

COMMITTEE PRINT
MARCH 17, 2003

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

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Energy Policy Act of 2003”.

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

Sec. 1. Short title; table of contents.

TITLE I—ENERGY CONSERVATION

Subtitle A—Federal Leadership in Energy Conservation

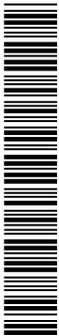
- Sec. 1001. Energy and water saving measures in congressional buildings.
- Sec. 1002. Energy management requirements.
- Sec. 1003. Energy use measurement and accountability.
- Sec. 1004. Federal building performance standards.
- Sec. 1005. Procurement of energy efficient products.
- Sec. 1006. Energy savings performance contracts.
- Sec. 1007. Voluntary commitments to reduce industrial energy intensity.
- Sec. 1008. Federal agency participation in demand reduction programs.
- Sec. 1009. Advanced building efficiency testbed.
- Sec. 1010. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.

Subtitle B—Energy Assistance and State Programs

- Sec. 1021. Liheap and weatherization assistance.
- Sec. 1022. State energy programs.
- Sec. 1023. Energy efficient appliance rebate programs.
- Sec. 1024. Energy efficient public buildings.
- Sec. 1025. Low income community energy efficiency pilot program.

Subtitle C—Energy Efficient Products

- Sec. 1041. Energy star program.
- Sec. 1042. Consumer education on energy efficiency benefits of air conditioning, heating, and ventilation maintenance.
- Sec. 1043. Additional definitions.
- Sec. 1044. Additional test procedures.
- Sec. 1045. Energy conservation standards for additional consumer and commercial products.
- Sec. 1046. Energy labeling.
- Sec. 1047. Study of energy efficiency standards.



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TITLE II—OIL AND GAS

Subtitle A—Alaska Natural Gas Pipeline

- Sec. 2001. Short title.
- Sec. 2002. Findings and purposes.
- Sec. 2003. Definitions.
- Sec. 2004. Issuance of certificate of public convenience and necessity.
- Sec. 2005. Environmental reviews.
- Sec. 2006. Pipeline expansion.
- Sec. 2007. Federal coordinator.
- Sec. 2008. Judicial review.
- Sec. 2009. State jurisdiction over in-state delivery of natural gas.
- Sec. 2010. Study of alternative means of construction.
- Sec. 2011. Clarification of ANTGA status and authorities.
- Sec. 2012. Sense of congress.
- Sec. 2013. Participation of small business concerns.
- Sec. 2014. Alaska pipeline construction training program.

Subtitle B—Strategic Petroleum Reserve

- Sec. 2101. Full capacity of strategic petroleum reserve.
- Sec. 2102. Strategic petroleum reserve expansion.
- Sec. 2103. Permanent authority to operate the strategic petroleum reserve and other energy programs.

Subtitle C—Hydraulic Fracturing

- Sec. 2201. Hydraulic fracturing.

Subtitle D—Unproven Oil and Natural Gas Reserves Recovery Program

- Sec. 2301. Program.
- Sec. 2302. Eligible reservoirs.
- Sec. 2303. Focus areas.
- Sec. 2304. Limitation on location of activities.
- Sec. 2305. Program administration.
- Sec. 2306. Advisory Committee.
- Sec. 2307. Limits on participation.
- Sec. 2308. Payments to Federal Government.
- Sec. 2309. Authorization of appropriations.
- Sec. 2310. Public availability of project results and methodologies.
- Sec. 2311. Sunset.
- Sec. 2312. Definitions.

Subtitle E—Miscellaneous

- Sec. 2401. Appeals relating to pipeline construction projects.
- Sec. 2402. Natural gas market data.
- Sec. 2403. Oil and gas exploration and production defined.

TITLE III—HYDROELECTRIC RELICENSING

- Sec. 3001. Alternative conditions and fishways.

TITLE IV—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments



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- Sec. 4001. Short title.
- Sec. 4002. Extension of indemnification authority.
- Sec. 4003. Maximum assessment.
- Sec. 4004. Department of energy liability limit.
- Sec. 4005. Incidents outside the United States.
- Sec. 4006. Reports.
- Sec. 4007. Inflation adjustment.
- Sec. 4008. Price-Anderson treatment of modular reactors.
- Sec. 4009. Applicability.
- Sec. 4010. Prohibition on assumption by United States government of liability for certain foreign accidents.
- Sec. 4011. Secure transfer of nuclear materials.
- Sec. 4012. Nuclear facility threats.
- Sec. 4013. Unreasonable risk consultation.
- Sec. 4014. Financial accountability.
- Sec. 4015. Civil penalties.

Subtitle B—Miscellaneous Matters

- Sec. 4021. Licenses.
- Sec. 4022. Nuclear regulatory commission meetings.
- Sec. 4023. Nrc training program.
- Sec. 4024. Cost recovery from government agencies.
- Sec. 4025. Elimination of pension offset.
- Sec. 4026. Carrying of firearms by licensee employees.
- Sec. 4027. Unauthorized introduction of dangerous weapons.
- Sec. 4028. Sabotage of nuclear facilities or fuel.
- Sec. 4029. Cooperative research and development and special demonstration projects for the uranium mining industry.
- Sec. 4030. Uranium sales.

TITLE V—VEHICLES AND FUELS

Subtitle A—Energy Policy Act Amendments

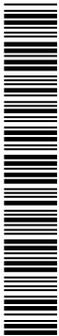
- Sec. 5011. Credit for substantial contribution toward noncovered fleets.
- Sec. 5012. Credit for alternative fuel infrastructure.
- Sec. 5014. Alternative fueled vehicle report.

Subtitle B—FreedomCAR and Hydrogen Fuel Program

- Sec. 5021. Short title.
- Sec. 5022. Findings, purpose, and definitions.
- Sec. 5023. Plan; report.
- Sec. 5024. Public-private partnership.
- Sec. 5025. Deployment.
- Sec. 5026. Assessment and transfer.
- Sec. 5027. Interagency task force.
- Sec. 5028. Advisory committee.
- Sec. 5029. Authorization of appropriations.
- Sec. 5030. Fuel cell program at national parks.

Subtitle C—Clean School Buses

- Sec. 5031. Establishment of pilot program.
- Sec. 5032. Fuel cell bus development and demonstration program.
- Sec. 5033. Authorization of appropriations.



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Subtitle D—Advanced Vehicles

- Sec. 5041. Definitions.
- Sec. 5042. Pilot program.
- Sec. 5043. Reports to congress.
- Sec. 5044. Authorization of appropriations.

Subtitle E—Miscellaneous

- Sec. 5051. Railroad efficiency.
- Sec. 5052. Mobile emission reductions trading and crediting.
- Sec. 5053. Idle reduction technologies.
- Sec. 5054. Study of aviation fuel conservation and emissions.
- Sec. 5056. Diesel fueled vehicles.

TITLE VI—DOE PROGRAMS

- Sec. 6001. Purposes.
- Sec. 6002. Definitions.

Subtitle A—Energy Efficiency

PART 1—AUTHORIZATION OF APPROPRIATIONS

- Sec. 6011. Energy efficiency.

PART 2—LIGHTING SYSTEMS

- Sec. 6021. Next generation lighting initiative.

PART 3—VEHICLES

- Sec. 6031. Definitions.
- Sec. 6032. Establishment of secondary electric vehicle battery use program.

Subtitle B—Distributed Energy and Electric Energy Systems

PART 1—AUTHORIZATION OF APPROPRIATIONS

- Sec. 6201. Distributed energy and electric energy systems.

PART 2—DISTRIBUTED POWER

- Sec. 6221. Strategy.
- Sec. 6222. High power density industry program.
- Sec. 6223. Micro-cogeneration energy technology.

PART 3—TRANSMISSION SYSTEMS

- Sec. 6231. Transmission infrastructure systems.

Subtitle C—Renewable Energy

PART 1—AUTHORIZATION OF APPROPRIATIONS

- Sec. 6301. Renewable energy.

PART 2—BIOENERGY

- Sec. 6321. Bioenergy programs.



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Subtitle D—Nuclear Energy

PART 1—AUTHORIZATION OF APPROPRIATIONS

Sec. 6411. Nuclear energy.

PART 2—NUCLEAR ENERGY RESEARCH PROGRAMS

Sec. 6421. Nuclear energy research programs.

PART 3—ADVANCED FUEL RECYCLING

Sec. 6431. Advanced fuel recycling program.

PART 4—UNIVERSITY PROGRAMS

Sec. 6441. University nuclear science and engineering support.

Subtitle E—Fossil Energy

PART 1—AUTHORIZATION OF APPROPRIATIONS

Sec. 6501. Fossil energy.

PART 2—ULTRA-DEEPWATER AND UNCONVENTIONAL NATURAL GAS AND OTHER PETROLEUM RESOURCES

- Sec. 6521. Program authority.
- Sec. 6522. Ultra-deepwater program.
- Sec. 6523. Unconventional natural gas and other petroleum resources program.
- Sec. 6524. Additional requirements for awards.
- Sec. 6525. Advisory committees.
- Sec. 6526. Limits on participation.
- Sec. 6527. Fund.
- Sec. 6528. Sunset.
- Sec. 6529. Definitions.

Subtitle F—Miscellaneous

- Sec. 6601. Waste reduction and use of alternatives.
- Sec. 6602. Coal gasification.
- Sec. 6603. Petroleum coke gasification.
- Sec. 6604. Other biopower and bioenergy.
- Sec. 6605. Technology transfer.

TITLE VII—ELECTRICITY

Subtitle A—Transmission Capacity

- Sec. 7011. Transmission infrastructure improvement rulemaking.
- Sec. 7012. Siting of interstate electrical transmission facilities.

Subtitle B—Transmission Operation

- Sec. 7021. Open access transmission by certain utilities.
- Sec. 7022. Regional transmission organizations.

Subtitle C—Reliability

- Sec. 7031. Electric reliability standards.



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Subtitle D—PUHCA Amendments

- Sec. 7041. Short title.
- Sec. 7042. Definitions.
- Sec. 7043. Repeal of the public utility holding company act of 1935.
- Sec. 7044. Federal access to books and records.
- Sec. 7045. State access to books and records.
- Sec. 7046. Exemption authority.
- Sec. 7047. Affiliate transactions.
- Sec. 7048. Applicability.
- Sec. 7049. Effect on other regulations.
- Sec. 7050. Enforcement.
- Sec. 7051. Savings provisions.
- Sec. 7052. Implementation.
- Sec. 7053. Transfer of resources.
- Sec. 7054. Effective date.
- Sec. 7055. Authorization of appropriations.
- Sec. 7056. Conforming amendments to the Federal power act.

Subtitle E—PURPA Amendments

- Sec. 7061. Real-time pricing and time-of-use metering standards.
- Sec. 7062. Cogeneration and small power production purchase and sale requirements.

Subtitle F—Renewable Energy

- Sec. 7071. Net metering.
- Sec. 7072. Renewable energy production incentive.
- Sec. 7073. Renewable energy on Federal lands.
- Sec. 7074. Assessment of renewable energy resources.

Subtitle G—Market Transparency, Round Trip Trading Prohibition, and Enforcement

- Sec. 7081. Market transparency rules.
- Sec. 7082. Prohibition on round trip trading.
- Sec. 7083. Conforming changes.
- Sec. 7084. Enforcement.

Subtitle H—Consumer Protections

- Sec. 7091. Refund effective date.
- Sec. 7092. Jurisdiction over interstate sales.
- Sec. 7093. Consumer privacy.
- Sec. 7094. Unfair trade practices.

Subtitle I—Redundant Reviews

- Sec. 7101. Repeal of certain provisions of Federal power act regarding disposition of property, consolidation, and purchase of securities.

TITLE VIII—COAL

- Sec. 8001. Authorization of appropriations.
- Sec. 8002. Project criteria.
- Sec. 8003. Report.
- Sec. 8004. Clean coal centers of excellence.



TITLE IX—AUTOMOBILE EFFICIENCY

Sec. 9001. Authorization of appropriations for implementation and enforcement of fuel economy standards.

Sec. 9002. Study of feasibility and effects of reducing use of fuel for automobiles.

1 **TITLE I—ENERGY**
2 **CONSERVATION**
3 **Subtitle A—Federal Leadership in**
4 **Energy Conservation**

5 **SEC. 1001. ENERGY AND WATER SAVING MEASURES IN CON-**
6 **GRESSIONAL BUILDINGS.**

7 (a) IN GENERAL.—Part 3 of title V of the National
8 Energy Conservation Policy Act is amended by adding at
9 the end:

10 **“SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN**
11 **CONGRESSIONAL BUILDINGS.**

12 “(a) IN GENERAL.—The Architect of the Capitol—
13 “(1) shall develop, update, and implement a
14 cost-effective energy conservation and management
15 plan (referred to in this section as the “plan”) for
16 all facilities administered by the Congress (referred
17 to in this section as ‘congressional buildings’) to
18 meet the energy performance requirements for Fed-
19 eral buildings established under section 543(a)(1);
20 and



1 “(2) shall submit the plan to Congress, not
2 later than 180 days after the date of enactment of
3 this section.

4 “(b) PLAN REQUIREMENTS.—The plan shall
5 include—

6 “(1) a description of the life cycle cost analysis
7 used to determine the cost-effectiveness of proposed
8 energy efficiency projects;

9 “(2) a schedule of energy surveys to ensure
10 complete surveys of all congressional buildings every
11 5 years to determine the cost and payback period of
12 energy and water conservation measures;

13 “(3) a strategy for installation of life cycle cost-
14 effective energy and water conservation measures;

15 “(4) the results of a study of the costs and ben-
16 efits of installation of submetering in congressional
17 buildings; and

18 “(5) information packages and ‘how-to’ guides
19 for each Member and employing authority of Con-
20 gress that detail simple, cost-effective methods to
21 save energy and taxpayer dollars in the workplace.

22 “(c) ANNUAL REPORT.—The Architect shall submit
23 to Congress annually a report on congressional energy
24 management and conservation programs required under
25 this section that describes in detail—



1 “(1) energy expenditures and savings estimates
2 for each facility;

3 “(2) energy management and conservation
4 projects; and

5 “(3) future priorities to ensure compliance with
6 this section.”.

7 (b) TABLE OF CONTENTS AMENDMENT.—The table
8 of contents of the National Energy Conservation Policy
9 Act is amended by adding at the end of the items relating
10 to part 3 of title V the following new item:

 “Sec. 552. Energy and water savings measures in congressional buildings.”.

11 (c) REPEAL.—Section 310 of the Legislative Branch
12 Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

13 (d) ENERGY INFRASTRUCTURE.—The Architect of
14 the Capitol, building on the Master Plan Study completed
15 in July 2000, shall commission a study to evaluate the
16 energy infrastructure of the Capital Complex to determine
17 how the infrastructure could be augmented to become
18 more energy efficient, using unconventional and renewable
19 energy resources, in a way that would enable the Complex
20 to have reliable utility service in the event of power fluc-
21 tuations, shortages, or outages.

22 (e) AUTHORIZATION.—There are authorized to be ap-
23 propriated to the Architect of the Capitol to carry out sub-
24 section (d), not more than \$2,000,000 for fiscal years
25 after the enactment of this Act.



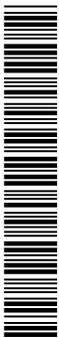
1 **SEC. 1002. ENERGY MANAGEMENT REQUIREMENTS.**

2 (a) ENERGY REDUCTION GOALS.—

3 (1) AMENDMENT.—Section 543(a)(1) of the
 4 National Energy Conservation Policy Act (42 U.S.C.
 5 8253(a)(1)) is amended by striking “its Federal
 6 buildings so that” and all that follows through the
 7 end and inserting “the Federal buildings of the
 8 agency (including each industrial or laboratory facil-
 9 ity) so that the energy consumption per gross square
 10 foot of the Federal buildings of the agency in fiscal
 11 years 2004 through 2013 is reduced, as compared
 12 with the energy consumption per gross square foot
 13 of the Federal buildings of the agency in fiscal year
 14 2001, by the percentage specified in the following
 15 table:

“Fiscal Year	Percentage reduction
2004	2
2005	4
2006	6
2007	8
2008	10
2009	12
2010	14
2011	16
2012	18
2013	20.”.

16 (2) REPORTING BASELINE.—The energy reduc-
 17 tion goals and baseline established in paragraph (1)
 18 of section 543(a) of the National Energy Conserva-
 19 tion Policy Act, as amended by paragraph (1) of this
 20 subsection, supersede all previous goals and base-



1 lines under such paragraph, and related reporting
2 requirements.

3 (b) REVIEW AND REVISION OF ENERGY PERFORM-
4 ANCE REQUIREMENT.—Section 543(a) of the National
5 Energy Conservation Policy Act (42 U.S.C. 8253(a)) is
6 further amended by adding at the end the following:

7 “(3) Not later than December 31, 2012, the Sec-
8 retary shall review the results of the implementation of
9 the energy performance requirement established under
10 paragraph (1) and submit to Congress recommendations
11 concerning energy performance requirements for fiscal
12 years 2014 through 2023.”.

13 (c) EXCLUSIONS.—Section 543(c)(1) of the National
14 Energy Conservation Policy Act (42 U.S.C. 8253(c)(1))
15 is amended by striking “An agency may exclude” and all
16 that follows through the end and inserting “(A) An agency
17 may exclude, from the energy performance requirement
18 for a fiscal year established under subsection (a) and the
19 energy management requirement established under sub-
20 section (b), any Federal building or collection of Federal
21 buildings, if the head of the agency finds that—

22 “(i) compliance with those requirements would
23 be impracticable;

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



1 “(iii) the agency has achieved compliance with
2 the energy efficiency requirements of this Act, the
3 Energy Policy Act of 1992, Executive Orders, and
4 other Federal law; and

5 “(iv) the agency has implemented all prac-
6 ticable, life cycle cost-effective projects with respect
7 to the Federal building or collection of Federal
8 buildings to be excluded.

9 “(B) A finding of impracticability under subpara-
10 graph (A) (i) shall be based on—

11 “(i) the energy intensiveness of activities car-
12 ried out in the Federal building or collection of Fed-
13 eral buildings; or

14 “(ii) the fact that the Federal building or col-
15 lection of Federal buildings is used in the perform-
16 ance of a national security function.”.

17 (d) REVIEW BY SECRETARY.—Section 543(c)(2) of
18 the National Energy Conservation Policy Act (42 U.S.C.
19 8253(c)(2)) is amended—

20 (1) by striking “impracticability standards” and
21 inserting “standards for exclusion”; and

22 (2) by striking “a finding of impracticability”
23 and inserting “the exclusion”.



1 (e) CRITERIA.—Section 543(c) of the National En-
2 ergy Conservation Policy Act (42 U.S.C. 8253(c)) is fur-
3 ther amended by adding at the end the following:

4 “(3) Not later than 180 days after the date of enact-
5 ment of this paragraph, the Secretary shall issue guide-
6 lines that establish criteria for exclusions under paragraph
7 (1).”.

8 (f) RETENTION OF ENERGY SAVINGS.—Section 546
9 of the National Energy Conservation Policy Act (42
10 U.S.C. 8256) is amended by adding at the end the fol-
11 lowing new subsection:

12 “(e) RETENTION OF ENERGY SAVINGS.—An agency
13 may retain any funds appropriated to that agency for en-
14 ergy expenditures, at buildings subject to the requirements
15 of section 543(a) and (b), that are not made because of
16 energy savings. Except as otherwise provided by law, such
17 funds may be used only for energy efficiency or unconven-
18 tional and renewable energy resources projects.”.

19 (g) REPORTS.—Section 548(b) of the National En-
20 ergy Conservation Policy Act (42 U.S.C. 8258(b)) is
21 amended—

22 (1) in the subsection heading, by inserting
23 “THE PRESIDENT AND” before “CONGRESS”; and

24 (2) by inserting “President and” before “Con-
25 gress”.



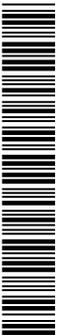
1 (h) CONFORMING AMENDMENT.—Section 550(d) of
2 the National Energy Conservation Policy Act (42 U.S.C.
3 8258b(d)) is amended in the second sentence by striking
4 “the 20 percent reduction goal established under section
5 543(a) of the National Energy Conservation Policy Act
6 (42 U.S.C. 8253(a)).” and inserting “each of the energy
7 reduction goals established under section 543(a).”.

8 **SEC. 1003. ENERGY USE MEASUREMENT AND ACCOUNT-**
9 **ABILITY.**

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

13 “(e) METERING OF ENERGY USE.—

14 “(1) DEADLINE.—By October 1, 2010, in ac-
15 cordance with guidelines established by the Sec-
16 retary under paragraph (2), all Federal buildings
17 shall, for the purposes of efficient use of energy and
18 reduction in the cost of electricity used in such
19 buildings, be metered or submetered. Each agency
20 shall use, to the maximum extent practicable, ad-
21 vanced meters or advanced metering devices that
22 provide data at least daily and that measure at least
23 hourly consumption of electricity in the Federal
24 buildings of the agency. Such data shall be incor-
25 porated into existing Federal energy tracking sys-



1 tems and made available to Federal facility energy
2 managers.

3 “(2) GUIDELINES.—

4 “(A) IN GENERAL.—Not later than 180
5 days after the date of enactment of this sub-
6 section, the Secretary, in consultation with the
7 Department of Defense, the General Services
8 Administration, representatives from the meter-
9 ing industry, utility industry, energy services in-
10 dustry, energy efficiency industry, national lab-
11 oratories, universities, and Federal facility en-
12 ergy managers, shall establish guidelines for
13 agencies to carry out paragraph (1).

14 “(B) REQUIREMENTS FOR GUIDELINES.—

15 The guidelines shall—

16 “(i) take into consideration—

17 “(I) the cost of metering and
18 submetering and the reduced cost of
19 operation and maintenance expected
20 to result from metering and sub-
21 metering;

22 “(II) the extent to which meter-
23 ing and submetering are expected to
24 result in increased potential for en-
25 ergy management, increased potential



1 for energy savings and energy effi-
2 ciency improvement, and cost and en-
3 ergy savings due to utility contract
4 aggregation; and

5 “(III) the measurement and ver-
6 ification protocols of the Department
7 of Energy;

8 “(ii) include recommendations con-
9 cerning the amount of funds and the num-
10 ber of trained personnel necessary to gath-
11 er and use the metering information to
12 track and reduce energy use;

13 “(iii) establish priorities for types and
14 locations of buildings to be metered and
15 submetered based on cost-effectiveness and
16 a schedule of one or more dates, not later
17 than 1 year after the date of issuance of
18 the guidelines, on which the requirements
19 specified in paragraph (1) shall take effect;
20 and

21 “(iv) establish exclusions from the re-
22 quirements specified in paragraph (1)
23 based on the de minimis quantity of energy
24 use of a Federal building, industrial proc-
25 ess, or structure.



1 “(3) PLAN.—No later than 6 months after the
2 date guidelines are established under paragraph (2),
3 in a report submitted by the agency under section
4 548(a), each agency shall submit to the Secretary a
5 plan describing how the agency will implement the
6 requirements of paragraph (1), including (A) how
7 the agency will designate personnel primarily respon-
8 sible for achieving the requirements and (B) dem-
9 onstration by the agency, complete with documenta-
10 tion, of any finding that advanced meters or ad-
11 vanced metering devices, as defined in paragraph
12 (1), are not practicable.”.

13 **SEC. 1004. FEDERAL BUILDING PERFORMANCE STAND-**
14 **ARDS.**

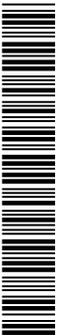
15 Section 305(a) of the Energy Conservation and Pro-
16 duction Act (42 U.S.C. 6834(a)) is amended—

17 (1) in paragraph (2)(A), by striking “CABO
18 Model Energy Code, 1992” and inserting “the 2000
19 International Energy Conservation Code”; and

20 (2) by adding at the end the following:

21 “(3) REVISED FEDERAL BUILDING ENERGY EFFI-
22 CIENCY PERFORMANCE STANDARDS.—

23 “(A) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this paragraph, the Sec-
25 retary of Energy shall establish, by rule, revised



1 Federal building energy efficiency performance
2 standards that require that, if cost-effective, for new
3 Federal buildings—

4 “(i) such buildings be designed so as to
5 achieve energy consumption levels at least 30
6 percent below those of the most recent
7 ASHRAE Standard 90.1 or the most recent
8 version of the International Energy Conserva-
9 tion Code, as appropriate; and

10 “(ii) sustainable design principles are ap-
11 plied to the siting, design, and construction of
12 all new and replacement buildings.

