, or shotgun, or the use of a bow and arrow.

(b) RECREATIONAL FISHING, HUNTING, AND RECREATIONAL SHOOTING.—

(1) IN GENERAL.—Subject to valid existing rights, and in cooperation with the respective State and fish and wildlife agency, a Federal public land management official shall exercise the authority of the official under existing law (including provisions regarding land use planning) to facilitate use of and access to Federal public land for recreational fishing, hunting, and recreational shooting except as limited by—

(A) any law that authorizes action or withholding action for reasons of national security, public safety, or resource conservation;

(B) any other Federal law that precludes recreational fishing, hunting, or recreational shooting on specific Federal public land or water or units of Federal public land; and

(C) discretionary limitations on recreational fishing, hunting, and recreational shooting determined to be necessary and reasonable as supported by the best scientific evidence and advanced through a transparent public process.

(2) MANAGEMENT.—Consistent with paragraph (1), the head of each Federal public land management agency shall exercise the land management discretion of the head—

(A) in a manner that supports and facilitates recreational fishing, hunting, and recreational shooting opportunities;

(B) to the extent authorized under applicable State law; and

(C) in accordance with applicable Federal law.

(3) PLANNING.—

(A) EFFECTS OF PLANS AND ACTIVITIES.—

(i) EVALUATION OF EFFECTS ON OPPORTUNITIES TO ENGAGE IN RECREATIONAL FISHING, HUNTING, OR RECREATIONAL SHOOTING.—Federal public land planning documents (including land resources management plans, resource management plans, travel management plans, and energy development plans) shall include a specific evaluation of the effects of the plans on opportunities to engage in recreational fishing, hunting, or recreational shooting.

(ii) OTHER ACTIVITY NOT CONSIDERED.—

(I) IN GENERAL.—Federal public land management officials shall not be required to consider the existence or availability of recreational fishing, hunting, or recreational shooting opportunities on private or public land that is located adjacent to, or in the vicinity of, Federal public land for purposes of—

(aa) planning for or determining which units of Federal public land are open for recreational fishing, hunting, or recreational shooting; or

(bb) setting the levels of use for recreational fishing, hunting, or recreational shooting on Federal public land.

(II) ENHANCED OPPORTUNITIES.—Federal public land management officials may consider the opportunities described in subclause (I) if the combination of those opportunities would enhance the recreational fishing, hunting, or shooting opportunities available to the public.

(B) USE OF VOLUNTEERS.—If hunting is prohibited by law, all Federal public land planning document described in subparagraph (A)(i) of an agency shall, after appropriate coordination with State fish and wildlife agencies, allow the participation of skilled volunteers in the culling and other management of wildlife populations on Federal public land unless the head of the agency demonstrates, based on the best scientific data available or applicable Federal law, why skilled volunteers should not be used to control overpopulation of wildlife on the land that is the subject of the planning document.

(4) BUREAU OF LAND MANAGEMENT AND FOREST SERVICE LAND.—

(A) LAND OPEN.—

(i) IN GENERAL.—Land under the jurisdiction of the Bureau of Land Management or the Forest Service (including a component of the National Wilderness Preservation System, land designated as a wilderness study area or administratively classified as wilderness eligible or suitable, and primitive or semiprimitive areas, but excluding land on the outer Continental Shelf) shall be open to recreational fishing, hunting, and recreational shooting unless the managing Federal public land agency acts to close the land to such activity.

(ii) MOTORIZED ACCESS.—Nothing in this subparagraph authorizes or requires motorized access or the use of motorized vehicles for recreational fishing, hunting, or recreational shooting purposes within land designated as a wilderness study area or administratively classified as wilderness eligible or suitable.

(B) CLOSURE OR RESTRICTION.—Land described in subparagraph (A) may be subject to closures or restrictions if determined by the head of the agency to be necessary and reasonable and supported by facts and evidence for purposes including resource conservation, public safety, energy or mineral production, energy generation or transmission infrastructure, water supply facilities, protection of other permittees, protection of private property rights or interests, national security, or compliance with other law, as determined appropriate by the Director of the Bureau of Land Management or the Chief of the Forest Service, as applicable.

(C) SHOOTING RANGES.—

(i) IN GENERAL.—Except as provided in clause (iii), the head of each Federal public land agency may use the authorities of the head, in a manner consistent with this section and other applicable law—

(I) to lease or permit use of land under the jurisdiction of the head for shooting ranges; and

(II) to designate specific land under the jurisdiction of the head for recreational shooting activities.

(ii) LIMITATION ON LIABILITY.—Any designation under clause (i)(II) shall not subject the United States to any civil action or claim for monetary damages for injury or loss of property or personal injury or death caused by any recreational shooting activity occurring at or on the designated land.

(iii) EXCEPTION.—The head of each Federal public land agency shall not lease or permit use of Federal public land for shooting ranges or designate land for recreational shooting activities within including a component of the National Wilderness Preservation System, land designated as a wilderness study area or administratively classified as wilderness eligible or suitable, and primitive or semiprimitive areas.

(5) REPORT.—Not later than October 1 of every other year, beginning with the second October 1 after the date of enactment of this Act, the head of each Federal public land agency who has authority to manage Federal public land on which recreational fishing, hunting, or recreational shooting occurs shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(A) any Federal public land administered by the agency head that was closed to recreational fishing, hunting, or recreational shooting at any time during the preceding year; and

(B) the reason for the closure.

(6) CLOSURES OR SIGNIFICANT RESTRICTIONS OF 1,280 OR MORE ACRES.—

(A) IN GENERAL.—Other than closures established or prescribed by land planning actions referred to in paragraph (4)(B) or emergency closures described in subparagraph (C), a permanent or temporary withdrawal, change of classification, or change of management status of Federal public land or water that effectively closes or significantly restricts 1,280 or more contiguous acres of Federal public land or water to access or use for recreational fishing or hunting or activities relating to fishing or hunting shall take effect only if, before the date of withdrawal or change, the head of the Federal public land agency that has jurisdiction over the Federal public land or water—

(i) publishes appropriate notice of the withdrawal or change, respectively;

(ii) demonstrates that coordination has occurred with a State fish and wildlife agency; and

(iii) submits to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate written notice of the withdrawal or change, respectively.

(B) AGGREGATE OR CUMULATIVE EFFECTS.—If the aggregate or cumulative effect of separate withdrawals or changes effectively closes or significant restrictions affects 1,280 or more acres of land or water, the withdrawals and changes shall be treated as a single withdrawal or change for purposes of subparagraph (A).

(C) EMERGENCY CLOSURES.—

(i) IN GENERAL.—Nothing in this section prohibits a Federal public land management agency from establishing or implementing emergency closures or restrictions of the smallest practicable area of Federal public land to provide for public safety, resource conservation, national security, or other purposes authorized by law.

(ii) TERMINATION.—An emergency closure under clause (i) shall terminate after a reasonable period of time unless the temporary closure is converted to a permanent closure consistent with this subsection.

(7) NO PRIORITY.—Nothing in this section requires a Federal agency to give preference to recreational fishing, hunting, or recreational shooting over other uses of Federal public land or over land or water management priorities established by other Federal law.

(8) CONSULTATION WITH COUNCILS.—In carrying out this section, the heads of Federal public land agencies shall consult with the appropriate advisory councils established under Executive Order 12962 (16 U.S.C. 1801 note; relating to recreational fisheries) and Executive Order 13443 (16 U.S.C. 661 note; relating to facilitation of hunting heritage and wildlife conservation).

(9) AUTHORITY OF STATES.—

(A) IN GENERAL.—Nothing in this section interferes with, diminishes, or conflicts with the authority, jurisdiction, or responsibility

of any State to manage, control, or regulate fish and wildlife under State law (including regulations) on land or water within the State, including on Federal public land.

(B) FEDERAL LICENSES.—

(i) IN GENERAL.—Except as provided in clause (ii), nothing in this section authorizes the head of a Federal public land agency head to require a license, fee, or permit to fish, hunt, or trap on land or water in a State, including on Federal public land in the State.

(ii) MIGRATORY BIRD STAMPS.—This subparagraph shall not affect any migratory bird stamp requirement of the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718a et seq.).

SA 2851. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—LAND CONVEYANCE

SEC. 301. DEFINITIONS.

In this title:

(1) CITY.—The term ''City'' means the city of Fruit Heights, Utah.

(2) MAP.—The term ''map'' means the map entitled ''Proposed Fruit Heights City Conveyance'' and dated 2012.

(3) NATIONAL FOREST SYSTEM LAND.—The term ''National Forest System land'' means the approximately 100 acres of National Forest System land, as depicted on the map.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 302. CONVEYANCE OF CERTAIN LAND TO THE CITY OF FRUIT HEIGHTS, UTAH.

(a) IN GENERAL.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the National Forest System land.

(b) SURVEY.—

(1) IN GENERAL.—If determined by the Secretary to be necessary, the exact acreage and legal description of the National Forest System land shall be determined by a survey approved by the Secretary.

(2) COSTS.—The City shall pay the reasonable survey and other administrative costs associated with a survey conducted under paragraph (1).

(c) USE OF NATIONAL FOREST SYSTEM LAND.—As a condition of the conveyance under subsection (a), the City shall use the National Forest System land only for public purposes.

SA 2852. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—LAND CONVEYANCE

SEC. 301. LAND CONVEYANCE, UINTA-WASATCH-CACHE NATIONAL FOREST, UTAH.

(a) CONVEYANCE REQUIRED.—On the request of Brigham Young University submitted to the Secretary of Agriculture not later than one year after the date of the enactment of this Act, the Secretary shall convey, not later than one year after receiving the request, to Brigham Young University all right, title, and interest of the United States in and to an approximately 80-acre parcel of National Forest System land in the Uinta-Wasatch-Cache National Forest in the State of Utah consisting of the SE¼SE¼ of section 32, T. 6 S., R. 3 E., and the NE¼NE¼ of section 5, T. 7 S., R. 3 E., Salt Lake Base & Meridian. The conveyance shall be subject to valid existing rights and shall be made by quitclaim deed.

(b) CONSIDERATION.—

(1) CONSIDERATION REQUIRED.—As consideration for the land conveyed under subsection (a), Brigham Young University shall pay to the Secretary an amount equal to the fair market value of the land, as determined by an appraisal approved by the Secretary and conducted in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions and section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(2) DEPOSIT.—The consideration received by the Secretary under paragraph (1) shall be deposited in the general fund of the Treasury to reduce the Federal deficit.

(c) GUARANTEED PUBLIC ACCESS TO Y MOUNTAIN TRAIL.—After the conveyance under subsection (a), Brigham Young University represents that it will—

(1) continue to allow the same reasonable public access to the trailhead and portion of the Y Mountain Trail already owned by Brigham Young University as of the date of the enactment of this Act that Brigham Young University has historically allowed; and

(2) allow that same reasonable public access to the portion of the Y Mountain Trail and the ''Y'' symbol located on the land described in subsection (a).

(d) SURVEY AND ADMINISTRATIVE COSTS.—The exact acreage and legal description of the land to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. Brigham Young University shall pay the reasonable costs of survey, appraisal, and any administrative analyses required by law.

SA 2853. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—NATIONAL MONUMENTS IN UTAH

SEC. 301. LIMITATION ON FURTHER EXTENSION OR ESTABLISHMENT OF NATIONAL MONUMENTS IN UTAH.

This proviso of the last sentence of the first section of the Act of September 14, 1950 (64 Stat. 849, chapter 950; 16 U.S.C. 431a), is amended by inserting ''or Utah'' after ''Wyoming''.

SA 2854. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—LAND CONVEYANCE

SEC. 301. DEFINITIONS.

In this title:

(1) FEDERAL LAND.—The term ''Federal land'' means any land (including mineral rights) under the jurisdiction of the Secretary in the State, including any public land in the State (as defined in section 103 of the Federal Land Policy And Management Act of 1976 (43 U.S.C. 1702)).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) STATE.—The term ''State'' means the state of Utah.

SEC. 302. CONVEYANCE OF FEDERAL LAND TO THE STATE OF UTAH.

(a) IN GENERAL.—Not later than December 31, 2014, the Secretary shall convey to the State all right, title, and interest of the United States in and to the Federal land.

(b) RECONVEYANCE.—If the State reconveys any Federal land conveyed to the State under subsection (a), the State shall, as soon as practicable after the date of the reconveyance, pay to the Secretary concerned an amount equal to 95 percent of the amount received by the State in consideration for the Federal land reconveyed.

SA 2855. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—CLARIFICATION OF AUTHORITY, UINTAH AND OURAY INDIAN RESERVATION

SEC. 301. CLARIFICATION OF AUTHORITY.

The Act entitled ''An Act to define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah, and for other purposes'', approved March 11, 1948 (62 Stat. 72), as amended by the Act entitled ''An Act to amend the Act extending the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah so as to authorize such State to exchange certain mineral lands for other lands mineral in character'' approved August 9, 1955, (69 Stat. 544), is further amended by adding at the end the following:

''SEC. 5. In order to further clarify authorizations under this Act, the State of Utah is hereby authorized to relinquish to the United States, for the benefit of the Ute Indian Tribe of the Uintah and Ouray Reservation, State school trust or other State-owned subsurface mineral lands located beneath the surface estate delineated in Public Law 440 (approved March 11, 1948) and south of the border between Grand County, Utah, and Uintah County, Utah, and select in lieu of such relinquished lands, on an acre-for-acre basis, any subsurface mineral lands of the United States located beneath the surface estate delineated in Public Law 440 (approved March 11, 1948) and north of the border between Grand County, Utah, and Uintah County, Utah, subject to the following conditions:

''(1) RESERVATION BY UNITED STATES.—The Secretary of the Interior shall reserve an overriding interest in that portion of the mineral estate comprised of minerals subject to leasing under the Mineral Leasing Act (30 U.S.C. 171 et seq) in any mineral lands conveyed to the State.

''(2) EXTENT OF OVERRIDING INTEREST.—The overriding interest reserved by the United States under paragraph (1) shall consist of—

''(A) 50 percent of any bonus bid or other payment received by the State as consideration for securing any lease or authorization to develop such mineral resources;

''(B) 50 percent of any rental or other payments received by the State as consideration for the lease or authorization to develop such mineral resources;

''(C) a 6.25 percent overriding royalty on the gross proceeds of oil and gas production under any lease or authorization to develop such oil and gas resources; and

''(D) an overriding royalty on the gross proceeds of production of such minerals other than oil and gas, equal to 50 percent of

the royalty rate established by the Secretary of the Interior by regulation as of October 1, 2011.

''(3) RESERVATION BY STATE OF UTAH.—The State of Utah shall reserve, for the benefit of its State school trust, an overriding interest in that portion of the mineral estate comprised of minerals subject to leasing under the Mineral Leasing Act (30 U.S.C. 181 et seq) in any mineral lands relinquished by the State to the United States.

''(4) EXTENT OF OVERRIDING INTEREST.—The overriding interest reserved by the State under paragraph (3) shall consist of—

''(A) 50 percent of any bonus bid or other payment received by the United States as consideration for securing any lease or authorization to develop such mineral resources on the relinquished lands;

''(B) 50 percent of any rental or other payments received by the United States as consideration for the lease or authorization to develop such mineral resources;

''(C) a 6.25 percent overriding royalty on the gross proceeds of oil and gas production under any lease or authorization to develop such oil and gas resources; and

''(D) an overriding royalty on the gross proceeds of production of such minerals other than oil and gas, equal to 50 percent of the royalty rate established by the Secretary of the Interior by regulation as of October 1, 2011.

''(5) NO OBLIGATION TO LEASE.—Neither the United States nor the State shall be obligated to lease or otherwise develop oil and gas resources in which the other party retains an overriding interest under this section.

''(6) COOPERATIVE AGREEMENTS.—The Secretary of the Interior is authorized to enter into cooperative agreements with the State and the Ute Indian Tribe of the Uintah and Ouray Reservation to facilitate the relinquishment and selection of lands to be conveyed under this section, and the administration of the overriding interests reserved hereunder.

''(7) TERMINATION.—The overriding interest reserved by the Secretary of the Interior under paragraph (1), and the overriding interest reserved by the State under paragraph (3), shall automatically terminate 30 years after the date of enactment of this section.''.

SA 2856. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE III—TIMBER SALE CONTRACTS

SEC. 301. EXTENDING NATIONAL FOREST SYSTEM TIMBER SALE CONTRACTS.

(a) DEFINITIONS.—In this section:

(1) QUALIFYING CONTRACT.—The term ''qualifying contract'' means a contract (including an integrated resource timber contract) for the sale of timber on National Forest System land—

(A) that was awarded before January 1, 2010;

(B) for which the original contract term was for 2 or more years;

(C) for which there is unharvested volume of timber remaining;

(D) for which, not later than 90 days after the date of enactment of this Act, the contract awardee makes a written request to the Secretary for an extension of time;

(E) for which the Secretary determines there is not an urgent need to harvest due to deteriorating timber conditions;

(F) for which the Secretary determines there is not an urgent need to harvest to accomplish fuel reduction objectives in wildland-urban interface areas; and

(G) that is not in breach or default.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(3) WILDLAND-URBAN INTERFACE.—The term ''wildland-urban interface'' has the meaning given the term in section 101 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6511).

(b) EXTENSION OF TIME.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to the conditions described in paragraph (2), the Secretary may extend the term of a qualifying contract for not more than 2 years after the applicable contract termination date.

(2) CONDITIONS.—An extension of a qualifying contract under paragraph (1) shall be subject to the following conditions:

(A) The total contract term shall not exceed 10 years, including the extension granted under this section.

(B) A qualifying contract that receives a 1-year substantial overriding public interest extension authorized by the Chief of the Forest Service in 2012 may only receive an extension of 1 year under this section.

(C) Periodic payment dates that have not been reached as of the date of a request by a contract awardee under this section shall be adjusted in accordance with applicable law and policies.

(c) EFFECT.—

(1) NO SURRENDER OF CLAIMS.—Nothing in this section shall result in the surrendering of any claim by the United States against any contract awardee that arose under a qualifying contract before the date on which the Secretary extends the qualifying contract term under this section.

(2) RELEASE OF LIABILITY.—Before receiving an extension of a contract term under this section, the contract awardee shall release the United States from all liability, including further consideration or compensation, resulting from—

(A) the extension of the qualifying contract term; or

(B) a determination by the Secretary under this section to not extend the contract term.

(3) FUTURE ADMINISTRATIVE ACTIONS.—Nothing in this section precludes the Secretary from modifying a qualifying contract extended under this section to grant administrative relief consistent with applicable law (including regulations) and policy.

SA 2857. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, after line 13, add the following:

SEC. 249. REMOVAL OF GRAY WOLF IN THE STATE OF UTAH FROM THE LIST OF ENDANGERED OR THREATENED SPECIES.

(a) DEFINITIONS.—In this section:

(1) GRAY WOLF.—The term ''gray wolf'' means any taxonomic group traditionally associated with the gray wolf, including Canus lupus baileyi, regardless of specific taxonomy of any particular gray wolf variety as a species, subspecies, or other designation.

(2) SECRETARY.—The term ''Secretary'' has the meaning given the term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).

(b) REMOVAL OF GRAY WOLF IN THE STATE OF UTAH FROM THE LIST OF ENDANGERED OR THREATENED SPECIES.—Notwithstanding any other provision of law, not later than 60 days after the date of enactment of this section, the Secretary shall promulgate regulations removing from the list of endangered or threatened species under section 4(c) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)) the gray wolf within the borders of the State of Utah.

SA 2858. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 3525, to protect and enhance opportunities for recreational hunting, fishing, and shooting, and for other purposes; which was ordered to lie on the table.

At the end, add the following:

TITLE III—PUTTING THE GULF OF MEXICO BACK TO WORK

SEC. 301. SHORT TITLE.

This title may be cited as the ''Putting the Gulf of Mexico Back to Work Act''.

SEC. 302. DEFINITIONS.

In this title:

(1) COVERED CIVIL ACTION.—The term ''covered civil action'' means a civil action containing a claim under section 702 of title 5, United States Code, regarding agency action (as defined for the purposes of that section) affecting a covered energy project in the Gulf of Mexico.

(2) COVERED ENERGY PROJECT.—

(A) IN GENERAL.—The term ''covered energy project'' means the leasing of Federal land of the outer Continental Shelf for the exploration, development, production, processing, or transmission of oil, natural gas, wind, or any other source of energy in the Gulf of Mexico, and any action under a lease.

(B) EXCLUSION.—The term ''covered energy project'' does not include any dispute between the parties to a lease regarding the obligations under the lease, including any alleged breach of the lease.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

Subtitle A—Outer Continental Shelf Land

SEC. 311. DRILLING PERMITS.

Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended by striking subsection (d) and inserting the following:

''(d) DRILLING PERMITS.—

''(1) IN GENERAL.—The Secretary shall by regulation require that any lessee operating under an approved exploration plan—

''(A) obtain a permit before drilling any well in accordance with the plan; and

''(B) obtain a new permit before drilling any well of a design that is significantly different than the design for which the existing permit was issued.

''(2) SAFETY REVIEW REQUIRED.—The Secretary shall not issue a permit under paragraph (1) without ensuring that the proposed drilling operations meet all—

''(A) critical safety system requirements, including blowout prevention; and

''(B) oil spill response and containment requirements.

''(3) TIMELINE.—

''(A) IN GENERAL.—The Secretary shall determine whether to issue a permit under paragraph (1) not later than 30 days after the date on which the Secretary receives the application for a permit.

''(B) EXTENSION OF TIME.—

''(i) IN GENERAL.—The Secretary may extend the period in which to consider an application for a permit for up to 2 periods of 15 days each if the Secretary has given written notice of the delay to the applicant.

''(ii) NOTICE.—The notice described in clause (i) shall—

''(I) be in the form of a letter from the Secretary or a designee of the Secretary; and

''(II) include—

''(aa) the name and title of each individual processing the application;

''(bb) the reason for the delay; and

''(cc) the date on which the Secretary expects to make a final decision on the application.

''(4) DENIAL OF APPLICATION.—If the Secretary denies the application, the Secretary shall provide the applicant—

''(A) a written statement that provides clear and comprehensive reasons why the application was not accepted and detailed information concerning any deficiency; and

''(B) an opportunity to remedy any deficiencies.

''(5) FAILURE TO MAKE DECISION WITHIN 60 DAYS.—If the Secretary does not make a decision on the application by the date that is 60 days from the date on which the Secretary receives the application, the application shall be considered approved.''.

Subtitle B—Judicial Review of Agency Actions Relating to Outer Continental Shelf Activities in Gulf of Mexico

SEC. 322. EXCLUSIVE VENUE FOR CERTAIN CIVIL ACTIONS RELATING TO COVERED ENERGY PROJECTS IN GULF OF MEXICO.

A covered civil action shall be brought only in a judicial district in the Fifth Circuit unless there is no district in that circuit in which the action may be brought.

SEC. 323. TIME LIMITATION ON FILING.

A covered civil action is barred unless the action is filed not later than the date that is 60 days after the date of the final Federal agency action.

SEC. 324. EXPEDITION IN HEARING AND DETERMINING ACTION.

A court shall endeavor to hear and determine any covered civil action as expeditiously as practicable.

SEC. 325. STANDARD OF REVIEW.

(a) IN GENERAL.—In any judicial review of a covered civil action, administrative findings and conclusions relating to the challenged Federal action or decision shall be presumed to be correct.