13 “(B) ADDITIONAL REVISIONS.—Not later than
14 1 year after the date of approval of amendments to
15 ASHRAE Standard 90.1 or the 2000 International
16 Energy Conservation Code, the Secretary of Energy
17 shall determine, based on the cost-effectiveness of
18 the requirements under the amendments, whether
19 the revised standards established under this para-
20 graph should be updated to reflect the amendments.

21 “(C) STATEMENT ON COMPLIANCE OF NEW
22 BUILDINGS.—In the budget request of the Federal
23 agency for each fiscal year and each report sub-
24 mitted by the Federal agency under section 548(a)
25 of the National Energy Conservation Policy Act (42



1 U.S.C. 8258(a)), the head of each Federal agency
2 shall include—

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

6 “(ii) a statement concerning whether the
7 Federal buildings meet or exceed the revised
8 standards established under this paragraph.”.

9 **SEC. 1005. PROCUREMENT OF ENERGY EFFICIENT PROD-**
10 **UCTS.**

11 (a) **REQUIREMENTS.**—Part 3 of title V of the Na-
12 tional Energy Conservation Policy Act is amended by add-
13 ing at the end the following:

14 **“SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFI-**
15 **CIENT PRODUCTS.**

16 “(a) **DEFINITIONS.**—In this section:

17 “(1) **ENERGY STAR PRODUCT.**—The term ‘En-
18 ergy Star product’ means a product that is rated for
19 energy efficiency under an Energy Star program.

20 “(2) **ENERGY STAR PROGRAM.**—The term ‘En-
21 ergy Star program’ means the program established
22 by section 324A of the Energy Policy and Conserva-
23 tion Act.

24 “(3) **EXECUTIVE AGENCY.**—The term ‘executive
25 agency’ has the meaning given the term in section



1 4 of the Office of Federal Procurement Policy Act
2 (41 U.S.C. 403).

3 “(4) FEMP DESIGNATED PRODUCT.—The term
4 ‘FEMP designated product’ means a product that is
5 designated under the Federal Energy Management
6 Program of the Department of Energy as being
7 among the highest 25 percent of equivalent products
8 for energy efficiency.

9 “(b) PROCUREMENT OF ENERGY EFFICIENT PROD-
10 UCTS.—

11 “(1) REQUIREMENT.—To meet the require-
12 ments of an executive agency for an energy con-
13 suming product, the head of the executive agency
14 shall, except as provided in paragraph (2), procure—

15 “(A) an Energy Star product; or

16 “(B) a FEMP designated product.

17 “(2) EXCEPTIONS.—The head of an executive
18 agency is not required to procure an Energy Star
19 product or FEMP designated product under para-
20 graph (1) if the head of the executive agency finds
21 in writing that—

22 “(A) an Energy Star product or FEMP
23 designated product is not cost-effective over the
24 life of the product taking energy cost savings
25 into account; or



1 “(B) no Energy Star product or FEMP
2 designated product is reasonably available that
3 meets the functional requirements of the execu-
4 tive agency.

5 “(3) PROCUREMENT PLANNING.—The head of
6 an executive agency shall incorporate into the speci-
7 fications for all procurements involving energy con-
8 suming products and systems, including guide speci-
9 fications, project specifications, and construction,
10 renovation, and services contracts that include provi-
11 sion of energy consuming products and systems, and
12 into the factors for the evaluation of offers received
13 for the procurement, criteria for energy efficiency
14 that are consistent with the criteria used for rating
15 Energy Star products and for rating FEMP des-
16 ignated products.

17 “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN
18 FEDERAL CATALOGS.—Energy Star products and FEMP
19 designated products shall be clearly identified and promi-
20 nently displayed in any inventory or listing of products
21 by the General Services Administration or the Defense Lo-
22 gistics Agency. The General Services Administration or
23 the Defense Logistics Agency shall supply only Energy
24 Star products or FEMP designated products for all prod-
25 uct categories covered by the Energy Star program or the



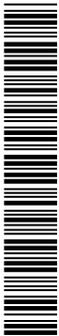
1 Federal Energy Management Program, except in cases
2 where the agency ordering a product specifies in writing
3 that no Energy Star product or FEMP designated product
4 is available to meet the buyer's functional requirements,
5 or that no Energy Star product or FEMP designated
6 product is cost-effective for the intended application over
7 the life of the product, taking energy cost savings into ac-
8 count.

9 “(d) DESIGNATION OF ELECTRIC MOTORS.—In the
10 case of electric motors of 1 to 500 horsepower, agencies
11 shall select only premium efficient motors that meet a
12 standard designated by the Secretary. The Secretary shall
13 designate such a standard within 120 days after the date
14 of the enactment of this section, after considering the rec-
15 ommendations of associated electric motor manufacturers
16 and energy efficiency groups.

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

20 (b) CONFORMING AMENDMENT.—The table of con-
21 tents in section 1(b) of the National Energy Conservation
22 Policy Act (42 U.S.C. 8201 note) is amended by inserting
23 after the item relating to section 551 the following:

“Sec. 553. Federal procurement of energy efficient products.”.



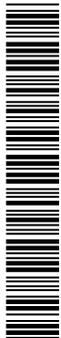
1 **SEC. 1006. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

2 (a) PERMANENT EXTENSION.—Section 801(c) of the
3 National Energy Conservation Policy Act (42 U.S.C.
4 8287(c)) is repealed.

5 (b) REPLACEMENT FACILITIES.—Section 801(a) of
6 the National Energy Conservation Policy Act (42 U.S.C.
7 8287(a)) is amended by adding at the end the following
8 new paragraph:

9 “(3)(A) In the case of an energy savings con-
10 tract or energy savings performance contract pro-
11 viding for energy savings through the construction
12 and operation of one or more buildings or facilities
13 to replace one or more existing buildings or facilities,
14 benefits ancillary to the purpose of such contract
15 under paragraph (1) may include savings resulting
16 from reduced costs of operation and maintenance at
17 such replacement buildings or facilities when com-
18 pared with costs of operation and maintenance at
19 the buildings or facilities being replaced, established
20 through a methodology set forth in the contract.

21 “(B) Notwithstanding paragraph (2)(B), aggre-
22 gate annual payments by an agency under an energy
23 savings contract or energy savings performance con-
24 tract referred to in subparagraph (A) may take into
25 account (through the procedures developed pursuant
26 to this section) savings resulting from reduced costs



1 of operation and maintenance as described in that
2 subparagraph.”.

3 (c) ENERGY SAVINGS.—Section 804(2) of the Na-
4 tional Energy Conservation Policy Act (42 U.S.C.
5 8287c(2)) is amended to read as follows:

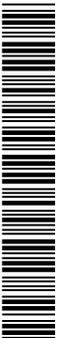
6 “(2) The term ‘energy savings’ means—

7 “(A) a reduction in the cost of energy or
8 water, from a base cost established through a
9 methodology set forth in the contract, used in
10 an existing federally owned building or build-
11 ings or other federally owned facilities as a re-
12 sult of—

13 “(i) the lease or purchase of operating
14 equipment, improvements, altered oper-
15 ation and maintenance, or technical serv-
16 ices;

17 “(ii) the increased efficient use of ex-
18 isting energy sources by cogeneration or
19 heat recovery, excluding any cogeneration
20 process for other than a federally owned
21 building or buildings or other federally
22 owned facilities; or

23 “(iii) the increased efficient use of ex-
24 isting water sources; or



1 “(B) in the case of a replacement building
2 or facility described in section 801(a)(3), a re-
3 duction in the cost of energy, from a base cost
4 established through a methodology set forth in
5 the contract, that would otherwise be utilized in
6 one or more existing federally owned buildings
7 or other federally owned facilities by reason of
8 the construction and operation of the replace-
9 ment building or facility.”.

10 (d) ENERGY SAVINGS CONTRACT.—Section 804(3) of
11 the National Energy Conservation Policy Act (42 U.S.C.
12 8287c(3)) is amended to read as follows:

13 “(3) The terms ‘energy savings contract’ and
14 ‘energy savings performance contract’ mean a con-
15 tract which provides for—

16 “(A) the performance of services for the
17 design, acquisition, installation, testing, oper-
18 ation, and, where appropriate, maintenance and
19 repair, of an identified energy or water con-
20 servation measure or series of measures at one
21 or more locations; or

22 “(B) energy savings through the construc-
23 tion and operation of one or more buildings or
24 facilities to replace one or more existing build-
25 ings or facilities.



1 Such contracts shall, with respect to an agency facil-
2 ity that is a public building as such term is defined
3 in section 13(1) of the Public Buildings Act of 1959
4 (40 U.S.C. 612(1)), be in compliance with the pro-
5 spectus requirements and procedures of section 7 of
6 the Public Buildings Act of 1959 (40 U.S.C. 606).”.

7 (e) ENERGY OR WATER CONSERVATION MEASURE.—
8 Section 804(4) of the National Energy Conservation Pol-
9 icy Act (42 U.S.C. 8287c(4)) is amended to read as fol-
10 lows:

11 “(4) The term ‘energy or water conservation
12 measure’ means—

13 “(A) an energy conservation measure, as
14 defined in section 551(4) (42 U.S.C. 8259(4));

15 or

16 “(B) a water conservation measure that
17 improves water efficiency, is life cycle cost-effec-
18 tive, and involves water conservation, water re-
19 cycling or reuse, more efficient treatment of
20 wastewater or stormwater, improvements in op-
21 eration or maintenance efficiencies, retrofit ac-
22 tivities, or other related activities, not at a Fed-
23 eral hydroelectric facility.”.

24 (f) REVIEW.—Within 180 days after the date of the
25 enactment of this section, the Secretary of Energy shall



1 complete a review of the Energy Savings Performance
2 Contract program to identify statutory, regulatory, and
3 administrative obstacles that prevent Federal agencies
4 from fully utilizing the program. In addition, this review
5 shall identify all areas for increasing program flexibility
6 and effectiveness, including audit and measurement ver-
7 ification requirements, accounting for energy use in deter-
8 mining savings, contracting requirements, and energy effi-
9 ciency services covered. The Secretary shall report these
10 findings to the Committee on Energy and Commerce of
11 the House of Representatives and the Committee on En-
12 ergy and Natural Resources of the Senate, and shall im-
13 plement identified administrative and regulatory changes
14 to increase program flexibility and effectiveness to the ex-
15 tent that such changes are consistent with statutory au-
16 thority.

17 **SEC. 1007. VOLUNTARY COMMITMENTS TO REDUCE INDUS-**
18 **TRIAL ENERGY INTENSITY.**

19 (a) VOLUNTARY AGREEMENTS.—The Secretary of
20 Energy shall enter into voluntary agreements with one or
21 more persons in industrial sectors that consume signifi-
22 cant amounts of primary energy per unit of physical out-
23 put to reduce the energy intensity of their production ac-
24 tivities.



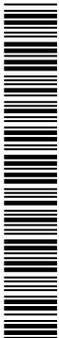
1 (b) GOAL.—Voluntary agreements under this section
2 shall have a goal of reducing energy intensity by not less
3 than 2.5 percent each year from 2004 through 2014.

4 (c) RECOGNITION.—The Secretary of Energy, in co-
5 operation with the Administrator of the Environmental
6 Protection Agency and other appropriate Federal agen-
7 cies, shall develop mechanisms to recognize and publicize
8 the achievements of participants in voluntary agreements
9 under this section.

10 (d) DEFINITION.—In this section, the term “energy
11 intensity” means the primary energy consumed per unit
12 of physical output in an industrial process.

13 (e) TECHNICAL ASSISTANCE.—An entity that enters
14 into an agreement under this section and continues to
15 make a good faith effort to achieve the energy efficiency
16 goals specified in the agreement shall be eligible to receive
17 from the Secretary a grant or technical assistance as ap-
18 propriate to assist in the achievement of those goals.

19 (f) REPORT.—Not later than June 30, 2010 and
20 June 30, 2014, the Secretary shall submit to Congress a
21 report that evaluates the success of the voluntary agree-
22 ments, with independent verification of a sample of the
23 energy savings estimates provided by participating firms.



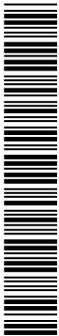
1 **SEC. 1008. FEDERAL AGENCY PARTICIPATION IN DEMAND**
2 **REDUCTION PROGRAMS.**

3 Section 546(c) of the National Energy Conservation
4 Policy Act (42 U.S.C. 8256(c)) is amended by adding at
5 the end of the following new paragraph:

6 “(6) Federal agencies are encouraged to participate
7 in State or regional demand side reduction programs. The
8 availability of such programs, including measures employ-
9 ing onsite generation, and the savings resulting from such
10 participation, should be included in the evaluation of en-
11 ergy options for Federal facilities.”.

12 **SEC. 1009. ADVANCED BUILDING EFFICIENCY TESTBED.**

13 (a) ESTABLISHMENT.—The Secretary of Energy, in
14 consultation with the Administrator of the General Serv-
15 ices Administration, shall establish an Advanced Building
16 Efficiency Testbed program for the development, testing,
17 and demonstration of advanced engineering systems, com-
18 ponents, and materials to enable innovations in building
19 technologies. The program shall evaluate efficiency con-
20 cepts for government and industry buildings, and dem-
21 onstrate the ability of next generation buildings to support
22 individual and organizational productivity and health as
23 well as flexibility and technological change to improve en-
24 vironmental sustainability. Such program shall com-
25 plement and not duplicate existing national programs.



1 (b) PARTICIPANTS.—The program established under
2 subsection (a) shall be led by a university with the ability
3 to combine the expertise from numerous academic fields
4 including, at a minimum, intelligent workplaces and ad-
5 vanced building systems and engineering, electrical and
6 computer engineering, computer science, architecture,
7 urban design, and environmental and mechanical engi-
8 neering. Such university shall partner with other univer-
9 sities and entities who have established programs and the
10 capability of advancing innovative building efficiency tech-
11 nologies.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary of En-
14 ergy to carry out this section \$6,000,000 for each of the
15 fiscal years 2004 through 2006, to remain available until
16 expended. For any fiscal year in which funds are expended
17 under this section, the Secretary shall provide one-third
18 of the total amount to the lead university described in sub-
19 section (b), and provide the remaining two-thirds to the
20 other participants referred to in subsection (b) on an equal
21 basis.



1 **SEC. 1010. INCREASED USE OF RECOVERED MINERAL COM-**
2 **PONENT IN FEDERALLY FUNDED PROJECTS**
3 **INVOLVING PROCUREMENT OF CEMENT OR**
4 **CONCRETE.**

5 (a) AMENDMENT.—Subtitle F of the Solid Waste
6 Disposal Act (42 U.S.C. 6961 et seq.) is amended by add-
7 ing at the end the following new section:

8 “INCREASED USE OF RECOVERED MINERAL COMPONENT
9 IN FEDERALLY FUNDED PROJECTS INVOLVING PRO-
10 CUREMENT OF CEMENT OR CONCRETE

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

12 “(1) AGENCY HEAD.—The term ‘agency head’
13 means—

14 “(A) the Secretary of Transportation; and

15 “(B) the head of each other Federal agen-
16 cy that on a regular basis procures, or provides
17 Federal funds to pay or assist in paying the
18 cost of procuring, material for cement or con-
19 crete projects.

20 “(2) CEMENT OR CONCRETE PROJECT.—The
21 term ‘cement or concrete project’ means a project
22 for the construction or maintenance of a highway or
23 other transportation facility or a Federal, State, or
24 local government building or other public facility
25 that—



1 “(A) involves the procurement of cement
2 or concrete; and

3 “(B) is carried out in whole or in part
4 using Federal funds.

5 “(3) RECOVERED MINERAL COMPONENT.—The
6 term ‘recovered mineral component’ means—

7 “(A) ground granulated blast furnace slag;

8 “(B) coal combustion fly ash; and

9 “(C) any other waste material or byprod-
10 uct recovered or diverted from solid waste that
11 the Administrator, in consultation with an
12 agency head, determines should be treated as
13 recovered mineral component under this section
14 for use in cement or concrete projects paid for,
15 in whole or in part, by the agency head.

16 “(b) IMPLEMENTATION OF REQUIREMENTS.—

17 “(1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this section, the Adminis-
19 trator and each agency head shall take such actions
20 as are necessary to implement fully all procurement
21 requirements and incentives in effect as of the date
22 of enactment of this section (including guidelines
23 under section 6002) that provide for the use of ce-
24 ment and concrete incorporating recovered mineral
25 component in cement or concrete projects.



1 “(2) PRIORITY.—In carrying out paragraph (1)
2 an agency head shall give priority to achieving great-
3 er use of recovered mineral component in cement or
4 concrete projects for which recovered mineral compo-
5 nents historically have not been used or have been
6 used only minimally.

7 “(3) CONFORMANCE.—The Administrator and
8 each agency head shall carry out this subsection in
9 accordance with section 6002.

10 “(c) FULL IMPLEMENTATION STUDY.—

11 “(1) IN GENERAL.—The Administrator, in co-
12 operation with the Secretary of Transportation and
13 the Secretary of Energy, shall conduct a study to de-
14 termine the extent to which current procurement re-
15 quirements, when fully implemented in accordance
16 with subsection (b), may realize energy savings and
17 environmental benefits attainable with substitution
18 of recovered mineral component in cement used in
19 cement or concrete projects.

20 “(2) MATTERS TO BE ADDRESSED.—The study
21 shall—

22 “(A) quantify the extent to which recov-
23 ered mineral components are being substituted
24 for Portland cement, particularly as a result of
25 current procurement requirements, and the en-



1 energy savings and environmental benefits associ-
2 ated with that substitution;

3 “(B) identify all barriers in procurement
4 requirements to fuller realization of energy sav-
5 ings and environmental benefits, including bar-
6 riers resulting from exceptions from current
7 law; and

8 “(C)(i) identify potential mechanisms to
9 achieve greater substitution of recovered min-
10 eral component in types of cement or concrete
11 projects for which recovered mineral compo-
12 nents historically have not been used or have
13 been used only minimally;

14 “(ii) evaluate the feasibility of establishing
15 guidelines or standards for optimized substi-
16 tution rates of recovered mineral component in
17 those cement or concrete projects; and

18 “(iii) identify any potential environmental
19 or economic effects that may result from great-
20 er substitution of recovered mineral component
21 in those cement or concrete projects.

22 “(3) REPORT.—Not later than 30 months after
23 the date of enactment of this section, the Adminis-
24 trator shall submit to the Committee on Appropria-
25 tions and Committee on Environment and Public



1 Works of the Senate and the Committee on Appro-
2 priations, Committee on Energy and Commerce, and
3 Committee on Transportation and Infrastructure of
4 the House of Representatives a report on the study.

5 “(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—
6 Unless the study conducted under subsection (c) identifies
7 any effects or other problems described in subsection
8 (c)(2)(C)(iii) that warrant further review or delay, the Ad-
9 ministrator and each agency head shall, within 1 year of
10 the release of the report in accordance with subsection
11 (c)(3), take additional actions authorized under this Act
12 to establish procurement requirements and incentives that
13 provide for the use of cement and concrete with increased
14 substitution of recovered mineral component in the con-
15 struction and maintenance of cement or concrete projects,
16 so as to—

17 “(1) realize more fully the energy savings and
18 environmental benefits associated with increased
19 substitution; and

20 “(2) eliminate barriers identified under sub-
21 section (c).

22 “(e) EFFECT OF SECTION.—Nothing in this section
23 affects the requirements of section 6002 (including the
24 guidelines and specifications for implementing those re-
25 quirements).”.



1 (b) TABLE OF CONTENTS AMENDMENT.—The table
2 of contents of the Solid Waste Disposal Act is amended
3 by adding after the item relating to section 6004 the fol-
4 lowing new item:

“Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.”.

5 **Subtitle B—Energy Assistance and**
6 **State Programs**

7 **SEC. 1021. LIHEAP AND WEATHERIZATION ASSISTANCE.**

8 (a) LOW-INCOME HOME ENERGY ASSISTANCE PRO-
9 GRAM.—Section 2602(b) of the Low-Income Home Energy
10 Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended
11 by striking “each of fiscal years 2002 through 2004” and
12 inserting “each of fiscal years 2002 and 2003, and
13 \$3,400,000,000 for each of fiscal years 2004 through
14 2006”.

15 (b) WEATHERIZATION.—Section 422 of the Energy
16 Conservation and Production Act (42 U.S.C. 6872) is
17 amended by striking “for fiscal years 1999 through 2003
18 such sums as may be necessary” and inserting
19 “\$325,000,000 for fiscal year 2004, \$400,000,000 for fis-
20 cal year 2005, and \$500,000,000 for fiscal year 2006”.

21 **SEC. 1022. STATE ENERGY PROGRAMS.**

22 (a) STATE ENERGY CONSERVATION PLANS.—Section
23 362 of the Energy Policy and Conservation Act (42 U.S.C.



1 6322) is amended by inserting at the end the following
2 new subsection:

3 “(g) The Secretary shall, at least once every 3 years,
4 invite the Governor of each State to review and, if nec-
5 essary, revise the energy conservation plan of such State
6 submitted under subsection (b) or (e). Such reviews should
7 consider the energy conservation plans of other States
8 within the region, and identify opportunities and actions
9 carried out in pursuit of common energy conservation
10 goals.”.

11 (b) STATE ENERGY EFFICIENCY GOALS.—Section
12 364 of the Energy Policy and Conservation Act (42 U.S.C.
13 6324) is amended to read as follows:

14 “STATE ENERGY EFFICIENCY GOALS
15 “SEC. 364. Each State energy conservation plan with
16 respect to which assistance is made available under this
17 part on or after the date of enactment of the Energy Pol-
18 icy Act of 2003 shall contain a goal, consisting of an im-
19 provement of 25 percent or more in the efficiency of use
20 of energy in the State concerned in calendar year 2010
21 as compared to calendar year 1990, and may contain in-
22 terim goals.”.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
24 365(f) of the Energy Policy and Conservation Act (42
25 U.S.C. 6325(f)) is amended by striking “for fiscal years
26 1999 through 2003 such sums as may be necessary” and



1 inserting “\$100,000,000 for each of the fiscal years 2004
2 and 2005 and \$125,000,000 for fiscal year 2006”.

3 **SEC. 1023. ENERGY EFFICIENT APPLIANCE REBATE PRO-**
4 **GRAMS.**

5 (a) DEFINITIONS.—In this section:

6 (1) ELIGIBLE STATE.—The term “eligible
7 State” means a State that meets the requirements
8 of subsection (b).

9 (2) ENERGY STAR PROGRAM.—The term “En-
10 energy Star program” means the program established
11 by section 324A of the Energy Policy and Conserva-
12 tion Act.

13 (3) RESIDENTIAL ENERGY STAR PRODUCT.—
14 The term “residential Energy Star product” means
15 a product for a residence that is rated for energy ef-
16 ficiency under the Energy Star program.

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

22 (5) STATE PROGRAM.—The term “State pro-
23 gram” means a State energy efficient appliance re-
24 bate program described in subsection (b)(1).



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

3 (1) establishes (or has established) a State en-
4 ergy efficient appliance rebate program to provide
5 rebates to residential consumers for the purchase of
6 residential Energy Star products to replace used ap-
7 pliances of the same type;

8 (2) submits an application for the allocation at
9 such time, in such form, and containing such infor-
10 mation as the Secretary may require; and

11 (3) provides assurances satisfactory to the Sec-
12 retary that the State will use the allocation to sup-
13 plement, but not supplant, funds made available to
14 carry out the State program.

15 (c) AMOUNT OF ALLOCATIONS.—

16 (1) IN GENERAL.—Subject to paragraph (2),
17 for each fiscal year, the Secretary shall allocate to
18 the State energy office of each eligible State to carry
19 out subsection (d) an amount equal to the product
20 obtained by multiplying the amount made available
21 under subsection (f) for the fiscal year by the ratio
22 that the population of the State in the most recent
23 calendar year for which data are available bears to
24 the total population of all eligible States in that cal-
25 endar year.



1 (2) MINIMUM ALLOCATIONS.—For each fiscal
2 year, the amounts allocated under this subsection
3 shall be adjusted proportionately so that no eligible
4 State is allocated a sum that is less than an amount
5 determined by the Secretary.

6 (d) USE OF ALLOCATED FUNDS.—The allocation to
7 a State energy office under subsection (c) may be used
8 to pay up to 50 percent of the cost of establishing and
9 carrying out a State program.

10 (e) ISSUANCE OF REBATES.—Rebates may be pro-
11 vided to residential consumers that meet the requirements
12 of the State program. The amount of a rebate shall be
13 determined by the State energy office, taking into
14 consideration—

15 (1) the amount of the allocation to the State
16 energy office under subsection (c);

17 (2) the amount of any Federal or State tax in-
18 centive available for the purchase of the residential
19 Energy Star product; and

20 (3) the difference between the cost of the resi-
21 dential Energy Star product and the cost of an ap-
22 pliance that is not a residential Energy Star prod-
23 uct, but is of the same type as, and is the nearest
24 capacity, performance, and other relevant character-



1 istics (as determined by the State energy office) to
2 the residential Energy Star product.