(b) STANDARD.—The presumption described in subsection (a) may be rebutted only by a preponderance of the evidence contained in the administrative record.

SEC. 326. LIMITATION ON PROSPECTIVE RELIEF.

In a covered civil action, a court shall not grant or approve any prospective relief unless the court finds that the relief is narrowly drawn, extends no further than necessary to correct the violation of a legal requirement, and is the least intrusive means necessary to correct that violation.

SEC. 327. LIMITATION ON ATTORNEYS' FEES.

(a) IN GENERAL.—Sections 504 of title 5 and 2412 of title 28, United States Code, do not apply to a covered civil action.

(b) PAYMENT FROM FEDERAL GOVERNMENT.—No party to a covered civil action shall receive from the Federal Government payment for attorneys' fees, expenses, and other court costs.

TITLE IV—RESTARTING AMERICAN OFFSHORE LEASING NOW

SEC. 401. SHORT TITLE.

This title may be cited as the ''Restarting American Offshore Leasing Now Act''.

SEC. 402. DEFINITIONS.

In this title:

(1) ENVIRONMENTAL IMPACT STATEMENT FOR THE 2007-2012 5-YEAR OCS PLAN.—The term ''environmental impact statement for the 2007–2012 5-Year OCS plan'' means the final environmental impact statement prepared by the Secretary entitled ''Outer Continental Shelf Oil and Gas Leasing Program: 2007–2012'', and dated April 2007.

(2) MULTISALE ENVIRONMENTAL IMPACT STATEMENT.—The term ''multisale environmental impact statement'' means the environmental impact statement prepared by the Secretary relating to proposed Western Gulf of Mexico OCS Oil and Gas Lease Sales 204, 207, 210, 215, and 218, and proposed Central Gulf of Mexico OCS Oil and Gas Lease Sales 205, 206, 208, 213, 216, and 222, and dated September 2008.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 403. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 216 IN CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—As soon as practicable, but not later than 60 days after the date of enactment of this Act, the Secretary shall conduct offshore oil and gas Lease Sale 216 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) .

(b) ENVIRONMENTAL REVIEW.—For the purposes of the lease sale described in subsection (a), the environmental impact statement for the 2007–2012 5-Year OCS plan and the multisale environmental impact statement shall be considered to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 404. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 220 ON OUTER CONTINENTAL SHELF OFFSHORE VIRGINIA.

(a) IN GENERAL.—As soon as practicable, but not later than 1 year after the date of enactment of this Act, the Secretary shall conduct offshore oil and gas Lease Sale 220 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337).

(b) ENVIRONMENTAL REVIEW.—For the purposes of the lease sale described in subsection (a), the environmental impact statement for the 2007–2012 5-Year OCS plan and the multisale environmental impact statement shall be considered to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 405. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 222 IN CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—As soon as practicable, but not later than 60 days after the date of enactment of this Act, the Secretary shall conduct offshore oil and gas Lease Sale 222 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337).

(b) ENVIRONMENTAL REVIEW.—For the purposes of the lease sale described in subsection (a), the environmental impact statement for the 2007–2012 5-Year OCS plan and the multisale environmental impact statement shall be considered to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE V—REVERSING PRESIDENT OBAMA'S OFFSHORE MORATORIUM

SEC. 501. SHORT TITLE.

This title may be cited as the ''Reversing President Obama's Offshore Moratorium Act''.

SEC. 502. OUTER CONTINENTAL SHELF LEASING PROGRAM.

Section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) is amended by adding at the end the following:

''(5)(A) In each oil and gas leasing program under this section, the Secretary shall make available for leasing and conduct lease sales that include—

''(i) at least 50 percent of the available unleased acreage within each outer Continental Shelf planning area considered to have the largest undiscovered, technically recoverable oil and gas resources (on a total btu basis) based upon the most recent national geological assessment of the outer Continental Shelf, with an emphasis on offering the most geologically prospective parts of the planning area; and

''(ii) any State subdivision of an outer Continental Shelf planning area that the Governor of the State that represents that subdivision requests be made available for leasing.

''(B) In this paragraph, the term 'available unleased acreage' means that portion of the outer Continental Shelf that is not under lease at the time of a proposed lease sale, and that has not otherwise been made unavailable for leasing by law.

''(6)(A) For the 2012–2017 5-year oil and gas leasing program, the Secretary shall make available for leasing any outer Continental Shelf planning areas that are estimated to contain more than—

''(i) 2,500,000,000 barrels of oil; or

''(ii) 7,500,000,000,000 cubic feet of natural gas.

''(B) To determine the planning areas described in subparagraph (A), the Secretary shall use the document entitled 'Minerals Management Service Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf, 2006'.''.

SEC. 503. DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by striking subsection (b) and inserting the following:

''(b) DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.—

''(1) IN GENERAL.—In developing a 5-year oil and gas leasing program, subject to paragraph (2), the Secretary shall determine a domestic strategic production goal for the development of oil and natural gas as a result of that program, which goal shall be—

''(A) the best estimate of the practicable increase in domestic production of oil and natural gas from the outer Continental Shelf;

''(B) focused on meeting domestic demand for oil and natural gas and reducing the dependence of the United States on foreign energy; and

''(C) focused on the production increases achieved by the leasing program at the end of the 15-year period beginning on the effective date of the program.

''(2) 2012–2017 PROGRAM GOAL.—For purposes of the 2012–2017 5-year oil and gas leasing program, the production goal referred to in paragraph (1) shall be an increase by 2027 of not less than—

''(A) 3,000,000 barrels in the quantity of oil produced per day; and

''(B) 10,000,000,000 cubic feet in the quantity of natural gas produced per day.

''(3) REPORTING.—Beginning at the end of the 5-year period for which the program applies and annually thereafter, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the progress of the program in meeting the production goal that includes an identification of projections for production and any problems with leasing, permitting, or production that will prevent meeting the goal.''.

TITLE VI—JOBS AND ENERGY PERMITTING

SEC. 601. SHORT TITLE.

This title may be cited as the ''Jobs and Energy Permitting Act of 2012''.

SEC. 602. AIR QUALITY MEASUREMENT.

Section 328(a)(1) of the Clean Air Act (42 U.S.C. 7627(a)(1)) is amended in the second sentence by inserting before the period at the end the following: '', except that any air quality impact of any OCS source shall be

measured or modeled, as appropriate, and determined solely with respect to the impacts in the corresponding onshore area''.

SEC. 603. OCS SOURCE.

Section 328(a)(4)(C) of the Clean Air Act (42 U.S.C. 7627(a)(4)(C)) is amended in the second sentence of the matter following clause (iii) by striking ''shall be considered direct emissions from the OCS source'' and inserting ''shall be considered direct emissions from the OCS source but shall not be subject to any emission control requirement applicable to the source under subpart 1 of part C of title I of this Act. For platform or drill ship exploration, an OCS source is established at the point in time when drilling commences at a location and ceases to exist when drilling activity ends at the location or is temporarily interrupted because the platform or drill ship relocates for weather or other reasons''.

SEC. 604. PERMITS.

(a) PERMITS.—Section 328 of the Clean Air Act (42 U.S.C. 7627) is amended by adding at the end the following:

''(d) PERMIT APPLICATION.—In the case of a completed application for a permit under this Act for platform or drill ship exploration for an OCS source—

''(1) final agency action (including any reconsideration of the issuance or denial of such a permit) shall be taken not later than 180 days after the date on which the completed application is filed;

''(2) the Environmental Appeals Board of the Environmental Protection Agency shall have no authority to consider any matter regarding the consideration, issuance, or denial of the permit;

''(3) no administrative stay of the effectiveness of the permit may extend beyond the date that is 180 days after the date on which the completed application is filed;

''(4) that final agency action shall be considered to be nationally applicable under section 307(b); and

''(5) judicial review of that final agency action shall be available only in accordance with section 307(b) without additional administrative review or adjudication.''.

(b) CONFORMING AMENDMENT.—Section 328(a)(4) of the Clean Air Act (42 U.S.C. 7627(a)(4)) is amended by striking ''For purposes of subsections (a) and (b) of this section—'' and inserting ''For purposes of subsections (a), (b), and (d):''.

TITLE VII—SACRAMENTO-SAN JOAQUIN VALLEY WATER RELIABILITY

SEC. 701. SHORT TITLE.

This title may be cited as the ''Sacramento-San Joaquin Valley Water Reliability Act''.

Subtitle A—Central Valley Project Water Reliability

SEC. 711. AMENDMENT TO PURPOSES.

Section 3402 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706) is amended—

(1) in subsection (f), by striking the period at the end; and

(2) by adding at the end the following:

''(g) to ensure that water dedicated to fish and wildlife purposes by this title is replaced and provided to Central Valley Project water contractors not later than December 31, 2016, at the lowest cost reasonably achievable; and

''(h) to facilitate and expedite water transfers in accordance with this title.''.

SEC. 712. AMENDMENT TO DEFINITION.

Section 3403 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4707) is amended—

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

''(a) the term 'anadromous fish' means those native stocks of salmon (including steelhead) and sturgeon that—

''(1) as of October 30, 1992, were present in the Sacramento and San Joaquin Rivers and the tributaries of the Sacramento and San Joaquin Rivers; and

''(2) ascend those rivers and tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean;'';

(2) by redesignating subsections (i) through (m) as subsections (j) through (n), respectively; and

(3) by inserting after subsection (h) the following:

''(i) the term 'reasonable flows' means water flows capable of being maintained taking into account competing consumptive uses of water and economic, environmental, and social factors.''.

SEC. 713. CONTRACTS.

Section 3404 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4708) is amended to read as follows:

''SEC. 3404. CONTRACTS.

''(a) RENEWAL OF EXISTING LONG-TERM CONTRACTS.—On request of the contractor, the Secretary shall renew any existing long-term repayment or water service contract that provides for the delivery of water from the Central Valley Project for a period of 40 years.

''(b) ADMINISTRATION OF CONTRACTS.—Except as expressly provided by this title, any existing long-term repayment or water service contract for the delivery of water from the Central Valley Project shall be administered pursuant to the Act of July 2, 1956 (chapter 492; 70 Stat. 483).

''(c) DELIVERY CHARGE.—Beginning on the date of enactment of this Act, a contract entered into or renewed pursuant to this section shall include a provision that requires the Secretary to charge any other party to the contract only for water actually delivered by the Secretary.''.

SEC. 714. WATER TRANSFERS, IMPROVED WATER MANAGEMENT, AND CONSERVATION.

Section 3405 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4709) is amended—

(1) in subsection (a)—

(A) in the second sentence, by striking ''Except as provided herein'' and inserting ''The Secretary shall take all actions necessary to facilitate and expedite transfers of Central Valley Project water in accordance with this title or any other provision of Federal reclamation law and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Except as provided in this subsection,'';

(B) in paragraph (1)(A), by striking ''to combination'' and inserting ''or combination'';

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

''(E) WRITTEN TRANSFER PROPOSALS.—

''(i) IN GENERAL.—The contracting district from which the water is supplied, the agency, or the Secretary, as applicable, shall determine whether a written transfer proposal is complete not later than 45 days after the date on which the proposal is submitted.

''(ii) DETERMINATION.—If the contracting district, the agency, or the Secretary determines that the proposal described in clause (i) is incomplete, the contracting district, agency, or Secretary shall state, in writing and with specificity, the conditions under which the proposal would be considered complete.

''(F) NO MITIGATION REQUIREMENTS.—

''(i) IN GENERAL.—Except as provided in this section, the Secretary shall not impose mitigation or other requirements on a proposed transfer.

''(ii) APPLICABILITY.—This section shall have no effect on the authority of the contracting district from which the water is supplied or the agency under State law to approve or condition a proposed transfer.''; and

(D) by adding at the end the following:

''(4) APPLICABILITY.—Notwithstanding any other provision of Federal reclamation law—

''(A) the authority to transfer, exchange, bank, or make recharging arrangements using Central Valley Project water that could have been carried out before October 30, 1992, is valid, and those transfers, exchanges, or arrangements shall not be subject to, limited, or conditioned by this title; and

''(B) this title does not supersede or revoke the authority to transfer, exchange, bank, or recharge Central Valley Project water in effect before October 30, 1992.'';

(2) in subsection (b)—

(A) in the heading, by striking ''METERING'' and inserting ''MEASUREMENT'';

(B) in the first sentence, by striking ''All Central Valley'' and inserting the following:

''(1) IN GENERAL.—All Central Valley'';

(C) in the second sentence, by striking ''The contracting district'' and inserting the following:

''(3) ANNUAL REPORT.—The contracting district''; and

(D) by inserting after paragraph (1) (as designated by subparagraph (B)) the following:

''(2) MEASUREMENT REQUIREMENTS.—The contracting district or agency, not including contracting districts serving multiple agencies with separate governing boards, shall ensure that all contractor-owned water delivery systems within the boundaries of the contracting district or agency measure surface water at the facilities of the contracting district or agency up to the point at which the surface water is commingled with other water supplies.'';

(3) by striking subsection (d);

(4) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(5) by striking subsection (e) (as redesignated by paragraph (4)) and inserting the following:

''(e) INCREASED REVENUES.—All revenues received by the Secretary that exceed the cost-of-service rates applicable to the delivery of water transferred from irrigation use to municipal and industrial use under subsection (a) shall be covered to the Restoration Fund.''.

SEC. 715. FISH, WILDLIFE, AND HABITAT RESTORATION.

Section 3406 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4714) is amended—

(1) in subsection (b)—

(A) by striking paragraph (1)(B) and inserting the following:

''(B) ADMINISTRATION.—

''(i) IN GENERAL.—As needed to carry out the goals of the Central Valley Project, the Secretary may modify Central Valley Project operations to provide reasonable flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish.

''(ii) REQUIREMENTS.—The flows under clause (i) shall be provided from the quantity of water dedicated to fish, wildlife, and habitat restoration purposes under paragraph (2) from the water supplies acquired pursuant to paragraph (3) and from other sources which do not conflict with fulfillment of the remaining contractual obligations of the Secretary to provide Central Valley Project water for other authorized purposes.

''(iii) DETERMINATION OF NEEDS.—The Secretary shall determine the instream reasonable flow needs for all Central Valley Project controlled streams and rivers based on recommendations of the United States Fish and Wildlife Service and the National Marine

Fisheries Service after consultation with the United States Geological Survey.''; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A)—

(I) in the first sentence, by striking ''primary purpose'' and inserting ''purposes'';

(II) by striking ''but not limited to additional obligations under the Federal Endangered Species Act'' and inserting ''additional obligations under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)''; and

(III) by adding at the end the following: ''All Central Valley Project water used for the purposes specified in this paragraph shall be credited to the quantity of Central Valley Project yield dedicated and managed under this paragraph by determining how the dedication and management of that water would affect the delivery capability of the Central Valley Project yield. To the maximum extent practicable and in accordance with section 3411, Central Valley Project water dedicated and managed pursuant to this paragraph shall be reused to fulfill the remaining contractual obligations of the Secretary to provide Central Valley Project water for agricultural or municipal and industrial purposes.''; and

(ii) by striking subparagraph (C) and inserting the following:

''(C) MANDATORY REDUCTION.—If on March 15 of a given year, the quantity of Central Valley Project water forecasted to be made available to water service or repayment contractors in the Delta Division of the Central Valley Project is less than 75 percent of the total quantity of water to be made available under those contracts, the quantity of Central Valley Project yield dedicated and managed for that year under this paragraph shall be reduced by 25 percent.''; and

(2) by adding at the end the following:

''(i) SATISFACTION OF PURPOSES.—In carrying out this section, the Secretary shall be considered to have met the mitigation, protection, restoration, and enhancement purposes of this title.''.

SEC. 716. RESTORATION FUND.

(a) IN GENERAL.—Section 3407(a) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4726) is amended—

(1) by striking ''There is hereby'' and inserting the following:

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—There is'';

(2) in paragraph (1)(A) (as designated by paragraph (1)), by striking ''Not less than 67 percent'' and all that follows through ''Monies'' and inserting the following:

''(B) USE OF DONATED AMOUNTS.—Amounts''; and

(3) by adding at the end the following:

''(2) RESTRICTIONS.—The Secretary may not directly or indirectly require a donation or other payment (including environmental restoration or mitigation fees not otherwise provided by law) to the Restoration Fund—

''(A) as a condition of—

''(i) providing for the storage or conveyance of non-Central Valley Project water pursuant to Federal reclamation laws; or

''(ii) the delivery of water pursuant to section 215 of the Reclamation Reform Act of 1982 (Public Law 97–293; 96 Stat. 1270); or

''(B) for any water that is delivered with the sole intent of groundwater recharge.''.

(b) CERTAIN PAYMENTS.—Section 3407(c)(1) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4726) is amended—

(1) by striking ''mitigation and restoration payments, in addition to charges provided for or'' and inserting ''payments, in addition to charges''; and

(2) by striking ''of fish, wildlife'' and all that follows through the period and inserting ''of carrying out this title.''.

(c) ADJUSTMENT AND ASSESSMENT OF MITIGATION AND RESTORATION PAYMENTS.—Section 3407(d) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4727) is amended—

(1) in paragraph (2)(A)—

(A) by striking '', and $12 per acre-foot (October 1992 price levels) for municipal and industrial water sold and delivered by the Central Valley Project'' and inserting ''$12 per acre-foot (October 1992 price levels) for municipal and industrial water sold and delivered by the Central Valley Project, and after October 1, 2013, $4 per megawatt-hour for Central Valley Project power sold to power contractors (October 2013 price levels)''; and

(B) by inserting '' but not later than December 31, 2020,'' after ''That upon the completion of the fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406 of this title,''; and

(2) by adding at the end the following:

''(g) REPORT ON EXPENDITURE OF FUNDS.—

''(1) IN GENERAL.—For each fiscal year, the Secretary, in consultation with the Advisory Board, shall submit to Congress a plan for the expenditure of all of the funds deposited in the Restoration Fund during the preceding fiscal year.

''(2) CONTENTS.—The plan shall include an analysis of the cost-effectiveness of each expenditure.

''(h) ADVISORY BOARD.—

''(1) ESTABLISHMENT.—There is established the Restoration Fund Advisory Board (referred to in this section as the 'Advisory Board'), which shall be composed of 12 members appointed by the Secretary.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The Secretary shall appoint members to the Advisory Board that represent the various Central Valley Project stakeholders, of whom—

''(i) 4 members shall be agricultural users of the Central Valley Project;

''(ii) 3 members shall be municipal and industrial users of the Central Valley Project;

''(iii) 3 members shall be power contractors of the Central Valley Project; and

''(iv) 2 members shall be appointed at the discretion of the Secretary.

''(B) OBSERVERS.—The Secretary and the Secretary of Commerce may each designate a representative to act as an observer of the Advisory Board.

''(C) CHAIRMAN.—The Secretary shall appoint 1 of the members described in subparagraph (A) to serve as Chairman of the Advisory Board.

''(3) TERMS.—The term of each member of the Advisory Board shall be for a period of 4 years.

''(4) DUTIES.—The duties of the Advisory Board are—

''(A) to meet not less frequently than semiannually to develop and make recommendations to the Secretary regarding priorities and spending levels on projects and programs carried out under this title;

''(B) to ensure that any advice given or recommendation made by the Advisory Board reflects the independent judgment of the Advisory Board;

''(C) not later than December 31, 2013, and annually thereafter, to submit to the Secretary and Congress the recommendations under subparagraph (A); and

''(D) not later than December 31, 2013, and biennially thereafter, to submit to Congress a report that details the progress made in achieving the actions required under section 3406.

''(5) ADMINISTRATION.—With the consent of the appropriate agency head, the Advisory Board may use the facilities and services of any Federal agency.''.

SEC. 717. ADDITIONAL AUTHORITIES.

(a) AUTHORITY FOR CERTAIN ACTIVITIES.—Section 3408 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4728) is amended by striking subsection (c) and inserting the following:

''(c) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.—

''(1) IN GENERAL.—The Secretary may enter into contracts under the reclamation laws and this title with any Federal agency, California water user or water agency, State agency, or private organization for the exchange, impoundment, storage, carriage, and delivery of nonproject water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose.

''(2) LIMITATION.—Nothing in this subsection supersedes section 2(d) of the Act of August 26, 1937 (chapter 832; 50 Stat. 850; 100 Stat. 3051).

''(3) AUTHORITY FOR CERTAIN ACTIVITIES.—The Secretary shall use the authority granted by this subsection in connection with requests to exchange, impound, store, carry, or deliver nonproject water using Central Valley Project facilities for any beneficial purpose.

''(4) RATES.—

''(A) IN GENERAL.—The Secretary shall develop rates not to exceed the amount required to recover the reasonable costs incurred by the Secretary in connection with a beneficial purpose under this subsection.

''(B) ADMINISTRATION.—The rates shall be charged to a party using Central Valley Project facilities for a beneficial purpose, but the costs described in subparagraph (A) shall not include any donation or other payment to the Restoration Fund.

''(5) CONSTRUCTION.—This subsection shall be construed and implemented to facilitate and encourage the use of Central Valley Project facilities to exchange, impound, store, carry, or deliver nonproject water for any beneficial purpose.''.

(b) REPORTING REQUIREMENTS.—Section 3408(f) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4729) is amended—

(1) in the first sentence, by striking ''Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries'' and inserting ''Natural Resources'';

(2) in the second sentence, by inserting '', including progress on the plan under subsection (j)'' before the period at the end; and

(3) by adding at the end the following: ''The filing and adequacy of the report shall be personally certified to the Committees by the Regional Director of the Mid-Pacific Region of the Bureau of Reclamation.''.

(c) PROJECT YIELD INCREASE.—Section 3408(j) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4730) is amended—

(1) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively, and indenting appropriately;

(2) by striking ''In order to minimize adverse effects, if any, upon'' and inserting the following:

''(1) IN GENERAL.—In order to minimize adverse effects upon'';

(3) in the second sentence, by striking ''The plan'' and all that follows through ''options:'' and inserting the following:

''(2) CONTENTS.—The plan shall include recommendations on appropriate cost-sharing arrangements and authorizing legislation or other measures needed to implement the intent, purposes, and provisions of this subsection, as well as a description of how the Secretary intends to use—'';

(4) in paragraph (1) (as designated by paragraph (2))—

(A) by striking ''needs, the Secretary, shall'' and all that follows through ''to the Congress,'' and inserting ''needs, the Secretary, on a priority basis and not later than September 30, 2013, shall submit to Congress''; and

(B) by striking ''increase,'' and all that follows through ''under this title'' and inserting ''increase, as soon as practicable, but not later than September 30, 2016 (except that the construction of new facilities shall not be limited by that deadline), the water of the Central Valley Project by the quantity dedicated and managed for fish and wildlife purposes under this title and otherwise required to meet the purposes of the Central Valley Project, including satisfying contractual obligations'';

(5) in paragraph (2)(A) (as designated by paragraph (1)), by inserting ''and construction of new water storage facilities'' before the semicolon;

(6) in paragraph (2)(F) (as designated by paragraph (1)), by striking ''and'' at the end;

(7) in paragraph (2)(G) (as designated by paragraph (1)), by striking the period and all that follows through the end of the subsection and inserting ''; and''; and

(8) by adding after paragraph (2)(G) the following:

''(H) water banking and recharge.