3 (f) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 \$50,000,000 for each of the fiscal years 2004 through
6 2008.

7 **SEC. 1024. ENERGY EFFICIENT PUBLIC BUILDINGS.**

8 (a) GRANTS.—The Secretary of Energy may make
9 grants to the State agency responsible for developing State
10 energy conservation plans under section 362 of the Energy
11 Policy and Conservation Act (42 U.S.C. 6322), or, if no
12 such agency exists, a State agency designated by the Gov-
13 ernor of the State, to assist units of local government in
14 the State in improving the energy efficiency of public
15 buildings and facilities—

16 (1) through construction of new energy efficient
17 public buildings that use at least 30 percent less en-
18 ergy than a comparable public building constructed
19 in compliance with standards prescribed in chapter
20 8 of the 2000 International Energy Conservation
21 Code, or a similar State code intended to achieve
22 substantially equivalent efficiency levels; or

23 (2) through renovation of existing public build-
24 ings to achieve reductions in energy use of at least
25 30 percent as compared to the baseline energy use



1 in such buildings prior to renovation, assuming a 3-
2 year, weather-normalized average for calculating
3 such baseline.

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

6 (1) maintain such records and evidence of com-
7 pliance as the Secretary may require; and

8 (2) develop and distribute information and ma-
9 terials and conduct programs to provide technical
10 services and assistance to encourage planning, fi-
11 nancing, and design of energy efficient public build-
12 ings by units of local government.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—For the
14 purposes of this section, there are authorized to be appro-
15 priated to the Secretary of Energy such sums as may be
16 necessary for each of fiscal years 2004 through 2013. Not
17 more than 30 percent of appropriated funds shall be used
18 for administration.

19 **SEC. 1025. LOW INCOME COMMUNITY ENERGY EFFICIENCY**
20 **PILOT PROGRAM.**

21 (a) GRANTS.—The Secretary of Energy is authorized
22 to make grants to units of local government, private, non-
23 profit community development organizations, and Indian
24 tribe economic development entities to improve energy effi-
25 ciency, identify and develop alternative renewable and dis-



1 tributed energy supplies, and increase energy conservation
2 in low income rural and urban communities.

3 (b) PURPOSE OF GRANTS.—The Secretary may make
4 grants on a competitive basis for—

5 (1) investments that develop alternative renew-
6 able and distributed energy supplies;

7 (2) energy efficiency projects and energy con-
8 servation programs;

9 (3) studies and other activities that improve en-
10 ergy efficiency in low income rural and urban com-
11 munities;

12 (4) planning and development assistance for in-
13 creasing the energy efficiency of buildings and facili-
14 ties; and

15 (5) technical and financial assistance to local
16 government and private entities on developing new
17 renewable and distributed sources of power or com-
18 bined heat and power generation.

19 (c) DEFINITION.—For purposes of this section, the
20 term “Indian tribe” means any Indian tribe, band, nation,
21 or other organized group or community, including any
22 Alaskan Native village or regional or village corporation
23 as defined in or established pursuant to the Alaska Native
24 Claims Settlement Act (43 U.S.C. 1601 et seq.), which
25 is recognized as eligible for the special programs and serv-



1 ices provided by the United States to Indians because of
2 their status as Indians.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—For the
4 purposes of this section there are authorized to be appro-
5 priated to the Secretary of Energy \$20,000,000 for fiscal
6 year 2004 and each fiscal year thereafter through fiscal
7 year 2006.

8 **Subtitle C—Energy Efficient** 9 **Products**

10 **SEC. 1041. ENERGY STAR PROGRAM.**

11 (a) AMENDMENT.—The Energy Policy and Conserva-
12 tion Act (42 U.S.C. 6201 and following) is amended by
13 inserting the following after section 324:

14 **“SEC. 324A. ENERGY STAR PROGRAM.**

15 “There is established at the Department of Energy
16 and the Environmental Protection Agency a program to
17 identify and promote energy-efficient products and build-
18 ings in order to reduce energy consumption, improve en-
19 ergy security, and reduce pollution through labeling of and
20 other forms of communication about products and build-
21 ings that meet the highest energy efficiency standards. Re-
22 sponsibilities under the program shall be divided between
23 the Department of Energy and the Environmental Protec-
24 tion Agency consistent with the terms of agreements be-



1 tween the two agencies. The Administrator and the Sec-
2 retary shall—

3 “(1) promote Energy Star compliant tech-
4 nologies as the preferred technologies in the market-
5 place for achieving energy efficiency and to reduce
6 pollution;

7 “(2) work to enhance public awareness of the
8 Energy Star label, including special outreach to
9 small businesses;

10 “(3) preserve the integrity of the Energy Star
11 label; and

12 “(4) solicit the comments of interested parties
13 in establishing a new Energy Star product category
14 or in revising a product category, and upon adoption
15 of a new or revised product category provide an ex-
16 planation of the decision that responds to significant
17 public comments.”.

18 (b) TABLE OF CONTENTS AMENDMENT.—The table
19 of contents of the Energy Policy and Conservation Act is
20 amended by inserting after the item relating to section
21 324 the following new item:

“Sec. 324A. Energy Star program.”.



1 **SEC. 1042. CONSUMER EDUCATION ON ENERGY EFFI-**
2 **CIENCY BENEFITS OF AIR CONDITIONING,**
3 **HEATING, AND VENTILATION MAINTENANCE.**

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

7 “(c) HVAC MAINTENANCE.—(1) For the purpose of
8 ensuring that installed air conditioning and heating sys-
9 tems operate at their maximum rated efficiency levels, the
10 Secretary shall, within 180 days of the date of enactment
11 of this subsection, carry out a program to educate home-
12 owners and small business owners concerning the energy
13 savings resulting from properly conducted maintenance of
14 air conditioning, heating, and ventilating systems.

15 “(2) The Secretary shall carry out the program in
16 cooperation with the Administrator of the Environmental
17 Protection Agency and such other entities as the Secretary
18 considers appropriate, including industry trade associa-
19 tions, industry members, and energy efficiency organiza-
20 tions.

21 “(d) SMALL BUSINESS EDUCATION AND ASSIST-
22 ANCE.—The Administrator of the Small Business Admin-
23 istration, in consultation with the Secretary of Energy and
24 the Administrator of the Environmental Protection Agen-
25 cy, shall develop and coordinate a Government-wide pro-
26 gram, building on the existing Energy Star for Small



1 Business Program, to assist small business to become
2 more energy efficient, understand the cost savings obtain-
3 able through efficiencies, and identify financing options
4 for energy efficiency upgrades. The Secretary and the Ad-
5 ministrator shall make the program information available
6 directly to small businesses and through other Federal
7 agencies, including the Federal Emergency Management
8 Agency, and the Department of Agriculture.”.

9 **SEC. 1043. ADDITIONAL DEFINITIONS.**

10 Section 321 of the Energy Policy and Conservation
11 Act (42 U.S.C. 6291) is amended by adding at the end
12 the following:

13 “(32) The term ‘battery charger’ means a de-
14 vice that charges batteries for consumer products.

15 “(33) The term ‘commercial refrigerator, freez-
16 er and refrigerator-freezer’ means a refrigerator,
17 freezer or refrigerator-freezer that—

18 “(A) is not a consumer product regulated
19 under this Act; and

20 “(B) incorporates most components in-
21 volved in the vapor-compression cycle and the
22 refrigerated compartment in a single package.

23 “(34) The term ‘external power supply’ means
24 an external power supply circuit that is used to con-
25 vert household electric current into either DC cur-



1 rent or lower-voltage AC current to operate a con-
2 sumer product.

3 “(35) The term ‘illuminated exit sign’ means a
4 sign that—

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

7 “(B) consists of—

8 “(i) an electrically powered integral
9 light source that illuminates the legend
10 ‘EXIT’ and any directional indicators; and

11 “(ii) provides contrast between the
12 legend, any directional indicators, and the
13 background.

14 “(36)(A) Except as provided in subparagraph
15 (B), the term ‘low-voltage dry-type transformer’
16 means a transformer that—

17 “(i) has an input voltage of 600 volts or
18 less;

19 “(ii) is air-cooled;

20 “(iii) does not use oil as a coolant; and

21 “(iv) is rated for operation at a frequency
22 of 60 Hertz.

23 “(B) The term ‘low-voltage dry-type trans-
24 former’ does not include—



1 “(i) transformers with multiple voltage
2 taps, with the highest voltage tap equaling at
3 least 20 percent more than the lowest voltage
4 tap;

5 “(ii) transformers that are designed to be
6 used in a special purpose application, such as
7 transformers commonly known as drive trans-
8 formers, rectifier transformers,
9 autotransformers, Uninterruptible Power Sys-
10 tem transformers, impedance transformers, har-
11 monic transformers, regulating transformers,
12 sealed and nonventilating transformers, ma-
13 chine tool transformers, welding transformers,
14 grounding transformers, or testing trans-
15 formers; or

16 “(iii) any transformer not listed in clause
17 (ii) that is excluded by the Secretary by rule be-
18 cause the transformer is designed for a special
19 application and the application of standards to
20 the transformer would not result in significant
21 energy savings.

22 “(37) The term ‘standby mode’ means the low-
23 est amount of electric power used by a household ap-
24 pliance when not performing its active functions, as



1 defined on an individual product basis by the Sec-
2 retary.

3 “(38) The term ‘torchiere’ means a portable
4 electric lamp with a reflector bowl that directs light
5 upward so as to give indirect illumination.

6 “(39) The term ‘transformer’ means a device
7 consisting of two or more coils of insulated wire that
8 transfers alternating current by electromagnetic in-
9 duction from one coil to another to change the origi-
10 nal voltage or current value.

11 “(40) The term ‘unit heater’ means a self-con-
12 tained fan-type heater designed to be installed with-
13 in the heated space, except that such term does not
14 include a warm air furnace.

15 “(41) The term ‘traffic signal module’ means a
16 standard 8-inch (200mm) or 12-inch (300mm) traf-
17 fic signal indication, consisting of a light source, a
18 lens, and all other parts necessary for operation,
19 that communicates movement messages to drivers
20 through red, amber, and green colors.”.

21 **SEC. 1044. ADDITIONAL TEST PROCEDURES.**

22 (a) EXIT SIGNS.—Section 323(b) of the Energy Pol-
23 icy and Conservation Act (42 U.S.C. 6293) is amended
24 by adding at the end the following:



1 “(9) Test procedures for illuminated exit signs
2 shall be based on the test method used under Ver-
3 sion 2.0 of the Energy Star program of the Environ-
4 mental Protection Agency for illuminated exit signs.

5 “(10) Test procedures for low voltage dry-type
6 distribution transformers shall be based on the
7 ‘Standard Test Method for Measuring the Energy
8 Consumption of Distribution Transformers’ pre-
9 scribed by the National Electrical Manufacturers As-
10 sociation (NEMA TP 2-1998). The Secretary may
11 review and revise this test procedure based on future
12 revisions to such standard test method.

13 “(11) Test procedures for traffic signal modules
14 shall be based on the test method used under the
15 Energy Star program of the Environmental Protec-
16 tion Agency for traffic signal modules, as in effect
17 on the date of enactment of this paragraph.”.

18 (b) ADDITIONAL CONSUMER AND COMMERCIAL
19 PRODUCTS.—Section 323 of the Energy Policy and Con-
20 servation Act (42 U.S.C. 6293) is further amended by
21 adding at the end the following:

22 “(f) ADDITIONAL CONSUMER AND COMMERCIAL
23 PRODUCTS.—The Secretary shall within 24 months after
24 the date of enactment of this subsection prescribe testing
25 requirements for suspended ceiling fans, refrigerated bot-



1 tled or canned beverage vending machines, commercial
2 unit heaters, and commercial refrigerators, freezers and
3 refrigerator-freezers. Such testing requirements shall be
4 based on existing test procedures used in industry to the
5 extent practical and reasonable. In the case of suspended
6 ceiling fans, such test procedures shall include efficiency
7 at both maximum output and at an output no more than
8 50 percent of the maximum output.”.

9 **SEC. 1045. ENERGY CONSERVATION STANDARDS FOR ADDI-**
10 **TIONAL CONSUMER AND COMMERCIAL PROD-**
11 **UCTS.**

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

15 “(u) **STANDBY MODE ELECTRIC ENERGY CONSUMP-**
16 **TION.—**

17 “(1) **INITIAL RULEMAKING.—**(A) The Secretary
18 shall, within 18 months after the date of enactment
19 of this subsection, prescribe by notice and comment,
20 definitions of standby mode and test procedures for
21 the standby mode power use of battery chargers and
22 external power supplies. In establishing these test
23 procedures, the Secretary shall consider, among
24 other factors, existing test procedures used for meas-
25 uring energy consumption in standby mode and as-



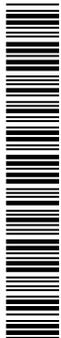
1 assess the current and projected future market for
2 battery chargers and external power supplies. This
3 assessment shall include estimates of the significance
4 of potential energy savings from technical improve-
5 ments to these products and suggested product
6 classes for standards. Prior to the end of this time
7 period, the Secretary shall hold a scoping workshop
8 to discuss and receive comments on plans for devel-
9 oping energy conservation standards for standby
10 mode energy use for these products.

11 “(B) The Secretary shall, within 3 years after
12 the date of enactment of this subsection, issue a
13 final rule that determines whether energy conserva-
14 tion standards shall be promulgated for battery
15 chargers and external power supplies or classes
16 thereof. For each product class, any such standards
17 shall be set at the lowest level of standby energy use
18 that—

19 “(i) meets the criteria of subsections (o),
20 (p), (q), (r), (s) and (t); and

21 “(ii) will result in significant overall an-
22 nual energy savings, considering both standby
23 mode and other operating modes.

24 “(2) DESIGNATION OF ADDITIONAL COVERED
25 PRODUCTS.—(A) Not later than 180 days after the



1 date of enactment of this subsection, the Secretary
2 shall publish for public comment and public hearing
3 a notice to determine whether any noncovered prod-
4 ucts should be designated as covered products for
5 the purpose of instituting a rulemaking under this
6 section to determine whether an energy conservation
7 standard restricting standby mode energy consump-
8 tion, should be promulgated; except that any restric-
9 tion on standby mode energy consumption shall be
10 limited to major sources of such consumption.

11 “(B) In making the determinations pursuant to
12 subparagraph (A) of whether to designate new cov-
13 ered products and institute rulemakings, the Sec-
14 retary shall, among other relevant factors and in ad-
15 dition to the criteria in section 322(b), consider—

16 “(i) standby mode power consumption
17 compared to overall product energy consump-
18 tion; and

19 “(ii) the priority and energy savings poten-
20 tial of standards which may be promulgated
21 under this subsection compared to other re-
22 quired rulemakings under this section and the
23 available resources of the Department to con-
24 duct such rulemakings.



1 “(C) Not later than 1 year after the date of en-
2 actment of this subsection, the Secretary shall issue
3 a determination of any new covered products for
4 which he intends to institute rulemakings on standby
5 mode pursuant to this section and he shall state the
6 dates by which he intends to initiate those
7 rulemakings.

8 “(3) REVIEW OF STANDBY ENERGY USE IN
9 COVERED PRODUCTS.—In determining pursuant to
10 section 323 whether test procedures and energy con-
11 servation standards pursuant to this section should
12 be revised, the Secretary shall consider for covered
13 products which are major sources of standby mode
14 energy consumption whether to incorporate standby
15 mode into such test procedures and energy conserva-
16 tion standards, taking into account, among other
17 relevant factors, the criteria for non-covered prod-
18 ucts in subparagraph (B) of paragraph (2) of this
19 subsection.

20 “(4) RULEMAKING FOR STANDBY MODE.—(A)
21 Any rulemaking instituted under this subsection or
22 for covered products under this section which re-
23 stricts standby mode power consumption shall be
24 subject to the criteria and procedures for issuing en-
25 ergy conservation standards set forth in this section



1 and the criteria set forth in subparagraph (B) of
2 paragraph (2) of this subsection.

3 “(B) No standard can be proposed for new cov-
4 ered products or covered products in a standby mode
5 unless the Secretary has promulgated applicable test
6 procedures for each product pursuant to section 323.

7 “(C) The provisions of section 327 shall apply
8 to new covered products which are subject to the
9 rulemakings for standby mode after a final rule has
10 been issued.

11 “(5) EFFECTIVE DATE.—Any standard promul-
12 gated under this subsection shall be applicable to
13 products manufactured or imported 3 years after the
14 date of promulgation.

15 “(6) VOLUNTARY PROGRAMS TO REDUCE
16 STANDBY MODE ENERGY USE.—The Secretary and
17 the Administrator shall collaborate and develop pro-
18 grams, including programs pursuant to section 324A
19 (relating to Energy Star Programs) and other vol-
20 untary industry agreements or codes of conduct,
21 which are designed to reduce standby mode energy
22 use.

23 “(v) SUSPENDED CEILING FANS, VENDING MA-
24 CHINES, UNIT HEATERS, AND COMMERCIAL REFRIG-
25 ERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—



1 The Secretary shall within 24 months after the date on
2 which testing requirements are prescribed by the Sec-
3 retary pursuant to section 323(f), prescribe, by rule, en-
4 ergy conservation standards for suspended ceiling fans, re-
5 frigerated bottled or canned beverage vending machines,
6 unit heaters, and commercial refrigerators, freezers and
7 refrigerator-freezers. In establishing standards under this
8 subsection, the Secretary shall use the criteria and proce-
9 dures contained in subsections (l) and (m). Any standard
10 prescribed under this subsection shall apply to products
11 manufactured 3 years after the date of publication of a
12 final rule establishing such standard.

13 “(w) ILLUMINATED EXIT SIGNS.—Illuminated exit
14 signs manufactured on or after January 1, 2005 shall
15 meet the Version 2.0 Energy Star Program performance
16 requirements for illuminated exit signs prescribed by the
17 Environmental Protection Agency

18 “(x) TORCHIERES.—Torchieres manufactured on or
19 after January 1, 2005—

20 “(1) shall consume not more than 190 watts of
21 power; and

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

24 “(y) LOW VOLTAGE DRY-TYPE TRANSFORMERS.—

25 The efficiency of low voltage dry-type transformers manu-



1 factured on or after January 1, 2005 shall be the Class
2 I Efficiency Levels for low voltage dry-type transformers
3 specified in Table 4-2 of the 'Guide for Determining En-
4 ergy Efficiency for Distribution Transformers' published
5 by the National Electrical Manufacturers Association
6 (NEMA TP-1-1996).

7 “(z) TRAFFIC SIGNAL MODULES.—Traffic signal
8 modules manufactured on or after January 1, 2006 shall
9 meet the performance requirements used under the En-
10 ergy Star program of the Environmental Protection Agen-
11 cy for traffic signals, as in effect on the date of enactment
12 of this paragraph, and shall be installed with compatible,
13 electrically-connected signal control interface devices and
14 conflict monitoring systems.

15 “(aa) EFFECTIVE DATE OF SECTION 327.—The pro-
16 visions of section 327 shall apply to products for which
17 standards are set in subsections (v) through (z) of this
18 section after the effective date for such standards.”.

19 **SEC. 1046. ENERGY LABELING.**

20 (a) RULEMAKING ON EFFECTIVENESS OF CONSUMER
21 PRODUCT LABELING.—Paragraph (2) of section 324(a) of
22 the Energy Policy and Conservation Act (42 U.S.C.
23 6294(a)(2)) is amended by adding at the end the fol-
24 lowing:



1 “(F) Not later than 3 months after the date of enact-
2 ment of this subparagraph, the Commission shall initiate
3 a rulemaking to consider the effectiveness of the current
4 consumer products labeling program in assisting con-
5 sumers in making purchasing decisions and improving en-
6 ergy efficiency and to consider changes to the labeling
7 rules that would improve the effectiveness of consumer
8 product labels. Such rulemaking shall be completed within
9 2 years after the date of enactment of this subpara-
10 graph.”.

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

15 “(5) The Secretary or the Commission, as appro-
16 priate, may for covered products referred to in subsections
17 (u) through (z) of section 325, prescribe, by rule, pursuant
18 to this section, labeling requirements for such products
19 after a test procedure has been set pursuant to section
20 323.”.

21 **SEC. 1047. STUDY OF ENERGY EFFICIENCY STANDARDS.**

22 The Secretary of Energy shall contract with the Na-
23 tional Academy of Sciences for a study, to be completed
24 within 1 year of enactment of this Act, to examine whether
25 the goals of energy efficiency standards are best served



1 by measurement of energy consumed, and efficiency im-
2 provements, at the actual site of energy consumption, or
3 through the full fuel cycle, beginning at the source of en-
4 ergy production. The Secretary shall submit the report to
5 the Congress.

6 **TITLE II—OIL AND GAS**
7 **Subtitle A—Alaska Natural Gas**
8 **Pipeline**

9 **SEC. 2001. SHORT TITLE.**

10 This subtitle may be cited as the “Alaska Natural
11 Gas Pipeline Act of 2003”.

12 **SEC. 2002. FINDINGS AND PURPOSES.**

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

14 (1) Construction of a natural gas pipeline sys-
15 tem from the Alaskan North Slope to United States
16 markets is in the national interest and will enhance
17 national energy security by providing access to the
18 significant gas reserves in Alaska needed to meet the
19 anticipated demand for natural gas.

20 (2) The Commission issued a conditional certifi-
21 cate of public convenience and necessity for the
22 Alaska natural gas transportation system, which re-
23 mains in effect.

24 (b) PURPOSES.—The purposes of this subtitle are as
25 follows:



1 (1) To provide a statutory framework for the
2 expedited approval, construction, and initial oper-
3 ation of an Alaska natural gas transportation
4 project, as an alternative to the framework provided
5 in the Alaska Natural Gas Transportation Act of
6 1976 (15 U.S.C. 719 et seq.), which remains in ef-
7 fect.

8 (2) To establish a process for providing access
9 to such transportation project in order to promote
10 competition in the exploration, development, and
11 production of Alaska natural gas.

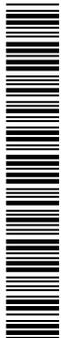
12 (3) To clarify Federal authorities under the
13 Alaska Natural Gas Transportation Act of 1976.

14 **SEC. 2003. DEFINITIONS.**

15 In this subtitle, the following definitions apply:

16 (1) ALASKA NATURAL GAS.—The term “Alaska
17 natural gas” means natural gas derived from the
18 area of the State of Alaska lying north of 64 degrees
19 North latitude.

20 (2) ALASKA NATURAL GAS TRANSPORTATION
21 PROJECT.—The term “Alaska natural gas transpor-
22 tation project” means any natural gas pipeline sys-
23 tem that carries Alaska natural gas to the border
24 between Alaska and Canada (including related facili-



1 ties subject to the jurisdiction of the Commission)
2 that is authorized under either—

3 (A) the Alaska Natural Gas Transpor-
4 tation Act of 1976 (15 U.S.C. 719 et seq.); or
5 (B) section 2004.

6 (3) ALASKA NATURAL GAS TRANSPORTATION
7 SYSTEM.—The term “Alaska natural gas transpor-
8 tation system” means the Alaska natural gas trans-
9 portation project authorized under the Alaska Nat-
10 ural Gas Transportation Act of 1976 and designated
11 and described in section 2 of the President’s deci-
12 sion.

13 (4) COMMISSION.—The term “Commission”
14 means the Federal Energy Regulatory Commission.

15 (5) PRESIDENT’S DECISION.—The term “Presi-
16 dent’s decision” means the decision and report to
17 Congress on the Alaska natural gas transportation
18 system issued by the President on September 22,
19 1977, pursuant to section 7 of the Alaska Natural
20 Gas Transportation Act of 1976 (15 U.S.C. 719e)
21 and approved by Public Law 95–158 (91 Stat.
22 1268).



1 **SEC. 2004. ISSUANCE OF CERTIFICATE OF PUBLIC CONVEN-**
2 **IENCE AND NECESSITY.**

3 (a) **AUTHORITY OF THE COMMISSION.**—Notwith-
4 standing the provisions of the Alaska Natural Gas Trans-
5 portation Act of 1976 (15 U.S.C. 719 et seq.), the Com-
6 mission may, pursuant to section 7(c) of the Natural Gas
7 Act (15 U.S.C. 717f(c)), consider and act on an applica-
8 tion for the issuance of a certificate of public convenience
9 and necessity authorizing the construction and operation
10 of an Alaska natural gas transportation project other than
11 the Alaska natural gas transportation system.