''(3) IMPLEMENTATION OF PLAN.—

''(A) IN GENERAL.—The Secretary shall implement the plan under paragraph (1) beginning on October 1, 2013.

''(B) COORDINATION.—In carrying out this subsection, the Secretary shall coordinate with the State of California in implementing measures for the long-term resolution of problems in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

''(4) FAILURE OF PLAN.—Notwithstanding any other provision of the reclamation laws, if by September 30, 2016, the plan under paragraph (1) fails to increase the annual delivery capability of the Central Valley Project by 800,000 acre-feet, implementation of any nonmandatory action under section 3406(b)(2) shall be suspended until the date on which the plan achieves an increase in the annual delivery capability of the Central Valley Project of 800,000 acre-feet.''.

(d) TECHNICAL CORRECTIONS.—Section 3408(h) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4729) is amended—

(1) in paragraph (1), by striking ''paragraph (h)(2)'' and inserting ''paragraph (2)''; and

(2) in paragraph (2), by striking ''paragraph (h)(i)'' and inserting ''paragraph (1)''.

(e) WATER STORAGE PROJECT CONSTRUCTION.—

(1) IN GENERAL.—The Secretary of the Interior, acting through the Commissioner of Reclamation, may partner or enter into an agreement relating to the water storage projects described in section 103(d)(1) of the Water Supply, Reliability, and Environmental Improvement Act (Public Law 108–361; 118 Stat. 1684) with local joint powers authorities formed under State law by irrigation districts and other local governments or water districts within the applicable hydrological region to advance those water storage projects.

(2) NO ADDITIONAL FEDERAL AMOUNTS.—

(A) IN GENERAL.—Subject to subparagraph (B), no additional Federal amounts are authorized to be appropriated to carry out the activities described in clauses (i) through (iii) of sections 103(d)(1)(A) of the Water Supply, Reliability, and Environmental Improvement Act (Public Law 108–361; 118 Stat. 1684) Public Law 108–361.

(B) EXCEPTION.—Additional Federal amounts may be appropriated for construction of a project described in subparagraph (A) if non-Federal amounts are used to finance and construct the project.

SEC. 718. BAY-DELTA ACCORD.

(a) CONGRESSIONAL DIRECTION REGARDING CENTRAL VALLEY PROJECT AND CALIFORNIA STATE WATER PROJECT OPERATIONS.—

(1) IN GENERAL.—The Central Valley Project and the California State Water Project shall be operated strictly in accordance with the water quality standards and operational constraints described in the ''Principles for Agreement on the Bay-Delta Standards Between the State of California and the Federal Government'' dated December 15, 1994.

(2) APPLICABILITY OF OTHER LAW.—The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and other applicable law shall not apply to operations described in paragraph (1).

(3) IMPLEMENTATION.—Implementation of the ''Principles for Agreement on the Bay-Delta Standards Between the State of California and the Federal Government'' dated December 15, 1994, shall be in strict compliance with the water rights priority system and statutory protections for areas of origin.

(b) APPLICATION OF LAWS TO OTHERS.—

(1) IN GENERAL.—As a condition of the receipt of Federal amounts for the Central Valley Project and the California State Water Project, the State of California (including any agency or board of the State of California), on any water right obtained pursuant to State law, including a pre-1914 appropriative right, shall not—

(A) impose any condition that restricts the exercise of that water right that is affected by operations of the Central Valley Project or California State Water Project;

(B) restrict under the Public Trust Doctrine any public trust value imposed in order to conserve, enhance, recover, or otherwise protect any species.

(2) FEDERAL AGENCIES.—The prohibition under paragraph (1)(A) shall apply to Federal agencies.

(c) COSTS.—No cost associated with the implementation of this section shall be imposed directly or indirectly on any Central Valley Project contractor, or any other person or entity, unless those costs are incurred on a voluntary basis.

(d) NATIVE SPECIES PROTECTION.—This section preempts any law of the State California law restricting the quantity or size of a nonnative fish that is taken or harvested that preys on 1 or more native fish species that occupy the Sacramento and San Joaquin Rivers and the tributaries of those rivers or the Sacramento-San Joaquin Rivers Delta.

SEC. 719. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.

After the date of enactment of this Act, and regardless of the date of listing, the Secretaries of the Interior and Commerce shall not distinguish between natural-spawned and hatchery-spawned (or otherwise artificially propagated strains of a species) in making any determination under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that relates to an anadromous fish species present in the Sacramento and San Joaquin Rivers or the tributaries of those rivers and that ascends those rivers and tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean.

SEC. 720. AUTHORIZED SERVICE AREA.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Commissioner of Reclamation, shall include in the service area of the Central Valley Project authorized under the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706) the area within the boundaries of the Kettleman City Community Services District, California, as those boundaries are defined as of the date of enactment of this Act.

(b) LONG-TERM CONTRACT.—

(1) IN GENERAL.—Notwithstanding the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4706) and subject to paragraph (2), the Secretary, in accordance with the reclamation laws, shall enter into a long-term contract with the Kettleman City Community Services District or the delivery of not more than 900 acre-feet of Central Valley Project water for municipal and industrial use.

(2) REDUCTION IN CONTRACT.—The Secretary may temporarily reduce deliveries of the quantity of water made available under paragraph (1) by not more than 25 percent of the total whenever reductions due to hydrologic circumstances are imposed on agricultural deliveries of Central Valley Project water.

(c) ADDITIONAL COST.—If any additional infrastructure or related costs are needed to implement this section, those costs shall be the responsibility of the non-Federal entity.

SEC. 721. REGULATORY STREAMLINING.

(a) DEFINITIONS.—In this section:

(1) CVP.—The term ''CVP'' means the Central Valley Project.

(2) PROJECT.—The term ''project''—

(A) means an activity that—

(i) is undertaken by a public agency, funded by a public agency, or requires the issuance of a permit by a public agency;

(ii) has a potential to result in a physical change to the environment; and

(iii) may be subject to several discretionary approvals by governmental agencies;

(B) may include construction activities, clearing or grading of land, improvements to existing structures, and activities or equipment involving the issuance of a permit; or

(C) has the meaning given the term defined in section 21065 of the California Public Resource Code.

(b) APPLICABILITY OF CERTAIN LAWS.—The filing of a notice of determination or a notice of exemption for any project, including the issuance of a permit under State law, for any project of the CVP or the delivery of water from the CVP in accordance with the California Environmental Quality Act shall be considered to meet the requirements for that project or permit under section 102(2)(C) of the National Environmental Protection Act of 1969 (42 U.S.C. 4332(2)(C)).

(c) CONTINUATION OF PROJECT.—The Bureau of Reclamation shall not be required to cease or modify any major Federal action or other activity for any project of the CVP or the delivery of water from the CVP pending completion of judicial review of any determination made under the National Environmental Protection Act of 1969 (42 U.S.C. 4321 et seq.).

Subtitle B—San Joaquin River Restoration

SEC. 731. REPEAL OF THE SAN JOAQUIN RIVER SETTLEMENT.

As of the date of enactment of this Act, the Secretary shall cease any action to implement the Stipulation of Settlement, Natural Resources Defense Council, Inc. v. Rodgers, No. Civ. S–88–1658 LKK/GGH (E.D. Cal. Sept. 13, 2006).

SEC. 732. PURPOSE.

Section 10002 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1349) is amended by striking ''implementation of the Settlement'' and inserting ''restoration of the San Joaquin River''.

SEC. 733. DEFINITIONS.

Section 10003 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1349) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

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

''(1) CRITICAL WATER YEAR.—The term 'critical water year' means a year in which the

total unimpaired runoff at Friant Dam is less than 400,000 acre-feet, as forecasted as of March 1 of that water year by the California Department of Water Resources.

''(2) RESTORATION FLOWS.—The term 'Restoration Flows' means the additional water released or bypassed from Friant Dam to ensure that the target flow entering Mendota Pool, located approximately 62 river miles downstream from Friant Dam, does not fall below a speed of 50 cubic feet per second.''; and

(3) by striking paragraph (4) (as redesignated by paragraph (1)) and inserting the following:

''(4) WATER YEAR.—The term 'water year' means the period beginning March 1 of a given year and ending on the last day of February of the following calendar year.''.

SEC. 734. IMPLEMENTATION OF RESTORATION.

Section 10004 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1350) is amended—

(1) in subsection (a)—

(A) by striking ''hereby authorized and directed'' and all that follows through ''in the Settlement:'' and inserting ''may carry out the following:'';

(B) by striking paragraphs (1), (2), (4), and (5);

(C) by redesignating paragraph (3) as paragraph (1);

(D) in paragraph (1) (as redesignated by subparagraph (C)), by striking ''paragraph 13 of the Settlement'' and inserting ''this part''; and

(E) by adding at the end the following :

''(2) In each water year, beginning in the water year commencing on March 1, 2013, the Secretary—

''(A) shall modify Friant Dam operations to release the Restoration Flows for that water year, unless the year is a critical water year;

''(B) shall ensure that—

''(i) the release of Restoration Flows are maintained at the level prescribed by this part; and

''(ii) Restoration Flows do not reach downstream of Mendota Pool;

''(C) shall release the Restoration Flows in a manner that improves the fishery in the San Joaquin River below Friant Dam and upstream of Gravelly Ford, Nevada, as in existence on the date of the enactment of the Sacramento and San Joaquin Valleys Water Reliability Act, including the associated riparian habitat; and

''(D) may, without limiting the actions required under subparagraphs (A) and (C) and subject to paragraph (3) and subsection (l), use the Restoration Flows to enhance or restore a warm water fishery downstream of Gravelly Ford, Nevada, including to Mendota Pool, if the Secretary determines that the action is reasonable, prudent, and feasible.

''(3) Not later than 1 year after the date of enactment of the Sacramento and San Joaquin Valleys Water Reliability Act, the Secretary shall develop and implement, in cooperation with the State of California, a reasonable plan—

''(A) to fully recirculate, recapture, reuse, exchange, or transfer all Restoration Flows; and

''(B) to provide the recirculated, recaptured, reused, exchanged, or transferred flows to those contractors within the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project that relinquished the Restoration Flows that were recirculated, recaptured, reused, exchanged, or transferred.

''(4) The plan described in paragraph (3) shall—

''(A) address any impact on groundwater resources within the service area of the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project and mitigation may include groundwater banking and recharge projects;

''(B) not impact the water supply or water rights of any entity outside the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project; and

''(C) be subject to applicable provisions of California water law and the use by the Secretary of the Interior of Central Valley Project facilities to make Project water (other than water released from Friant Dam under this part) and water acquired through transfers available to existing south of Delta Central Valley Project contractors.'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''the Settlement'' and inserting ''this part''; and

(B) in paragraph (2), by striking ''the Settlement'' and inserting ''this part'';

(3) in subsection (c), by striking ''the Settlement'' and inserting ''this part'';

(4) by striking subsection (d) and inserting the following:

''(d) MITIGATION OF IMPACTS.—

''(1) IN GENERAL.—Not later than October 1, 2013 and subject to paragraph (2), the Secretary shall identify—

''(A) the impacts associated with the release of Restoration Flows prescribed in this part; and

''(B) the measures to be implemented to mitigate impacts on adjacent and downstream water users, landowners, and agencies as a result of Restoration Flows.

''(2) MITIGATION MEASURES.—Before implementing a decision or agreement to construct, improve, operate, or maintain a facility that the Secretary determines is necessary to implement this part, the Secretary shall implement all mitigation measures identified in paragraph (1)(B) before the date on which Restoration Flows are commenced.'';

(5) in subsection (e), by striking ''the Settlement'' and inserting ''this part'';

(6) in subsection (f), by striking ''the Settlement and section 10011'' and inserting ''this part'';

(7) in subsection (g)—

(A) by striking ''the Settlement and''; and

(B) by striking ''or exchange contract'' and inserting ''exchange contract, water rights settlement, or holding contract'';

(8) in subsection (h)—

(A) by striking ''INTERIM'' in the header;

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''Interim Flows under the Settlement'' and inserting ''Restoration Flows under this part'';

(ii) in subparagraph (C)—

(I) in clause (i), by striking ''Interim'' and inserting ''Restoration''; and

(II) in clause (ii), by inserting ''and'' after the semicolon;

(iii) in subparagraph (D), by striking ''and'' at the end; and

(iv) by striking subparagraph (E);

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

''(2) CONDITIONS FOR RELEASE.—The Secretary may release Restoration Flows to the extent that the flows would not exceed existing downstream channel capacities.'';

(D) in paragraph (3), by striking ''Interim'' and inserting ''Restoration''; and

(E) by striking paragraph (4) and inserting the following:

''(4) CLAIMS.—Not later than 60 days after the date of enactment of the Sacramento and San Joaquin Valleys Water Reliability Act, the Secretary shall issue, by regulation, a claims process to address claims, including groundwater seepage, flooding, or levee instability damages caused as a result of, arising out of, or related to implementation of this subtitle.'';

(9) in subsection (i)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''the Settlement and parts I and III'' and inserting ''this part'';

(ii) in subparagraph (A), by inserting ''and'' after the semicolon;

(iii) in subparagraph (B)—

(I) by striking ''additional amounts authorized to be appropriated, including the''; and

(II) by striking ''; and'' and inserting a period; and

(iv) by striking subparagraph (C); and

(B) by striking paragraph (3); and

(10) by adding at the end the following:

''(k) NO IMPACTS ON OTHER INTERESTS.—

''(1) IN GENERAL.—No Central Valley Project or other water (other than San Joaquin River water impounded by or bypassed from Friant Dam) shall be used to implement subsection (a)(2) unless the use is on a voluntary basis.

''(2) INVOLUNTARY COSTS.—No cost associated with the implementation of this section shall be imposed directly or indirectly on any Central Valley Project contractor, or any other person or entity, outside the Friant Division, the Hidden Unit, or the Buchanan Unit, unless the cost is incurred on a voluntary basis.

''(3) REDUCTION IN WATER SUPPLIES.—The implementation of this part shall not directly or indirectly reduce any water supply or water reliability on any Central Valley Project contractor, any State Water Project contractor, or any other person or entity, outside the Friant Division, the Hidden Unit, or the Buchanan Unit, unless the reduction or cost is incurred on a voluntary basis.

''(l) PRIORITY.—Each action taken under this part shall be subordinate to the use by the Secretary of Central Valley Project facilities to make Project water available to Project contractors, other than water released from the Friant Dam under this part.

''(m) APPLICABILITY.—

''(1) IN GENERAL.—Notwithstanding section 8 of the Act of June 17, 1902 (32 Stat. 390, chapter 1093), except as provided in this part and subtitle D of the Sacramento and San Joaquin Valleys Water Reliability Act, this part—

''(A) preempts and supersedes any State law, regulation, or requirement that imposes more restrictive requirements or regulations on the activities authorized under this part; and

''(B) does not alter or modify any obligation of the Friant Division, Hidden Unit, and Buchanan Unit of the Central Valley Project, or other water users on the San Joaquin River, or tributaries of the San Joaquin River, under any order issued by the State Water Resources Control Board under the Porter-Cologne Water Quality Control Act (California Water Code section 13000 et seq.).

''(2) APPLICABILITY.—An order described in paragraph (1)(B) shall be consistent with any congressional authorization for any affected Federal facility relating to the Central Valley Project.

''(n) PROJECT IMPLEMENTATION.—Any project to implement this part shall be phased such that each project shall include—

''(1) the project purpose and need;

''(2) identification of mitigation measures;

''(3) appropriate environmental review; and

''(4) prior to releasing Restoration Flows under this part the completion of the any required mitigation measures and the completion of the project.''.

SEC. 735. DISPOSAL OF PROPERTY; TITLE TO FACILITIES.

Section 10005 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1353) is amended—

(1) in subsection (a), by striking ''the Settlement authorized by this part'' and inserting ''this part'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''(1) IN GENERAL.—The Secretary'' and inserting ''The Secretary''; and

(ii) by striking ''the Settlement authorized by this part'' and inserting ''this part''; and

(B) by striking paragraph (2); and

(3) in subsection (c)—

(A) in paragraph (1), by striking ''the Settlement'' and inserting ''this part'';

(B) in paragraph (2)—

(i) by striking ''through the exercise of its eminent domain authority''; and

(ii) by striking ''the Settlement'' and inserting ''this part''; and

(C) in paragraph (3), by striking ''section 10009(c)'' and inserting ''section 10009''.

SEC. 736. COMPLIANCE WITH APPLICABLE LAW.

Section 10006 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1354) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', unless otherwise provided by this part'' before the period at the end; and

(B) in paragraph (2), by striking ''the Settlement'' and inserting ''this part'';

(2) in subsection (b), by inserting '', unless otherwise provided by this part'' before the period at the end;

(3) in subsection (c)—

(A) in paragraph (2), by striking ''section 10004'' and inserting ''this part''; and

(B) in paragraph (3), by striking ''the Settlement'' and inserting ''this part''; and

(4) in subsection (d)—

(A) by inserting '', including, without limitation, the costs of implementing subsections (d) and (h)(4) of section 10004,'' after ''implementing this part''; and

(B) by striking ''for implementation of the Settlement,''.

SEC. 737. COMPLIANCE WITH CENTRAL VALLEY PROJECT IMPROVEMENT ACT.

Section 10007 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1354) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking ''the Settlement'' and inserting ''the enactment of this part''; and

(B) by inserting: ''and the obligations of the Secretary and all other parties to protect and keep in good condition any fish that may be planted or exist below Friant Dam, including any obligations under section 5937 of the California Fish and Game Code and the public trust doctrine, and those of the Secretary and all other parties under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)'' before '', provided''; and

(2) in paragraph (1), by striking '', as provided in the Settlement''.

SEC. 738. NO PRIVATE RIGHT OF ACTION.

Section 10008(a) of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1355) is amended—

(1) by striking ''not a party to the Settlement''; and

(2) by striking ''or the Settlement'' and inserting ''unless otherwise provided by this part, but any Central Valley Project long-term water service or repayment contractor within the Friant Division, Hidden unit, or Buchanan unit adversely affected by the failure of the Secretary to comply with section 10004(a)(3) may bring an action against the Secretary for injunctive relief, damages, or both.''.

SEC. 739. IMPLEMENTATION.

Section 10009 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1355) is amended—

(1) in the section heading, by striking ''**; SETTLEMENT FUND**'';

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''the Settlement'' the first place it appears and inserting ''this part'';

(ii) by striking '', estimated to total'' and all that follows through ''subsection (b)(1),''; and

(iii) by striking ''; provided however,'' and all that follows through ''$110,000,000 of State funds'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''(A) IN GENERAL.—The Secretary'' and inserting ''The Secretary''; and

(ii) by striking subparagraph (B); and

(C) in paragraph (3)—

(i) by striking ''Except as provided in the Settlement, to'' and inserting ''To''; and

(ii) by striking ''this Settlement'' and inserting ''this part'';

(3) in subsection (b)(1)—

(A) by striking ''In addition'' and all that follows through ''however, that the'' and inserting ''The'';

(B) by striking ''such additional appropriations only in amounts equal to''; and

(C) by striking ''or the Settlement'';

(4) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''the Settlement'' and inserting ''this part'';

(ii) in subparagraph (C), by striking ''from the sale of water pursuant to the Settlement, or''; and

(iii) in subparagraph (D), by striking ''the Settlement'' and inserting ''this part'';

(B) in paragraph (2), by striking ''the Settlement and''; and

(5) by striking subsections (d) through (f).

SEC. 740. REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS.

Section 10010 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1358) is amended—

(1) in paragraphs (3)(D) and (4)(C) of subsection (a), by striking ''the Settlement and'' each place it appears;

(2) in subsection (c), by striking paragraph (3);

(3) in subsection (d)(1), by striking ''the Settlement'' each place it appears and inserting ''this part'';

(4) in subsection (e)—

(A) in paragraph (1)—

(i) by striking ''Interim Flows or Restoration Flows, pursuant to paragraphs 13 or 15 of the Settlement'' and inserting ''Restoration Flows, pursuant to this part'';

(ii) by striking ''Interim Flows or'' before ''Restoration Flows''; and

(iii) by striking ''the Interim Flows or Restoration Flows or is intended to otherwise facilitate the Water Management Goal, as described in the Settlement'' and inserting ''Restoration Flows''; and

(B) in paragraph (2)—

(i) by striking ''except as provided in paragraph 16(b) of the Settlement''; and

(ii) by striking ''the Interim Flows or Restoration Flows or to facilitate the Water Management Goal'' and inserting ''Restoration Flows''.

SEC. 741. REPEAL.

Section 10011 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1362) is repealed.

SEC. 742. WATER SUPPLY MITIGATION.

Section 10202(b) of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1365) is amended—

(1) in paragraph (1), by striking ''the Interim or Restoration Flows authorized in part I of this subtitle'' and inserting ''Restoration Flows authorized in this part'';

(2) in paragraph (2), by striking ''the Interim or Restoration Flows authorized in part I of this subtitle'' and inserting ''Restoration Flows authorized in this part''; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking ''meet the Restoration Goal as described in part I of this subtitle'' and inserting ''recover Restoration Flows as described in this part'';

(B) in subparagraph (C)—

(i) by striking ''the Interim or Restoration Flows authorized in part I of this subtitle'' and inserting ''Restoration Flows authorized in this part''; and

(ii) by striking '', and for ensuring appropriate adjustment in the recovered water account pursuant to section 10004(a)(5)''.

SEC. 743. ADDITIONAL AUTHORITIES.

Section 10203 of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1367) is amended—

(1) in subsection (b)—

(A) by striking ''section 10004(a)(4)'' and inserting ''section 10004(a)(3)''; and

(B) by striking '', provided'' and all that follows through ''section 10009(f)(2)''; and

(2) by striking subsection (c).

Subtitle C—Repayment Contracts and Acceleration of Repayment of Construction Costs

SEC. 751. REPAYMENT CONTRACTS AND ACCELERATION OF REPAYMENT OF CONSTRUCTION COSTS.

(a) CONVERSION OF CONTRACTS.—

(1) CERTAIN CONTRACTS.—

(A) IN GENERAL.—Not later than 1 year after the date enactment of this Act, the Secretary of the Interior, on the request of a contractor, shall convert all existing long-term Central Valley Project contracts entered into under section 9(e) of the Act of August 4, 1939 (53 Stat. 1196, chapter 418), to a contract under section 9(d) of that Act (53 Stat. 1195), under mutually agreeable terms and conditions.

(B) RESTRICTIONS.—A contract converted under subparagraph (A) shall—

(i) require the repayment, either in lump sum or by accelerated prepayment, of the remaining amount of construction costs identified in the most current version of the Central Valley Project Schedule of Irrigation Capital Allocations by Contractor, as adjusted to reflect payments not reflected in that schedule and properly assignable for ultimate return by the contractor, not later than January 31, 2013 (or if made in approximately equal annual installments, not later than January 31, 2016), which amount shall be discounted by the Treasury rate (defined as the 20-year Constant Maturity Treasury rate published by the Department of the Treasury as of October 1, 2012);

(ii) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the converted contract or not reflected in the schedule described in clause (i) and properly assignable to that contractor, shall be repaid—

(I) in not more than 5 years after the date on which the contractor is notified of the allocation if that amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than $5,000,000; or

(II) if the allocation of capital costs described in subclause (I) equal $5,000,000 or more, as provided by applicable reclamation law, subject to the condition that the reference to the amount of $5,000,000 shall not be a precedent in any other context; and

(iii) provide that power revenues will not be available to aid in the repayment of construction costs allocated to irrigation under the contract.