12 (b) **ISSUANCE OF CERTIFICATE.**—

13 (1) **IN GENERAL.**—The Commission shall issue
14 a certificate of public convenience and necessity au-
15 thoring the construction and operation of an Alas-
16 ka natural gas transportation project under this sec-
17 tion if the applicant has satisfied the requirements
18 of section 7(e) of the Natural Gas Act (15 U.S.C.
19 717f(e)).

20 (2) **CONSIDERATIONS.**—In considering an appli-
21 cation under this section, the Commission shall pre-
22 sume that—

23 (A) a public need exists to construct and
24 operate the proposed Alaska natural gas trans-
25 portation project; and



1 (B) sufficient downstream capacity will
2 exist to transport the Alaska natural gas mov-
3 ing through such project to markets in the con-
4 tiguous United States.

5 (c) EXPEDITED APPROVAL PROCESS.—The Commis-
6 sion shall issue a final order granting or denying any ap-
7 plication for a certificate of public convenience and neces-
8 sity under section 7(c) of the Natural Gas Act (15 U.S.C.
9 717f(c)) and this section not more than 60 days after the
10 issuance of the final environmental impact statement for
11 that project pursuant to section 2005.

12 (d) PROHIBITION ON CERTAIN PIPELINE ROUTE.—
13 No license, permit, lease, right-of-way, authorization, or
14 other approval required under Federal law for the con-
15 struction of any pipeline to transport natural gas from
16 lands within the Prudhoe Bay oil and gas lease area may
17 be granted for any pipeline that follows a route that
18 traverses—

19 (1) the submerged lands (as defined by the
20 Submerged Lands Act) beneath, or the adjacent
21 shoreline of, the Beaufort Sea; and

22 (2) enters Canada at any point north of 68 de-
23 grees North latitude.

24 (e) OPEN SEASON.—Except where an expansion is
25 ordered pursuant to section 2006, initial or expansion ca-



1 capacity on any Alaska natural gas transportation project
2 shall be allocated in accordance with procedures to be es-
3 tablished by the Commission in regulations governing the
4 conduct of open seasons for such project. Such procedures
5 shall include the criteria for and timing of any open sea-
6 sons, be consistent with the purposes set forth in section
7 2002(b)(2), and, for any open season for capacity beyond
8 the initial capacity, provide the opportunity for the trans-
9 portation of natural gas other than from the Prudhoe Bay
10 and Point Thompson units. The Commission shall issue
11 such regulations not later than 120 days after the date
12 of enactment of this Act.

13 (f) PROJECTS IN THE CONTIGUOUS UNITED
14 STATES.—Applications for additional or expanded pipeline
15 facilities that may be required to transport Alaska natural
16 gas from Canada to markets in the contiguous United
17 States may be made pursuant to the Natural Gas Act.
18 To the extent such pipeline facilities include the expansion
19 of any facility constructed pursuant to the Alaska Natural
20 Gas Transportation Act of 1976, the provisions of that
21 Act shall continue to apply.

22 (g) STUDY OF IN-STATE NEEDS.—The holder of the
23 certificate of public convenience and necessity issued,
24 modified, or amended by the Commission for an Alaska
25 natural gas transportation project shall demonstrate that



1 it has conducted a study of Alaska in-State needs, includ-
2 ing tie-in points along the Alaska natural gas transpor-
3 tation project for in-State access.

4 (h) ALASKA ROYALTY GAS.—The Commission, upon
5 the request of the State of Alaska and after a hearing,
6 may provide for reasonable access to the Alaska natural
7 gas transportation project for the State of Alaska or its
8 designee for the transportation of the State's royalty gas
9 for local consumption needs within the State; except that
10 the rates of existing shippers of subscribed capacity on
11 such project shall not be increased as a result of such ac-
12 cess.

13 (i) REGULATIONS.—The Commission may issue regu-
14 lations to carry out the provisions of this section.

15 **SEC. 2005. ENVIRONMENTAL REVIEWS.**

16 (a) COMPLIANCE WITH NEPA.—The issuance of a
17 certificate of public convenience and necessity authorizing
18 the construction and operation of any Alaska natural gas
19 transportation project under section 2004 shall be treated
20 as a major Federal action significantly affecting the qual-
21 ity of the human environment within the meaning of sec-
22 tion 102(2)(C) of the National Environmental Policy Act
23 of 1969 (42 U.S.C. 4332(2)(C)).

24 (b) DESIGNATION OF LEAD AGENCY.—The Commis-
25 sion shall be the lead agency for purposes of complying



1 with the National Environmental Policy Act of 1969, and
2 shall be responsible for preparing the statement required
3 by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c))
4 with respect to an Alaska natural gas transportation
5 project under section 2004. The Commission shall prepare
6 a single environmental statement under this section, which
7 shall consolidate the environmental reviews of all Federal
8 agencies considering any aspect of the project.

9 (c) OTHER AGENCIES.—All Federal agencies consid-
10 ering aspects of the construction and operation of an Alas-
11 ka natural gas transportation project under section 2004
12 shall cooperate with the Commission, and shall comply
13 with deadlines established by the Commission in the prep-
14 aration of the statement under this section. The statement
15 prepared under this section shall be used by all such agen-
16 cies to satisfy their responsibilities under section
17 102(2)(C) of the National Environmental Policy Act of
18 1969 (42 U.S.C. 4332(2)(C)) with respect to such project.

19 (d) EXPEDITED PROCESS.—The Commission shall
20 issue a draft statement under this section not later than
21 12 months after the Commission determines the applica-
22 tion to be complete and shall issue the final statement not
23 later than 6 months after the Commission issues the draft
24 statement, unless the Commission for good cause finds
25 that additional time is needed.



1 **SEC. 2006. PIPELINE EXPANSION.**

2 (a) **AUTHORITY.**—With respect to any Alaska natural
3 gas transportation project, upon the request of one or
4 more persons and after giving notice and an opportunity
5 for a hearing, the Commission may order the expansion
6 of such project if it determines that such expansion is re-
7 quired by the present and future public convenience and
8 necessity.

9 (b) **REQUIREMENTS.**—Before ordering an expansion,
10 the Commission shall—

11 (1) approve or establish rates for the expansion
12 service that are designed to ensure the recovery, on
13 an incremental or rolled-in basis, of the cost associ-
14 ated with the expansion (including a reasonable rate
15 of return on investment);

16 (2) ensure that the rates as established do not
17 require existing shippers on the Alaska natural gas
18 transportation project to subsidize expansion ship-
19 pers;

20 (3) find that the proposed shipper will comply
21 with, and the proposed expansion and the expansion
22 of service will be undertaken and implemented based
23 on, terms and conditions consistent with the then-ef-
24 fective tariff of the Alaska natural gas transpor-
25 tation project;



1 (4) find that the proposed facilities will not ad-
2 versely affect the financial or economic viability of
3 the Alaska natural gas transportation project;

4 (5) find that the proposed facilities will not ad-
5 versely affect the overall operations of the Alaska
6 natural gas transportation project;

7 (6) find that the proposed facilities will not di-
8 minish the contract rights of existing shippers to
9 previously subscribed certificated capacity;

10 (7) ensure that all necessary environmental re-
11 views have been completed; and

12 (8) find that adequate downstream facilities
13 exist or are expected to exist to deliver incremental
14 Alaska natural gas to market.

15 (c) REQUIREMENT FOR A FIRM TRANSPORTATION
16 AGREEMENT.—Any order of the Commission issued pur-
17 suant to this section shall be null and void unless the per-
18 son or persons requesting the order executes a firm trans-
19 portation agreement with the Alaska natural gas transpor-
20 tation project within a reasonable period of time as speci-
21 fied in such order.

22 (d) LIMITATION.—Nothing in this section shall be
23 construed to expand or otherwise affect any authorities of
24 the Commission with respect to any natural gas pipeline
25 located outside the State of Alaska.



1 (e) REGULATIONS.—The Commission may issue reg-
2 ulations to carry out the provisions of this section.

3 **SEC. 2007. FEDERAL COORDINATOR.**

4 (a) ESTABLISHMENT.—There is established, as an
5 independent office in the executive branch, the Office of
6 the Federal Coordinator for Alaska Natural Gas Trans-
7 portation Projects.

8 (b) FEDERAL COORDINATOR.—The Office shall be
9 headed by a Federal Coordinator for Alaska Natural Gas
10 Transportation Projects, who shall—

11 (1) be appointed by the President, by and with
12 the advice of the Senate;

13 (2) hold office at the pleasure of the President;
14 and

15 (3) be compensated at the rate prescribed for
16 level III of the Executive Schedule (5 U.S.C. 5314).

17 (c) DUTIES.—The Federal Coordinator shall be re-
18 sponsible for—

19 (1) coordinating the expeditious discharge of all
20 activities by Federal agencies with respect to an
21 Alaska natural gas transportation project; and

22 (2) ensuring the compliance of Federal agencies
23 with the provisions of this subtitle.

24 (d) REVIEWS AND ACTIONS OF OTHER FEDERAL
25 AGENCIES.—



1 (1) EXPEDITED REVIEWS AND ACTIONS.—All
2 reviews conducted and actions taken by any Federal
3 officer or agency relating to an Alaska natural gas
4 transportation project authorized under this section
5 shall be expedited, in a manner consistent with com-
6 pletion of the necessary reviews and approvals by the
7 deadlines set forth in this subtitle.

8 (2) PROHIBITION ON CERTAIN TERMS AND CON-
9 DITIONS.—Except with respect to Commission ac-
10 tions under sections 2004, 2005, and 2006, no Fed-
11 eral officer or agency shall have the authority to in-
12 clude terms and conditions that are permitted, but
13 not required, by law on any certificate, right-of-way,
14 permit, lease, or other authorization issued to an
15 Alaska natural gas transportation project if the Fed-
16 eral Coordinator determines that the terms and con-
17 ditions would prevent or impair in any significant re-
18 spect the expeditious construction and operation of
19 the project.

20 (3) PROHIBITION ON CERTAIN ACTIONS.—Ex-
21 cept with respect to Commission actions under sec-
22 tions 2004, 2005, and 2006, unless required by law,
23 no Federal officer or agency shall add to, amend, or
24 abrogate any certificate, right-of-way, permit, lease,
25 or other authorization issued to an Alaska natural



1 gas transportation project if the Federal Coordinator
2 determines that such action would prevent or impair
3 in any significant respect the expeditious construc-
4 tion and operation of the project.

5 (e) STATE COORDINATION.—The Federal Coordi-
6 nator shall enter into a Joint Surveillance and Monitoring
7 Agreement, approved by the President and the Governor
8 of Alaska, with the State of Alaska similar to that in effect
9 during construction of the Trans-Alaska Oil Pipeline to
10 monitor the construction of the Alaska natural gas trans-
11 portation project. The Federal Government shall have pri-
12 mary surveillance and monitoring responsibility where the
13 Alaska natural gas transportation project crosses Federal
14 lands and private lands, and the State government shall
15 have primary surveillance and monitoring responsibility
16 where the Alaska natural gas transportation project
17 crosses State lands.

18 (f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS
19 AND AUTHORITY.—Upon appointment of the Federal Co-
20 ordinator by the President, all of the functions and au-
21 thority of the Office of Federal Inspector of Construction
22 for the Alaska Natural Gas Transportation System vested
23 in the Secretary of Energy pursuant to section 3012(b)
24 of Public Law 102-486 (15 U.S.C. 719e(b)), including all
25 functions and authority described and enumerated in the



1 Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33,663),
2 Executive Order No. 12142 of June 21, 1979 (44 Fed.
3 Reg. 36,927), and section 5 of the President's decision,
4 shall be transferred to the Federal Coordinator.

5 **SEC. 2008. JUDICIAL REVIEW.**

6 (a) EXCLUSIVE JURISDICTION.—Except for review by
7 the Supreme Court of the United States on writ of certio-
8 rari, the United States Court of Appeals for the District
9 of Columbia Circuit shall have original and exclusive juris-
10 diction to determine—

11 (1) the validity of any final order or action (in-
12 cluding a failure to act) of any Federal agency or of-
13 ficer under this subtitle;

14 (2) the constitutionality of any provision of this
15 subtitle, or any decision made or action taken under
16 this subtitle; or

17 (3) the adequacy of any environmental impact
18 statement prepared under the National Environ-
19 mental Policy Act of 1969 with respect to any action
20 under this subtitle.

21 (b) DEADLINE FOR FILING CLAIM.—Claims arising
22 under this subtitle may be brought not later than 60 days
23 after the date of the decision or action giving rise to the
24 claim.



1 (c) EXPEDITED CONSIDERATION.—The United
2 States Court of Appeals for the District of Columbia Cir-
3 cuit shall set any action brought under subsection (a) for
4 expedited consideration, taking into account the national
5 interest as described in section 2002(a).

6 (d) AMENDMENT TO ANGTA.—Section 10(c) of the
7 Alaska Natural Gas Transportation Act of 1976 (15
8 U.S.C. 719h) is amended by inserting after paragraph (1)
9 the following:

10 “(2) The United States Court of Appeals for the Dis-
11 trict of Columbia Circuit shall set any action brought
12 under this section for expedited consideration, taking into
13 account the national interest described in section 2.”.

14 **SEC. 2009. STATE JURISDICTION OVER IN-STATE DELIVERY**
15 **OF NATURAL GAS.**

16 (a) LOCAL DISTRIBUTION.—Any facility receiving
17 natural gas from the Alaska natural gas transportation
18 project for delivery to consumers within the State of Alas-
19 ka shall be deemed to be a local distribution facility within
20 the meaning of section 1(b) of the Natural Gas Act (15
21 U.S.C. 717(b)), and therefore not subject to the jurisdic-
22 tion of the Commission.

23 (b) ADDITIONAL PIPELINES.—Nothing in this sub-
24 title, except as provided in section 2004(d), shall preclude
25 or affect a future gas pipeline that may be constructed



1 to deliver natural gas to Fairbanks, Anchorage,
2 Matanuska-Susitna Valley, or the Kenai peninsula or
3 Valdez or any other site in the State of Alaska for con-
4 sumption within or distribution outside the State of Alas-
5 ka.

6 (c) RATE COORDINATION.—Pursuant to the Natural
7 Gas Act, the Commission shall establish rates for the
8 transportation of natural gas on the Alaska natural gas
9 transportation project. In exercising such authority, the
10 Commission, pursuant to section 17(b) of the Natural Gas
11 Act (15 U.S.C. 717p(b)), shall confer with the State of
12 Alaska regarding rates (including rate settlements) appli-
13 cable to natural gas transported on and delivered from the
14 Alaska natural gas transportation project for use within
15 the State of Alaska.

16 **SEC. 2010. STUDY OF ALTERNATIVE MEANS OF CONSTRUC-**
17 **TION.**

18 (a) REQUIREMENT OF STUDY.—If no application for
19 the issuance of a certificate or amended certificate of pub-
20 lic convenience and necessity authorizing the construction
21 and operation of an Alaska natural gas transportation
22 project has been filed with the Commission not later than
23 18 months after the date of enactment of this Act, the
24 Secretary of Energy shall conduct a study of alternative



1 approaches to the construction and operation of the
2 project.

3 (b) SCOPE OF STUDY.—The study shall consider the
4 feasibility of establishing a Government corporation to
5 construct an Alaska natural gas transportation project,
6 and alternative means of providing Federal financing and
7 ownership (including alternative combinations of Govern-
8 ment and private corporate ownership) of the project.

9 (c) CONSULTATION.—In conducting the study, the
10 Secretary of Energy shall consult with the Secretary of
11 the Treasury and the Secretary of the Army (acting
12 through the Commanding General of the Corps of Engi-
13 neers).

14 (d) REPORT.—If the Secretary of Energy is required
15 to conduct a study under subsection (a), the Secretary
16 shall submit a report containing the results of the study,
17 the Secretary's recommendations, and any proposals for
18 legislation to implement the Secretary's recommendations
19 to Congress.

20 **SEC. 2011. CLARIFICATION OF ANGTA STATUS AND AU-**
21 **THORITIES.**

22 (a) SAVINGS CLAUSE.—Nothing in this subtitle af-
23 fects any decision, certificate, permit, right-of-way, lease,
24 or other authorization issued under section 9 of the Alaska
25 Natural Gas Transportation Act of 1976 (15 U.S.C.



1 719g) or any Presidential findings or waivers issued in
2 accordance with that Act.

3 (b) CLARIFICATION OF AUTHORITY TO AMEND
4 TERMS AND CONDITIONS TO MEET CURRENT PROJECT
5 REQUIREMENTS.—Any Federal officer or agency respon-
6 sible for granting or issuing any certificate, permit, right-
7 of-way, lease, or other authorization under section 9 of
8 the Alaska Natural Gas Transportation Act of 1976 (15
9 U.S.C. 719g) may add to, amend, or abrogate any term
10 or condition included in such certificate, permit, right-of-
11 way, lease, or other authorization to meet current project
12 requirements (including the physical design, facilities, and
13 tariff specifications), so long as such action does not com-
14 pel a change in the basic nature and general route of the
15 Alaska natural gas transportation system as designated
16 and described in section 2 of the President's decision, or
17 would otherwise prevent or impair in any significant re-
18 spect the expeditious construction and initial operation of
19 such transportation system.

20 (c) UPDATED ENVIRONMENTAL REVIEWS.—The Sec-
21 retary of Energy shall require the sponsor of the Alaska
22 natural gas transportation system to submit such updated
23 environmental data, reports, permits, and impact analyses
24 as the Secretary determines are necessary to develop de-



1 tailed terms, conditions, and compliance plans required by
2 section 5 of the President's decision.

3 **SEC. 2012. SENSE OF CONGRESS.**

4 It is the sense of Congress that an Alaska natural
5 gas transportation project will provide significant eco-
6 nomic benefits to the United States and Canada. In order
7 to maximize those benefits, Congress urges the sponsors
8 of the pipeline project to make every effort to use steel
9 that is manufactured or produced in North America and
10 to negotiate a project labor agreement to expedite con-
11 struction of the pipeline.

12 **SEC. 2013. PARTICIPATION OF SMALL BUSINESS CON-**
13 **CERNS.**

14 (a) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that an Alaska natural gas transportation project
16 will provide significant economic benefits to the United
17 States and Canada. In order to maximize those benefits,
18 Congress urges the sponsors of the pipeline project to
19 maximize the participation of small business concerns in
20 contracts and subcontracts awarded in carrying out the
21 project.

22 (b) STUDY.—

23 (1) IN GENERAL.—The Comptroller General
24 shall conduct a study on the extent to which small



1 business concerns participate in the construction of
2 oil and gas pipelines in the United States.

3 (2) REPORT.—Not later than 1 year after the
4 date of enactment of this Act, the Comptroller Gen-
5 eral shall transmit to Congress a report containing
6 the results of the study.

7 (3) UPDATES.—The Comptroller General shall
8 update the study at least once every 5 years and
9 transmit to Congress a report containing the results
10 of the update.

11 (4) APPLICABILITY.—After the date of comple-
12 tion of the construction of an Alaska natural gas
13 transportation project, this subsection shall no
14 longer apply.

15 (c) SMALL BUSINESS CONCERN DEFINED.—In this
16 section, the term “small business concern” has the mean-
17 ing given such term in section 3(a) of the Small Business
18 Act (15 U.S.C. 632(a)).

19 **SEC. 2014. ALASKA PIPELINE CONSTRUCTION TRAINING**
20 **PROGRAM.**

21 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
22 of Labor (in this section referred to as the “Secretary”)
23 may make grants to the Alaska Department of Labor and
24 Workforce Development to—



1 (1) develop a plan to train, through the work-
2 force investment system established in the State of
3 Alaska under the Workforce Investment Act of 1998
4 (112 Stat. 936 et seq.), adult and dislocated work-
5 ers, including Alaska Natives, in urban and rural
6 Alaska in the skills required to construct and oper-
7 ate an Alaska gas pipeline system; and

8 (2) implement the plan developed pursuant to
9 paragraph (1).

10 (b) REQUIREMENTS FOR PLANNING GRANTS.—The
11 Secretary may make a grant under subsection (a)(1) only
12 if—

13 (1) the Governor of Alaska certifies in writing
14 to the Secretary that there is a reasonable expecta-
15 tion that construction of an Alaska gas pipeline will
16 commence within 3 years after the date of such cer-
17 tification; and

18 (2) the Secretary of the Interior concurs in
19 writing to the Secretary with the certification made
20 under paragraph (1).

21 (c) REQUIREMENTS FOR IMPLEMENTATION
22 GRANTS.—The Secretary may make a grant under sub-
23 section (a)(2) only if—

24 (1) the Secretary has approved a plan developed
25 pursuant to subsection (a)(1);



1 Policy and Conservation Act (42 U.S.C. 6231 et
2 seq.) to full capacity as soon as practicable;

3 (2) acquire petroleum for the Strategic Petro-
4 leum Reserve by the most practicable and cost-effec-
5 tive means, with consideration being given to domes-
6 tically produced petroleum, including the acquisition
7 of crude oil the United States is entitled to receive
8 in kind as royalties from production on Federal
9 lands; and

10 (3) ensure that the fill rate minimizes impacts
11 on petroleum markets.

12 **SEC. 2102. STRATEGIC PETROLEUM RESERVE EXPANSION.**

13 (a) PLAN.—Not later than 180 days after the date
14 of the enactment of this Act, the Secretary of Energy shall
15 transmit to the Congress a plan for the expansion of the
16 Strategic Petroleum Reserve to 1,000,000,000 barrels,
17 including—

18 (1) plans for the elimination of infrastructure
19 impediments to maximum drawdown capability;

20 (2) a schedule for the completion of all required
21 environmental reviews;

22 (3) provision for consultation with Federal and
23 State environmental agencies;

24 (4) a schedule and procedures for site selection;
25 and



1 (5) anticipated annual budget requests.

2 (b) CONSTRUCTION OF ADDITIONAL CAPACITY.—The
3 Secretary of Energy shall acquire property and complete
4 construction for the expansion of the Strategic Petroleum
5 Reserve in accordance with the plan transmitted under
6 subsection (a).

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary of En-
9 ergy \$1,500,000,000 for carrying out this section, to re-
10 main available until expended.

11 **SEC. 2103. PERMANENT AUTHORITY TO OPERATE THE**
12 **STRATEGIC PETROLEUM RESERVE AND**
13 **OTHER ENERGY PROGRAMS.**

14 (a) AMENDMENT TO TITLE I OF THE ENERGY POL-
15 ICY AND CONSERVATION ACT.—Title I of the Energy Pol-
16 icy and Conservation Act (42 U.S.C. 6211 et seq.) is
17 amended—

18 (1) by striking section 166 (42 U.S.C. 6246)
19 and inserting—

20 “AUTHORIZATION OF APPROPRIATIONS

21 “SEC. 166. There are authorized to be appropriated
22 to the Secretary such sums as may be necessary to carry
23 out this part and part D, to remain available until ex-
24 pended.”;

25 (2) by striking section 186 (42 U.S.C. 6250e);
26 and



1 (3) by striking part E (42 U.S.C. 6251; relat-
2 ing to the expiration of title I of the Act).

3 (b) AMENDMENT TO TITLE II OF THE ENERGY POL-
4 ICY AND CONSERVATION ACT.—Title II of the Energy
5 Policy and Conservation Act (42 U.S.C. 6271 et seq.) is
6 amended—

7 (1) by inserting before section 273 (42 U.S.C.
8 6283) the following:

9 “PART C—SUMMER FILL AND FUEL BUDGETING
10 PROGRAMS”;

11 (2) by striking section 273(e) (42 U.S.C.
12 6283(e); relating to the expiration of summer fill
13 and fuel budgeting programs); and

14 (3) by striking part D (42 U.S.C. 6285; relat-
15 ing to the expiration of title II of the Act).

16 (c) TECHNICAL AMENDMENTS.—The table of con-
17 tents for the Energy Policy and Conservation Act is
18 amended—

19 (1) by amending the items relating to part D
20 of title I to read as follows:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.

“Sec. 182. Authority.

“Sec. 183. Conditions for release; plan.

“Sec. 184. Northeast Home Heating Oil Reserve Account.

“Sec. 185. Exemptions.”;

21 (2) by amending the items relating to part C of
22 title II to read as follows:



“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

“Sec. 273. Summer fill and fuel budgeting programs.”; and

1 (3) by striking the items relating to part D of
2 title II.

3 (d) AMENDMENT TO THE ENERGY POLICY AND CON-
4 SERVATION ACT.—Section 183(b)(1) of the Energy Policy
5 and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended
6 by inserting “(considered as a heating season average)”
7 after “mid-October through March”.

8 **Subtitle C—Hydraulic Fracturing**

9 **SEC. 2201. HYDRAULIC FRACTURING.**

10 (a) FINAL REPORT.—The Administrator of the Envi-
11 ronmental Protection Agency shall, as soon as practicable,
12 issue the final report of the study entitled “Evaluation of
13 Impacts to Underground Sources of Drinking Water by
14 Hydraulic Fracturing of Coalbed Methane Reservoirs”.

15 (b) SENSE OF CONGRESS.—It is the sense of the
16 Congress that the process of hydraulic fracturing is being
17 regulated by the States, and that Federal oversight of
18 groundwater resources by the Environmental Protection
19 Agency should not be extended to the process of hydraulic
20 fracturing under the Underground Injection Control pro-
21 gram without the Administrator finding sufficient sci-
22 entific evidence of the need to regulate the process to pro-
23 tect human health and the environment.



1 **Subtitle D—Unproven Oil and Nat-**
2 **ural Gas Reserves Recovery**
3 **Program**

4 **SEC. 2301. PROGRAM.**

5 The Secretary shall carry out a program to dem-
6 onstrate technologies for the recovery of oil and natural
7 gas reserves from reservoirs described in section 2302.

8 **SEC. 2302. ELIGIBLE RESERVOIRS.**

9 The program under this subtitle shall only address
10 oil and natural gas reservoirs with 1 or more of the fol-
11 lowing characteristics:

12 (1) Complex geology involving rapid changes in
13 the type and quality of the oil reservoir across the
14 reservoir.

15 (2) Low reservoir pressure.

16 (3) Unconventional natural gas reservoirs in
17 coalbeds, tight sands, or shales.

18 **SEC. 2303. FOCUS AREAS.**

19 The program under this subtitle may focus on areas
20 including coal-bed methane, deep drilling, natural gas pro-
21 duction from tight sands, natural gas production from gas
22 shales, innovative production techniques (including hori-
23 zontal drilling, fracture detection methodologies, and
24 three-dimensional seismic), and enhanced recovery tech-
25 niques.



1 **SEC. 2304. LIMITATION ON LOCATION OF ACTIVITIES.**

2 Activities under this subtitle shall be carried out
3 only—

4 (1) in—

5 (A) areas onshore in the United States on
6 public land administered by the Secretary of the
7 Interior available for oil and gas leasing, where
8 consistent with applicable law and land use
9 plans; and

10 (B) areas onshore in the United States on
11 State or private land, subject to applicable law;
12 and

13 (2) with the approval of the appropriate Fed-
14 eral or State land management agency or private
15 land owner.

16 **SEC. 2305. PROGRAM ADMINISTRATION.**

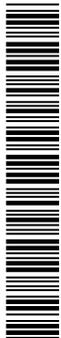
17 (a) **ROLE OF THE SECRETARY.**—The Secretary shall
18 have ultimate responsibility for, and oversight of, all as-
19 pects of the program under this subtitle.

20 (b) **ROLE OF THE PROGRAM CONSORTIUM.**—

21 (1) **IN GENERAL.**—The Secretary shall contract
22 with a consortium to—

23 (A) manage awards pursuant to subsection
24 (e)(4);

25 (B) make recommendations to the Sec-
26 retary for project solicitations;



1 (C) disburse funds awarded under sub-
2 section (e) as directed by the Secretary in ac-
3 cordance with the annual plan under subsection
4 (d); and

5 (D) carry out other activities assigned to
6 the program consortium by this section.

7 (2) LIMITATION.—The Secretary may not as-
8 sign any activities to the program consortium except
9 as specifically authorized under this section.

10 (3) CONFLICT OF INTEREST.—(A) The Sec-
11 retary shall establish procedures—

12 (i) to ensure that each board member, offi-
13 cer, or employee of the program consortium
14 who is in a decisionmaking capacity under sub-
15 section (e)(3) or (4) shall disclose to the Sec-
16 retary any financial interests in, or financial re-
17 lationships with, applicants for or recipients of
18 awards under this section, including those of
19 his or her spouse or minor child, unless such re-
20 lationships or interests would be considered to
21 be remote or inconsequential; and

22 (ii) to require any board member, officer,
23 or employee with a financial relationship or in-
24 terest disclosed under clause (i) to recuse him-
25 self or herself from any review under subsection



1 (e)(3) or oversight under subsection (e)(4) with
2 respect to such applicant or recipient.

3 (B) The Secretary may disqualify an applica-
4 tion or revoke an award under this section if a board
5 member, officer, or employee has failed to comply
6 with procedures required under subparagraph
7 (A)(ii).

8 (c) SELECTION OF THE PROGRAM CONSORTIUM.—

9 (1) IN GENERAL.—The Secretary shall select
10 the program consortium through an open, competi-
11 tive process.

12 (2) MEMBERS.—The program consortium may
13 include corporations and institutions of higher edu-
14 cation. The Secretary shall give preference in the se-
15 lection of the program consortium to applicants with
16 broad representation from the various major oil and
17 natural gas basins in the United States. After sub-
18 mitting a proposal under paragraph (4), the pro-
19 gram consortium may not add members without the
20 consent of the Secretary.

21 (3) TAX STATUS.—The program consortium
22 shall be an entity that is exempt from tax under sec-
23 tion 501(c)(3) of the Internal Revenue Code of
24 1986.



1 (4) SCHEDULE.—Not later than 90 days after
2 the date of enactment of this Act, the Secretary
3 shall solicit proposals for the creation of the pro-
4 gram consortium, which must be submitted not less
5 than 180 days after the date of enactment of this
6 Act. The Secretary shall select the program consor-
7 tium not later than 240 days after such date of en-
8 actment.

9 (5) APPLICATION.—Applicants shall submit a
10 proposal including such information as the Secretary
11 may require. At a minimum, each proposal shall—

12 (A) list all members of the consortium;

13 (B) fully describe the structure of the con-
14 sortium, including any provisions relating to in-
15 tellectual property; and

16 (C) describe how the applicant would carry
17 out the activities of the program consortium
18 under this section.

19 (6) ELIGIBILITY.—To be eligible to be selected
20 as the program consortium, an applicant must be an
21 entity whose members collectively have demonstrated
22 capabilities in planning and managing programs for
23 the production of oil or natural gas.

24 (7) CRITERION.—The Secretary may consider
25 the amount of the fee an applicant proposes to re-



1 ceive under subsection (f) in selecting a consortium
2 under this section.

3 (d) ANNUAL PLAN.—

4 (1) IN GENERAL.—The program under this
5 subtitle shall be carried out pursuant to an annual
6 plan prepared by the Secretary in accordance with
7 paragraph (2).

8 (2) DEVELOPMENT.—(A) Before drafting an
9 annual plan under this subsection, the Secretary
10 shall solicit specific written recommendations from
11 the program consortium for each element to be ad-
12 dressed in the plan, including those described in
13 paragraph (4). The Secretary may request that the
14 program consortium submit its recommendations in
15 the form of a draft annual plan.

16 (B) The Secretary shall submit the rec-
17 ommendations of the program consortium under
18 subparagraph (A) to the Advisory Committee for re-
19 view, and the Advisory Committee shall provide to
20 the Secretary written comments by a date deter-
21 mined by the Secretary. The Secretary may also so-
22 licit comments from any other experts.

23 (C) The Secretary shall consult regularly with
24 the program consortium throughout the preparation
25 of the annual plan.



1 (3) PUBLICATION.—The Secretary shall trans-
2 mit to the Congress and publish in the Federal Reg-
3 ister the annual plan, along with any written com-
4 ments received under paragraph (2)(A) and (B).
5 The annual plan shall be transmitted and published
6 not later than 60 days after the date of enactment
7 of an Act making appropriations for a fiscal year for
8 the program under this subtitle.

9 (4) CONTENTS.—The annual plan shall describe
10 the ongoing and prospective activities of the pro-
11 gram under this subtitle and shall include—

12 (A) a list of any solicitations for awards
13 that the Secretary plans to issue to carry out
14 activities, including the topics for such work,
15 who would be eligible to apply, selection cri-
16 teria, and the duration of awards; and

17 (B) a description of the activities expected
18 of the program consortium to carry out sub-
19 section (e)(4).

20 (e) AWARDS.—

21 (1) IN GENERAL.—The Secretary shall make
22 awards to carry out activities under the program
23 under this subtitle. The program consortium shall
24 not be eligible to receive such awards, but members
25 of the program consortium may receive such awards.



1 (2) PROPOSALS.—

2 (A) SOLICITATION.—The Secretary shall
3 solicit proposals for awards under this sub-
4 section in such manner and at such time as the
5 Secretary may prescribe, in consultation with
6 the program consortium.

7 (B) CONTENTS.—Each proposal submitted
8 shall include the following:

9 (i) An estimate of the potential
10 unproven reserves in the reservoir, estab-
11 lished by a registered petroleum engineer.

12 (ii) An estimate of the potential for
13 success of the project.

14 (iii) A detailed project plan.

15 (iv) A detailed analysis of the costs
16 associated with the project.

17 (v) A time frame for project comple-
18 tion.

19 (vi) Evidence that any lienholder on
20 the project will subordinate its interests to
21 the extent necessary to ensure that the
22 Federal government receives its portion of
23 any revenues pursuant to section 2308.

24 (vii) Such other matters as the Sec-
25 retary considers appropriate.



1 (3) REVIEW.—The Secretary shall make awards
2 under this subsection through a competitive process,
3 which shall include a review by individuals selected
4 by the Secretary. Such individuals shall include, for
5 each application, Federal officials, the program con-
6 sortium, and non-Federal experts who are not board
7 members, officers, or employees of the program con-
8 sortium or of a member of the program consortium.

9 (4) OVERSIGHT.—(A) The program consortium
10 shall oversee the implementation of awards under
11 this subsection, consistent with the annual plan
12 under subsection (d), including disbursing funds and
13 monitoring activities carried out under such awards
14 for compliance with the terms and conditions of the
15 awards.

16 (B) Nothing in subparagraph (A) shall limit the
17 authority or responsibility of the Secretary to over-
18 see awards, or limit the authority of the Secretary
19 to review or revoke awards.

20 (C) The Secretary shall provide to the program
21 consortium the information necessary for the pro-
22 gram consortium to carry out its responsibilities
23 under this paragraph.

24 (f) FEE.—To compensate the program consortium
25 for carrying out its activities under this section, the Sec-



1 retary shall provide to the program consortium a fee in
2 an amount not to exceed 7.5 percent of the amounts
3 awarded under subsection (e) for each fiscal year.

4 (g) **DISALLOWED EXPENSES.**—No portion of any
5 award shall be used by a recipient for general or adminis-
6 trative expenses of any kind.

7 (h) **AUDIT.**—The Secretary shall retain an inde-
8 pendent, commercial auditor to determine the extent to
9 which funds provided to the program consortium, and
10 funds provided under awards made under subsection (e),
11 have been expended in a manner consistent with the pur-
12 poses and requirements of this subtitle. The auditor shall
13 transmit a report annually to the Secretary, who shall
14 transmit the report to Congress, along with a plan to rem-
15 edy any deficiencies cited in the report.

16 **SEC. 2306. ADVISORY COMMITTEE.**

17 (a) **ESTABLISHMENT.**—Not later than 270 days after
18 the date of enactment of this Act, the Secretary shall es-
19 tablish an Advisory Committee.

20 (b) **MEMBERSHIP.**—The Advisory Committee shall be
21 composed of members appointed by the Secretary and
22 including—

23 (1) individuals with extensive experience or
24 operational knowledge of oil and natural gas produc-
25 tion, including independent oil and gas producers;



1 (2) individuals broadly representative of oil and
2 natural gas production; and

3 (3) no individuals who are Federal employees.

4 (c) DUTIES.—The Advisory Committee shall advise
5 the Secretary on the development and implementation of
6 activities under this subtitle.

7 (d) COMPENSATION.—A member of the Advisory
8 Committee shall serve without compensation but shall re-
9 ceive travel expenses, including per diem in lieu of subsist-
10 ence, in accordance with applicable provisions under sub-
11 chapter I of chapter 57 of title 5, United States Code.

12 (e) PROHIBITION.—The Advisory Committee shall
13 not make recommendations on funding awards to con-
14 sortia or for specific projects.

15 **SEC. 2307. LIMITS ON PARTICIPATION.**

16 An entity shall be eligible to receive an award under
17 this subtitle only if the Secretary finds—

18 (1) that the entity's participation in the pro-
19 gram under this subtitle would be in the economic
20 interest of the United States;

21 (2) that the entity is a United States-owned en-
22 tity organized under the laws of the United States
23 with production levels of less than 1,000 barrels per
24 day of oil equivalent; and



1 (3) that the entity has demonstrated that non-
2 governmental third party sources of financing are
3 not available for the proposal project.

4 **SEC. 2308. PAYMENTS TO FEDERAL GOVERNMENT.**

5 (a) INITIAL RATE.—Until the amount of a grant
6 under this subtitle has been fully repaid to the Federal
7 Government under this subsection, 95 percent of all reve-
8 nues derived from increased incremental production at-
9 tributable to participation in the program under this sub-
10 title shall be paid to the Secretary by the purchaser of
11 such increased production.

12 (b) RATE AFTER REPAYMENT.—After the Federal
13 Government has been fully repaid under subsection (a),
14 5 percent of all revenues derived from increased incre-
15 mental production attributable to participation in the pro-
16 gram under this subtitle shall be paid to the Secretary
17 by the purchaser of such increased production.

18 **SEC. 2309. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated to the Sec-
20 retary for carrying out this subtitle \$100,000,000, to re-
21 main available until expended.

22 **SEC. 2310. PUBLIC AVAILABILITY OF PROJECT RESULTS**
23 **AND METHODOLOGIES.**

24 The results of any project undertaken pursuant to
25 this subtitle and the methodologies used to achieve those



1 results shall be made public by the Secretary. The meth-
2 odologies used shall not be proprietary so that such meth-
3 odologies may be used for other projects by persons not
4 seeking awards pursuant to this subtitle.

5 **SEC. 2311. SUNSET.**

6 The authority provided by this subtitle shall termi-
7 nate on September 30, 2010.

8 **SEC. 2312. DEFINITIONS.**

9 In this subtitle:

10 (1) **PROGRAM CONSORTIUM.**—The term “pro-
11 gram consortium” means the consortium selected
12 under section 2305(c).

13 (2) **REMOTE OR INCONSEQUENTIAL.**—The term
14 “remote or inconsequential” has the meaning given
15 that term in regulations issued by the Office of Gov-
16 ernment Ethics under section 208(b)(2) of title 18,
17 United States Code.

18 (3) **SECRETARY.**—The term “Secretary” means
19 the Secretary of Energy.

20 **Subtitle E—Miscellaneous**

21 **SEC. 2401. APPEALS RELATING TO PIPELINE CONSTRUC-**
22 **TION PROJECTS.**

23 (a) **AGENCY OF RECORD.**—Any Federal administra-
24 tive agency proceeding that is an appeal or review of Fed-
25 eral authority for an interstate natural gas pipeline con-



1 struction project, including construction of natural gas
2 storage and liquefied natural gas facilities, shall use as
3 its exclusive record for all purposes the record compiled
4 by the Federal Energy Regulatory Commission pursuant
5 to such Commission's proceeding under section 7 of the
6 Natural Gas Act.

7 (b) SENSE OF THE CONGRESS.—It is the sense of
8 the Congress that all Federal and State agencies with ju-
9 risdiction over interstate natural gas pipeline construction
10 activities should coordinate their proceedings within the
11 time frames established by the Federal Energy Regulatory
12 Commission while it is acting pursuant to section 7 of the
13 Natural Gas Act to determine whether a proposed inter-
14 state natural gas pipeline is in the public convenience and
15 necessity.

16 **SEC. 2402. NATURAL GAS MARKET DATA.**

17 Not later than six months after the date of enactment
18 of this section, the Federal Energy Regulatory Commis-
19 sion shall, after public hearings and opportunity for com-
20 ment, report to the Congress on the reliability of natural
21 gas collection data with recommendations to ensure mar-
22 ket reporting transparency.



1 **SEC. 2403. OIL AND GAS EXPLORATION AND PRODUCTION**
2 **DEFINED.**

3 Section 502 of the Federal Water Pollution Control
4 Act (33 U.S.C. 1362) is amended by adding at the end
5 the following:

6 “(21) The term ‘oil and gas exploration and produc-
7 tion’ means all field operations necessary for both explo-
8 ration and production of oil and gas, including activities
9 necessary to prepare a site for drilling and for the move-
10 ment and placement of drilling equipment, whether or not
11 such activities may be considered construction activities.”.

12 **TITLE III—HYDROELECTRIC**
13 **RELICENSING**

14 **SEC. 3001. ALTERNATIVE CONDITIONS AND FISHWAYS.**

15 (a) **FEDERAL RESERVATIONS.**—Section 4(e) of the
16 Federal Power Act (16 U.S.C. 797(e)) is amended by in-
17 serting after “adequate protection and utilization of such
18 reservation.” at the end of the first proviso the following:
19 “The license applicant shall be entitled to a determination
20 on the record, after opportunity for an agency trial-type
21 hearing of any disputed issues of material fact, with re-
22 spect to such conditions.”.

23 (b) **FISHWAYS.**—Section 18 of the Federal Power Act
24 (16 U.S.C. 811) is amended by inserting after “and such
25 fishways as may be prescribed by the Secretary of Com-
26 merce.” the following: “The license applicant shall be enti-



1 tled to a determination on the record, after opportunity
2 for an agency trial-type hearing of any disputed issues of
3 material fact, with respect to such fishways.”.

4 (c) ALTERNATIVE CONDITIONS AND PRESCRIP-
5 TIONS.—Part I of the Federal Power Act (16 U.S.C. 791a
6 et seq.) is amended by adding the following new section
7 at the end thereof:

8 **“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

9 “(a) ALTERNATIVE CONDITIONS.—(1) Whenever any
10 person applies for a license for any project works within
11 any reservation of the United States, and the Secretary
12 of the department under whose supervision such reserva-
13 tion falls (referred to in this subsection as ‘the Secretary’)
14 deems a condition to such license to be necessary under
15 the first proviso of section 4(e), the license applicant may
16 propose an alternative condition.

17 “(2) Notwithstanding the first proviso of section 4(e),
18 the Secretary shall accept the proposed alternative condi-
19 tion referred to in paragraph (1), and the Commission
20 shall include in the license such alternative condition, if
21 the Secretary determines, based on substantial evidence
22 provided by the license applicant or otherwise available to
23 the Secretary, that such alternative condition—

24 “(A) provides for the adequate protection and
25 utilization of the reservation; and



1 “(B) will either—
2 “(i) cost less to implement; or
3 “(ii) result in improved operation of the
4 project works for electricity production,
5 as compared to the condition initially deemed nec-
6 essary by the Secretary.

7 “(3) The Secretary shall submit into the public
8 record of the Commission proceeding with any condition
9 under section 4(e) or alternative condition it accepts under
10 this section, a written statement explaining the basis for
11 such condition, and reason for not accepting any alter-
12 native condition under this section. The written statement
13 must demonstrate that the Secretary gave equal consider-
14 ation to the effects of the condition adopted and alter-
15 natives not accepted on energy supply, distribution, cost,
16 and use; flood control; navigation; water supply; and air
17 quality (in addition to the preservation of other aspects
18 of environmental quality); based on such information as
19 may be available to the Secretary, including information
20 voluntarily provided in a timely manner by the applicant
21 and others. The Secretary shall also submit, together with
22 the aforementioned written statement, all studies, data,
23 and other factual information available to the Secretary
24 and relevant to the Secretary’s decision.



1 “(4) Nothing in this section shall prohibit other inter-
2 sted parties from proposing alternative conditions.

3 “(5) If the Secretary does not accept an applicant’s
4 alternative condition under this section, and the Commis-
5 sion finds that the Secretary’s condition would be incon-
6 sistent with the purposes of this part, or other applicable
7 law, the Commission may refer the dispute to the Commis-
8 sion’s Dispute Resolution Service. The Dispute Resolution
9 Service shall consult with the Secretary and the Commis-
10 sion and issue a non-binding advisory within 90 days. The
11 Secretary may accept the Dispute Resolution Service advi-
12 sory unless the Secretary finds that the recommendation
13 will not adequately protect the reservation. The Secretary
14 shall submit the advisory and the Secretary’s final written
15 determination into the record of the Commission’s pro-
16 ceeding.

17 “(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever
18 the Secretary of the Interior or the Secretary of Commerce
19 prescribes a fishway under section 18, the license appli-
20 cant or licensee may propose an alternative to such pre-
21 scription to construct, maintain, or operate a fishway. The
22 alternative may include a fishway or an alternative to a
23 fishway.

24 “(2) Notwithstanding section 18, the Secretary of the
25 Interior or the Secretary of Commerce, as appropriate,



1 shall accept and prescribe, and the Commission shall re-
2 quire, the proposed alternative referred to in paragraph
3 (1), if the Secretary of the appropriate department deter-
4 mines, based on substantial evidence provided by the li-
5 censee or otherwise available to the Secretary, that such
6 alternative—

7 “(A) will be no less protective of the fish re-
8 sources than the fishway initially prescribed by the
9 Secretary; and

10 “(B) will either—

11 “(i) cost less to implement; or

12 “(ii) result in improved operation of the
13 project works for electricity production,
14 as compared to the fishway initially deemed nec-
15 essary by the Secretary.

16 “(3) The Secretary concerned shall submit into the
17 public record of the Commission proceeding with any pre-
18 scription under section 18 or alternative prescription it ac-
19 cepts under this section, a written statement explaining
20 the basis for such prescription, and reason for not accept-
21 ing any alternative prescription under this section. The
22 written statement must demonstrate that the Secretary
23 gave equal consideration to the effects of the condition
24 adopted and alternatives not accepted on energy supply,
25 distribution, cost, and use; flood control; navigation; water



1 supply; and air quality (in addition to the preservation of
2 other aspects of environmental quality); based on such in-
3 formation as may be available to the Secretary, including
4 information voluntarily provided in a timely manner by the
5 applicant and others. The Secretary shall also submit, to-
6 gether with the aforementioned written statement, all
7 studies, data, and other factual information available to
8 the Secretary and relevant to the Secretary's decision.

9 “(4) Nothing in this section shall prohibit other inter-
10 ested parties from proposing alternative prescriptions.

11 “(5) If the Secretary concerned does not accept an
12 applicant's alternative prescription under this section, and
13 the Commission finds that the Secretary's prescription
14 would be inconsistent with the purposes of this part, or
15 other applicable law, the Commission may refer the dis-
16 pute to the Commission's Dispute Resolution Service. The
17 Dispute Resolution Service shall consult with the Sec-
18 retary and the Commission and issue a non-binding advi-
19 sory within 90 days. The Secretary may accept the Dis-
20 pute Resolution Service advisory unless the Secretary
21 finds that the recommendation will not adequately protect
22 the fish resources. The Secretary shall submit the advisory
23 and the Secretary's final written determination into the
24 record of the Commission's proceeding.”.



1 **TITLE IV—NUCLEAR MATTERS**
2 **Subtitle A—Price-Anderson Act**
3 **Amendments**

4 **SEC. 4001. SHORT TITLE.**

5 This subtitle may be cited as the “Price-Anderson
6 Amendments Act of 2003”.

7 **SEC. 4002. EXTENSION OF INDEMNIFICATION AUTHORITY.**

8 (a) INDEMNIFICATION OF NUCLEAR REGULATORY
9 COMMISSION LICENSEES.—Section 170 c. of the Atomic
10 Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

11 (1) in the subsection heading, by striking “LI-
12 CENSES” and inserting “LICENSEES”; and

13 (2) by striking “December 31, 2003” each
14 place it appears and inserting “August 1, 2017”.

15 (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY
16 CONTRACTORS.—Section 170 d.(1)(A) of the Atomic En-
17 ergy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended
18 by striking “December 31, 2004” and inserting “August
19 1, 2017”.

20 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL
21 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act
22 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-
23 gust 1, 2002” each place it appears and inserting “August
24 1, 2017”.



1 **SEC. 4003. MAXIMUM ASSESSMENT.**

2 Section 170 b.(1) of the Atomic Energy Act of 1954
3 (42 U.S.C. 2210(b)(1)) is amended—

4 (1) in the second proviso of the third
5 sentence—

6 (A) by striking “\$63,000,000” and insert-
7 ing “\$94,000,000”; and

8 (B) by striking “\$10,000,000 in any 1
9 year” and inserting “\$15,000,000 in any 1 year
10 (subject to adjustment for inflation under sub-
11 section t.)”; and

12 (2) in subsection t.—

13 (A) by inserting “total and annual” after
14 “amount of the maximum”;

15 (B) by striking “the date of the enactment
16 of the Price-Anderson Amendments Act of
17 1988” and inserting “July 1, 2002”; and

18 (C) by striking “such date of enactment”
19 and inserting “July 1, 2002”.