(C) ESTIMATE.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall provide to each contractor an estimate of the remaining amount of construction costs under subparagraph (B)(i) as of January 31, 2013, as adjusted.

(2) OTHER CONTRACTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, on the request of a contractor, the Secretary may convert any Central Valley Project long-term contract entered into under section 9(c)(2) of the Act of August 4, 1939 (chapter 418; 53 Stat. 1194) to a contract under section 9(c)(1) of that Act, under mutually agreeable terms and conditions.

(B) RESTRICTIONS.—A contract converted under subparagraph (A) shall—

(i) require the repayment in lump sum of the remaining amount of construction costs identified in the most current version of the Central Valley Project Schedule of Municipal and Industrial Water Rates, as adjusted to reflect payments not reflected in that schedule and properly assignable for ultimate return by the contractor, not later than January 31, 2016; and

(ii) require that, notwithstanding subsection (c)(2), construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the Schedule described in clause (i), and properly assignable to that contractor, shall be repaid—

(I) in not more than 5 years after the date on which the contractor is notified of the allocation if the amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversions under this subsection of less than $5,000,000; or

(II) if the allocation of capital costs described in subclause (I) equal $5,000,000 or more, as provided by applicable reclamation law, subject to the condition that the reference to the amount of $5,000,000 shall not be a precedent in any other context.

(C) ESTIMATE.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall provide to each contractor an estimate of the remaining amount of construction costs under subparagraph (B)(i) as of January 31, 2016, as adjusted.

(b) FINAL ADJUSTMENT.—

(1) IN GENERAL.—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior on completion of the construction of the Central Valley Project.

(2) REPAYMENT OBLIGATION.—

(A) IN GENERAL.—If the final cost allocation indicates that the costs properly assignable to the contractor are greater than the amount that has been paid by the contractor, the contractor shall pay the remaining allocated costs.

(B) TERMS.—The term of an additional repayment contract described in subparagraph (A) shall be—

(i) for not less than 1 year and not more than 10 years; and

(ii) based on mutually agreeable provisions regarding the rate of repayment of the amount developed by the parties.

(3) CREDITS.—If the final cost allocation indicates that the costs properly assignable to the contractor are less than the amount that the contractor has paid, the Secretary of the Interior shall credit the amount of the overpayment as an offset against any outstanding or future obligation of the contractor.

(c) APPLICABILITY OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Notwithstanding any repayment obligation under subsection (a)(1)(B)(ii) or subsection (b), on the compliance of a contractor with and discharge of the obligation of repayment of the construction costs under that subsection, the ownership and full-cost pricing limitations of any provision of the reclamation laws shall not apply to land in that district.

(2) OTHER CONTRACTS.—Notwithstanding any repayment obligation under paragraph (1)(B)(ii) or (2)(B)(ii) of subsection (a) or subsection (b), on the compliance of a contractor with and discharge of the obligation of repayment of the construction costs under that subsection, the contractor shall continue to pay applicable operation and maintenance costs and other charges applicable to the repayment contracts pursuant to then-current rate-setting policy and applicable law.

(d) CERTAIN REPAYMENT OBLIGATIONS NOT ALTERED.—This section does not—

(1) alter the repayment obligation of any other long-term water service or repayment contractor receiving water from the Central Valley Project; or

(2) shift any costs that would otherwise have been properly assignable to a contractor absent this section, including operations and maintenance costs, construction costs, or other capitalized costs incurred after the date of enactment of this Act, to other contractors.

(e) STATUTORY INTERPRETATION.—Nothing in this subtitle affects the right of any long-term contractor to use a particular type of financing to make the payments required in paragraph (1)(B)(i) or (2)(B)(i) of subsection (a).

Subtitle D—Bay-Delta Watershed Water Rights Preservation and Protection

SEC. 761. WATER RIGHTS AND AREA-OF-ORIGIN PROTECTIONS.

Notwithstanding the provisions of this title, Federal reclamation law, or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)—

(1) the Secretary of the Interior shall, in the operation of the Central Valley Project—

(A) strictly adhere to State water rights law governing water rights priorities by honoring water rights senior to those belonging to the Central Valley Project, regardless of the source of priority; and

(B) strictly adhere to and honor water rights and other priorities that are obtained or exist pursuant to the California Water Code, including sections 10505, 10505:5, 11128, 11460, 11463, and 12220; and

(2) any action that affects the diversion of water or involves the release of water from any Central Valley Project water storage facility taken by the Secretary of the Interior or the Secretary of Commerce to conserve, enhance, recover, or otherwise protect any species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) shall be applied in a manner that is consistent with water right priorities established by State law.

SEC. 762. SACRAMENTO RIVER SETTLEMENT CONTRACTS.

(a) IN GENERAL.—In carrying out the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) in the Bay-Delta and on the Sacramento River, the Secretary of the Interior and the Secretary of Commerce shall apply any limitations on the operation of the Central Valley Project or relating to the formulation of any reasonable prudent alternative associated with the operation of the Central Valley Project in a manner that strictly adheres to and applies the water rights priorities for project water and base supply as provided in the Sacramento River Settlement Contracts.

(b) APPLICABILITY.—Article 3(i) of the Sacramento River Settlement Contracts shall not be used by the Secretary of the Interior or any other Federal agency head as means to provide shortages that are different from those provided for in Article 5(a) of the Sacramento River Settlement Contracts.

SEC. 763. SACRAMENTO RIVER WATERSHED WATER SERVICE CONTRACTORS.

(a) EXISTING CENTRAL VALLEY PROJECT AGRICULTURAL WATER SERVICE CONTRACTORS WITHIN SACRAMENTO RIVER WATERSHED.—In this section, the term ''existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed'' means water service contractors within the Shasta, Trinity, and Sacramento River Divisions of the Central Valley Project that have a water service contract in effect on the date of enactment of this Act that provides water for irrigation.

(b) ALLOCATION OF WATER.—Subject to subsection (c) and the absolute priority of the Sacramento River Settlement Contractors to Sacramento River supplies over Central Valley Project diversions and deliveries to other contractors, the Secretary of the Interior shall, in the operation of the Central Valley Project, allocate water provided for irrigation purposes to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed as follows:

(1) Not less than 100 percent of the contract quantities in a ''Wet'' year (as that term is defined in the Sacramento Valley Water Year Type (40–30–30) Index).

(2) Not less than 100 percent of the contract quantities in an ''Above Normal'' year (as that term is defined in the Sacramento Valley Water Year Type (40–30–30) Index).

(3) Not less than 100 percent of the contract quantities in a ''Below Normal'' year (as that term is defined in the Sacramento Valley Water Year Type (40–30–30) Index).

(4) Not less than 75 percent of the contract quantities in a ''Dry'' year (as that term is defined in the Sacramento Valley Water Year Type (40–30–30) Index).

(5) Not less than 50 percent of the contract quantities in a ''Critically Dry'' year (as that term is defined in the Sacramento Valley Water Year Type (40–30–30) Index).

(c) PROTECTION OF MUNICIPAL AND INDUSTRIAL SUPPLIES.—

(1) IN GENERAL.—Nothing in this section—

(A) modifies any provision of a water service contract that addresses municipal and industrial water shortage policies of the Secretary of the Interior;

(B) affects or limits the authority of the Secretary of the Interior—

(i) to adopt or modify municipal and industrial water shortage policies; or

(ii) to implement municipal and industrial water shortage policies; or

(C) affects allocations to Central Valley Project municipal and industrial contractors pursuant to the water shortage policies of the Secretary of the Interior.

(2) APPLICABILITY.—This section does not constrain, govern, or affect, directly or indirectly, the operations of the American River Division of the Central Valley Project or any deliveries from that Division, including the units and facilities of that Division.

SEC. 764. NO REDIRECTED ADVERSE IMPACTS.

The Secretary of the Interior shall ensure that there are no redirected adverse water supply or fiscal impacts to the State Water Project or to individuals within the Sacramento River or San Joaquin River watershed arising from the operation of the Secretary of the Central Valley Project to meet

legal obligations imposed by or through any Federal or State agency, including—

(1) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) this title; and

(3) actions or activities implemented to meet the twin goals of improving water supply and addressing the environmental needs of the Bay-Delta.

Subtitle E—Miscellaneous

SEC. 771. PRECEDENT.

Congress finds that—

(1) coordinated operations between the Central Valley Project and the State Water Project, as consented to and requested by the State of California and the Federal Government, require the assertion of Federal supremacy to protect existing water rights throughout the system, a circumstance that is unique to the State of California; and

(2) this title should not serve as precedent for similar operations in any other State.

TITLE VIII—REDUCING REGULATORY BURDENS

SEC. 801. SHORT TITLE.

This title may be cited as the ''Reducing Regulatory Burdens Act of 2012''.

SEC. 802. USE OF AUTHORIZED PESTICIDES.

Section 3(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(f)) is amended by adding at the end the following:

''(5) USE OF AUTHORIZED PESTICIDES.—Except as provided in section 402(s) of the Federal Water Pollution Control Act (33 U.S.C. 1342(s)), the Administrator or a State may not require a permit under that Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under this Act, or the residue of the pesticide, resulting from the application of the pesticide.''.

SEC. 803. DISCHARGES OF PESTICIDES.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

''(s) DISCHARGES OF PESTICIDES.—

''(1) NO PERMIT REQUIREMENT.—Except as provided in paragraph (2), a permit shall not be required by the Administrator or a State under this Act for a discharge from a point source into navigable waters of a pesticide authorized for sale, distribution, or use under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), or the residue of the pesticide, resulting from the application of the pesticide.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to the following discharges of a pesticide or pesticide residue:

''(A) A discharge resulting from the application of a pesticide in violation of a provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) that is relevant to protecting water quality, if—

''(i) the discharge would not have occurred but for the violation; or

''(ii) the quantity of a pesticide or pesticide residue in the discharge is greater than would have occurred without the violation.

''(B) Stormwater discharges subject to regulation under subsection (p).

''(C) The following discharges subject to regulation under this section:

''(i) Manufacturing or industrial effluent.

''(ii) Treatment works effluent.

''(iii) Discharges incidental to the normal operation of a vessel, including a discharge resulting from ballasting operations or vessel biofouling prevention.''.

TITLE IX—FARM DUST REGULATION PREVENTION

SEC. 901. SHORT TITLE.

This title may be cited as the ''Farm Dust Regulation Prevention Act of 2012''.

SEC. 902. TEMPORARY PROHIBITION AGAINST REVISING ANY NATIONAL AMBIENT AIR QUALITY STANDARD APPLICABLE TO COARSE PARTICULATE MATTER.

Before the date that is 1 year after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (referred to in this title as the ''Administrator'') may not propose, finalize, implement, or enforce any regulation revising the national primary ambient air quality standard or the national secondary ambient air quality standard applicable to particulate matter with an aerodynamic diameter greater than 2.5 micrometers under section 109 of the Clean Air Act (42 U.S.C. 7409).

SEC. 903. NUISANCE DUST.

Part A of title I of the Clean Air Act (42 U.S.C. 7401 et seq.) is amended by adding at the end the following:

''SEC. 132. REGULATION OF NUISANCE DUST PRIMARILY BY STATE, TRIBAL, AND LOCAL GOVERNMENTS.

''(a) DEFINITION OF NUISANCE DUST.—In this section:

''(1) IN GENERAL.—The term 'nuisance dust' means particulate matter that—

''(A) is generated primarily from natural sources, unpaved roads, agricultural activities, earth moving, or other activities typically conducted in rural areas;

''(B) consists primarily of soil, other natural or biological materials, or some combination of those materials;

''(C) is not emitted directly into the ambient air from combustion, such as exhaust from combustion engines and emissions from stationary combustion processes; and

''(D) is not comprised of residuals from the combustion of coal.

''(2) EXCLUSION.—The term 'nuisance dust' does not include radioactive particulate matter produced from uranium mining or processing.

''(b) APPLICABILITY.—Except as provided in subsection (c), this Act does not apply to, and references in this Act to particulate matter are deemed to exclude, nuisance dust.

''(c) EXCEPTION.—Subsection (a) does not apply with respect to any geographical area in which nuisance dust is not regulated under State, tribal, or local law insofar as the Administrator, in consultation with the Secretary of Agriculture, finds that—

''(1) nuisance dust (or any subcategory of nuisance dust) causes substantial adverse public health and welfare effects at ambient concentrations; and

''(2) the benefits of applying standards and other requirements of this Act to nuisance dust (or a subcategory of nuisance dust) outweigh the costs (including local and regional economic and employment impacts) of applying those standards and other requirements to nuisance dust (or a subcategory).''.

SEC. 904. SENSE OF CONGRESS.

It is the sense of Congress that the Administrator should implement an approach to excluding so-called ''exceptional events'', or events that are not reasonably controllable or preventable, from determinations of whether an area is in compliance with any national ambient air quality standard applicable to coarse particulate matter that—

(1) maximizes transparency and predictability for States, Indian tribes, and local governments; and

(2) minimizes the regulatory and cost burdens States, Indian tribes, and local governments bear in excluding those events.

SEC. 905. IMPACTS OF EPA REGULATORY ACTIVITY ON EMPLOYMENT AND ECONOMIC ACTIVITY IN AGRICULTURE COMMUNITY.

(a) DEFINITIONS.—In this section:

(1) COVERED ACTION.—The term ''covered action'' means any of the following actions taken by the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.) relating to agriculture and the national primary ambient air quality standard or the national secondary ambient air quality standard for particulate matter:

(A) Promulgating or issuing a regulation, policy statement, guidance, response to a petition, or other requirement.

(B) Implementing a new or substantially altered program.

(2) MORE THAN A DE MINIMIS NEGATIVE IMPACT.—The term ''more than a de minimis negative impact'' means—

(A) with respect to employment levels, a loss of more than 100 jobs relating to the agriculture industry, as calculated by excluding consideration of any offsetting job gains that result from the hypothetical creation of new jobs through new technologies or government employment; and

(B) with respect to economic activity, a decrease in agricultural economic activity of more than $1,000,000 over any calendar year, as calculated by excluding consideration of any offsetting economic activity that results from the hypothetical creation of new economic activity through new technologies or government employment.

(b) ANALYSIS OF IMPACTS OF ACTIONS ON EMPLOYMENT AND ECONOMIC ACTIVITY IN THE AGRICULTURE COMMUNITY.—

(1) ANALYSIS.—Before taking a covered action, the Administrator shall analyze the impact, disaggregated by State, of the covered action on—

(A) employment levels in the agriculture industry; and

(B) agricultural economic activity, including estimated job losses and decreased economic activity relating to agriculture.

(2) ECONOMIC MODELS.—

(A) IN GENERAL.—In carrying out paragraph (1), the Administrator shall use the best available economic models.

(B) ANNUAL GAO REPORT.—Not later than December 31 of each year, the Comptroller General of the United States shall submit to Congress a report on the economic models used by the Administrator to carry out this subsection.

(3) AVAILABILITY OF INFORMATION.—With respect to any covered action, the Administrator shall—

(A) post the analysis under paragraph (1) as a link on the main page of the public Internet website of the Environmental Protection Agency;

(B) request the Secretary of Agriculture to post the analysis under paragraph (1) as a link on the main page of the public Internet website of the Department of Agriculture; and

(C) request that the Governor of any State experiencing more than a de minimis negative impact post the analysis on the main page of the public Interest website of the State.

(c) PUBLIC HEARINGS.—

(1) IN GENERAL.—If the Administrator concludes under subsection (a)(1) that a covered action will have more than a de minimis negative impact on agricultural employment levels or agricultural economic activity in a State, the Administrator shall hold a public hearing in each such State at least 30 days before the effective date of the covered action.

(2) TIME, LOCATION, AND SELECTION.—A public hearing required under paragraph (1) shall be held at—

(A) a convenient time and location for impacted residents; and

(B) at such location selected by the Administrator as shall give priority to locations in the State that will experience the greatest number of job losses.

(d) NOTIFICATION.—If the Administrator concludes under subsection (b)(1) that a covered action will have more than a de minimis negative impact on agricultural employment levels or agricultural economic activity in any State, the Administrator shall give notice of the impact to the congressional delegation, Governor, and legislature of the State at least 45 days before the effective date of the covered action.

TITLE X—ENERGY TAX PREVENTION

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Energy Tax Prevention Act of 2012''.

SEC. 1002. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.

Title III of the Clean Air Act (42 U.S.C. 7601 et seq.) is amended by adding at the end the following:

''SEC. 330. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.

''(a) DEFINITION.—In this section, the term 'greenhouse gas' means any of the following:

''(1) Water vapor.

''(2) Carbon dioxide.

''(3) Methane.

''(4) Nitrous oxide.

''(5) Sulfur hexafluoride.

''(6) Hydrofluorocarbons.

''(7) Perfluorocarbons.

''(8) Any other substance subject to, or proposed to be subject to, regulation, action, or consideration under this Act to address climate change.

''(b) LIMITATION ON AGENCY ACTION.—

''(1) LIMITATION.—

''(A) IN GENERAL.—The Administrator may not, under this Act, promulgate any regulation concerning, take action relating to, or take into consideration the emission of a greenhouse gas to address climate change.

''(B) AIR POLLUTANT DEFINITION.—The definition of the term 'air pollutant' in section 302(g) does not include a greenhouse gas. Notwithstanding the previous sentence, such definition may include a greenhouse gas for purposes of addressing concerns other than climate change.

''(2) EXCEPTIONS.—Paragraph (1) does not prohibit the following:

''(A) Notwithstanding paragraph (4)(B), implementation and enforcement of the rule entitled 'Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards' (75 Fed. Reg. 25324 (May 7, 2010) and without further revision) and finalization, implementation, enforcement, and revision of the proposed rule entitled 'Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles' published at 75 Fed. Reg. 74152 (November 30, 2010).

''(B) Implementation and enforcement of section 211(o).

''(C) Statutorily authorized Federal research, development, and demonstration programs addressing climate change.

''(D) Implementation and enforcement of title VI to the extent such implementation or enforcement only involves one or more class I or class II substances (as such terms are defined in section 601).

''(E) Implementation and enforcement of section 821 (42 U.S.C. 7651k note) of Public Law 101–549 (commonly referred to as the 'Clean Air Act Amendments of 1990').

''(3) INAPPLICABILITY OF PROVISIONS.—Nothing listed in paragraph (2) shall cause a greenhouse gas to be subject to part C of title I (relating to prevention of significant deterioration of air quality) or considered an air pollutant for purposes of title V (relating to air permits).

''(4) CERTAIN PRIOR AGENCY ACTIONS.—The following rules, and actions (including any supplement or revision to such rules and actions) are repealed and shall have no legal effect:

''(A) 'Mandatory Reporting of Greenhouse Gases', published at 74 Fed. Reg. 56260 (October 30, 2009).

''(B) 'Endangerment and Cause or Contribute Findings for Greenhouse Gases under section 202(a) of the Clean Air Act' published at 74 Fed. Reg. 66496 (Dec. 15, 2009).

''(C) 'Reconsideration of the Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs' published at 75 Fed. Reg. 17004 (April 2, 2010) and the memorandum from Stephen L. Johnson, Environmental Protection Agency (EPA) Administrator, to EPA Regional Administrators, concerning 'EPA's Interpretation of Regulations that Determine Pollutants Covered by Federal Prevention of Significant Deterioration (PSD) Permit Program' (Dec. 18, 2008).

''(D) 'Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule', published at 75 Fed. Reg. 31514 (June 3, 2010).

''(E) 'Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call', published at 75 Fed. Reg. 77698 (December 13, 2010).

''(F) 'Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure to Submit State Implementation Plan Revisions Required for Greenhouse Gases', published at 75 Fed. Reg. 81874 (December 29, 2010).

''(G) 'Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan', published at 75 Fed. Reg. 82246 (December 30, 2010).

''(H) 'Action To Ensure Authority To Implement Title V Permitting Programs Under the Greenhouse Gas Tailoring Rule', published at 75 Fed. Reg. 82254 (December 30, 2010).

''(I) 'Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program', published at 75 Fed. Reg. 82430 (December 30, 2010).

''(J) 'Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule', published at 75 Fed. Reg. 82536 (December 30, 2010).

''(K) 'Determinations Concerning Need for Error Correction, Partial Approval and Partial Disapproval, and Federal Implementation Plan Regarding Texas Prevention of Significant Deterioration Program; Proposed Rule', published at 75 Fed. Reg. 82365 (December 30, 2010).

''(L) Except for action listed in paragraph (2), any other Federal action under this Act occurring before the date of enactment of this section that applies a stationary source permitting requirement or an emissions standard for a greenhouse gas to address climate change.

''(5) STATE ACTION.—

''(A) NO LIMITATION.—This section does not limit or otherwise affect the authority of a State to adopt, amend, enforce, or repeal State laws and regulations pertaining to the emission of a greenhouse gas.

''(B) EXCEPTION.—

''(i) RULE.—Notwithstanding subparagraph (A), any provision described in clause (ii)—

''(I) is not federally enforceable;

''(II) is not deemed to be a part of Federal law; and

''(III) is deemed to be stricken from the plan described in clause (ii)(I) or the program or permit described in clause (ii)(II), as applicable.

''(ii) PROVISIONS DEFINED.—For purposes of clause (i), the term 'provision' means any provision that—

''(I) is contained in a State implementation plan under section 110 and authorizes or requires a limitation on, or imposes a permit requirement for, the emission of a greenhouse gas to address climate change; or

''(II) is part of an operating permit program under title V, or a permit issued pursuant to title V, and authorizes or requires a limitation on the emission of a greenhouse gas to address climate change.

''(C) ACTION BY ADMINISTRATOR.—The Administrator may not approve or make federally enforceable any provision described in subparagraph (B)(ii).''.

SEC. 1003. PRESERVING ONE NATIONAL STANDARD FOR AUTOMOBILES.

Section 209(b) of the Clean Air Act (42 U.S.C. 7543) is amended by adding at the end the following:

''(4) With respect to standards for emissions of greenhouse gases (as defined in section 330) for model year 2017 or any subsequent model year for new motor vehicles and new motor vehicle engines—

''(A) the Administrator may not waive application of subsection (a); and

''(B) no waiver granted prior to the date of enactment of this paragraph may be considered to waive the application of subsection (a).''.

SA 2859. Mr. REID (for Mr. CARDIN) proposed an amendment to the bill S. 1956, to prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, and for other purposes.

Beginning on page 5, strike line 14 and all that follows through page 6, line 2, and insert the following:

SEC. 3. NEGOTIATIONS.

(a) IN GENERAL.—The Secretary of Transportation, the Administrator of the Federal Aviation Administration, and other appropriate officials of the United States Government—

(1) should, as appropriate, use their authority to conduct international negotiations, including using their authority to conduct international negotiations to pursue a worldwide approach to address aircraft emissions, including the environmental impact of aircraft emissions; and

(2) shall, as appropriate and except as provided in subsection (b), take other actions under existing authorities that are in the public interest necessary to hold operators of civil aircraft of the United States harmless from the emissions trading scheme referred to under section 2.

(b) EXCLUSION OF PAYMENT OF TAXES AND PENALTIES.—Actions taken under subsection (a)(2) may not include the obligation or expenditure of any amounts in the Airport and Airway Trust Fund established under section 9905 of the Internal Revenue Code of 1986, or amounts otherwise made available to the Department of Transportation or any other Federal agency pursuant to appropriations Acts, for the payment of any tax or penalty imposed on an operator of civil aircraft of the United States pursuant to the emissions trading scheme referred to under section 2.