20 **SEC. 4004. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

21 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY
22 CONTRACTORS.—Section 170 d. of the Atomic Energy Act
23 of 1954 (42 U.S.C. 2210(d)) is amended by striking para-
24 graph (2) and inserting the following:

25 “(2) In an agreement of indemnification entered into
26 under paragraph (1), the Secretary—



1 “(A) may require the contractor to provide and
2 maintain the financial protection of such a type and
3 in such amounts as the Secretary shall determine to
4 be appropriate to cover public liability arising out of
5 or in connection with the contractual activity; and

6 “(B) shall indemnify the persons indemnified
7 against such liability above the amount of the finan-
8 cial protection required, in the amount of
9 \$10,000,000,000 (subject to adjustment for inflation
10 under subsection t.), in the aggregate, for all per-
11 sons indemnified in connection with the contract and
12 for each nuclear incident, including such legal costs
13 of the contractor as are approved by the Secretary.”.

14 (b) CONTRACT AMENDMENTS.—Section 170 d. of the
15 Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is
16 amended by striking paragraph (3) and inserting the fol-
17 lowing:

18 “(3) All agreements of indemnification under which
19 the Department of Energy (or its predecessor agencies)
20 may be required to indemnify any person under this sec-
21 tion shall be deemed to be amended, on the date of enact-
22 ment of the Price-Anderson Amendments Act of 2003, to
23 reflect the amount of indemnity for public liability and any
24 applicable financial protection required of the contractor
25 under this subsection.”.



1 (c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the
2 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is
3 amended—

4 (1) by striking “the maximum amount of finan-
5 cial protection required under subsection b. or”; and

6 (2) by striking “paragraph (3) of subsection d.,
7 whichever amount is more” and inserting “para-
8 graph (2) of subsection d.”.

9 **SEC. 4005. INCIDENTS OUTSIDE THE UNITED STATES.**

10 (a) AMOUNT OF INDEMNIFICATION.—Section 170
11 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.
12 2210(d)(5)) is amended by striking “\$100,000,000” and
13 inserting “\$500,000,000”.

14 (b) LIABILITY LIMIT.—Section 170 e.(4) of the
15 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is
16 amended by striking “\$100,000,000” and inserting
17 “\$500,000,000”.

18 **SEC. 4006. REPORTS.**

19 Section 170 p. of the Atomic Energy Act of 1954 (42
20 U.S.C. 2210(p)) is amended by striking “August 1, 1998”
21 and inserting “August 1, 2013”.

22 **SEC. 4007. INFLATION ADJUSTMENT.**

23 Section 170 t. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2210(t)) is amended—



1 (1) by redesignating paragraph (2) as para-
2 graph (3); and

3 (2) by adding after paragraph (1) the following:

4 “(2) The Secretary shall adjust the amount of indem-
5 nification provided under an agreement of indemnification
6 under subsection d. not less than once during each 5-year
7 period following July 1, 2002, in accordance with the ag-
8 gregate percentage change in the Consumer Price Index
9 since—

10 “(A) that date, in the case of the first adjust-
11 ment under this paragraph; or

12 “(B) the previous adjustment under this para-
13 graph.”.

14 **SEC. 4008. PRICE-ANDERSON TREATMENT OF MODULAR RE-**
15 **ACTORS.**

16 Section 170 b. of the Atomic Energy Act of 1954 (42
17 U.S.C. 2210(b)) is amended by adding at the end the fol-
18 lowing new paragraph:

19 “(5)(A) For purposes of this section only, the Com-
20 mission shall consider a combination of facilities described
21 in subparagraph (B) to be a single facility having a rated
22 capacity of 100,000 electrical kilowatts or more.

23 “(B) A combination of facilities referred to in sub-
24 paragraph (A) is 2 or more facilities located at a single
25 site, each of which has a rated capacity of 100,000 elec-



1 trical kilowatts or more but not more than 300,000 elec-
2 trical kilowatts, with a combined rated capacity of not
3 more than 1,300,000 electrical kilowatts.”.

4 **SEC. 4009. APPLICABILITY.**

5 The amendments made by sections 4003, 4004, and
6 4005 do not apply to a nuclear incident that occurs before
7 the date of enactment of this Act.

8 **SEC. 4010. PROHIBITION ON ASSUMPTION BY UNITED**
9 **STATES GOVERNMENT OF LIABILITY FOR**
10 **CERTAIN FOREIGN ACCIDENTS.**

11 Section 170 of the Atomic Energy Act of 1954 (42
12 U.S.C. 2210) is amended by adding at the end the fol-
13 lowing new subsection:

14 “u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR
15 CERTAIN FOREIGN ACCIDENTS.—Notwithstanding this
16 section or any other provision of law, no officer of the
17 United States or of any department, agency, or instrumen-
18 tality of the United States Government may enter into any
19 contract or other arrangement, or into any amendment or
20 modification of a contract or other arrangement, the pur-
21 pose or effect of which would be to directly or indirectly
22 impose liability on the United States Government, or any
23 department, agency, or instrumentality of the United
24 States Government, or to otherwise directly or indirectly
25 require an indemnity by the United States Government,



1 for nuclear accidents occurring in connection with the de-
2 sign, construction, or operation of a production facility or
3 utilization facility in any country whose government has
4 been identified by the Secretary of State as engaged in
5 state sponsorship of terrorist activities (specifically includ-
6 ing any country the government of which, as of September
7 11, 2001, had been determined by the Secretary of State
8 under section 620A(a) of the Foreign Assistance Act of
9 1961, section 6(j)(1) of the Export Administration Act of
10 1979, or section 40(d) of the Arms Export Control Act
11 to have repeatedly provided support for acts of inter-
12 national terrorism).”.

13 **SEC. 4011. SECURE TRANSFER OF NUCLEAR MATERIALS.**

14 (a) AMENDMENT.—Chapter 14 of the Atomic Energy
15 Act of 1954 (42 U.S.C. 2201–2210b) is amended by add-
16 ing at the end the following new section:

17 “SEC. 170C. SECURE TRANSFER OF NUCLEAR MA-
18 TERIALS.—

19 “a. The Nuclear Regulatory Commission shall estab-
20 lish a system to ensure that, with respect to activities by
21 any party pursuant to a license issued under this Act—

22 “(1) materials described in subsection b., when
23 transferred or received in the United States—

24 “(A) from a facility licensed by the Nu-
25 clear Regulatory Commission;



1 “(B) from a facility licensed by an agree-
2 ment State; or

3 “(C) from a country with whom the United
4 States has an agreement for cooperation under
5 section 123,

6 are accompanied by a manifest describing the type
7 and amount of materials being transferred;

8 “(2) each individual transferring or accom-
9 panying the transfer of such materials has been sub-
10 ject to a security background check by appropriate
11 Federal entities; and

12 “(3) such materials are not transferred to or
13 received at a destination other than a facility li-
14 censed by the Nuclear Regulatory Commission or an
15 agreement State under this Act or other appropriate
16 Federal facility, or a destination outside the United
17 States in a country with whom the United States
18 has an agreement for cooperation under section 123.

19 “b. Except as otherwise provided by the Commission
20 by regulation, the materials referred to in subsection a.
21 are byproduct materials, source materials, special nuclear
22 materials, high-level radioactive waste, spent nuclear fuel,
23 transuranic waste, and low-level radioactive waste (as de-
24 fined in section 2(16) of the Nuclear Waste Policy Act
25 of 1982 (42 U.S.C. 10101(16))).”.



1 (b) REGULATIONS.—Not later than 1 year after the
2 date of the enactment of this Act, and from time to time
3 thereafter as it considers necessary, the Nuclear Regu-
4 latory Commission shall issue regulations identifying ra-
5 dioactive materials that, consistent with the protection of
6 public health and safety and the common defense and se-
7 curity, are appropriate exceptions to the requirements of
8 section 170C of the Atomic Energy Act of 1954, as added
9 by subsection (a) of this section.

10 (c) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall take effect upon the issuance of regu-
12 lations under subsection (b).

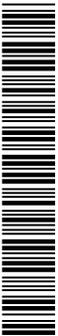
13 (d) EFFECT ON OTHER LAW.—Nothing in this sec-
14 tion or the amendment made by this section shall waive,
15 modify, or affect the application of chapter 51 of title 49,
16 United States Code, part A of subtitle V of title 49,
17 United States Code, part B of subtitle VI of title 49,
18 United States Code, and title 23, United States Code.

19 (e) TABLE OF SECTIONS AMENDMENT.—The table of
20 sections for chapter 14 of the Atomic Energy Act of 1954
21 is amended by adding at the end the following new item:

“Sec. 170C. Secure transfer of nuclear materials.”.

22 **SEC. 4012. NUCLEAR FACILITY THREATS.**

23 (a) STUDY.—The President, in consultation with the
24 Nuclear Regulatory Commission and other appropriate
25 Federal, State, and local agencies and private entities,



1 shall conduct a study to identify the types of threats that
2 pose an appreciable risk to the security of the various
3 classes of facilities licensed by the Nuclear Regulatory
4 Commission under the Atomic Energy Act of 1954. Such
5 study shall take into account, but not be limited to—

- 6 (1) the events of September 11, 2001;
- 7 (2) an assessment of physical, cyber, bio-
8 chemical, and other terrorist threats;
- 9 (3) the potential for attack on facilities by mul-
10 tiple coordinated teams of a large number of individ-
11 uals;
- 12 (4) the potential for assistance in an attack
13 from several persons employed at the facility;
- 14 (5) the potential for suicide attacks;
- 15 (6) the potential for water-based and air-based
16 threats;
- 17 (7) the potential use of explosive devices of con-
18 siderable size and other modern weaponry;
- 19 (8) the potential for attacks by persons with a
20 sophisticated knowledge of facility operations;
- 21 (9) the potential for fires, especially fires of
22 long duration; and
- 23 (10) the potential for attacks on spent fuel
24 shipments by multiple coordinated teams of a large
25 number of individuals.



1 (b) SUMMARY AND CLASSIFICATION REPORT.—Not
2 later than 180 days after the date of the enactment of
3 this Act, the President shall transmit to the Congress and
4 the Nuclear Regulatory Commission a report—

5 (1) summarizing the types of threats identified
6 under subsection (a); and

7 (2) classifying each type of threat identified
8 under subsection (a), in accordance with existing
9 laws and regulations, as either—

10 (A) involving attacks and destructive acts,
11 including sabotage, directed against the facility
12 by an enemy of the United States, whether a
13 foreign government or other person, or other-
14 wise falling under the responsibilities of the
15 Federal Government; or

16 (B) involving the type of risks that Nu-
17 clear Regulatory Commission licensees should
18 be responsible for guarding against.

19 (c) FEDERAL ACTION REPORT.—Not later than 90
20 days after the date on which a report is transmitted under
21 subsection (b), the President shall transmit to the Con-
22 gress a report on actions taken, or to be taken, to address
23 the types of threats identified under subsection (b)(2)(A).
24 Such report may include a classified annex as appropriate.



1 (d) REGULATIONS.—Not later than 270 days after
2 the date on which a report is transmitted under subsection
3 (b), the Nuclear Regulatory Commission shall issue regu-
4 lations, including changes to the design basis threat, to
5 ensure that licensees address the threats identified under
6 subsection (b)(2)(B).

7 (e) PHYSICAL SECURITY PROGRAM.—The Nuclear
8 Regulatory Commission shall establish an operational
9 safeguards response evaluation program that ensures that
10 the physical protection capability and operational safe-
11 guards response for sensitive nuclear facilities, as deter-
12 mined by the Commission consistent with the protection
13 of public health and the common defense and security,
14 shall be tested periodically through Commission approved
15 or designed, observed, and evaluated force-on-force exer-
16 cises to determine whether the ability to defeat the design
17 basis threat is being maintained. For purposes of this sub-
18 section, the term “sensitive nuclear facilities” includes at
19 a minimum commercial nuclear power plants, including
20 associated spent fuel storage facilities, spent fuel storage
21 pools and dry cask storage at closed reactors, independent
22 spent fuel storage facilities and geologic repository oper-
23 ations areas, category I fuel cycle facilities, and gaseous
24 diffusion plants.



1 (f) CONTROL OF INFORMATION.—In carrying out this
2 section, the President and the Nuclear Regulatory Com-
3 mission shall control the dissemination of restricted data,
4 safeguards information, and other classified national secu-
5 rity information in a manner so as to ensure the common
6 defense and security, consistent with chapter 12 of the
7 Atomic Energy Act of 1954.

8 **SEC. 4013. UNREASONABLE RISK CONSULTATION.**

9 Section 170 of the Atomic Energy Act of 1954 (42
10 U.S.C. 2210) is amended by adding at the end the fol-
11 lowing new subsection:

12 “v. UNREASONABLE RISK CONSULTATION.—Before
13 entering into an agreement of indemnification under this
14 section with respect to a utilization facility, the Nuclear
15 Regulatory Commission shall consult with the Assistant
16 to the President for Homeland Security (or any successor
17 official) concerning whether the location of the proposed
18 facility and the design of that type of facility ensure that
19 the facility provides for adequate protection of public
20 health and safety if subject to a terrorist attack.”.

21 **SEC. 4014. FINANCIAL ACCOUNTABILITY.**

22 (a) AMENDMENT.—Section 170 of the Atomic En-
23 ergy Act of 1954 (42 U.S.C. 2210) is amended by adding
24 at the end the following new subsection:



1 “w. FINANCIAL ACCOUNTABILITY.—(1) Notwith-
2 standing subsection d., the Attorney General may bring
3 an action in the appropriate United States district court
4 to recover from a contractor of the Secretary (or subcon-
5 tractor or supplier of such contractor) amounts paid by
6 the Federal Government under an agreement of indem-
7 nification under subsection d. for public liability resulting
8 from conduct which constitutes intentional misconduct of
9 any corporate officer, manager, or superintendent of such
10 contractor (or subcontractor or supplier of such con-
11 tractor).

12 “(2) The Attorney General may recover under para-
13 graph (1) an amount not to exceed the amount of the prof-
14 it derived by the defendant from the contract.

15 “(3) No amount recovered from any contractor (or
16 subcontractor or supplier of such contractor) under para-
17 graph (1) may be reimbursed directly or indirectly by the
18 Department of Energy.

19 “(4) Paragraph (1) shall not apply to any nonprofit
20 entity conducting activities under contract for the Sec-
21 retary.

22 “(5) No waiver of a defense required under this sec-
23 tion shall prevent a defendant from asserting such defense
24 in an action brought under this subsection.



1 “(6) The Secretary shall, by rule, define the terms
2 ‘profit’ and ‘nonprofit entity’ for purposes of this sub-
3 section. Such rulemaking shall be completed not later than
4 180 days after the date of the enactment of this sub-
5 section.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall not apply to any agreement of indem-
8 nification entered into under section 170 d. of the Atomic
9 Energy Act of 1954 (42 U.S.C. 2210(d)) before the date
10 of the enactment of this Act.

11 **SEC. 4015. CIVIL PENALTIES.**

12 (a) REPEAL OF AUTOMATIC REMISSION.—Section
13 234A b. (2) of the Atomic Energy Act of 1954 (42 U.S.C.
14 2282a(b)(2)) is amended by striking the last sentence.

15 (b) LIMITATION FOR NONPROFIT INSTITUTIONS.—
16 Subsection d. of section 234A of the Atomic Energy Act
17 of 1954 (42 U.S.C. 2282a(d)) is amended to read as fol-
18 lows:

19 “d. Notwithstanding subsection a., a civil penalty for
20 a violation under subsection a. shall not exceed the amount
21 of any discretionary fee paid under the contract under
22 which such violation occurs for any nonprofit contractor,
23 subcontractor, or supplier—



1 the public of such discussions within 15 days after they
2 occur. The Commission shall promptly make a transcript
3 of the recording available to the public on request, except
4 to the extent that public disclosure is exempted or prohib-
5 ited by law. This section shall not apply to a meeting,
6 within the meaning of that term under section 552b(a)(2)
7 of title 5, United States Code.

8 **SEC. 4023. NRC TRAINING PROGRAM.**

9 (a) IN GENERAL.—In order to maintain the human
10 resource investment and infrastructure of the United
11 States in the nuclear sciences, health physics, and engi-
12 neering fields, in accordance with the statutory authorities
13 of the Commission relating to the civilian nuclear energy
14 program, the Nuclear Regulatory Commission shall carry
15 out a training and fellowship program to address short-
16 ages of individuals with critical nuclear safety regulatory
17 skills.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) IN GENERAL.—There are authorized to be
20 appropriated to carry out this section \$1,000,000 for
21 each of fiscal years 2004 through 2007.

22 (2) AVAILABILITY.—Funds made available
23 under paragraph (1) shall remain available until ex-
24 pended.



1 **SEC. 4024. COST RECOVERY FROM GOVERNMENT AGEN-**
2 **CIES.**

3 Section 161 w. of the Atomic Energy Act of 1954
4 (42 U.S.C. 2201(w)) is amended—

5 (1) by striking “for or is issued” and all that
6 follows through “1702” and inserting “to the Com-
7 mission for, or is issued by the Commission, a li-
8 cense or certificate”;

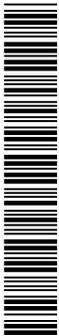
9 (2) by striking “483a” and inserting “9701”;
10 and

11 (3) by striking “, of applicants for, or holders
12 of, such licenses or certificates”.

13 **SEC. 4025. ELIMINATION OF PENSION OFFSET.**

14 Section 161 of the Atomic Energy Act of 1954 (42
15 U.S.C. 2201) is amended by adding at the end the fol-
16 lowing:

17 “y. exempt from the application of sections
18 8344 and 8468 of title 5, United States Code, an
19 annuitant who was formerly an employee of the
20 Commission who is hired by the Commission as a
21 consultant, if the Commission finds that the annu-
22 itant has a skill that is critical to the performance
23 of the duties of the Commission.”.



1 **SEC. 4026. CARRYING OF FIREARMS BY LICENSEE EMPLOY-**
2 **EES.**

3 Section 161k. of the Atomic Energy Act of 1954 (42
4 U.S.C. 2201(k)) is amended to read as follows:

5 “k. authorize such of its members, officers, and
6 employees as it deems necessary in the interest of
7 the common defense and security to carry firearms
8 while in the discharge of their official duties. The
9 Commission may also authorize—

10 “(1) such of those employees of its con-
11 tractors and subcontractors (at any tier) en-
12 gaged in the protection of property under the
13 jurisdiction of the United States located at fa-
14 cilities owned by or contracted to the United
15 States or being transported to or from such fa-
16 cilities as it deems necessary in the interests of
17 the common defense and security; and

18 “(2) such of those employees of persons li-
19 censed or certified by the Commission (includ-
20 ing employees of contractors of licensees or cer-
21 tificate holders) engaged in the protection of
22 property of (A) facilities owned or operated by
23 a Commission licensee or certificate holder that
24 are designated by the Commission, or (B) prop-
25 erty of significance to the common defense and
26 security located at facilities owned or operated



1 by a Commission licensee or certificate holder
2 or being transported to or from such facilities;
3 to carry firearms while in the discharge of their offi-
4 cial duties. A person authorized to carry firearms
5 under this subsection may, while in the performance
6 of, and in connection with, official duties, make ar-
7 rests without warrant for any offense against the
8 United States committed in that person's presence
9 or for any felony cognizable under the laws of the
10 United States if that person has reasonable grounds
11 to believe that the individual to be arrested has com-
12 mitted or is committing such felony. An employee of
13 a contractor or subcontractor or of a Commission li-
14 censee or certificate holder (or a contractor of a li-
15 censee or certificate holder) authorized to carry fire-
16 arms under this subsection may make such arrests
17 only when the individual to be arrested is within, or
18 in direct flight from, the area of such offense. A per-
19 son granted authority to make arrests by this sub-
20 section may exercise that authority only in the en-
21 forcement of laws regarding the property of the
22 United States in the custody of the Department of
23 Energy, the Nuclear Regulatory Commission, or a
24 contractor of the Department of Energy or Nuclear
25 Regulatory Commission or of a licensee or certificate



1 holder of the Commission, laws applicable to facili-
2 ties owned or operated by a Commission licensee or
3 certificate holder that are designated by the Com-
4 mission pursuant to this subsection and property of
5 significance to the common defense and security that
6 is in the custody of a licensee or certificate holder
7 or a contractor of a licensee or certificate holder of
8 the Commission, or any provision of this Act that
9 may subject an offender to a fine, imprisonment, or
10 both. The arrest authority conferred by this sub-
11 section is in addition to any arrest authority under
12 other laws. The Secretary and the Commission, with
13 the approval of the Attorney General, shall issue
14 guidelines to implement this subsection;”.

15 **SEC. 4027. UNAUTHORIZED INTRODUCTION OF DANGEROUS**
16 **WEAPONS.**

17 Section 229a. of the Atomic Energy Act of 1954 (42
18 U.S.C. 2278a(a)) is amended by adding after “custody of
19 the Commission” the following: “or subject to its licensing
20 authority or to certification by the Commission under this
21 Act or any other Act”.

22 **SEC. 4028. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

23 Section 236a. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2284(a)) is amended to read as follows:



1 “a. Any person who intentionally and willfully de-
2 stroys or causes physical damage to, or who intentionally
3 and willfully attempts to destroy or cause physical damage
4 to—

5 “(1) any production facility or utilization facil-
6 ity licensed under this Act;

7 “(2) any nuclear waste storage, treatment, or
8 disposal facility licensed under this Act;

9 “(3) any nuclear fuel for a utilization facility li-
10 censed under this Act or any spent nuclear fuel from
11 such a facility;

12 “(4) any uranium enrichment or nuclear fuel
13 fabrication facility licensed or certified by the Nu-
14 clear Regulatory Commission; or

15 “(5) any production, utilization, waste storage,
16 waste treatment, waste disposal, uranium enrich-
17 ment, or nuclear fuel fabrication facility subject to
18 licensing or certification under this Act during its
19 construction where the destruction or damage
20 caused or attempted to be caused could affect public
21 health and safety during the operation of the facil-
22 ity,

23 shall be fined not more than \$10,000 or imprisoned for
24 not more than 10 years, or both.”.



1 **SEC. 4029. COOPERATIVE RESEARCH AND DEVELOPMENT**
2 **AND SPECIAL DEMONSTRATION PROJECTS**
3 **FOR THE URANIUM MINING INDUSTRY.**

4 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
5 are authorized to be appropriated to the Secretary of En-
6 ergy \$10,000,000 for each of fiscal years 2004, 2005, and
7 2006 for—

8 (1) cooperative, cost-shared agreements between
9 the Department of Energy and domestic uranium
10 producers to identify, test, and develop improved in
11 situ leaching mining technologies, including low-cost
12 environmental restoration technologies that may be
13 applied to sites after completion of in situ leaching
14 operations; and

15 (2) funding for competitively selected dem-
16 onstration projects with domestic uranium producers
17 relating to—

18 (A) enhanced production with minimal en-
19 vironmental impacts;

20 (B) restoration of well fields; and

21 (C) decommissioning and decontamination
22 activities.

23 (b) **DOMESTIC URANIUM PRODUCER.**—For purposes
24 of this section, the term ‘domestic uranium producer’ has
25 the meaning given that term in section 1018(4) of the En-
26 ergy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except



1 that the term shall not include any producer that has not
2 produced uranium from domestic reserves on or after July
3 30, 1998.

4 **SEC. 4030. URANIUM SALES.**

5 (a) RESTRICTIONS ON INVENTORY SALES.—Section
6 3112(d) of the USEC Privatization Act (42 U.S.C.
7 2297h–10(d)) is amended to read as follows:

8 “(d) INVENTORY SALES.—(1) In addition to the
9 transfers and sales authorized under subsections (b), (c),
10 and (e), the Secretary of Energy or the Secretary of the
11 Army may transfer or sell uranium subject to paragraph
12 (2).

13 “(2) Except as provided in subsections (b), (c), and
14 (e), no sale or transfer of uranium shall be made under
15 this subsection by the Secretary of Energy or the Sec-
16 retary of the Army unless—

17 “(A) the President determines that the material
18 is not necessary for national security needs;

19 “(B) the Secretary of Energy determines that
20 the transfer or sale of the material will not have an
21 adverse material impact on the domestic uranium
22 mining, conversion, or enrichment industry, taking
23 into account the sales of uranium under the Russian
24 HEU Agreement and the Suspension Agreement;



1 “(C) the price paid to the appropriate Sec-
2 retary, if the transaction is a sale, will not be less
3 that the fair market value of the material; and

4 “(D) the sale or transfer to end users is made
5 pursuant to a contract of at least 3 years duration.

6 “(3) For purposes of paragraph (1)(B), any transfer
7 or sale of uranium under this subsection that the Sec-
8 retary determines is likely to result in the total amount
9 of uranium transferred or sold pursuant to this subsection
10 that is delivered for consumption by end users exceeding—

11 “(A) 3 million pounds of U_3O_8 equivalent in fis-
12 cal year 2004, 2005, 2006, 2007, 2008, or 2009;

13 “(B) 5 million pounds of U_3O_8 equivalent in
14 fiscal year 2010 or 2011;

15 “(C) 7 million pounds of U_3O_8 equivalent in fis-
16 cal year 2012; and

17 “(D) 10 million pounds of U_3O_8 equivalent in
18 fiscal year 2013 or any fiscal year thereafter,

19 shall be deemed to have an adverse material impact on
20 the domestic uranium mining industry.

21 “(4) For the purposes of this subsection, the recovery
22 of uranium from uranium bearing materials transferred
23 or sold by the Secretary of Energy or the Secretary of
24 the Army to the domestic uranium industry shall be the
25 preferred method of making uranium available. The recov-



1 ered uranium shall be counted against the annual max-
2 imum deliveries set for in this section, when such uranium
3 is sold to end users.”.

4 (b) TRANSFERS TO CORPORATION.—Section 3112 of
5 the USEC Privatization Act (42 U.S.C. 2297h–10) is fur-
6 ther amended by adding at the end the following new sub-
7 section:

8 “(g) TRANSFERS TO CORPORATION.—Notwith-
9 standing subsection (b)(2) and subsection (d)(2), the Sec-
10 retary may transfer up to 9,550 metric tons of uranium
11 to the Corporation to replace uranium that the Secretary
12 transferred to the Corporation on or about June 30, 1993,
13 April 20, 1998, and May 18, 1998, and that does not meet
14 commercial specifications.”.

15 (c) SERVICES.—Section 3112 of the USEC Privatiza-
16 tion Act (42 U.S.C. 2297h–10) is further amended by
17 adding at the end the following new subsection:

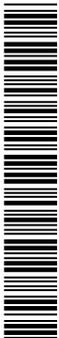
18 “(h) SERVICES.—(1) Notwithstanding any other pro-
19 vision of this section, if the Secretary determines that if
20 the Corporation has failed, or may fail, to perform any
21 obligation under the Agreement between the Department
22 of Energy and the Corporation dated June 17, 2002, and
23 as amended thereafter, which failure could result in termi-
24 nation of the Agreement, the Secretary shall notify the
25 Committee on Energy and Commerce of the House of



1 Representatives and the Committee on Energy and Nat-
2 ural Resources of the Senate, prior to a determination by
3 the Secretary whether termination, waiver, or modification
4 of the Agreement is required. The Secretary shall take
5 such comments into account in making such decision.

6 “(2) Notwithstanding any other provision of this sec-
7 tion, if the Secretary determines in accordance with Arti-
8 cle 2D of the Agreement between the Department of En-
9 ergy and the Corporation dated June 17, 2002, to transi-
10 tion operation of the Paducah gaseous diffusion plant, the
11 Secretary may provide uranium enrichment services in a
12 manner consistent with Article 2D of such Agreement.”.

13 (d) REPORT.—Within 3 years after the date of enact-
14 ment of this Act, the Secretary shall report to the Con-
15 gress on the implementation of this section. The report
16 shall include a discussion of available excess uranium in-
17 ventories, all sales or transfers made by the Secretary of
18 Energy or the Secretary of the Army, the impact of such
19 sales or transfers on the domestic uranium industry, the
20 spot market uranium price, and the national security in-
21 terests of the United States, and any steps taken to reme-
22 diate any adverse impacts of such sales or transfers.



1 **TITLE V—VEHICLES AND FUELS**
 2 **Subtitle A—Energy Policy Act**
 3 **Amendments**

4 **SEC. 5011. CREDIT FOR SUBSTANTIAL CONTRIBUTION TO-**
 5 **WARD NONCOVERED FLEETS.**

6 Section 508 of the Energy Policy Act of 1992 (42
 7 U.S.C. 13258) is amended by adding at the end the fol-
 8 lowing new subsection:

9 “(e) CREDIT FOR SUBSTANTIAL CONTRIBUTION TO-
 10 WARD USE OF DEDICATED VEHICLES IN NONCOVERED
 11 FLEETS.—

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

13 “(A) MEDIUM OR HEAVY DUTY VEHI-
 14 CLE.—The term ‘medium or heavy duty vehicle’
 15 means a dedicated vehicle that—

16 “(i) in the case of a medium duty ve-
 17 hicle, has a gross vehicle weight rating of
 18 more than 8,500 pounds but not more
 19 than 14,000 pounds; or

20 “(ii) in the case of a heavy duty vehi-
 21 cle, has a gross vehicle weight rating of
 22 more than 14,000 pounds.

23 “(B) SUBSTANTIAL CONTRIBUTION.—The
 24 term ‘substantial contribution’ means not less



1 than \$15,000 in cash or in kind services, as de-
2 termined by the Secretary.

3 “(2) ALLOCATION OF CREDITS.—The Secretary
4 shall allocate a credit to a fleet or covered person
5 under this section if the fleet or person makes a sub-
6 stantial contribution toward the acquisition and use
7 of dedicated vehicles or neighborhood electric vehi-
8 cles by a person that owns, operates, leases, or oth-
9 erwise controls a fleet that is not covered by this
10 title.

11 “(3) MULTIPLE CREDITS FOR MEDIUM AND
12 HEAVY DUTY VEHICLES.—The Secretary shall issue
13 2 full credits to a fleet or covered person under this
14 section if the fleet or person makes a substantial
15 contribution toward the acquisition and use of a me-
16 dium or heavy duty vehicle.

17 “(4) USE OF CREDITS.—At the request of a
18 fleet or covered person allocated a credit under this
19 subsection, the Secretary shall, for the year in which
20 the acquisition of the dedicated vehicle or neighbor-
21 hood electric vehicle is made, treat that credit as the
22 acquisition of 1 alternative fueled vehicle that the
23 fleet or covered person is required to acquire under
24 this title.



1 “(5) LIMITATION.—Except as provided in para-
2 graph (3), no more than 1 credit shall be allocated
3 under this subsection for each vehicle.”.

4 **SEC. 5012. CREDIT FOR ALTERNATIVE FUEL INFRASTRUC-**
5 **TURE.**

6 Section 508 of the Energy Policy Act of 1992 (42
7 U.S.C. 13258), as amended by this Act, is further amend-
8 ed by adding at the end the following new subsection:

9 “(f) CREDIT FOR INVESTMENT IN ALTERNATIVE
10 FUEL INFRASTRUCTURE.—

11 “(1) DEFINITION.—In this subsection, the term
12 ‘qualifying infrastructure’ means—

13 “(A) equipment required to refuel or re-
14 charge alternative fueled vehicles;

15 “(B) facilities or equipment required to
16 maintain, repair, or operate alternative fueled
17 vehicles;

18 “(C) training programs, educational mate-
19 rials, or other activities necessary to provide in-
20 formation regarding the operation, mainte-
21 nance, or benefits associated with alternative
22 fueled vehicles; and

23 “(D) such other activities the Secretary
24 considers to constitute an appropriate expendi-
25 ture in support of the operation, maintenance,



1 or further widespread adoption of or utilization
2 of alternative fueled vehicles.

3 “(2) ALLOCATION OF CREDITS.—The Secretary
4 shall allocate a credit to a fleet or covered person
5 under this section for investment in qualifying infra-
6 structure if the qualifying infrastructure is open to
7 the general public during regular business hours.

8 “(3) AMOUNT.—For the purposes of credits
9 under this subsection—

10 “(A) 1 credit shall be equal to a minimum
11 investment of \$25,000 in cash or in kind serv-
12 ices, as determined by the Secretary; and

13 “(B) except in the case of a Federal or
14 State fleet, no part of the investment may be
15 provided by Federal or State funds.

16 “(4) USE OF CREDITS.—At the request of a
17 fleet or covered person allocated a credit under this
18 subsection, the Secretary shall, for the year in which
19 the investment is made, treat that credit as the ac-
20 quisition of 1 alternative fueled vehicle that the fleet
21 or covered person is required to acquire under this
22 title.”.

23 **SEC. 5014. ALTERNATIVE FUELED VEHICLE REPORT.**

24 (a) DEFINITIONS.—In this section:



1 (1) ALTERNATIVE FUEL.—The term “alter-
2 native fuel” has the meaning given the term in sec-
3 tion 301 of the Energy Policy Act of 1992 (42
4 U.S.C. 13211).

5 (2) ALTERNATIVE FUELED VEHICLE.—The
6 term “alternative fueled vehicle” has the meaning
7 given the term in section 301 of the Energy Policy
8 Act of 1992 (42 U.S.C. 13211).

9 (3) LIGHT DUTY MOTOR VEHICLE.—The term
10 “light duty motor vehicle” has the meaning given
11 the term in section 301 of the Energy Policy Act of
12 1992 (42 U.S.C. 13211).

13 (4) SECRETARY.—The term “Secretary” means
14 the Secretary of Energy.

15 (b) REPORT.—Not later than 1 year after the date
16 of enactment of this Act, the Secretary shall submit to
17 Congress a report on the effect that titles III, IV, and
18 V of the Energy Policy Act of 1992 have had on the devel-
19 opment of alternative fueled vehicle technology, the avail-
20 ability of alternative fueled vehicles in the market, the cost
21 of light duty motor vehicles that are alternative fueled ve-
22 hicles, and the availability, cost, and use of alternative
23 fuels and biodiesel. Such report shall include any rec-
24 ommendations of the Secretary for legislation concerning
25 the alternative fueled vehicle requirements under the En-



1 ergy Policy Act of 1992, and shall examine, discuss, and
2 determine the following:

3 (1) The number of alternative fueled vehicles
4 acquired by fleets or covered persons required to ac-
5 quire alternative fueled vehicles.

6 (2) The extent to which fleets subject to alter-
7 native fueled vehicle acquisition requirements have
8 met those requirements through the use of fuel mix-
9 tures that contain at least 20 percent biodiesel pur-
10 suant to section 312 of the Energy Policy Act of
11 1992 (42 U.S.C. 13220).

12 (3) The amount of alternative fuel used in al-
13 ternative fueled vehicles acquired by fleets required
14 to acquire alternative fueled vehicles under the En-
15 ergy Policy Act of 1992.

16 (4) The amount of petroleum displaced by the
17 use of alternative fueled vehicles acquired by fleets
18 or covered persons.

19 (5) The cost of compliance with vehicle acquisi-
20 tion requirements under the Energy Policy Act of
21 1992, and the benefits of using such fuel and vehi-
22 cles.

23 (6) Projections of the amount of biodiesel, the
24 number of alternative fueled vehicles, and the
25 amount of alternative fuel that will be used over the



1 next decade by fleets required to acquire alternative
2 fueled vehicles under the Energy Policy Act of 1992.

3 (7) The existence of any obstacles to increased
4 use of alternative fuel and biodiesel in vehicles ac-
5 quired or maintained by fleets required to acquire al-
6 ternative fueled vehicles under the Energy Policy
7 Act of 1992, and the benefits of using such fuel and
8 vehicles.

9 **Subtitle B—FreedomCAR and**
10 **Hydrogen Fuel Program**

11 **SEC. 5021. SHORT TITLE.**

12 This subtitle may be cited as the “FreedomCAR and
13 Hydrogen Fuel Act of 2003” or “Freedom Act”.

14 **SEC. 5022. FINDINGS, PURPOSE, AND DEFINITIONS.**

15 (a) FINDINGS.—Congress finds that—

16 (1) the United States is currently dependent on
17 foreign sources for a majority of its petroleum sup-
18 ply;

19 (2) the Nation’s dependence on foreign petro-
20 leum is expected to increase in the decades ahead;

21 (3) it is in the national interest to reduce de-
22 pendence on imported petroleum by accelerating
23 Federal efforts to partner with the private sector by
24 deploying hydrogen fuel cell vehicles and the refuel-
25 ing infrastructure to support those vehicles;



1 (4) it is in the national interest to develop a
2 light duty vehicle fleet that substantially reduces de-
3 pendence on foreign petroleum, assists the Nation in
4 meeting its requirements under the Clean Air Act
5 and reduces greenhouse gas emissions in a manner
6 that maintains the freedom of consumers to pur-
7 chase the kinds of vehicles they wish to drive and
8 the freedom to refuel those vehicles safely,
9 affordably, and conveniently;

10 (5) hydrogen fuel cell vehicles and supporting
11 infrastructure have the potential to accelerate the
12 parallel advancement of fuel cells for stationary
13 power that will enhance the resiliency, reliability,
14 and environmental performance of the Nation's elec-
15 tricity infrastructure;

16 (6) ancillary benefits for the Nation, including
17 the acceleration of fuel cell technology for consumer
18 electronics and portable power, are likely to result
19 from the advancement of hydrogen fuel cell vehicles
20 and supporting infrastructure;

21 (7) there is a need for deployment of bridging
22 technologies including gasoline electric and diesel
23 electric hybrid drive systems, advanced combustion
24 engines including clean diesel, electric battery, and
25 power electronics, and alternative fuels and other



1 technology that can contribute to reducing petroleum
2 demand and decreasing air emissions;

3 (8) low-cost hydrogen production, storage, and
4 delivery facilities are essential to the success of the
5 FreedomCAR Vehicle Programs; and

6 (9) work should be performed in a manner that
7 is cognizant of consumer acceptance, passenger safe-
8 ty, and marketplace success.

9 (b) PURPOSE.—The purpose of this subtitle is to re-
10 duce significantly the Nation's dependence on imported
11 petroleum, enhance the production and conservation of en-
12 ergy, and reduce air emissions through support of the fol-
13 lowing Department of Energy actions:

14 (1) Programs and activities leading to—

15 (A) a commitment by automakers and hy-
16 drogen energy and energy infrastructure pro-
17 viders no later than year 2015 to offer safe, af-
18 fordable, and technically viable hydrogen fuel
19 cell vehicles and refueling infrastructure in the
20 mass consumer market; and

21 (B) a commitment by the automakers and
22 hydrogen energy and energy infrastructure pro-
23 viders to the deployment of hydrogen fuel cell
24 vehicles and affordable and convenient refueling
25 infrastructure no later than year 2020.



1 (2) A program to establish international codes,
2 standards, and safety protocols for the use and man-
3 ufacture of domestic and foreign products.

4 (3) Interagency, intergovernmental, and inter-
5 national programs and activities for education, infor-
6 mation exchange, and cooperation.

7 (c) DEFINITIONS.—In this subtitle:

8 (1) The term “Advisory Committee” means the
9 Hydrogen Technical and Fuel Cell Advisory Com-
10 mittee established under section 5028 of this Act.

11 (2) The term “Department” means the Depart-
12 ment of Energy.

13 (3) The term “FreedomCAR” is the acronym
14 for a Department initiative in automotive research
15 and development entitled “Freedom Cooperative
16 Automotive Research”.

17 (4) The term “fuel cell” means a device that di-
18 rectly converts the chemical energy of a fuel and an
19 oxidant into electricity by an electrochemical process
20 taking place at separate electrodes in the device.

21 (5) The term “infrastructure” means the equip-
22 ment, systems, or facilities used to produce, dis-
23 tribute, deliver, or store hydrogen and other ad-
24 vanced clean fuels.



1 (6) The term “light duty vehicle” means a car
2 or truck, classified by the Department of Transpor-
3 tation as a Class I or IIA vehicle.

4 (7) The term “Secretary” means the Secretary
5 of Energy.

6 **SEC. 5023. PLAN; REPORT.**

7 (a) PLAN.—The Secretary, in consultation with other
8 appropriate Federal agencies, shall prepare a comprehen-
9 sive interagency coordination plan for activities under this
10 subtitle. This plan may be provided as part of the Presi-
11 dent’s annual budget submission to Congress.

12 (b) REPORT.—Not later than one year after the date
13 of enactment of this subtitle, and biennially thereafter, the
14 Secretary shall transmit to the Congress a report on the
15 status of programs and activities under this subtitle. This
16 report may be provided as part of the President’s annual
17 budget submission to Congress. This report may include,
18 in addition to any views and recommendations of the
19 Secretary—

20 (1) an assessment of the effectiveness of the
21 programs and activities under this subtitle and the
22 extent to which the purposes in section 5022(b) have
23 been met; and



1 (2) the potential for interagency, intergovern-
2 mental, international, or private sector collaboration
3 opportunities and activities under this subtitle.

4 **SEC. 5024. PUBLIC-PRIVATE PARTNERSHIP.**

5 (a) PROGRAM.—In partnership with the private sec-
6 tor, the Secretary shall conduct a program designed to fa-
7 cilitate the production and conservation of energy and the
8 deployment of energy infrastructure, including all of the
9 following:

- 10 (1) Hydrogen energy.
11 (2) Fuel cells.
12 (3) Advanced vehicle technologies.
13 (4) Clean fuels in addition to hydrogen.
14 (5) Codes, standards, and safety protocols.

15 (b) PROGRAM GOALS.—

16 (1) AUTOMAKERS.—For automakers the goals
17 of the program are—

18 (A) to enable a commitment by auto-
19 makers no later than year 2015 to offer safe,
20 affordable, and technically viable hydrogen fuel
21 cell vehicles into commerce; and

22 (B) to enable production, delivery, and ac-
23 ceptance by consumers of model year 2020 hy-
24 drogen fuel cell and other vehicles that will
25 have—



1 (i) a range of at least three hundred
2 miles;

3 (ii) improved performance and ease of
4 driving;

5 (iii) met all light duty safety regula-
6 tions created under section 30111 of title
7 49, United States Code; and

8 (iv) when compared to light duty vehi-
9 cles in model year 2003—

10 (I) a fuel economy that is two
11 and one half times the equivalent fuel
12 economy of these vehicles as regulated
13 under the Motor Vehicle Information
14 and Cost Savings Act, or about 70
15 miles per gallon, and

16 (II) near zero emissions of air
17 pollutants regulated under the Clean
18 Air Act.

19 (2) HYDROGEN ENERGY AND ENERGY INFRA-
20 STRUCTURE.—For hydrogen energy and energy in-
21 frastructure the goals of the program include, but
22 are not limited to, a commitment not later than
23 2015 that will enable the deployment by 2020 of in-
24 frastructure to provide—

25 (A) safe and convenient refueling;



1 (B) activities leading to widespread avail-
2 ability of hydrogen from domestic energy
3 sources through—

4 (i) production, including consideration
5 of cost-effective production from domestic
6 energy sources;

7 (ii) delivery, including transmission by
8 pipeline and other distribution methods for
9 hydrogen; and

10 (iii) storage, including storage in sur-
11 face transportation vehicles;

12 (C) hydrogen for fuel cells, internal com-
13 bustion engines, and other energy conversion
14 devices for portable, stationary, and transpor-
15 tation applications; and

16 (D) other technologies consistent with the
17 Department's plan.

18 (3) FUEL CELLS.—The program for fuel cells
19 and their portable, stationary, and transportation
20 applications may include, but is not limited to—

21 (A) a safe, economical, and environ-
22 mentally sound hydrogen fuel cell;

23 (B) a fuel cell for light duty and other ve-
24 hicles; and



1 (C) other technologies consistent with the
2 Department's plan.

3 (4) ADVANCED VEHICLE TECHNOLOGIES.—The
4 program for advanced vehicle technologies may in-
5 clude, but is not limited to—

6 (A) advanced combustion;

7 (B) materials;

8 (C) energy storage;

9 (D) control systems; and

10 (E) other technologies consistent with the
11 Department's plan.

12 (5) CODES, STANDARDS, AND SAFETY PROTO-
13 COLS.—(A) The Department's program for codes,
14 standards, and safety protocols shall strive towards
15 establishment of international codes, standards, and
16 safety protocols for the use and manufacture of do-
17 mestic and foreign products.

18 (B) The Secretary may represent the United States
19 interests with respect to activities and programs under
20 this subsection, collaborating with the Secretary of Trans-
21 portation, and in consultation with other appropriate gov-
22 ernments and nongovernmental organizations including
23 the following:

24 (i) Other Federal, State, regional, and
25 local governments and their representatives.



1 (ii) Industry and its representatives, in-
2 cluding members of the energy and transpor-
3 tation industries.

4 (iii) Foreign governments and their rep-
5 resentatives including international organiza-
6 tions.

7 (c) FEDERAL FUNDING.—(1) The Secretary shall
8 carry out the programs and activities under this section
9 consistent with the generally applicable Federal laws and
10 regulations governing awards of financial assistance, con-
11 tracts, or other agreements.

12 (2) The Secretary shall endeavor to avoid duplication
13 or displacement of other research and development pro-
14 grams and activities.

15 (d) COST SHARING.—(1) The Secretary shall require
16 a commitment from non-Federal sources of at least 20
17 percent of the cost of proposed programs under this sec-
18 tion.

19 (2) The Secretary may reduce or eliminate the cost
20 sharing requirement under paragraph (1)—

21 (A) if the Secretary determines that the activity
22 is of a basic or fundamental nature which is vital to
23 the success of the program and unlikely to occur in
24 a timely manner without reduction or elimination of
25 the cost-sharing requirement; or



1 (B) for technical analyses, outreach programs,
2 and other activities including educational programs
3 under section 5027 of this subtitle that the Sec-
4 retary does not expect to result in a marketable
5 product.

6 **SEC. 5025. DEPLOYMENT.**

7 (a) DEPLOYMENT PROGRAM.—In partnership with
8 the private sector, the Secretary shall conduct a program
9 to facilitate the deployment of—

- 10 (1) hydrogen energy and energy infrastructure;
- 11 (2) fuel cells;
- 12 (3) advanced vehicle technologies;
- 13 (4) clean fuels in addition to hydrogen; and
- 14 (5) codes, standards, and safety protocols.

15 (b) PROGRAM GOALS.—(1) For automakers, the
16 goals of the program are—

17 (A) to enable a decision by automakers no later
18 than year 2015 to offer safe, affordable, and tech-
19 nically viable hydrogen fuel cell vehicles into com-
20 merce; and

21 (B) to enable production and delivery to, and
22 acceptance by, consumers of model year 2020 hydro-
23 gen fuel cell and other vehicles that will have—

- 24 (i) a range of at least 300 miles;



1 (ii) improved performance and ease of driv-
2 ing;

3 (iii) met all light duty safety regulations
4 created under section 30111 of title 49, United
5 States Code; and

6 (iv) when compared to light duty vehicles
7 in model year 2003—

8 (I) a fuel economy that is two and one
9 half times the equivalent fuel economy of
10 these vehicles under the Motor Vehicle In-
11 formation and Cost Savings Act, or about
12 70 miles per gallon; and

13 (II) near zero emissions of air pollut-
14 ants regulated under the Clean Air Act.

15 (2) HYDROGEN ENERGY AND ENERGY INFRASTRUC-
16 TURE.—For hydrogen energy and energy infrastructure
17 the goals of the program include, but are not limited to,
18 a commitment not later than 2015 that will enable the
19 deployment by 2020 of infrastructure to provide—

20 (A) safe, convenient, and affordable refueling;

21 (B) widespread availability of hydrogen from
22 domestic energy sources through—

23 (i) production, including consideration of
24 cost-effective production from domestic energy
25 sources;



1 (ii) delivery, including transmission by
2 pipeline and other distribution methods, for hy-
3 drogen in its gaseous, liquid, and solid states;
4 and

5 (iii) storage, including storage in surface
6 transportation vehicles;

7 (C) hydrogen for fuel cells, internal combustion
8 engines, and other energy conversion devices for
9 portable, stationary, and transportation applications;
10 and

11 (D) other technologies consistent with the De-
12 partment's plan.

13 (c) FUEL CELLS.—The program for fuel cells and
14 their portable, stationary, and transportation applications
15 may include but is not limited to—

16 (1) a safe, economical, and environmentally
17 sound hydrogen fuel cell;

18 (2) a fuel cell for light duty and other vehicles;
19 and

20 (3) other technologies consistent with the De-
21 partment's plan.

22 (d) ADVANCED VEHICLE TECHNOLOGIES.—The pro-
23 gram for advanced vehicle technologies may include, but
24 is not limited to—

25 (1) advanced combustion;



- 1 (2) materials;
- 2 (3) energy storage;
- 3 (4) control systems; and
- 4 (5) other technologies consistent with the De-
- 5 partment's plan.

6 (e) FEDERAL FUNDING.—The Secretary shall carry
7 out the program and activities under this section con-
8 sistent with laws and regulations governing awards of fi-
9 nancial assistance, contracts or other agreements. The
10 Secretary shall endeavor to avoid duplication or displace-
11 ment of other programs.

12 (g) COST SHARING.—

13 (1) IN GENERAL.—The Secretary shall require
14 a commitment from non-Federal sources of at least
15 50 percent of the costs directly relating to a dem-
16 onstration under this section.

17 (2) REDUCTION.—The Secretary may reduce
18 the non-Federal requirement under paragraph (1) if
19 the Secretary determines that—

20 (A) the reduction is appropriate consid-
21 ering the technological risks involved; and

22 (B) the terms and conditions are con-
23 sistent with the Agreement on Subsidies and
24 Countervailing Measures.