SA 2860. Mr. REID (for Mr. MERKLEY) proposed an amendment to the bill S.

1956, to prohibit operators of civil aircraft of the United States from participating in the European Union's emissions trading scheme, and for other purposes.

On page 5, between lines 13 and 14, insert the following:

(c) REASSESSMENT OF DETERMINATION OF PUBLIC INTEREST.—The Secretary—

(1) may reassess a determination under subsection (a) that a prohibition under that subsection is in the public interest at any time after making such a determination; and

(2) shall reassess such a determination after—

(A) any amendment by the European Union to the EU Directive referred to in subsection (a);

(B) the adoption of any international agreement pursuant to section 3(1); or

(C) enactment of a public law or issuance of a final rule after formal agency rulemaking, in the United States to address aircraft emissions.

SA 2861. Mr. PRYOR (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 4850, to allow for innovations and alternative technologies that meet or exceed desired energy efficiency goals.

At the end of the bill, add the following:

SEC. 3. UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.

Section 325(e) of the Energy Policy and Conservation Act (42 U.S.C. 6295(e)) is amended by adding at the end the following:

''(5) UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) COVERED WATER HEATER.—The term 'covered water heater' means—

''(I) a water heater; and

''(II) a storage water heater, instantaneous water heater, and unfired water storage tank (as defined in section 340).

''(ii) FINAL RULE.—The term 'final rule' means the final rule published under this paragraph.

''(B) PUBLICATION OF FINAL RULE.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters.

''(C) PURPOSE.—The purpose of the final rule shall be to replace with a uniform efficiency descriptor—

''(i) the energy factor descriptor for water heaters established under this subsection; and

''(ii) the thermal efficiency and standby loss descriptors for storage water heaters, instantaneous water heaters, and unfired water storage tanks established under section 342(a)(5).

''(D) EFFECT OF FINAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this title, effective beginning on the effective date of the final rule, the efficiency standard for covered water heaters shall be denominated according to the efficiency descriptor established by the final rule.

''(ii) EFFECTIVE DATE.—The final rule shall take effect 1 year after the date of publication of the final rule under subparagraph (B).

''(E) CONVERSION FACTOR.—

''(i) IN GENERAL.—The Secretary shall develop a mathematical conversion factor for converting the measurement of efficiency for covered water heaters from the test procedures in effect on the date of enactment of this paragraph to the new energy descriptor established under the final rule.

''(ii) APPLICATION.—The conversion factor shall apply to models of covered water heaters affected by the final rule and tested prior to the effective date of the final rule.

''(iii) EFFECT ON EFFICIENCY REQUIREMENTS.—The conversion factor shall not affect the minimum efficiency requirements for covered water heaters otherwise established under this title.

''(iv) USE.—During the period described in clause (v), a manufacturer may apply the conversion factor established by the Secretary to rerate existing models of covered water heaters that are in existence prior to the effective date of the rule described in clause (v)(II) to comply with the new efficiency descriptor.

''(v) PERIOD.—Subclause (E) shall apply during the period—

''(I) beginning on the date of publication of the conversion factor in the Federal Register; and

''(II) ending on April 16, 2015.

''(F) EXCLUSIONS.—The final rule may exclude a specific category of covered water heaters from the uniform efficiency descriptor established under this paragraph if the Secretary determines that the category of water heaters—

''(i) does not have a residential use and can be clearly described in the final rule; and

''(ii) are effectively rated using the thermal efficiency and standby loss descriptors applied (as of the date of enactment of this paragraph) to the category under section 342(a)(5).

''(G) OPTIONS.—The descriptor set by the final rule may be—

''(i) a revised version of the energy factor descriptor in use as of the date of enactment of this paragraph;

''(ii) the thermal efficiency and standby loss descriptors in use as of that date;

''(iii) a revised version of the thermal efficiency and standby loss descriptors;

''(iv) a hybrid of descriptors; or

''(v) a new approach.

''(H) APPLICATION.—The efficiency descriptor and accompanying test method established under the final rule shall apply, to the maximum extent practicable, to all water heating technologies in use as of the date of enactment of this paragraph and to future water heating technologies.

''(I) PARTICIPATION.—The Secretary shall invite interested stakeholders to participate in the rulemaking process used to establish the final rule.

''(J) TESTING OF ALTERNATIVE DESCRIPTORS.—In establishing the final rule, the Secretary shall contract with the National Institute of Standards and Technology, as necessary, to conduct testing and simulation of alternative descriptors identified for consideration.

''(K) EXISTING COVERED WATER HEATERS.—A covered water heater shall be considered to comply with the final rule on and after the effective date of the final rule and with any revised labeling requirements established by the Federal Trade Commission to carry out the final rule if the covered water heater—

''(i) was manufactured prior to the effective date of the final rule; and

''(ii) complied with the efficiency standards and labeling requirements in effect prior to the final rule.''.

SEC. 4. SERVICE OVER THE COUNTER, SELF-CONTAINED, MEDIUM TEMPERATURE COMMERCIAL REFRIGERATORS.

Section 342(c) of the Energy Policy and Conservation Act (42 U.S.C. 6313(c)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (C) as subparagraph (E); and

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

''(C) The term 'service over the counter, self-contained, medium temperature commercial refrigerator' or '(SOC–SC–M)' means a medium temperature commercial refrigerator—

''(i) with a self-contained condensing unit and equipped with sliding or hinged doors in the back intended for use by sales personnel, and with glass or other transparent material in the front for displaying merchandise; and

''(ii) that has a height not greater than 66 inches and is intended to serve as a counter for transactions between sales personnel and customers.

''(D) The term 'TDA' means the total display area (ft^2) of the refrigerated case, as defined in AHRI Standard 1200.'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (3) the following:

''(4) Each SOC–SC–M manufactured on or after January 1, 2012, shall have a total daily energy consumption (in kilowatt hours per day) of not more than 0.6 x TDA + 1.0.''.

SEC. 5. SMALL DUCT HIGH VELOCITY SYSTEMS AND ADMINISTRATIVE CHANGES.

(a) THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS.—Section 325(d) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

''(4) STANDARDS FOR THROUGH-THE-WALL CENTRAL AIR CONDITIONERS, THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMPS, AND SMALL DUCT, HIGH VELOCITY SYSTEMS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) SMALL DUCT, HIGH VELOCITY SYSTEM.—The term 'small duct, high velocity system' means a heating and cooling product that contains a blower and indoor coil combination that—

''(I) is designed for, and produces, at least 1.2 inches of external static pressure when operated at the certified air volume rate of 220–350 CFM per rated ton of cooling; and

''(II) when applied in the field, uses high velocity room outlets generally greater than 1,000 fpm that have less than 6.0 square inches of free area.

''(ii) THROUGH-THE-WALL CENTRAL AIR CONDITIONER; THROUGH-THE-WALL CENTRAL AIR CONDITIONING HEAT PUMP.—The terms 'through-the-wall central air conditioner' and 'through-the-wall central air conditioning heat pump' mean a central air conditioner or heat pump, respectively, that is designed to be installed totally or partially within a fixed-size opening in an exterior wall, and—

''(I) is not weatherized;

''(II) is clearly and permanently marked for installation only through an exterior wall;

''(III) has a rated cooling capacity no greater than 30,000 Btu/hr;

''(IV) exchanges all of its outdoor air across a single surface of the equipment cabinet; and

''(V) has a combined outdoor air exchange area of less than 800 square inches (split systems) or less than 1,210 square inches (single packaged systems) as measured on the surface area described in subclause (IV).

''(iii) REVISION.—The Secretary may revise the definitions contained in this subparagraph through publication of a final rule.

''(B) SMALL-DUCT HIGH-VELOCITY SYSTEMS.—

''(i) SEASONAL ENERGY EFFICIENCY RATIO.—The seasonal energy efficiency ratio for small-duct high-velocity systems shall be not less than—

''(I) 11.00 for products manufactured on or after January 23, 2006; and

''(II) 12.00 for products manufactured on or after January 1, 2015.

''(ii) HEATING SEASONAL PERFORMANCE FACTOR.—The heating seasonal performance factor for small-duct high-velocity systems shall be not less than—

''(I) 6.8 for products manufactured on or after January 23, 2006; and

''(II) 7.2 for products manufactured on or after January 1, 2015.

''(C) SUBSEQUENT RULEMAKINGS.—The Secretary shall conduct subsequent rulemakings for through-the-wall central air conditioners, through-the-wall central air conditioning heat pumps, and small duct, high velocity systems as part of any rulemaking under this section used to review or revise standards for other central air conditioners and heat pumps.''.

(b) DUTY TO REVIEW COMMERCIAL EQUIPMENT.—Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) is amended—

(1) in subparagraph (A)(i), by inserting ''the standard levels or design requirements applicable under that standard to'' immediately before ''any small commercial''; and

(2) in subparagraph (C)—

(A) in clause (i)—

(i) by striking ''Not later than 6 years after issuance of any final rule establishing or amending a standard, as required for a product under this part,'' and inserting ''Every 6 years,''; and

(ii) by inserting after ''the Secretary shall'' the following: ''conduct an evaluation of each class of covered equipment and shall''; and

(B) by adding at the end the following:

''(vi) For any covered equipment as to which more than 6 years has elapsed since the issuance of the most recent final rule establishing or amending a standard for the product as of the date of enactment of this clause, the first notice required under clause (i) shall be published by December 31, 2013.''.

(c) PETITION FOR AMENDED STANDARDS.—Section 325(n) of the Energy Policy and Conservation Act (42 U.S.C. 6295(n)) is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by inserting after paragraph (2) the following:

''(3) NOTICE OF DECISION.—Not later than 180 days after the date of receiving a petition, the Secretary shall publish in the Federal Register a notice of, and explanation for, the decision of the Secretary to grant or deny the petition.

''(4) NEW OR AMENDED STANDARDS.—Not later than 3 years after the date of granting a petition for new or amended standards, the Secretary shall publish in the Federal Register—

''(A) a final rule that contains the new or amended standards; or

''(B) a determination that no new or amended standards are necessary.''.

SEC. 6. TECHNICAL CORRECTIONS.

(a) TITLE III OF ENERGY INDEPENDENCE AND SECURITY ACT OF 2007—ENERGY SAVINGS THROUGH IMPROVED STANDARDS FOR APPLIANCES AND LIGHTING.—

(1) Section 325(u) of the Energy Policy and Conservation Act (42 U.S.C. 6295(u)) (as amended by section 301(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1550)) is amended—

(A) by redesignating paragraph (7) as paragraph (4); and

(B) in paragraph (4) (as so redesignated), by striking ''supplies is'' and inserting ''supply is''.

(2) Section 302(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1551) is amended by striking ''6313(a)'' and inserting ''6314(a)''.

(3) Section 342(a)(6) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)(6)) (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)) is amended—

(A) in subparagraph (B)—

(i) by striking ''If the Secretary'' and inserting the following:

''(i) IN GENERAL.—If the Secretary'';

(ii) by striking ''clause (ii)(II)'' and inserting ''subparagraph (A)(ii)(II)'';

(iii) by striking ''clause (i)'' and inserting ''subparagraph (A)(i)''; and

(iv) by adding at the end the following:

''(ii) FACTORS.—In determining whether a standard is economically justified for the purposes of subparagraph (A)(ii)(II), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed the burden of the proposed standard by, to the maximum extent practicable, considering—

''(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to the standard;

''(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products that are likely to result from the imposition of the standard;

''(III) the total projected quantity of energy savings likely to result directly from the imposition of the standard;

''(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

''(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

''(VI) the need for national energy conservation; and

''(VII) other factors the Secretary considers relevant.

''(iii) ADMINISTRATION.—

''(I) ENERGY USE AND EFFICIENCY.—The Secretary may not prescribe any amended standard under this paragraph that increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product.

''(II) UNAVAILABILITY.—

''(aa) IN GENERAL.—The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes the finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability, features, sizes, capacities, and volumes) that are substantially the same as those generally available in the United States at the time of the finding of the Secretary.

''(bb) OTHER TYPES OR CLASSES.—The failure of some types (or classes) to meet the criterion established under this subclause shall not affect the determination of the Secretary on whether to prescribe a standard for the other types or classes.''; and

(B) in subparagraph (C)(iv), by striking ''An amendment prescribed under this subsection'' and inserting ''Notwithstanding subparagraph (D), an amendment prescribed under this subparagraph''.

(4) Section 342(a)(6)(B)(iii) of the Energy Policy and Conservation Act (as added by section 306(c) of the Energy Independence and Security Act of 2007 (121 Stat. 1559)) is transferred and redesignated as clause (vi) of section 342(a)(6)(C) of the Energy Policy and Conservation Act (as amended by section 305(b)(2) of the Energy Independence and Security Act of 2007 (121 Stat. 1554)).

(5) Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) (as amended by section 312(e) of the Energy Independence and Security Act of 2007 (121 Stat. 1567)) is amended—

(A) by striking ''subparagraphs (B) through (G)'' each place it appears and inserting ''subparagraphs (B), (C), (D), (I), (J), and (K)'';

(B) by striking ''part A'' each place it appears and inserting ''part B''; and

(C) in subsection (a)—

(i) in paragraph (8), by striking ''and'' at the end;

(ii) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(10) section 327 shall apply with respect to the equipment described in section 340(1)(L) beginning on the date on which a final rule establishing an energy conservation standard is issued by the Secretary, except that any State or local standard prescribed or enacted for the equipment before the date on which the final rule is issued shall not be preempted until the energy conservation standard established by the Secretary for the equipment takes effect.'';

(D) in subsection (b)(1), by striking ''section 325(p)(5)'' and inserting ''section 325(p)(4)''; and

(E) in subsection (h)(3), by striking ''section 342(f)(3)'' and inserting ''section 342(f)(4)''.

(6) Section 321(30)(D)(i)(III) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(D)(i)(III)) (as amended by section 321(a)(1)(A) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended by inserting before the semicolon the following: ''or, in the case of a modified spectrum lamp, not less than 232 lumens and not more than 1,950 lumens''.

(7) Section 321(30)(T) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(T)) (as amended by section 321(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1574)) is amended—

(A) in clause (i)—

(i) by striking the comma after ''household appliance'' and inserting ''and''; and

(ii) by striking ''and is sold at retail,''; and

(B) in clause (ii), by inserting ''when sold at retail,'' before ''is designated''.

(8) Section 325(l)(4)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6295(l)(4)(A)) (as amended by section 321(a)(3)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1581)) is amended by striking ''only''.

(9) Section 327(b)(1)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)(B)) (as amended by section 321(d)(3) of the Energy Independence and Security Act of 2007 (121 Stat. 1585)) is amended—

(A) in clause (i), by inserting ''and'' after the semicolon at the end;

(B) in clause (ii), by striking ''; and'' and inserting a period; and

(C) by striking clause (iii).

(10) Section 321(30)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6291(30)(C)(ii)) (as amended by section 322(a)(1)(B) of the Energy Independence and Security Act of 2007 (121 Stat. 1587)) is amended by inserting a period after ''40 watts or higher''.

(11) Section 322(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1588) is amended by striking ''6995(i)'' and inserting ''6295(i)''.

(12) Section 325(b) of the Energy Independence and Security Act of 2007 (121 Stat. 1596) is amended by striking ''6924(c)'' and inserting ''6294(c)''.

(13) This subsection and the amendments made by this subsection take effect as if included in the Energy Independence and Security Act of 2007 (Public Law 110–140; 121 Stat. 1492).

(b) ENERGY POLICY ACT OF 2005.—

(1) Section 325(g)(8)(C)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6295(g)(8)(C)(ii)) (as added by section 135(c)(2)(B) of the Energy Policy Act of 2005) is amended by striking ''20F'' and inserting ''20°F''.

(2) This subsection and the amendment made by this subsection take effect as if included in the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594).

(c) ENERGY POLICY AND CONSERVATION ACT.—

(1) Section 340(2)(B) of the Energy Policy and Conservation Act (42 U.S.C. 6311(2)(B)) is amended—

(A) in clause (xi), by striking ''and'' at the end;

(B) in clause (xii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(xiii) other motors.''.

(2) Section 343(a) of the Energy Policy and Conservation Act (42 U.S.C. 6314(a)) is amended by striking ''Air-Conditioning and Refrigeration Institute'' each place it appears in paragraphs (4)(A) and (7) and inserting ''Air-Conditioning, Heating, and Refrigeration Institute''.

SA 2862. Mr. PRYOR (for Mrs. SHAHEEN) proposed an amendment to the bill H.R. 4850, to allow for innovations and alternative technologies that meet or exceed desired energy efficiency goals.

At the end of the bill, add the following:

TITLE II—INDUSTRIAL ENERGY EFFICIENCY

SEC. 201. COORDINATION OF RESEARCH AND DEVELOPMENT OF ENERGY EFFICIENT TECHNOLOGIES FOR INDUSTRY.

(a) IN GENERAL.—As part of the research and development activities of the Industrial Technologies Program of the Department of Energy, the Secretary of Energy (referred to in this title as the ''Secretary'') shall establish, as appropriate, collaborative research and development partnerships with other programs within the Office of Energy Efficiency and Renewable Energy (including the Building Technologies Program), the Office of Electricity Delivery and Energy Reliability, and the Office of Science that—

(1) leverage the research and development expertise of those programs to promote early stage energy efficiency technology development;

(2) support the use of innovative manufacturing processes and applied research for development, demonstration, and commercialization of new technologies and processes to improve efficiency (including improvements in efficient use of water), reduce emissions, reduce industrial waste, and improve industrial cost-competitiveness; and

(3) apply the knowledge and expertise of the Industrial Technologies Program to help achieve the program goals of the other programs.

(b) REPORTS.—Not later than 2 years after the date of enactment of this Act and biennially thereafter, the Secretary shall submit to Congress a report that describes actions taken to carry out subsection (a) and the results of those actions.

SEC. 202. REDUCING BARRIERS TO THE DEPLOYMENT OF INDUSTRIAL ENERGY EFFICIENCY.

(a) DEFINITIONS.—In this section:

(1) INDUSTRIAL ENERGY EFFICIENCY.—The term ''industrial energy efficiency'' means the energy efficiency derived from commercial technologies and measures to improve energy efficiency or to generate or transmit electric power and heat, including electric motor efficiency improvements, demand response, direct or indirect combined heat and power, and waste heat recovery.

(2) INDUSTRIAL SECTOR.—The term ''industrial sector'' means any subsector of the manufacturing sector (as defined in North American Industry Classification System codes 31-33 (as in effect on the date of enactment of this Act)) establishments of which have, or could have, thermal host facilities with electricity requirements met in whole, or in part, by onsite electricity generation, including direct and indirect combined heat and power or waste recovery.

(b) REPORT ON THE DEPLOYMENT OF INDUSTRIAL ENERGY EFFICIENCY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing—

(A) the results of the study conducted under paragraph (2); and

(B) recommendations and guidance developed under paragraph (3).

(2) STUDY.—The Secretary, in coordination with the industrial sector, shall conduct a study of the following:

(A) The legal, regulatory, and economic barriers to the deployment of industrial energy efficiency in all electricity markets (including organized wholesale electricity markets, and regulated electricity markets), including, as applicable, the following:

(i) Transmission and distribution interconnection requirements.

(ii) Standby, back-up, and maintenance fees (including demand ratchets).

(iii) Exit fees.

(iv) Life of contract demand ratchets.

(v) Net metering.

(vi) Calculation of avoided cost rates.

(vii) Power purchase agreements.

(viii) Energy market structures.

(ix) Capacity market structures.

(x) Other barriers as may be identified by the Secretary, in coordination with the industrial sector.

(B) Examples of —

(i) successful State and Federal policies that resulted in greater use of industrial energy efficiency;

(ii) successful private initiatives that resulted in greater use of industrial energy efficiency; and

(iii) cost-effective policies used by foreign countries to foster industrial energy efficiency.

(C) The estimated economic benefits to the national economy of providing the industrial sector with Federal energy efficiency matching grants of $5,000,000,000 for 5- and 10-year periods, including benefits relating to—

(i) estimated energy and emission reductions;

(ii) direct and indirect jobs saved or created;

(iii) direct and indirect capital investment;

(iv) the gross domestic product; and

(v) trade balance impacts.

(D) The estimated energy savings available from increased use of recycled material in energy-intensive manufacturing processes.

(3) RECOMMENDATIONS AND GUIDANCE.—The Secretary, in coordination with the industrial sector, shall develop policy recommendations regarding the deployment of industrial energy efficiency, including proposed regulatory guidance to States and relevant Federal agencies to address barriers to deployment.

SEC. 203. STUDY OF ADVANCED ENERGY TECHNOLOGY MANUFACTURING CAPABILITIES IN THE UNITED STATES.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study of the development of advanced manufacturing capabilities for various energy technologies, including—

(1) an assessment of the manufacturing supply chains of established and emerging industries;

(2) an analysis of—

(A) the manner in which supply chains have changed over the 25-year period ending on the date of enactment of this Act;

(B) current trends in supply chains; and

(C) the energy intensity of each part of the supply chain and opportunities for improvement;

(3) for each technology or manufacturing sector, an analysis of which sections of the supply chain are critical for the United States to retain or develop to be competitive in the manufacturing of the technology;

(4) an assessment of which emerging energy technologies the United States should focus on to create or enhance manufacturing capabilities; and

(5) recommendations on leveraging the expertise of energy efficiency and renewable energy user facilities so that best materials and manufacturing practices are designed and implemented.

(b) REPORT.—Not later than 2 years after the date on which the Secretary enters into the agreement with the Academy described in subsection (a), the Academy shall submit to the Committee on Energy and Natural Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Secretary a report describing the results of the study required under this section, including any findings and recommendations.

SEC. 204. INDUSTRIAL TECHNOLOGIES STEERING COMMITTEE.

The Secretary shall establish an advisory steering committee that includes national trade associations representing energy-intensive industries or energy service providers to provide recommendations to the Secretary on planning and implementation of the Industrial Technologies Program of the Department of Energy.

TITLE III—FEDERAL AGENCY ENERGY EFFICIENCY

SEC. 301. AVAILABILITY OF FUNDS FOR DESIGN UPDATES.

Section 3307 of title 40, United States Code, is amended—

(1) by redesignating subsections (d) through (h) as subsections (e) through (i), respectively; and

(2) by inserting after subsection (c) the following:

''(d) AVAILABILITY OF FUNDS FOR DESIGN UPDATES.—

''(1) IN GENERAL.—Subject to paragraph (2), for any project for which congressional approval is received under subsection (a) and for which the design has been substantially completed but construction has not begun, the Administrator of General Services may use appropriated funds to update the project design to meet applicable Federal building energy efficiency standards established under section 305 of the Energy Conservation and Production Act (42 U.S.C. 6834) and other requirements established under section 3312.

''(2) LIMITATION.—The use of funds under paragraph (1) shall not exceed 125 percent of the estimated energy or other cost savings associated with the updates as determined by a life-cycle cost analysis under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254).''.

SEC. 302. BEST PRACTICES FOR ADVANCED METERING.

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

amended by striking paragraph (3) and inserting the following:

''(3) PLAN.—

''(A) IN GENERAL.—Not later than 180 days after the date on which guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing the manner in which the agency will implement the requirements of paragraph (1), including—

''(i) how the agency will designate personnel primarily responsible for achieving the requirements; and

''(ii) a demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices (as those terms are used in paragraph (1)), are not practicable.

''(B) UPDATES.—Reports submitted under subparagraph (A) shall be updated annually.

''(4) BEST PRACTICES REPORT.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of General Services, shall develop, and issue a report on, best practices for the use of advanced metering of energy use in Federal facilities, buildings, and equipment by Federal agencies.

''(B) UPDATING.—The report described under subparagraph (A) shall be updated annually.

''(C) COMPONENTS.—The report shall include, at a minimum—

''(i) summaries and analysis of the reports by agencies under paragraph (3);

''(ii) recommendations on standard requirements or guidelines for automated energy management systems, including—

''(I) potential common communications standards to allow data sharing and reporting;

''(II) means of facilitating continuous commissioning of buildings and evidence-based maintenance of buildings and building systems; and

''(III) standards for sufficient levels of security and protection against cyber threats to ensure systems cannot be controlled by unauthorized persons; and

''(iii) an analysis of—

''(I) the types of advanced metering and monitoring systems being piloted, tested, or installed in Federal buildings; and

''(II) existing techniques used within the private sector or other non-Federal government buildings.''.

SEC. 303. FEDERAL ENERGY MANAGEMENT AND DATA COLLECTION STANDARD.

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

(1) by redesignating the second subsection (f) (as added by section 434(a) of Public Law 110–140 (121 Stat. 1614)) as subsection (g); and

(2) in subsection (f)(7), by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—For each facility that meets the criteria established by the Secretary under paragraph (2)(B), the energy manager shall use the web-based tracking system under subparagraph (B)—

''(i) to certify compliance with the requirements for—

''(I) energy and water evaluations under paragraph (3);

''(II) implementation of identified energy and water measures under paragraph (4); and

''(III) follow-up on implemented measures under paragraph (5); and

''(ii) to publish energy and water consumption data on an individual facility basis.''.

SEC. 304. FEDERAL PURCHASE REQUIREMENT.

Section 203 of the Energy Policy Act of 2005 (42 U.S.C. 15852) is amended—

(1) in subsections (a) and (b)(2), by striking ''electric energy'' each place it appears and inserting ''electric, direct, and thermal energy'';

(2) in subsection (b)(2)—

(A) by inserting '', or avoided by,'' after ''generated from''; and

(B) by inserting ''(including ground-source, reclaimed, and ground water)''after ''geothermal'';

(3) by redesignating subsection (d) as subsection (e); and

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

''(d) SEPARATE CALCULATION.—Renewable energy produced at a Federal facility, on Federal land, or on Indian land (as defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501))—

''(1) shall be calculated (on a BTU-equivalent basis) separately from renewable energy used; and

''(2) may be used individually or in combination to comply with subsection (a).''.

SEC. 305. STUDY ON FEDERAL DATA CENTER CONSOLIDATION.

(a) IN GENERAL.—The Secretary of Energy shall conduct a study on the feasibility of a government-wide data center consolidation, with an overall Federal target of a minimum of 800 Federal data center closures by October 1, 2015.

(b) COORDINATION.—In conducting the study, the Secretary shall coordinate with Federal data center program managers, facilities managers, and sustainability officers.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the results of the study, including a description of agency best practices in data center consolidation.

SA 2863. Mr. PRYOR (for Mr. DURBIN) proposed an amendment to S. Res. 466, calling for the release from prison of former Prime Minister of Ukraine Yulia Tymoshenko.

On page 9, strike lines 1 through 14 and insert the following:

(2) expresses its deep concern that the politicized nature of prosecutions and detention of Ms. Tymoshenko and other members of her party took place in a country that is scheduled to assume chairmanship of the Organization for Security and Cooperation in Europe (OSCE) in 2013;

(3) expresses its deep concern that the politicized detention of Ms. Tymoshenko threatens to jeopardize ties between the United States and Ukraine;

(4) calls for the Government of Ukraine to release Ms. Tymoshenko from her current incarceration based on politicized charges, to provide Ms. Tymoshenko with timely access to medical care, and to conduct the October parliamentary elections in a fair and transparent manner consistent with OSCE standards; and

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SA 2864. Mr. PRYOR (for Mr. AKAKA) proposed an amendment to the bill S. 3193, to make technical corrections to the legal description of certain land to be held in trust for the Barona Band of Mission Indians, and for other purposes.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Barona Band of Mission Indians Land Transfer Clarification Act of 2012''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the legal description of land previously taken into trust by the United States for the benefit of the Barona Band of Mission Indians may be interpreted to refer to private, nontribal land;

(2) there is a continued, unresolved disagreement between the Barona Band of Mission Indians and certain off-reservation property owners relating to the causes of diminishing native groundwater;

(3) Congress expresses no opinion, nor should an opinion of Congress be inferred, relating to the disagreement described in paragraph (2); and

(4) it is the intent of Congress that, if the land described in section 121(b) of the Native American Technical Corrections Act of 2004 (118 Stat. 544) (as amended by section 3) is used to bring water to the Barona Indian Reservation, the effort is authorized only if the effort also addresses water availability for neighboring off-reservation land located along Old Barona Road that is occupied as of the date of enactment of this Act by providing guaranteed access to that water supply at a mutually agreeable site on the southwest boundary of the Barona Indian Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to clarify the legal description of the land placed into trust for the Barona Band of Mission Indians in 2004; and

(2) to remove all doubt relating to the specific parcels of land that Congress has placed into trust for the Barona Band of Mission Indians.

SEC. 3. LAND TRANSFER.

Section 121 of the Native American Technical Corrections Act of 2004 (Public Law 108–204; 118 Stat. 544) is amended—

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

''(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land comprising approximately 86.87 acres in T. 14 S., R. 1 E., San Bernardino Meridian, San Diego County, California, and described more particularly as follows:

''(1) The approximately 69.85 acres located in Section 21 and described as—

''(A) SW¼ SW¼, excepting the north 475 feet;

''(B) W½ SE¼ SW¼, excepting the north 475 feet;

''(C) E½ SE¼ SW¼, excepting the north 350 feet; and

''(D) the portion of W½ SE¼ that lies southwesterly of the following line: Beginning at the intersection of the southerly line of said SE¼ of Section 21 with the westerly boundary of Rancho Canada De San Vicente Y Mesa Del Padre Barona as shown on United States Government Resurvey approved January 21, 1939, and thence northwesterly along said boundary to an intersection with the westerly line of said SE¼.

''(2) The approximately 17.02 acres located in Section 28 and described as NW¼ NW¼, excepting the east 750 feet.''; and

(2) by adding at the end the following:

''(d) CLARIFICATIONS.—

''(1) EFFECT ON SECTION.—The provisions of subsection (c) shall apply to the land described in subsection (b), as in effect on the day after the date of enactment of the Barona Band of Mission Indians Land Transfer Clarification Act of 2012.

''(2) EFFECT ON PRIVATE LAND.—The parcel of private, non-Indian land referenced in subsection (a) and described in subsection (b), as in effect on the day before the date of enactment of the Barona Band of Mission Indians Land Transfer Clarification Act of 2012, but excluded from the revised description of the land in subsection (b) was not intended to be—

''(A) held in trust by the United States for the benefit of the Band; or

''(B) considered to be a part of the reservation of the Band.''.

SA 2865. Mr. PRYOR (for Mr. BLUMENTHAL) proposed an amendment to the bill H.R. 2453, to require the Secretary of the Treasury to mint coins in commemoration of Mark Twain.

On page 7, strike lines 5 through 7 and insert the following:

(2) One-quarter of the surcharges, to the University of California, Berkeley, California, for the benefit of the Mark Twain Project at the Bancroft Library to support programs to study and promote the legacy of Mark Twain.

At the end, add the following:

SEC. 8. NO NET COST.

The Secretary shall take such actions as may be necessary to ensure that—

(1) minting and issuing coins under this Act will not result in any net cost to the United States Government; and

(2) no funds, including applicable surcharges, are disbursed to any recipient designated in section 7 until the total cost of designing and issuing all of the coins authorized by this Act (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping) is recovered by the United States Treasury, consistent with sections 5112(m) and 5134(f) of title 31, United States Code.

SA 2866. Mr. PRYOR (for Mr. LIEBERMAN) proposed an amendment to S. 3315, to repeal or modify certain mandates of the Government Accountability Office.

On page 2, line 11, insert '', the Secretary of the Senate, or the Clerk of the House of Representatives'' after ''House of Representatives''.

On page 5, line 1, insert ''or the Secretary of the Senate'' after ''the Senate''.

SA 2867. Mr. PRYOR (for Mr. ROCKEFELLER) proposed an amendment to the bill H.R. 2838, to authorize appropriations for the Coast Guard for fiscal years 2013 through 2014, and for other purposes.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Coast Guard Authorization Act of 2012''.

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

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2013.—Funds are authorized to be appropriated for fiscal year 2013 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $7,077,783,000 of which $24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)).

(2) For the acquisition, construction, rebuilding, renovation, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,421,924,000 of which—

(A) $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)), to remain available until expended;

(B) $642,000,000 is authorized to acquire, effect major repairs to, renovate, or improve vessels, small boats, and related equipment;

(C) $289,000,000 is authorized to acquire, effect major repairs to, renovate, or improve aircraft or increase aviation capability;

(D) $166,140,000 is authorized for other equipment;

(E) $213,692,000 is authorized for shore facilities, aids to navigation facilities, and military housing, of which not more than $14,000,000 shall be derived from the Coast Guard Housing Fund; and

(F) $110,192,000 is authorized for personnel compensation and benefits and related costs.

(3) For research, development, testing, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,779,000.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical and dental care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,440,157,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Alteration of Bridges Program, $16,000,000.

(6) For environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $16,699,000.

(7) For operation and maintenance of the Coast Guard Reserve program, $136,778,000.

(b) FISCAL YEAR 2014.—Funds are authorized to be appropriated for fiscal year 2014 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $7,077,783,000 of which $24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)).

(2) For the acquisition, construction, rebuilding, renovation, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,421,924,000 of which—

(A) $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)), to remain available until expended;

(B) $642,000,000 is authorized to acquire, effect major repairs, renovate, or improve vessels, small boats, and related equipment;

(C) $289,000,000 is authorized to acquire, effect major repairs, renovate, or improve aircraft or increase aviation capability;

(D) $166,140,000 is authorized for other equipment;

(E) $213,692,000 is authorized for shore facilities, aids to navigation facilities, and military housing, of which not more than $14,000,000 shall be derived from the Coast Guard Housing Fund; and

(F) $110,192,000 is authorized for personnel compensation and benefits and related costs.

(3) For research, development, testing, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,779,000.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical and dental care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,440,157,000 to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Alteration of Bridges Program, $16,000,000.

(6) For environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $16,699,000.

(7) For operation and maintenance of the Coast Guard Reserve program, $136,778,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) FISCAL YEAR 2013.—

(1) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 47,000 for the fiscal year ending on September 30, 2013.

(2) MILITARY TRAINING STUDENT LOADS.—For fiscal year 2013, the Coast Guard is authorized average military training student loads as follows:

(A) For recruit and special training, 2,500 student years.

(B) For flight training, 165 student years.

(C) For professional training in military and civilian institutions, 350 student years.

(D) For officer acquisition, 1,200 student years.

(b) FISCAL YEAR 2014.—

(1) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 49,350 for the fiscal year ending on September 30, 2014.

(2) MILITARY TRAINING STUDENT LOADS.—For fiscal year 2014, the Coast Guard is authorized average military training student loads as follows:

(A) For recruit and special training, 2,625 student years.

(B) For flight training, 173 student years.

(C) For professional training in military and civilian institutions, 368 student years.

(D) For officer acquisition, 1,260 student years.

TITLE II—ORGANIZATION

SEC. 201. COAST GUARD AUTHORITY TO OPERATE AND MAINTAIN COAST GUARD ASSETS.

(a) IN GENERAL.—Section 93 of title 14, United States Code, is amended by adding at the end the following:

''(e) OPERATION AND MAINTENANCE OF COAST GUARD ASSETS AND FACILITIES.—All authority, including programmatic budget authority, for the operation and maintenance of Coast Guard vessels, aircraft, systems, aids to navigation, infrastructure, and any other Coast Guard assets or facilities, shall be allocated to and vested in the Coast Guard and the department in which the Coast Guard is operating.''.

SEC. 202. CLARIFICATION OF COAST GUARD ICE OPERATIONS MISSION.

(a) COAST GUARD PROVISION OF FEDERAL ICEBREAKING SERVICES.—Chapter 5 of title 14, United States Code, is amended by inserting after section 86 the following:

''§ 87. Provision of icebreaking services

''(a) IN GENERAL.—Notwithstanding any other provision of law, except as provided in subsection (b), the Coast Guard shall be the sole supplier of icebreaking services, on an advancement or reimbursable basis, to each Federal agency that requires icebreaking services.

''(b) EXCEPTION.—In the event that a Federal agency requires icebreaking services and the Coast Guard is unable to provide the services, the Federal agency may acquire icebreaking services from another entity.''.

(b) PRIORITY OF COAST GUARD MISSIONS IN POLAR REGIONS.—

(1) SECTION 110.—Section 110(b)(2) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4109(b)(2)) is amended—

(A) by inserting ''to execute the statutory missions of the Coast Guard and'' after ''needed''; and

(B) by inserting ''and all budget authority related to such operations'' after ''projects,''.

(2) SECTION 312.—Section 312(c) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2441(c)) is amended by inserting ''to execute the statutory missions of the Coast Guard and'' after ''needed''.

(c) CONFORMING AMENDMENT.—The table of contents for chapter 5 of title 14, United States Code, is amended by inserting after the item relating to section 86 the following:

''87. Provision of icebreaking services.''.

TITLE III—PERSONNEL

SEC. 301. ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.

Section 404 of the Coast Guard Authorization Act of 2010 (124 Stat. 2950) is amended—

(1) in subsection (a)(1), by striking ''as shortage category positions'' and inserting ''as positions for which there is a shortage of candidates or a critical hiring need''; and

(2) in subsection (b)—

(A) by striking ''paragraph'' and inserting ''section''; and

(B) by striking ''2012'' and inserting ''2015''.

SEC. 302. OFFICERS RECOMMENDED FOR PROMOTION.

Section 259(c)(1) of title 14, United States Code, is amended by striking ''After selecting'' and inserting ''In selecting''.

SEC. 303. ORIGINAL APPOINTMENT OF PERMANENT COMMISSIONED OFFICERS.

Section 211 of title 14, United States Code, is amended by adding at the end the following:

''(d) For purposes of this section, the term 'original' with respect to the appointment of a member of the Coast Guard refers to the member's most recent appointment in the Coast Guard that is neither a promotion nor a demotion.''.

SEC. 304. ACADEMY PAY, ALLOWANCES, AND EMOLUMENTS.

Section 195 of title 14, United States Code, is amended—

(1) by striking ''person'' each place it appears and inserting ''foreign national''; and

(2) by striking ''pay and allowances'' each place it appears and inserting ''pay, allowances, and emoluments''.

SEC. 305. ACADEMY POLICY ON SEXUAL HARASSMENT AND SEXUAL VIOLENCE.

(a) ESTABLISHMENT.—Chapter 9 of title 14, United States Code, is amended by adding at the end the following:

''§ 200. Policy on sexual harassment and sexual violence

''(a) REQUIRED POLICY.—The Commandant shall direct the Superintendent of the Coast Guard Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Coast Guard Academy.

''(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence under this section shall include specification of the following:

''(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

''(2) Information about how the Coast Guard and the Academy will protect the confidentiality of victims, including how any records, statistics, or reports intended for public release will be formatted such that the confidentiality of victims is not jeopardized.

''(3) Procedures that a cadet or other Academy personnel should follow in the case of an occurrence of sexual harassment or sexual violence, including—

''(A) if the cadet or other Academy personnel chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and options for confidential reporting, including written information to be given to victims which explains how the Coast Guard and the Academy will protect the confidentiality of victims;

''(B) a specification of any other person whom the victim should contact; and

''(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

''(4) Procedures for disciplinary action in cases of criminal sexual assault involving a cadet or other Academy personnel.

''(5) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or other criminal sexual offence, whether forcible or nonforcable.

''(6) Required training on the policy for all cadets and other Academy personnel who process allegations of sexual harassment or sexual violence involving a cadet or other Academy personnel.

''(c) ASSESSMENT.—

''(1) IN GENERAL.—The Commandant shall direct the Superintendent to conduct at the Academy during each Academy program year an assessment to determine the effectiveness of the policies of the Academy with respect to sexual harassment and sexual violence involving cadets and other Academy personnel.

''(2) BIENNIAL SURVEY.—For the assessment at the Academy under paragraph (1) with respect to an Academy program year that begins in an odd-numbered calendar year, the Superintendent shall conduct a survey of cadets and other Academy personnel—

''(A) to measure—

''(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to an official of the Academy; and

''(ii) the incidence, during that program year, of sexual harassment and sexual violence, on or off the Academy reservation, that have not been reported to an official of the Academy; and

''(B) to assess the perceptions of the cadets and other Academy personnel of—

''(i) the policies, training, and procedures on sexual harassment and sexual violence involving cadets and other Academy personnel;

''(ii) the enforcement of such policies;

''(iii) the incidence of sexual harassment and sexual violence involving cadets and other Academy personnel; and

''(iv) any other issues relating to sexual harassment and sexual violence involving cadets and other Academy personnel.

''(d) REPORT.—

''(1) IN GENERAL.—The Commandant shall direct the Superintendent of the Coast Guard Academy to submit to the Commandant a report on sexual harassment and sexual violence involving cadets or other Academy personnel for each Academy program year.

''(2) REPORT SPECIFICATIONS.—Each report under paragraph (1) shall include, for the Academy program year covered by the report, the following:

''(A) The number of sexual assaults, rapes, and other sexual offenses involving cadets or

other Academy personnel that have been reported to Coast Guard Academy officials during the Academy program year and, of those reported cases, the number that have been substantiated.

''(B) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving cadets or other Academy personnel.

''(3) BIENNIAL SURVEY.—Each report under paragraph (1) for an Academy year that begins in an odd-numbered calendar year shall include the results of the survey conducted in that Academy program year under subsection (c)(2).

''(4) TRANSMISSION OF REPORT.—The Commandant shall transmit each report received by the Commandant under this subsection, together with the Commandant's comments on the report to—

''(A) the Committee on Commerce, Science, and Transportation of the Senate; and

''(B) the Committee on Transportation and Infrastructure of the House of Representatives.

''(5) FOCUS GROUPS.—

''(A) IN GENERAL.—In each even-numbered calendar year that the Superintendent is not required to conduct a survey at the Academy under subsection (c)(2), the Commandant shall require focus groups to be conducted at the Academy for the purposes of ascertaining information relating to sexual assault and sexual harassment issues at the Academy.

''(B) INCLUSION IN REPORTS.—Information derived from a focus group under subparagraph (A) shall be included in the Commandant's report under this subsection.

''(e) VICTIM CONFIDENTIALITY.—To the extent that information collected under authority of this section is reported or otherwise made available to the public, such information shall be provided in a form that is consistent with applicable privacy protections under Federal law and does not jeopardize the confidentiality of victims.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 9 of title 14, United States Code, is amended by inserting after the item relating to section 199 the following:

''200. Policy on sexual harassment and sexual violence.''.

SEC. 306. COAST GUARD AUXILIARISTS ENROLLMENT ELIGIBILITY.

Section 823 of title 14, United States Code, is amended to read as follows:

''§ 823. Eligibility, enrollments

''The Auxiliary shall be composed of nationals of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), and of aliens lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))—

''(1) who are owners, sole or part, of motorboats, yachts, aircraft, or radio stations; or

''(2) who by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations.''.

TITLE IV—ADMINISTRATION

SEC. 401. ADVANCE PROCUREMENT FUNDING.

With respect to any Coast Guard vessel for which amounts are appropriated or otherwise made available for vessels for the Coast Guard in any fiscal year, the Secretary may enter into a contract or place an order, in advance of a contract or order for construction of a vessel, for—

(1) materials, parts, components, and effort for the vessel;

(2) advance construction of parts or components for the vessel;

(3) protection and storage of materials, parts, or components for the vessel; and

(4) production planning, design, and other related support services that reduce the overall procurement lead time of the vessel.

SEC. 402. MULTIYEAR PROCUREMENT AUTHORITY FOR COAST GUARD NATIONAL SECURITY CUTTERS.

(a) IN GENERAL.—Beginning with the fiscal year 2013 program year, the Secretary of the department in which the Coast Guard is operating may enter, under section 2306b of title 10, United States Code, into a multiyear contract for the procurement of Coast Guard National Security Cutters and government-furnished equipment associated with the National Security Cutter program.

(b) LIMITATION.—The Secretary may not enter into a contract under subsection (a) until—

(1) the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a certification that the Secretary has made, with respect to the contract, each of the findings under section 2306b(a) of title 10, United States Code, such as the analysis referred to under subsection (c) of this section; and

(2) a period of 30 days has elapsed after the date that the Secretary submits the certification under paragraph (1).

(c) DETERMINATION OF SUBSTANTIAL SAVINGS.—In conducting an analysis of substantial savings under section 2306b(a)(1) of title 10, United States Code, the Secretary—

(1) may not limit the analysis to a simple percentage-based metric; and

(2) shall employ a full-scale analysis of cost avoidance—

(A) based on a multiyear procurement; and

(B) taking into account the potential benefit any accrued savings might have for future shipbuilding programs if the cost avoidance savings were subsequently utilized for further ship construction.

SEC. 403. REQUIREMENT TO MAINTAIN UNITED STATES POLAR ICEBREAKING CAPABILITY.

(a) CURRENT ICEBREAKER MAINTENANCE.—Until new heavy icebreakers are acquired for operation by the Coast Guard, in order to meet Coast Guard mission requirements, the Commandant of the Coast Guard may not—

(1) transfer, relinquish ownership of, dismantle, or recycle the POLAR SEA or POLAR STAR;

(2) remove any part of the POLAR SEA unless it will be installed on the POLAR STAR before it is put in ''active'' status and the Commandant certifies to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that it is not possible for the POLAR STAR to function properly without doing so;

(3) change the existing homeport of any Coast Guard icebreaker; or

(4) expend any funds—

(A) for any expenses directly or indirectly associated with the decommissioning of either of the vessels, including expenses for dock use or other goods and services;

(B) for any personnel expenses directly or indirectly associated with the decommissioning of either of the vessels, including expenses for a decommissioning officer;

(C) for any expenses associated with a decommissioning ceremony for either of the vessels;

(D) to appoint a decommissioning officer to be affiliated with either of the vessels; or

(E) to place either of the vessels in inactive status.

(b) REIMBURSEMENT.—Nothing in this section shall preclude the Secretary from seeking reimbursement for operation and maintenance costs of the polar icebreakers from other Federal agencies and entities, including foreign governments, that benefit from the use of the polar icebreakers.

SEC. 404. NATIONAL RESPONSE FUNCTIONS.

(a) IN GENERAL.—Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)—

(A) by striking paragraph (23); and

(B) redesignating paragraphs (24) through (26) as paragraphs (23) through (25), respectively;

(2) in subsection (j)(2), by striking ''National Response Unit.'' through ''acting through the National Response Unit'' and inserting the following:

''(2) NATIONAL RESPONSE FUNCTIONS.—The Secretary of the department in which the Coast Guard is operating—''; and

(3) in subsection (j)(4)(C)(vi), by striking '', and into operating procedures of the National Response Unit''.

(b) CONFORMING AMENDMENT.—Section 4202(b) of the Oil Pollution Act of 1990 (33 U.S.C. 1321 note) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 405. NATIONAL RESPONSE CENTER NOTIFICATION REQUIREMENTS.

The Ohio River Valley Water Sanitation Commission, established pursuant to the Ohio River Valley Water Sanitation Compact authorized by House Joint Resolution 377, 74th Congress, agreed to June 8, 1936 (49 Stat. 1490), and consented to and approved by Congress in the Act of July 11, 1940 (54 Stat. 752), is deemed a Government agency for purposes of the notification requirements of section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603). The National Response Center shall convey notification, including complete and un-redacted incident reports, expeditiously to the Commission regarding each release in or affecting the Ohio River Basin for which notification to all appropriate Government agencies is required.

SEC. 406. CONFORMING AMENDMENT.

Section 210 of the Coast Guard and Maritime Transportation Act of 2006 (14 U.S.C. 93 note) is repealed.

TITLE V—SHIPPING AND NAVIGATION

SEC. 501. CENTRAL BERING SEA POTENTIAL PLACE OF REFUGE.

(a) CONSULTATION.—Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard shall consult with appropriate Federal agencies and with State and local interests to determine what improvements, if any, are necessary to designate existing ice-free facilities (or infrastructure) in the Central Bering Sea as a fully functional, year-round Potential Place of Refuge for vessels with drafts up to 25 feet and lengths overall of up to 450 feet.

(b) PURPOSES.—The purposes of the consultation under subsection (a) shall be to enhance safety of human life at sea and protect the marine environment in the Central Bering Sea.

(c) REPORT.—Not later than 90 days after making the determination under subsection (a), the Commandant shall inform the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives in writing of the findings under subsection (a).

SEC. 502. PROTECTION AND FAIR TREATMENT OF SEAFARERS.

(a) IN GENERAL.—Chapter 111 of title 46, United States Code, is amended by adding at the end the following:

"§ 11113. Protection and fair treatment of seafarers

''(a) PURPOSE.—The purpose of this section shall be to ensure the protection and fair treatment of seafarers.

''(b) SPECIAL FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury a special fund known as the Support of Seafarers Fund.

''(2) USE OF AMOUNTS IN FUND.—The amounts deposited into the Fund shall be available to the Secretary, without fiscal year limitation, to—

''(A) pay necessary support under subsection (c)(1); and

''(B) reimburse a shipowner for necessary support under subsection (c)(2).

''(3) AMOUNTS CREDITED TO FUND.—Notwithstanding any other provision of law, the Fund may receive—

''(A) any moneys ordered to be paid to the Fund in the form of community service under section 8B1.3 of the United States Sentencing Guidelines Manual or to the extent permitted under paragraph (4); and

''(B) amounts reimbursed or recovered under subsection (e).

''(4) PREREQUISITE FOR COMMUNITY SERVICE CREDITS.—The Fund may receive credits under paragraph (3)(A) if the unobligated balance of the Fund is less than $5,000,000.

''(5) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated, from the Fund, for each fiscal year such sums as may be necessary for the purposes set forth in paragraph (2).

''(6) REPORT REQUIRED.—

''(A) IN GENERAL.—The Secretary shall submit to Congress, concurrent with the President's budget submission for a given fiscal year, a report that describes—

''(i) the amounts credited to the Fund under paragraph (3) for the preceding fiscal year;

''(ii) in detail, the activities for which amounts were charged; and

''(iii) the projected level of expenditures from the Fund for the upcoming fiscal year, based on—

''(I) on-going activities; and

''(II) new cases, derived from historic data.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to obligations during the first fiscal year during which amounts are credited to the Fund.

''(7) FUND MANAGER.—The Secretary shall designate a Fund manager. The Fund manager shall—

''(A) ensure the visibility and accountability of transactions utilizing the Fund;

''(B) prepare the report under paragraph (6);

''(C) monitor the unobligated balance of the Fund; and

''(D) provide notice to the Secretary and the Attorney General whenever the unobligated balance of the Fund is less than $5,000,000.

''(c) AUTHORITY.—The Secretary may—

''(1) pay, from amounts appropriated from the Fund, necessary support of—

''(A) a seafarer that—

''(i) enters, remains, or is paroled into the United States; and

''(ii) is involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard; and

''(B) a seafarer that the Secretary determines was abandoned in the United States; and

''(2) reimburse, from amounts appropriated from the Fund, a shipowner that has provided necessary support of a seafarer who has been paroled into the United States to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard, for the costs of necessary support if the Secretary determines that reimbursement is necessary to avoid serious injustice.

''(d) LIMITATION.—Nothing in this section shall be construed—

''(1) to create a right, benefit, or entitlement to necessary support; or

''(2) to compel the Secretary to pay or reimburse the cost of necessary support.

''(e) REIMBURSEMENT; RECOVERY.—

''(1) IN GENERAL.—A shipowner shall reimburse the Fund an amount equal to the total amount paid from the Fund for necessary support of a seafarer plus a surcharge of 25 percent of the total amount if—

''(A) the shipowner—

''(i) during the course of an investigation, reporting, documentation, or adjudication of any matter that the Coast Guard referred to a United States Attorney or the Attorney General, fails to provide necessary support of a seafarer who was paroled into the United States to facilitate the investigation, reporting, documentation, or adjudication; and

''(ii) subsequently receives a criminal penalty; or

''(B) the shipowner, under any circumstance, abandons a seafarer in the United States, as determined by the Secretary.

''(2) ENFORCEMENT.—If a shipowner fails to reimburse the Fund under paragraph (1), the Secretary may—

''(A) proceed in rem against any vessel of the shipowner in the Federal district court for the district in which the vessel is found; and

''(B) withhold or revoke the clearance required under section 60105 of any vessel of the shipowner wherever the vessel is found.

''(3) REMEDY.—A vessel may obtain clearance from the Secretary after it is withheld or revoked under paragraph (2)(B) if the shipowner reimburses the Fund the amount required under paragraph (1).

''(f) BOND AND SURETY.—

''(1) AUTHORITY.—The Secretary may require a bond or a surety satisfactory as an alternative to withholding or revoking clearance under subsection (e) if, in the opinion of the Secretary, the bond or surety satisfactory is necessary to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard.

''(2) SURETY CORPORATIONS.—A surety corporation may provide a bond or surety satisfactory under paragraph (1) if the surety corporation is authorized by the Secretary of the Treasury under section 9305 of title 31 to provide surety bonds under section 9304 of title 31.

''(3) APPLICATION.—The authority to require a bond or surety satisfactory or to request the withholding or revocation of the clearance under subsection (e) applies to any investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard.

''(g) DEFINITIONS.—In this section:

''(1) ABANDONS; ABANDONED.—The term 'abandons' or 'abandoned' means—

''(A) a shipowner's unilateral severance of ties with a seafarer; or

''(B) a shipowner's failure to provide necessary support of a seafarer.

''(2) BOND OR SURETY SATISFACTORY.—The term 'bond or surety satisfactory' means a negotiated instrument, the terms of which may, at the discretion of the Secretary, include provisions that require a shipowner—

''(A) to provide necessary support of a seafarer who has or may have information pertinent to an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard;

''(B) to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard;

''(C) to stipulate to certain incontrovertible facts, including the ownership or operation of the vessel, or the authenticity of documents and things from the vessel;

''(D) to facilitate service of correspondence and legal papers;

''(E) to enter an appearance in United States district court;

''(F) to comply with directions regarding payment of funds;

''(G) to name an agent in the United States for service of process;

''(H) to stipulate in United States district court as to the authenticity of certain documents;

''(I) to provide assurances that no discriminatory or retaliatory measures will be taken against a seafarer involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard;

''(J) to provide financial security in the form of cash, bond, or other means acceptable to the Secretary; and

''(K) to provide for any other appropriate measures as the Secretary considers necessary to ensure the Government is not prejudiced by granting the clearance required under section 60105 of title 46.

''(3) FUND.—The term 'Fund' means the Support of Seafarers Fund established under this section.

''(4) NECESSARY SUPPORT.—The term 'necessary support' means normal wages, lodging, subsistence, clothing, medical care (including hospitalization), repatriation, and any other expense the Secretary considers appropriate.

''(5) SEAFARER.—The term 'seafarer' means an alien crewman who is employed or engaged in any capacity on board a vessel subject to the jurisdiction of the United States. A seafarer is a claimant for the purposes of section 30509.

''(6) SHIPOWNER.—The term 'shipowner' means an individual or entity that owns, has an ownership interest in, or operates a vessel subject to the jurisdiction of the United States.

''(7) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 70502(c), except that it excludes—

''(A) a vessel—

''(i) that is owned by the United States, a State or political subdivision thereof, or a foreign nation; and

''(ii) that is not engaged in commerce; and

''(B) a bareboat—

''(i) that is chartered and operated by the United States, a State or political subdivision thereof, or a foreign nation; and

''(ii) that is not engaged in commerce.

''(h) REGULATIONS.—The Secretary may prescribe regulations to implement this section.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 111 of title 46, United States Code, is amended by inserting after the item relating to section 11112 the following:

''11113. Protection and fair treatment of seafarers.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Support of Seafarers Fund $1,500,000 for each of fiscal years 2013 and 2014.

SEC. 503. DELEGATION OF AUTHORITY.

Section 3316 of title 46, United States Code, is amended—

(1) in subsection (b)(2)—

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

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

(C) by adding at the end the following:

''(C) if the Secretary of State determines that the foreign classification society does not provide comparable services in or for the government of a country designated by the Secretary of State as a State Sponsor of Terrorism.'';

(2) in subsection (d)(2)—

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

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

(C) by adding at the end the following:

''(C) if the Secretary of State determines that the foreign classification society does not provide comparable services in or for the government of a country designated by the Secretary of State as a State Sponsor of Terrorism.''; and

(3) by adding at the end the following—

''(e) The Secretary shall revoke an existing delegation made to a classification society under subsection (b) or (d) if the Secretary of State determines that the classification society provides comparable services in or for the government of a country designated by the Secretary of State as a State Sponsor of Terrorism.''.

SEC. 504. REPORT ON ESTABLISHMENT OF ARCTIC DEEP WATER PORT.

(a) STUDY.—The Commandant of the Coast Guard shall conduct a study on the feasibility and potential of establishing a deep water sea port in the Arctic to protect and advance strategic United States interests within the Arctic region.

(b) SCOPE.—The study under subsection (a) shall include an analysis of—

(1) the capability that a deep water sea port would provide;

(2) the potential and optimum locations for the port;

(3) the resources needed to establish the port;

(4) the time frame needed to establish the port;

(5) the infrastructure required to support the port; and

(6) any other issues the Secretary considers necessary to complete the study.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commandant shall submit a report on the findings of the study under subsection (a) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 505. RISK ANALYSIS OF TRANSPORTING CANADIAN OIL SANDS.

(a) IN GENERAL.—The Commandant of the Coast Guard shall assess the increased vessel traffic in the Salish Sea (including the Puget Sound, the Strait of Georgia, Haro Strait, Rosario Strait, and the Strait of Juan de Fuca), that may occur from the transport of Canadian oil sands oil.

(b) SCOPE.—The analysis required under subsection (a) shall, at a minimum, consider—

(1) the extent to which vessel (barge, tanker, and supertanker) traffic may increase due to Canadian oil sands development;

(2) whether transport of Canadian oil sands within the Salish Sea is likely to require navigation through United States territorial waters;

(3) the rules and regulations that restrict supertanker traffic in United States waters, including an assessment of whether there are methods to bypass those rules in such waterways and adjacent Canadian waters;

(4) the rules and regulations that restrict the amount of oil transported in tankers or barges in United States waters, including an assessment of whether there are methods to bypass those rules in such waterways and adjacent Canadian waters;

(5) the spill response capability throughout the shared water of the United States and Canada, including oil spill response planning requirements for vessels bound for one nation transiting through the waters of the other nation;

(6) the vessel emergency response towing capability at the entrance to the Strait of Juan de Fuca;

(7) the agreement between the United States and Canada that outlines requirements for laden tank vessels to be escorted by tug boats;

(8) whether oil extracted from oil sands has different properties from other types of oil, including toxicity and other properties, which may require different maritime clean up technologies;

(9) a risk assessment of the increasing supertanker, tanker, and barge traffic associated with Canadian oil sands development or expected to be associated with Canadian oil sands development; and

(10) the potential costs and benefits to the U.S. public and the private sector of maritime transportation of oil sands products.

(c) CONSULTATION REQUIREMENT.—In conducting the analysis required under this section, the Commandant shall consult with the State of Washington and affected tribal governments. The Commandant is also strongly encouraged to consult with the Secretary of State.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commandant shall submit a report based on the analysis required under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 506. ELIGIBILITY TO RECEIVE SURPLUS TRAINING EQUIPMENT.

Section 51103(b)(2)(C) of title 46, United States Code, is amended by inserting ''or a training institution that is an instrumentality of a State, Territory, or Commonwealth of the United States or District of Columbia or a unit of local government thereof'' after ''a non-profit training institution''.

TITLE VI—MARITIME ADMINISTRATION AUTHORIZATION

SEC. 601. SHORT TITLE; AMENDMENT OF TITLE 46, UNITED STATES CODE.

(a) SHORT TITLE.—This title may be cited as the ''Maritime Administration Authorization Act for Fiscal Year 2013''.

(b) AMENDMENT OF TITLE 46, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 46, United States Code.

SEC. 602. MARINE TRANSPORTATION SYSTEM.

(a) REPORT ON STATUS OF SYSTEM.—Section 50109(d) is amended to read as follows:

''(d) MARINE TRANSPORTATION SYSTEM.—

''(1) REPORT ON WATERWAYS.—Not later than October 1, 2013, the Secretary, in consultation with the Secretary of Defense and the commanding officer of the Army Corps of Engineers, and with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives on the status of the Nation's coastal and inland waterways that—

''(A) describes the state of the United States' marine transportation infrastructure, including intercoastal infrastructure, intracoastal infrastructure, inland waterway infrastructure, ports, and marine facilities;

''(B) provides estimates of the investment levels required—

''(i) to maintain the infrastructure; and

''(ii) to improve the infrastructure; and

''(C) describes the overall environmental management of the maritime transportation system and the integration of environmental stewardship into the overall system.

''(2) MARINE TRANSPORTATION.—The Secretary may investigate, make determinations concerning, and develop a repository of statistical information relating to marine transportation, including its relationship to transportation by land and air, to facilitate research, assessment, and maintenance of the maritime transportation system. As used in this paragraph, the term 'marine transportation' includes intercoastal transportation, intracoastal transportation, inland waterway transportation, ports, and marine facilities.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subsection.''.

(b) CONTAINER-ON-BARGE TRANSPORTATION.—

(1) ASSESSMENT AND REPORT.—Not later than 6 months after the date of enactment of this Act, the Maritime Administration shall assess the potential for using container-on-barge transportation on the inland waterways system and submit a report, together with the Administration's findings, conclusions, and recommendations, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services and the Committee on Transportation and Infrastructure of the House of Representatives. If the Administration determines that it would be in the public interest, the report may include recommendations for a plan to increase awareness of the potential for use of such container-on-barge transportation and recommendations for the development and implementation of such a plan.

(2) FACTORS.—In conducting the assessment, the Administration shall consider—

(A) the environmental benefits of increasing container-on-barge movements on our inland and intracoastal waterways system;

(B) the regional differences in the inland waterways system;

(C) the existing programs established at coastal and Great Lakes ports for establishing awareness of deep sea shipping operations;

(D) the mechanisms to ensure that implementation of the plan will not be inconsistent with antitrust laws; and

(E) the potential frequency of service at inland river ports.

SEC. 603. SHORT SEA TRANSPORTATION PROGRAM AMENDMENTS.

(a) PROGRAM PURPOSE.—Section 55601(a) is amended by inserting ''and to promote more efficient use of the navigable waters of the United States'' after ''congestion''.

(b) DESIGNATION OF ROUTES.—Section 55601(c) is amended by inserting ''and to promote more efficient use of the navigable waters of the United States'' after ''coastal corridors''.

(c) PROJECT DESIGNATION.—Section 55601(d) is amended to read as follows:

''(d) PROJECT DESIGNATION.—The Secretary may designate a project as a short sea transportation project if the Secretary determines that the project—

''(1) mitigates landside congestion; or

''(2) promotes more efficient use of the navigable waters of the United States.''.

(d) DOCUMENTATION.—Section 55605 is amended by striking ''by vessel'' and inserting ''by a documented vessel''.

SEC. 604. MARITIME ENVIRONMENTAL AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 503 is amended by adding at the end the following:

''§ 50307. Maritime environmental and technical assistance program

''(a) IN GENERAL.—The Secretary of Transportation may establish a maritime environmental and technical assistance program to engage in the environmental study, research, development, assessment, and deployment of emerging marine technologies and practices related to the marine transportation system through the use of public vessels under the control of the Maritime Administration or private vessels under Untied States registry, and through partnerships and cooperative efforts with academic, public, private, and non-governmental entities and facilities.

''(b) PROGRAM REQUIREMENTS.—The program shall—

''(1) identify, study, evaluate, test, demonstrate, or improve emerging marine technologies and practices that are likely to achieve environmental improvements by—

''(A) reducing air emissions, water emissions, or other ship discharges;

''(B) increasing fuel economy or the use of alternative fuels and alternative energy (including the use of shore power); or

''(C) controlling aquatic invasive species; and

''(2) be coordinated with the Environmental Protection Agency, the United States Coast Guard, and other Federal, State, local, or tribal agencies, as appropriate.

''(c) PROGRAM COORDINATION.—Program coordination under subsection (b)(2) may include—

''(1) activities that are associated with the development or approval of validation and testing regimes; and

''(2) certification or validation of emerging technologies or practices that demonstrate significant environmental benefits.

''(d) FUNDING AND FEES.—

''(1) IN GENERAL.—In carrying out the maritime environmental and technical assistance program, the Secretary of Transportation may apply such funds as may be appropriated and such funds or resources as may become available by gift, cooperative agreement, or otherwise, including the collection of fees, for the purposes of the program and its administration.

''(2) ESTABLISHMENT OF FEES.—Pursuant to section 9701 of title 31, the Secretary of Transportation may promulgate regulations establishing fees to recover reasonable costs to the Secretary and to academic, public, and non-governmental entities associated with the program.

''(3) FEE DEPOSIT.—Any fees collected under this section shall be deposited in a special fund of the United States Treasury for services rendered under the program, which thereafter shall remain available until expended to carry out the Secretary of Transportation's activities for which the fees were collected.

''(e) REPORT.—The Secretary of Transportation shall report on the activities, expenditures, and results of the maritime environmental and technical assistance program during the preceding fiscal year in the annual budget submission to Congress.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 503 is amended by inserting after the item relating to section 50306 the following:

''50307. Maritime environmental and technical assistance program.''.

SEC. 605. WAIVER OF NAVIGATION AND VESSEL-INSPECTION LAWS.

Section 501(b) is amended by adding ''A waiver shall be accompanied by a certification by the individual and the Administrator to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives that it is not possible to use a United States flag vessel or United States flag vessels collectively to meet the national defense requirements.'' after ''prescribes.''.

SEC. 606. EXTENSION OF MARITIME SECURITY FLEET PROGRAM.

(a) Section 53101 is amended—

(1) by amending paragraph (4) to read as follows:

''(4) FOREIGN COMMERCE.—The term 'foreign commerce' means—

''(A) commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country; and

''(B) commerce or trade between foreign countries.'';

(2) by striking paragraph (5);

(3) by redesignating paragraphs (6) through (13) as paragraphs (5) through (12), respectively; and

(4) by amending paragraph (5), as redesignated, to read as follows:

''(5) PARTICIPATING FLEET VESSEL.—The term 'participating fleet vessel' means any vessel that—

''(A) on October 1, 2015—

''(i) meets the requirements of paragraph (1), (2), (3), or (4) of section 53102(c); and

''(ii) is less than 20 years of age if the vessel is a tank vessel, or is less than 25 years of age for all other vessel types; and

''(B) on December 31, 2014, is covered by an operating agreement under this chapter.''.

(b) Section 53102(b) is amended to read as follows:

''(b) VESSEL ELIGIBILITY.—A vessel is eligible to be included in the Fleet if—

''(1) the vessel meets the requirements of paragraph (1), (2), (3), or (4) of subsection (c);

''(2) the vessel is operated (or in the case of a vessel to be constructed, will be operated) in providing transportation in foreign commerce;

''(3) the vessel is self-propelled and—

''(A) is a tank vessel that is 10 years of age or less on the date the vessel is included in the Fleet; or

''(B) is any other type of vessel that is 15 years of age or less on the date the vessel is included in the Fleet;

''(4) the vessel—

''(A) is suitable for use by the United States for national defense or military purposes in time of war or national emergency, as determined by the Secretary of Defense; and

''(B) is commercially viable, as determined by the Secretary; and

''(5) the vessel—

''(A) is a United States-documented vessel; or

''(B) is not a United States-documented vessel, but—

''(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of this title if it is included in the Fleet; and

''(ii) at the time an operating agreement for the vessel is entered into under this chapter, the vessel is eligible for documentation under chapter 121 of this title.''.

(c) Section 53103 is amended—

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

''(b) EXTENSION OF EXISTING OPERATING AGREEMENTS.—

''(1) OFFER TO EXTEND.—Not later than 60 days after the date of enactment of the Maritime Administration Authorization Act for Fiscal Year 2013, the Secretary shall offer, to an existing contractor, to extend, through September 30, 2025, an operating agreement that is in existence on the date of enactment of that Act. The terms and conditions of the extended operating agreement shall include terms and conditions authorized under this chapter, as amended from time to time.

''(2) TIME LIMIT.—An existing contractor shall have not later than 120 days after the date the Secretary offers to extend an operating agreement to agree to the extended operating agreement.

''(3) SUBSEQUENT AWARD.—The Secretary may award an operating agreement to an applicant that is eligible to enter into an operating agreement for fiscal years 2016 through 2025 if the existing contractor does not agree to the extended operating agreement under paragraph (2).''; and

(2) by amending subsection (c) to read as follows:

''(c) PROCEDURE FOR AWARDING NEW OPERATING AGREEMENTS.—The Secretary may enter into a new operating agreement with an applicant that meets the requirements of section 53102(c) (for vessels that meet the qualifications of section 53102(b)) on the basis of priority for vessel type established by military requirements of the Secretary of Defense. The Secretary shall allow an applicant at least 30 days to submit an application for a new operating agreement. After consideration of military requirements, priority shall be given to an applicant that is a U.S. citizen under section 50501 of this title. The Secretary may not approve an application without the consent of the Secretary of Defense. The Secretary shall enter into an operating agreement with the applicant or provide a written reason for denying the application.''.

(d) Section 53104 is amended—

(1) in subsection (c), by striking paragraph (3); and

(2) in subsection (e), by striking ''an operating agreement under this chapter is terminated under subsection (c)(3), or if''.

(e) Section 53105 is amended—

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

''(e) TRANSFER OF OPERATING AGREEMENTS.—A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the operating agreement) to any person that is eligible to enter into the operating agreement under this chapter if the Secretary and the Secretary of Defense determine that the transfer is in the best interests of the United States. A transaction shall not be considered a transfer of an operating agreement if the same legal entity with the same vessels remains the contracting party under the operating agreement.''; and

(2) by amending subsection (f) to read as follows:

''(f) REPLACEMENT VESSELS.—A contractor may replace a vessel under an operating agreement with another vessel that is eligible to be included in the Fleet under section 53102(b), if the Secretary, in conjunction with the Secretary of Defense, approves the replacement of the vessel.''.

(f) Section 53106 is amended—

(1) in subsection (a)(1), by striking ''and (C) $3,100,000 for each of fiscal years 2012 through 2025.'' and inserting the following:

''(C) $3,100,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

''(D) $3,500,000 for each of fiscal years 2019, 2020, and 2021; and

''(E) $3,700,000 for each of fiscal years 2022, 2023, 2024, and 2025.'';

(2) in subsection (c)(3)(C), by striking ''a LASH vessel.'' and inserting ''a lighter aboard ship vessel.''; and

(3) by striking subsection (f).

(g) Section 53107(b)(1) is amended to read as follows:

''(1) IN GENERAL.—An Emergency Preparedness Agreement under this section shall require that a contractor for a vessel covered by an operating agreement under this chapter shall make commercial transportation resources (including services) available, upon request by the Secretary of Defense during a time of war or national emergency, or whenever the Secretary of Defense determines that it is necessary for national security or contingency operation (as that term is defined in section 101 of title 10, United States Code).''.

(h) Section 53109 is repealed.

(i) Section 53111 is amended—

(1) by striking ''and'' at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting the following:

''(3) $186,000,000 for each of fiscal years 2012, 2013, 2014, 2015, 2016, 2017, and 2018;

''(4) $210,000,000 for each of fiscal years 2019, 2020, and 2021; and

''(5) $222,000,000 for each fiscal year thereafter through fiscal year 2025.''.

(j) AUTHORIZATION OF APPROPRIATIONS; MAINTENANCE AND REPAIR REIMBURSEMENT PILOT PROGRAM.—Section 3517(i) of the Maritime Security Act of 2003 (46 U.S.C. 53101 note) is amended by striking ''2011'' and inserting ''2025''.

(k) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by—

(1) paragraphs (2), (3), and (4) of section 606(a) of this Act take effect on December 31, 2014; and

(2) section 606(f)(2) of this Act take effect on December 31, 2014.

SEC. 607. MARITIME WORKFORCE STUDY.

(a) TRAINING STUDY.—The Comptroller General of the United States shall conduct a study on the training needs of the maritime workforce.

(b) STUDY COMPONENTS.—The study shall—

(1) analyze the impact of training requirements imposed by domestic and international regulations and conventions, companies, and government agencies that charter or operate vessels;

(2) evaluate the ability of the Nation's maritime training infrastructure to meet the current needs of the maritime industry;

(3) evaluate the ability of the Nation's maritime training infrastructure to effectively meet the needs of the maritime industry in the future;

(4) identify trends in maritime training;

(5) compare the training needs of U.S. mariners with the vocational training and educational assistance programs available from Federal agencies to evaluate the ability of Federal programs to meet the training needs of U.S. mariners;

(6) include recommendations for future programs to enhance the capabilities of the Nation's maritime training infrastructure; and

(7) include recommendations for future programs to assist U.S. mariners and those entering the maritime profession achieve the required training.

(c) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 608. MARITIME ADMINISTRATION VESSEL RECYCLING CONTRACT AWARD PRACTICES.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Inspector General of the Department of Transportation shall conduct an assessment of the source selection procedures and practices used to award the Maritime Administration's National Defense Reserve Fleet vessel recycling contracts. The Inspector General shall assess the process, procedures, and practices used for the Maritime Administration's qualification of vessel recycling facilities. The Inspector General shall report the findings to the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Armed Services of the House of Representatives.

(b) ASSESSMENT.—The assessment under subsection (a) shall include a review of whether the Maritime Administration's contract source selection procedures and practices are consistent with law, the Federal Acquisition Regulations (FAR), and Federal best practices associated with making source selection decisions.

(c) CONSIDERATIONS.—In making the assessment under subsection (a), the Inspector General may consider any other aspect of the Maritime Administration's vessel recycling process that the Inspector General deems appropriate to review.

SEC. 609. REQUIREMENT FOR BARGE DESIGN.

Not later than 9 months after the date of enactment of this Act, the Administrator of the Maritime Administration shall complete the design for a containerized articulated barge identified in the Dual Use Vessel Study carried out by the Administrator and the Secretary of Defense that is able to utilize roll-on, roll-off or load-on, load-off technology for use in marine highway maritime commerce.

TITLE VII—MISCELLANEOUS

SEC. 701. LIMITATION ON AVAILABILITY OF FUNDS FOR PROCUREMENT OF ALTERNATIVE FUEL.

None of the funds authorized to be appropriated by this Act or otherwise made available during fiscal year 2013 or 2014 for the Coast Guard may be obligated or expended for the production or purchase of any alternative fuel if the cost of producing or purchasing the alternative fuel exceeds the cost of producing or purchasing a traditional fossil fuel that would be used for the same purpose as the alternative fuel.

SEC. 702. PASSENGER VESSEL SECURITY AND SAFETY REQUIREMENTS.

(a) VESSEL DESIGN, EQUIPMENT, CONSTRUCTION, AND RETROFITTING REQUIREMENTS.—Section 3507(a) of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''to which this subsection applies'' and inserting ''to which this section applies'';

(B) in subparagraph (A)—

(i) by striking ''The vessel'' and inserting ''Each exterior deck of a vessel''; and

(ii) by striking the period at the end and inserting ''unless the height requirement would interfere with the deployment of a lifesaving device or other emergency equipment as identified by the Commandant.''; and

(C) in subparagraph (B), by striking ''entry doors that include peep holes or other means of visual identification.'' and inserting ''an entry door that includes a peep hole or other means of visual identification that provides an unobstructed view of the area outside the stateroom or crew cabin. For purposes of this subparagraph, the addition of an optional privacy cover on the interior side of the entry shall not in and of itself constitute an obstruction.''; and

(2) in paragraph (3)—

(A) by striking ''subparagraph (B)'' in subparagraph (A) and inserting ''subparagraphs (B) and (C)''; and

(B) by adding at the end the following:

''(C) SHIP RAIL, ENTRY DOOR, AND TECHNOLOGY REQUIREMENTS.—The requirements of subparagraphs (A) and (B) of paragraph (1) take effect on the date of enactment of the Coast Guard Authorization Act of 2012.''.

(b) VIDEO RECORDING.—Section 3507(b)(1) of title 46, United States Code, is amended to read as follows:

''(1) REQUIREMENT TO MAINTAIN SURVEILLANCE.—

''(A) IN GENERAL.—The owner of a vessel to which this section applies shall maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes, as determined by the Secretary.

''(B) ASSESSMENT.—Not later than 120 days after the date of enactment of the Coast Guard Authorization Act of 2012, the owner of a vessel to which this section applies shall perform and submit to the Commandant a criminal and passenger safety risk assessment to determine the appropriate placement of video surveillance equipment on the vessel. The assessment shall require consideration of camera placement in areas where video surveillance may assist in documenting crimes on the vessel and in providing evidence of such crimes. The assessment shall make recommendations as to the appropriate placement of video surveillance equipment throughout the vessel, including passenger and crew common areas where there is no expectation of privacy, as to the frequency or infrequency of crimes in areas of the vessel, and as to the use of cameras in areas of perceived higher risk. The Commandant shall have authority to review, modify, and require modifications to the assessment to provide for additional video coverage of a vessel.

''(C) INTERIM RETENTION REQUIREMENTS.—The owner of a vessel to which this section applies shall retain all video images for a voyage for not less than 10 days after the date that the images are recorded. If an incident described in subsection (g)(3)(A)(i) is alleged and reported to law enforcement, all video images for a voyage that the Federal Bureau of Investigation determines relevant shall—

''(i) be provided to the Federal Bureau of Investigation; and

''(ii) be preserved by the vessel owner for not less than 3 years from the date of the Federal Bureau of Investigation's determination.

''(D) RETENTION REQUIREMENTS.—Not later than 3 years after the date of enactment of the Coast Guard Authorization Act of 2012, the Commandant, in consultation with the Federal Bureau of Investigation, shall promulgate standards for the retention of video surveillance records. The Commandant shall consider factors that would aid in the investigation of serious crimes, including crimes that go unreported until after the completion of a voyage. The Commandant shall consider the different types of video surveillance systems and storage requirements in creating standards both for vessels currently in operation and for vessels newly built.''.

(c) SEXUAL ASSAULT.—Section 3507(d)(1) of title 46, United States Code, is amended by

inserting ''(taking into consideration the length of the voyage and the number of passengers and crewmembers that the vessel can accommodate)'' after ''a sexual assault''.

(d) CREW ACCESS TO PASSENGER STATEROOMS.—Section 3507(f)(2) of title 46, United States Code, is amended by striking ''are fully and properly implemented and periodically reviewed.'' and inserting ''are fully and properly implemented, reviewed annually, and updated as necessary.''.

(e) LOG BOOK AND REPORTING REQUIREMENTS.—Section 3507(g) of title 46, United States Code, is amended—

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

''(1) IN GENERAL.—The owner of a vessel to which this section applies shall—

''(A) record in a log book, either electronically or otherwise, a report on—

''(i) all complaints of crimes described in paragraph (3)(A)(i);

''(ii) all complaints of theft of property valued in excess of $1,000; and

''(iii) all complaints of other crimes committed on any voyage that embarks or disembarks passengers in the United States; and

''(B) make the log book and all entries therein available, whether the log book and entries are maintained onboard the vessel or at a centralized location off the vessel, upon request to—

''(i) any agent of the Federal Bureau of Investigation performing official duties in the course and scope of an investigation;

''(ii) any member of the United States Coast Guard performing official duties in the course and scope of an investigation; and

''(iii) any law enforcement officer performing official duties in the course and scope of an investigation.'';

(2) in paragraph (3)(A)—

(A) in clause (i), by striking ''as soon as possible after the occurrence on board the vessel of an incident'' and inserting ''not later than 24 hours after the vessel is notified of an incident on board the vessel''; and

(B) in clause (ii), by striking ''the incident'' and inserting ''each incident under clause (i), including the details under paragraph (2),''; and

(3) in paragraph (4)—

(A) by amending subparagraph (A) to read as follows:

''(A) WEBSITE.—

''(i) IN GENERAL.—The Secretary shall maintain a statistical compilation of all incidents described in paragraph (3)(A)(i) on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed under paragraph (3)(A)(i). Each such incident shall be included in the statistical compilation regardless of whether the incident is under investigation by the Federal Bureau of Investigation or not, unless the Bureau determines through the investigative process the report to be unfounded. If determined to be unfounded, the incident shall not be included in the statistical compilation or shall be removed when the determination is made. The data shall be updated no less frequently than quarterly, aggregated by cruise line, each cruise line shall be identified by name and each crime and alleged crime shall be identified as to whether it was committed or allegedly committed by a passenger or crew member and against a passenger or crew member. The Secretary shall also include on the Internet site a rate of crime, comparable to that provided under the Uniform Crime Reporting Program, as determined by the Federal Bureau of Investigation. The rate shall take into account the total number of passengers and crew members carried by each reporting cruise line on voyages that embark or disembark in the United States during the reporting period, and shall be adjusted by the Bureau to reflect the average length of time such persons were on board, as documented to the Secretary by each reporting cruise line.

''(ii) DEFINITION OF UNFOUNDED.—For purposes of this subparagraph, the term 'unfounded' means an allegation that is determined through the course of an investigation to be false or baseless.'';

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

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

''(B) REPORTS OF INCIDENTS.—The Federal Bureau of Investigation shall furnish quarterly to the Secretary, the Committee on Commerce, Science, and Transportation and the Committee on Judiciary of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Judiciary of the House of Representatives a numerical accounting of each incident reported to a Federal Bureau of Investigation Field Office under paragraph (3)(A)(i) that quarter.''; and

(D) in subparagraph (C), as redesignated—

(i) by striking ''taking on or discharging'' and inserting ''that takes on or discharges''; and

(ii) by striking ''a link'' and inserting '', on any Internet site that the cruise line maintains to purchase or book cruises on any vessel that the cruise line owns or operates, and to which this section applies, a prominently accessible link''.

(f) PROCEDURES.—Section 3507(i) of title 46, United States Code, is amended by striking ''Within 6 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2010, the'' and inserting ''The''.

(g) REGULATIONS.—Section 3507(j) of title 46, United States Code, is amended by striking ''shall each'' and inserting ''are authorized each to''.

(h) DEFINITIONS.—Section 3507(l) of title 46, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting before paragraph (3), as redesignated, the following:

''(2) EXTERIOR DECK.—The term 'exterior deck' means any exterior weather deck on which a passenger may be present, including passenger stateroom balconies, exterior promenades on passenger decks, muster stations, and similar exterior weather deck areas.''; and

(3) by adding at the end the following:

''(4) TIME-SENSITIVE KEY TECHNOLOGY.—The term 'time-sensitive key technology' means an electronic lock or key, or both that may be programmed to prohibit a person that lacks permission to enter a guest stateroom or crew cabin.''.

SEC. 703. OIL SPILL LIABILITY TRUST FUND INVESTMENT AMOUNT.

Not later than 30 days after the date of enactment of this Act, the Secretary of the Treasury shall increase the amount invested in income producing securities under section 5006(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2736(b)) by $12,851,340.

SEC. 704. VESSEL DETERMINATIONS.

(a) VESSELS DEEMED NEW VESSELS.—The vessel with United States official number 981472 and the vessel with United States official number 988333 shall each be deemed to be a new vessel effective on the date of delivery after January 1, 2008, from a privately owned United States shipyard if no encumbrances are on record with the United States Coast Guard at the time of the issuance of the new vessel certificate of documentation for each vessel.

(b) SAFETY INSPECTION.—Each vessel under subsection (a) shall be subject to the vessel safety and inspection requirements of title 46, United States Code (as in effect on the day before the date of enactment of this Act), applicable to any such vessel.

SEC. 705. ALTERATION OF BRIDGE OBSTRUCTING NAVIGATION.

(a) REQUIREMENT TO COMMENCE ADMINISTRATIVE REVIEW.—Not later than 15 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that the Coast Guard has commenced the required interagency administrative review of the pending proposal to alter the bridge that is unreasonably obstructing navigation and that spans the Kill Van Kull, connecting Bayonne, New Jersey, and Staten Island, New York.

(b) EXPEDITED PROCESS.—The Commandant—

(1) shall expedite the interagency administrative review under subsection (a); and

(2) may use any resources offered to the Coast Guard by the bridge owner for the purpose of paragraph (1).

(c) DEADLINE FOR COMPLETION.—Not later than November 30, 2012, the Coast Guard shall complete the interagency administrative review under subsection (a).

SEC. 706. NOTICE OF ARRIVAL.

The regulations required under section 109(a) of the Security and Accountability For Every Port Act of 2006 (33 U.S.C. 1223 note) dealing with notice of arrival requirements for foreign vessels on the Outer Continental Shelf shall not apply to a vessel documented under section 12105 of title 46, United States Code, unless the vessel arrives from a foreign port or place.

SEC. 707. WAIVERS.

(a) F/V TEXAS STAR CASINO.—Notwithstanding subchapter II of chapter 121 and chapter 551 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a fishery endorsement and a license under chapter 121 for the fishing vessel TEXAS STAR CASINO (IMO number 7722047).

(b) RANGER III.—Section 3703a of title 46, United States Code, does not apply to the passenger vessel RANGER III (United States official number 277361), so long as it is owned and operated by the National Park Service.

SEC. 708. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 931 et seq.), shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SEC. 709. TECHNICAL AMENDMENTS.

(a) CONTINUATION ON ACTIVE DUTY.—Section 290(a) of title 14, United States Code, is amended in the second sentence by striking ''in the grade of vice admiral'' and inserting ''in or above the grade of vice admiral''.

(b) FAILURE OF SELECTION AND REMOVAL FROM ACTIVE STATUS.—Section 740(d) of title 14, United States Code, is amended by striking ''that appointment'' and inserting ''that Reserve appointment''.

(c) TABLE OF CONTENTS.—The table of contents for chapter 17 of title 14, United States Code, is amended—

(1) by striking the item relating to section 669 and inserting the following:

''669. Telephone installation and charges.''; and

(2) by striking the item relating to section 674 and inserting the following:

''674. Small boat station rescue capability.''.

(d) WAIVER.—Section 7(c) of the America's Cup Act of 2011 (125 Stat. 755) is amended by inserting ''located in Ketchikan, Alaska'' after ''moorage''.

SA 2868. Mr. PRYOR (for Mr. ROCKEFELLER) proposed an amendment to the bill H.R. 2838, supra.

Amend the title so as to read: ''An Act to authorize appropriations for the Coast Guard for fiscal years 2013 through 2014, and for other purposes.''.

SA 2869. Mr. PRYOR (for Mr. BINGAMAN) proposed an amendment to the bill H.R. 2606, to authorize the Secretary of the Interior to allow the construction and operation of natural gas pipeline facilities in the Gateway National Recreation Area, and for other purposes.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''New York City Natural Gas Supply Enhancement Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) PERMITTEE.—The term ''permittee'' means the Transcontinental Gas Pipeline Company, LLC, (Transco), its successors or assigns.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. AUTHORIZATION FOR PERMIT.

(a) IN GENERAL.—The Secretary may issue permits for rights-of-way or other necessary authorizations to allow the permittee to construct, operate, and maintain a natural gas pipeline and related facilities within the Gateway National Recreation Area in New York, as described in Federal Regulatory Commission Docket No. PF09-8.

(b) TERMS AND CONDITIONS.—A permit issued under this section shall be—

(1) consistent with the laws and regulations generally applicable to utility rights-of-way within units of the National Park System; and

(2) subject to such terms and conditions as the Secretary deems appropriate.

(c) FEES.—The Secretary shall charge a fee for any permit issued under this section. The fee shall be based on fair market value and shall also provide for recovery of costs incurred by the National Park Service associated with the processing, issuance, and monitoring of the permit. The Secretary shall retain any fees associated with the recovery of costs.

(d) TERM.—Any permit issued under this section shall be for a term of 10 years. The permit may be renewed at the discretion of the Secretary in accordance with this section.

SEC. 4. LEASE OF HISTORIC BUILDINGS AT FLOYD BENNETT FIELD.

(a) IN GENERAL.—The Secretary may enter into a non-competitive lease with the permittee to allow the occupancy and use of buildings and associated property at Floyd Bennett Field within the Gateway National Recreation Area to house meter and regulating equipment and other equipment necessary to the operation of the natural gas pipeline described in section 3(a).

(b) TERMS AND CONDITIONS.—A lease entered into under this section shall—

(1) be in accordance with section 3(k) of the National Park System General Authorities Act (16 U.S.C. 1a–2(k)), except that the proceeds from rental payments may be used for infrastructure needs, resource protection and restoration, and visitor services at Gateway National Recreation Area; and

(2) provide for the restoration and maintenance of the buildings and associated property in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and applicable regulations and programmatic agreements.

SEC. 5. ENFORCEMENT.

The Secretary may impose citations or fines, or suspend or revoke any authority under a permit or lease issued in accordance with this Act for failure to comply with, or a violation of any term or condition of such permit or lease.

SA 2870. Mr. PRYOR (for Mr. ENZI) proposed an amendment to the resolution S. Res. 472, designating October 7, 2012, as ''Operation Enduring Freedom Veterans Day''.

In the fifth whereas clause, strike ''nearly 1,800'' and insert ''some 2,000''.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Abby Duggan, Anne Berry, and Nikki Hurt of my staff be granted floor privileges for the duration of today's proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENABLING ENERGY SAVING INNOVATIONS ACT

Mr. PRYOR. Mr. President, I ask unanimous consent the Energy Committee be discharged from further consideration of H.R. 4850, and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4850) to allow for innovations and alternative technologies that meet or exceed desired energy efficiency goals.

There being no objection, the Senate proceeded to consider the bill.

Mr. PRYOR. I ask unanimous consent a Bingaman amendment, which is at the desk, be agreed to, that a Shaheen-Portman amendment which is at the desk be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2861) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment (No. 2862) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendments were ordered to be engrossed and the bill read a third time.

The bill (H.R. 4850), as amended, was read the third time and passed, as follows:

H.R. 4850

Resolved, That the bill from the House of Representatives (H.R. 4850) entitled ''An Act to allow for innovations and alternative technologies that meet or exceed desired energy efficiency goals.'', do pass with the following amendment:

At the end of the bill, add the following:

SEC. 3. UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.

Section 325(e) of the Energy Policy and Conservation Act (42 U.S.C. 6295(e)) is amended by adding at the end the following:

''(5) UNIFORM EFFICIENCY DESCRIPTOR FOR COVERED WATER HEATERS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) COVERED WATER HEATER.—The term 'covered water heater' means—

''(I) a water heater; and

''(II) a storage water heater, instantaneous water heater, and unfired water storage tank (as defined in section 340).

''(ii) FINAL RULE.—The term 'final rule' means the final rule published under this paragraph.

''(B) PUBLICATION OF FINAL RULE.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters.

''(C) PURPOSE.—The purpose of the final rule shall be to replace with a uniform efficiency descriptor—

''(i) the energy factor descriptor for water heaters established under this subsection; and

''(ii) the thermal efficiency and standby loss descriptors for storage water heaters, instantaneous water heaters, and unfired water storage tanks established under section 342(a)(5).

''(D) EFFECT OF FINAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this title, effective beginning on the effective date of the final rule, the efficiency standard for covered water heaters shall be denominated according to the efficiency descriptor established by the final rule.

''(ii) EFFECTIVE DATE.—The final rule shall take effect 1 year after the date of publication of the final rule under subparagraph (B).

''(E) CONVERSION FACTOR.—

''(i) IN GENERAL.—The Secretary shall develop a mathematical conversion factor for converting the measurement of efficiency for covered water heaters from the test procedures in effect on the date of enactment of this paragraph to the new energy descriptor established under the final rule.

''(ii) APPLICATION.—The conversion factor shall apply to models of covered water heaters affected by the final rule and tested prior to the effective date of the final rule.

''(iii) EFFECT ON EFFICIENCY REQUIREMENTS.—The conversion factor shall not affect the minimum efficiency requirements for covered water heaters otherwise established under this title.

''(iv) USE.—During the period described in clause (v), a manufacturer may apply the conversion factor established by the Secretary to rerate existing models of covered water heaters that are in existence prior to the effective date of the rule described in clause (v)(II) to comply with the new efficiency descriptor.

''(v) PERIOD.—Subclause (E) shall apply during the period—

''(I) beginning on the date of publication of the conversion factor in the Federal Register; and

''(II) ending on April 16, 2015.

''(F) EXCLUSIONS.—The final rule may exclude a specific category of covered water heaters from the uniform efficiency descriptor established under this paragraph if the Secretary determines that the category of water heaters—

''(i) does not have a residential use and can be clearly described in the final rule; and

''(ii) are effectively rated using the thermal efficiency and standby loss descriptors applied (as