1 (3) COOPERATIVE AGREEMENTS WITH GOV-
2 ERNMENTS.—The Secretary may enter into coopera-
3 tive and cost sharing agreements with Federal,
4 State, or local governments to deploy vehicles, vehi-
5 cle systems, and refueling infrastructure using hy-
6 drogen, fuel cells, or other advanced technologies in
7 government facilities or fleet transportation systems.

8 **SEC. 5026. ASSESSMENT AND TRANSFER.**

9 (a) PROGRAM.—The Secretary may conduct a pro-
10 gram to transfer technology to the private sector under
11 this subtitle.

12 (b) DISCLOSURE.—The Secretary may protect from
13 disclosure, for up to 5 years after the information was de-
14 veloped, any information developed pursuant to a cost
15 shared transaction, or subagreement thereunder, entered
16 into under this subtitle to advance the goals of the pro-
17 grams, which developed information is of a character that
18 it would be protected from disclosure under section
19 552(b)(4) of title 5, United States Code, if this developed
20 information had been obtained from a person other than
21 a Federal agency.

22 **SEC. 5027. INTERAGENCY TASK FORCE.**

23 (a) ESTABLISHMENT.—Not later than 120 days after
24 the date of enactment of this Act, the President shall es-
25 tablish an interagency task force chaired by the Secretary



1 or his designee with representatives from each of the fol-
2 lowing:

3 (1) The Office of Science and Technology Pol-
4 icy within the Executive Office of the President.

5 (2) The Department of Transportation.

6 (3) The Department of Defense.

7 (4) The Department of Commerce (including
8 the National Institute of Standards and Tech-
9 nology).

10 (5) The Environmental Protection Agency.

11 (6) The National Aeronautics and Space Ad-
12 ministration.

13 (7) Other Federal agencies as the Secretary de-
14 termines appropriate.

15 (b) DUTIES OF THE INTERAGENCY TASK FORCE.—

16 (1) PLANNING.—The task force shall coordinate
17 the implementation of the interagency plan in sec-
18 tion 5023(a), and work towards deployment of—

19 (A) a safe, economical, and environ-
20 mentally sound fuel infrastructure, including an
21 infrastructure that supports buses and other
22 fleet transportation;

23 (B) fuel cells in government and other ap-
24 plications, including portable, stationary, and
25 transportation applications; and



1 (C) distributed power generation, including
2 the generation of combined heat, power, and
3 clean fuels including hydrogen.

4 (2) INFORMATION EXCHANGE.—(A) The inter-
5 agency task force shall coordinate interagency pro-
6 grams and activities including the exchange of infor-
7 mation.

8 (B) The heads of all agencies, including those
9 whose agencies are not represented on the inter-
10 agency task force, shall cooperate with and furnish
11 information to the interagency task force, the Advi-
12 sory Committee, and the Department.

13 (C) The information exchange may consist of
14 workshops, publications, conferences, and a database
15 for use by the public and private sectors. The inter-
16 agency task force is expected to—

17 (i) foster the exchange of generic, non-
18 proprietary information and technology among
19 industry, academia, and government;

20 (ii) update the inventory and assessment of
21 hydrogen, fuel cells, and other advanced tech-
22 nologies, including their commercial capability
23 for the economic and environmentally safe pro-
24 duction, distribution, delivery, storage, and use
25 of clean fuels including hydrogen;



1 (iii) integrate technical and other informa-
2 tion made available as a result of the programs
3 and activities under this subtitle;

4 (iv) promote the marketplace introduction
5 of infrastructure for hydrogen and other clean
6 fuel vehicles; and

7 (v) conduct an education program to pro-
8 vide FreedomCAR and hydrogen fuel informa-
9 tion to potential end-users.

10 **SEC. 5028. ADVISORY COMMITTEE.**

11 (a) ESTABLISHMENT.—The Hydrogen Technical and
12 Fuel Cell Advisory Committee is established to advise the
13 Secretary on the programs and activities under this sub-
14 title.

15 (b) MEMBERSHIP.—

16 (1) MEMBERS.—The Advisory Committee is
17 comprised of not fewer than 12 nor more than 25
18 members. These members shall be appointed by the
19 Secretary to represent domestic industry, academia,
20 professional societies, government agencies, and fi-
21 nancial, environmental, and other appropriate orga-
22 nizations based on the Department's assessment of
23 the technical and other qualifications of committee
24 members and the needs of the Advisory Committee.



1 (2) TERMS.—The term of a member of the Ad-
2 visory Committee shall not be more than 3 years.
3 The Secretary may appoint members of the Advisory
4 Committee in a manner that allows the terms of the
5 members serving at any time to expire at spaced in-
6 tervals so as to ensure continuity in the functioning
7 of the Advisory Committee. A member of the Advi-
8 sory Committee whose term is expiring may be re-
9 appointed.

10 (3) CHAIRPERSON.—The Advisory Committee
11 shall have a chairperson, who is elected by the mem-
12 bers from among their number.

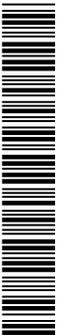
13 (c) REVIEW.—The Advisory Committee shall review
14 and make recommendations to the Secretary on—

15 (1) the implementation of programs and activi-
16 ties under this [subtitle];

17 (2) the safety, economical, and environmental
18 consequences of technologies for the production, dis-
19 tribution, delivery, storage, or use of hydrogen en-
20 ergy and fuel cells; and

21 (3) the interagency coordination plan under sec-
22 tion 5023(a) of this Act.

23 (d) RESPONSE TO RECOMMENDATIONS.—The Sec-
24 retary shall consider, but need not adopt, any rec-



1 ommendations of the Advisory Committee under sub-
2 section (c).

3 (e) ADVISORY COMMITTEE SUPPORT.—The Sec-
4 retary shall provide resources necessary in the judgment
5 of the Secretary for the Advisory Committee to carry out
6 its responsibilities under this [subtitle].

7 **SEC. 5029. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to carry out
9 the purposes of this subtitle including programs for light
10 duty vehicles, in addition to any amounts made available
11 for these purposes under other Acts—

12 (1) \$273,500,000 for fiscal year 2004;

13 (2) \$325,000,000 for fiscal year 2005;

14 (3) \$375,000,000 for fiscal year 2006;

15 (4) \$400,000,000 for fiscal year 2007; and

16 (5) \$425,000,000 for fiscal year 2008.

17 **SEC. 5030. FUEL CELL PROGRAM AT NATIONAL PARKS.**

18 The Secretary of Energy, in cooperation with the Sec-
19 retary of Interior and the National Park Service, is au-
20 thorized to establish a program to provide matching funds
21 to assist in the deployment of fuel cells at one or more
22 prominent National Parks. The Secretary of Energy shall
23 transmit to Congress within 1 year, and annually there-
24 after, a report describing any activities taken pursuant to
25 such program. The report shall address whether activities



1 taken pursuant to such program reduce the environmental
2 impacts of energy use at National Parks. There are au-
3 thorized to be appropriated \$2,000,000 for each of fiscal
4 years 2004 through 2010 to carry out the purposes of this
5 section.

6 **Subtitle C—Clean School Buses**

7 **SEC. 5031. ESTABLISHMENT OF PILOT PROGRAM.**

8 (a) ESTABLISHMENT.—The Secretary of Energy, in
9 consultation with the Secretary of Transportation and the
10 Administrator of the Environmental Protection Agency,
11 shall establish a pilot program for awarding grants on a
12 competitive basis to eligible entities for the acquisition of
13 alternative fuel school buses and ultra-low sulfur diesel
14 school buses.

15 (b) REQUIREMENTS.—Not later than 3 months after
16 the date of the enactment of this Act, the Secretary shall
17 establish and publish in the Federal register grant require-
18 ments on eligibility for assistance, and on implementation
19 of the program established under subsection (a), including
20 certification requirements to ensure compliance with this
21 subtitle.

22 (c) SOLICITATION.—Not later than 6 months after
23 the date of the enactment of this Act, the Secretary shall
24 solicit proposals for grants under this section.



1 (d) ELIGIBLE RECIPIENTS.—A grant shall be award-
2 ed under this section only—

3 (1) to a local or State governmental entity re-
4 sponsible for providing school bus service to one or
5 more public school systems or responsible for the
6 purchase of school buses; or

7 (2) to a contracting entity that provides school
8 bus service to one or more public school systems, if
9 the grant application is submitted jointly with the
10 school system or systems which the buses will serve.

11 (e) TYPES OF GRANTS.—

12 (1) IN GENERAL.—Grants under this section
13 shall promote the conservation of energy and im-
14 provement of public health and the environment by
15 facilitating the acquisition of alternative fuel school
16 buses and ultra-low sulfur diesel school buses in lieu
17 of buses manufactured before model year 1977 and
18 diesel-powered buses manufactured before model
19 year 1991.

20 (2) NO ECONOMIC BENEFIT.—Other than the
21 receipt of the grant, a recipient of a grant under this
22 section may not receive any economic benefit in con-
23 nection with the receipt of the grant.

24 (3) PRIORITY OF GRANT APPLICATIONS.—The
25 Secretary shall give priority to awarding grants to



1 applicants who will utilize grants to replace buses
2 manufactured before model year 1977.

3 (f) CONDITIONS OF GRANT.—A grant provided under
4 this section shall include the following conditions:

5 (1) All buses acquired with funds provided
6 under the grant shall be operated as part of the
7 school bus fleet for which the grant was made for a
8 minimum of 5 years.

9 (2) Funds provided under the grant may only
10 be used—

11 (A) to pay the cost, except as provided in
12 paragraph (3), of new alternative fuel school
13 buses or ultra-low sulfur diesel school buses, in-
14 cluding State taxes and contract fees; and

15 (B) to provide—

16 (i) up to 10 percent of the price of the
17 alternative fuel buses acquired, for nec-
18 essary alternative fuel infrastructure if the
19 infrastructure will only be available to the
20 grant recipient; and

21 (ii) up to 15 percent of the price of
22 the alternative fuel buses acquired, for nec-
23 essary alternative fuel infrastructure if the
24 infrastructure will be available to the grant
25 recipient and to other bus fleets.



1 (3) The grant recipient shall be required to pro-
2 vide at least the lesser of 15 percent of the total cost
3 of each bus received or \$15,000 per bus.

4 (4) In the case of a grant recipient receiving a
5 grant to demonstrate ultra-low sulfur diesel school
6 buses, the grant recipient shall be required to pro-
7 vide documentation to the satisfaction of the Sec-
8 retary that diesel fuel containing sulfur at not more
9 than 15 parts per million is available for carrying
10 out the purposes of the grant, and a commitment by
11 the applicant to use such fuel in carrying out the
12 purposes of the grant.

13 (g) BUSES.—Funding under a grant made under this
14 section may be used to facilitate the use only of new alter-
15 native fuel school buses or ultra-low sulfur diesel school
16 buses—

17 (1) with a gross vehicle weight of greater than
18 14,000 pounds;

19 (2) that are powered by a heavy duty engine;

20 (3) that, in the case of alternative fuel school
21 buses, emit not more than—

22 (A) for buses manufactured in model year
23 2002, 2.5 grams per brake horsepower-hour of
24 nonmethane hydrocarbons and oxides of nitro-



1 gen and .01 grams per brake horsepower-hour
2 of particulate matter; and

3 (B) for buses manufactured in model years
4 2003 through 2006, 1.8 grams per brake horse-
5 power-hour of nonmethane hydrocarbons and
6 oxides of nitrogen and .01 grams per brake
7 horsepower-hour of particulate matter; and

8 (4) that, in the case of ultra-low sulfur diesel
9 school buses, emit not more than—

10 (A) for buses manufactured in model years
11 2002 through 2003, 3.0 grams per brake horse-
12 power-hour of oxides of nitrogen and .01 grams
13 per brake horsepower-hour of particulate mat-
14 ter; and

15 (B) for buses manufactured in model years
16 2004 through 2006, 2.5 grams per brake horse-
17 power-hour of nonmethane hydrocarbons and
18 oxides of nitrogen and .01 grams per brake
19 horsepower-hour of particulate matter,

20 except that under no circumstances shall buses be
21 acquired under this section that emit nonmethane
22 hydrocarbons, oxides of nitrogen, or particulate mat-
23 ter at a rate greater than the best performing tech-
24 nology of the same class of ultra-low sulfur diesel



1 school buses commercially available at the time the
2 grant is made.

3 (h) DEPLOYMENT AND DISTRIBUTION.—The Sec-
4 retary shall seek to the maximum extent practicable to
5 achieve nationwide deployment of alternative fuel school
6 buses and ultra-low sulfur diesel school buses through the
7 program under this section, and shall ensure a broad geo-
8 graphic distribution of grant awards, with a goal of no
9 State receiving more than 10 percent of the grant funding
10 made available under this section for a fiscal year.

11 (i) LIMIT ON FUNDING.—The Secretary shall provide
12 not less than 20 percent and not more than 25 percent
13 of the grant funding made available under this section for
14 any fiscal year for the acquisition of ultra-low sulfur diesel
15 school buses.

16 (j) REDUCTION OF SCHOOL BUS IDLING.—Each
17 local educational agency (as defined in section 9101 of the
18 Elementary and Secondary Education Act of 1965 (20
19 U.S.C. 7801)) that receives Federal funds under the Ele-
20 mentary and Secondary Education Act of 1965 (20 U.S.C.
21 6301 et seq.) is encouraged to develop a policy, consistent
22 with the health, safety, and welfare of students and the
23 proper operation and maintenance of school buses, to re-
24 duce the incidence of unnecessary school bus idling at
25 schools when picking up and unloading students.



1 (k) ANNUAL REPORT.—Not later than January 31
2 of each year, the Secretary of Energy shall provide a re-
3 port evaluating implementation of the program under this
4 section to the Congress. Such report shall include the total
5 number of grant applications received, the number and
6 types of alternative fuel school buses and ultra-low sulfur
7 diesel school buses requested in grant applications, a list
8 of grants awarded and the criteria used to select the grant
9 recipients, certified engine emission levels of all buses pur-
10 chased under the program, and any other information the
11 Secretary considers appropriate.

12 (l) DEFINITIONS.—For purposes of this section—

13 (1) the term “alternative fuel school bus”
14 means a school bus powered substantially by elec-
15 tricity (including electricity supplied by a fuel cell),
16 or by liquefied natural gas, compressed natural gas,
17 liquefied petroleum gas, hydrogen, propane, or meth-
18 anol or ethanol at no less than 85 percent by vol-
19 ume;

20 (2) the term “idling” means operating an en-
21 gine while remaining stationary for more than ap-
22 proximately 3 minutes, except that such term does
23 not apply to routine stoppages associated with traf-
24 fic movement or congestion; and



1 (3) the term “ultra-low sulfur diesel school
2 bus” means a school bus powered by diesel fuel
3 which contains sulfur at not more than 15 parts per
4 million.

5 **SEC. 5032. FUEL CELL BUS DEVELOPMENT AND DEM-**
6 **ONSTRATION PROGRAM.**

7 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
8 shall establish a program for entering into cooperative
9 agreements with private sector fuel cell bus developers for
10 the acquisition of fuel cell-powered school buses, and sub-
11 sequently with not less than 2 units of local government
12 using natural gas-powered school buses and such private
13 sector fuel cell bus developers to facilitate the use of fuel
14 cell-powered school buses.

15 (b) COST SHARING.—The non-Federal contribution
16 for activities funded under this section shall be not less
17 than 20 percent for fuel infrastructure development activi-
18 ties.

19 (c) FUNDING.—No more than \$25,000,000 of the
20 amounts authorized under section 5033 may be used for
21 carrying out this section for the period encompassing fis-
22 cal years 2003 through 2006.

23 (d) REPORTS TO CONGRESS.—Not later than 3 years
24 after the date of the enactment of this Act, and not later



1 than October 1, 2006, the Secretary shall transmit to the
2 Congress a report that—

3 (1) evaluates the process of converting natural
4 gas infrastructure to accommodate fuel cell-powered
5 school buses; and

6 (2) assesses the overall impact on energy con-
7 servation, public health, and the environment as a
8 result of this program under this section.

9 **SEC. 5033. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated to the Sec-
11 retary for carrying out this subtitle, to remain available
12 until expended—

13 (1) \$60,000,000 for fiscal year 2004;

14 (2) \$70,000,000 for fiscal year 2005; and

15 (3) \$80,000,000 for fiscal year 2006.

16 **Subtitle D—Advanced Vehicles**

17 **SEC. 5041. DEFINITIONS.**

18 For the purposes of this subtitle, the following defini-
19 tions apply:

20 (1) **ALTERNATIVE FUELED VEHICLE.**—The
21 term “alternative fueled vehicle” means a vehicle
22 propelled solely on an alternative fuel as defined in
23 section 301 of the Energy Policy Act (42 U.S.C.
24 13211), except the term does not include any vehicle
25 that the Secretary determines, by rule, does not



1 yield substantial environmental benefits over a vehi-
2 cle operating solely on gasoline or diesel derived
3 from fossil fuels.

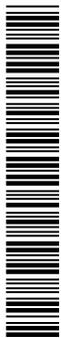
4 (2) FUEL CELL VEHICLE.—The term “fuel cell
5 vehicle” means a vehicle propelled by one or more
6 cells that convert chemical energy directly into elec-
7 tricity by combining oxygen with hydrogen fuel
8 which is stored on board the vehicle in any form and
9 may or may not require reformation prior to use.

10 (3) HYBRID VEHICLE.—The term “hybrid vehi-
11 cle” means a medium or heavy duty vehicle propelled
12 by an internal combustion engine using any combus-
13 tible fuel and an onboard rechargeable battery stor-
14 age system.

15 (4) NEIGHBORHOOD ELECTRIC VEHICLE.—The
16 term “neighborhood electric vehicle” means a motor
17 vehicle that qualifies as both—

18 (A) a low-speed vehicle, as such term is de-
19 fined in section 571.3(b) of title 49, Code of
20 Federal Regulations; and

21 (B) a zero-emission vehicle, as such term is
22 defined in section 86.1702–99 of title 40, Code
23 of Federal Regulations.



1 (5) PILOT PROGRAM.—The term “pilot pro-
2 gram” means the competitive grant program estab-
3 lished under section 5042.

4 (6) ULTRA-LOW SULFUR DIESEL VEHICLE.—
5 The term “ultra-low sulfur diesel vehicle” means a
6 vehicle manufactured in model years 2002 through
7 2006 powered by a heavy-duty diesel engine that—

8 (A) is fueled by diesel fuel which contains
9 sulfur at not more than 15 parts per million;
10 and

11 (B) emits not more than the lesser of—

12 (i) for vehicles manufactured in—

13 (I) model years 2002 and 2003,
14 3.0 grams per brake horsepower-hour
15 of oxides of nitrogen and .01 grams
16 per brake horsepower-hour of particu-
17 late matter; and

18 (II) model years 2004 through
19 2006, 2.5 grams per brake horse-
20 power-hour of nonmethane hydro-
21 carbons and oxides of nitrogen and
22 .01 grams per brake horsepower-hour
23 of particulate matter; or

24 (ii) the emissions of nonmethane hy-
25 drocarbons, oxides of nitrogen, and partic-



1 ulate matter of the best performing tech-
2 nology of ultra-low sulfur diesel vehicles of
3 the same class and application that are
4 commercially available.

5 **SEC. 5042. PILOT PROGRAM.**

6 (a) ESTABLISHMENT.—The Secretary shall establish
7 a competitive grant pilot program, to be administered
8 through the Clean Cities Program of the Department of
9 Energy, to provide not more than 10 geographically dis-
10 persed project grants to State governments, local govern-
11 ments, or metropolitan transportation authorities to carry
12 out a project or projects for the purposes described in sub-
13 section (b).

14 (b) GRANT PURPOSES.—Grants under this section
15 may be used for the following purposes:

16 (1) The acquisition of alternative fueled vehicles
17 or fuel cell vehicles, including—

18 (A) passenger vehicles including neighbor-
19 hood electric vehicles; and

20 (B) motorized two-wheel bicycles, scooters,
21 or other vehicles for use by law enforcement
22 personnel or other State or local government or
23 metropolitan transportation authority employ-
24 ees.



1 (2) The acquisition of alternative fueled vehi-
2 cles, hybrid vehicles, or fuel cell vehicles, including—

3 (A) buses used for public transportation or
4 transportation to and from schools;

5 (B) delivery vehicles for goods or services;
6 and

7 (C) ground support vehicles at public air-
8 ports, including vehicles to carry baggage or
9 push airplanes away from terminal gates.

10 (3) The acquisition of ultra-low sulfur diesel ve-
11 hicles.

12 (4) Infrastructure necessary to directly support
13 an alternative fueled vehicle, fuel cell vehicle, or hy-
14 brid vehicle project funded by the grant, including
15 fueling and other support equipment.

16 (5) Operation and maintenance of vehicles, in-
17 frastructure, and equipment acquired as part of a
18 project funded by the grant.

19 (c) APPLICATIONS.—

20 (1) REQUIREMENTS.—The Secretary shall issue
21 requirements for applying for grants under the pilot
22 program. At a minimum, the Secretary shall require
23 that applications be submitted by the head of a
24 State or local government or a metropolitan trans-
25 portation authority, or any combination thereof, and



1 a registered participant in the Clean Cities Program
2 of the Department of Energy, and shall include—

3 (A) a description of the projects proposed
4 in the application, including how they meet the
5 requirements of this subtitle;

6 (B) an estimate of the ridership or degree
7 of use of the projects proposed in the applica-
8 tion;

9 (C) an estimate of the air pollution emis-
10 sions reduced and fossil fuel displaced as a re-
11 sult of the projects proposed in the application,
12 and a plan to collect and disseminate environ-
13 mental data, related to the projects to be fund-
14 ed under the grant, over the life of the projects;

15 (D) a description of how the projects pro-
16 posed in the application will be sustainable
17 without Federal assistance after the completion
18 of the term of the grant;

19 (E) a complete description of the costs of
20 each project proposed in the application, includ-
21 ing acquisition, construction, operation, and
22 maintenance costs over the expected life of the
23 project;

24 (F) a description of which costs of the
25 projects proposed in the application will be sup-



1 ported by Federal assistance under this subtitle;
2 and

3 (G) documentation to the satisfaction of
4 the Secretary that diesel fuel containing sulfur
5 at not more than 15 parts per million is avail-
6 able for carrying out the projects, and a com-
7 mitment by the applicant to use such fuel in
8 carrying out the projects.

9 (2) PARTNERS.—An applicant under paragraph
10 (1) may carry out projects under the pilot program
11 in partnership with public and private entities.

12 (d) SELECTION CRITERIA.—In evaluating applica-
13 tions under the pilot program, the Secretary shall consider
14 each applicant's previous experience with similar projects
15 and shall give priority consideration to applications that—

16 (1) are most likely to maximize protection of
17 the environment;

18 (2) demonstrate the greatest commitment on
19 the part of the applicant to ensure funding for the
20 proposed projects and the greatest likelihood that
21 each project proposed in the application will be
22 maintained or expanded after Federal assistance
23 under this subtitle is completed; and

24 (3) exceed the minimum requirements of sub-
25 section (c)(1)(A).



1 (e) PILOT PROJECT REQUIREMENTS.—

2 (1) MAXIMUM AMOUNT.—The Secretary shall
3 not provide more than \$20,000,000 in Federal as-
4 sistance under the pilot program to any applicant.

5 (2) COST SHARING.—The Secretary shall not
6 provide more than 50 percent of the cost, incurred
7 during the period of the grant, of any project under
8 the pilot program.

9 (3) MAXIMUM PERIOD OF GRANTS.—The Sec-
10 retary shall not fund any applicant under the pilot
11 program for more than 5 years.

12 (4) DEPLOYMENT AND DISTRIBUTION.—The
13 Secretary shall seek to the maximum extent prac-
14 ticable to ensure a broad geographic distribution of
15 project sites.

16 (5) TRANSFER OF INFORMATION AND KNOWL-
17 EDGE.—The Secretary shall establish mechanisms to
18 ensure that the information and knowledge gained
19 by participants in the pilot program are transferred
20 among the pilot program participants and to other
21 interested parties, including other applicants that
22 submitted applications.

23 (f) SCHEDULE.—

24 (1) PUBLICATION.—Not later than 3 months
25 after the date of the enactment of this Act, the Sec-



1 retary shall publish in the Federal Register, Com-
2 merce Business Daily, and elsewhere as appropriate,
3 a request for applications to undertake projects
4 under the pilot program. Applications shall be due
5 within 6 months of the publication of the notice.

6 (2) SELECTION.—Not later than 6 months after
7 the date by which applications for grants are due,
8 the Secretary shall select by competitive, peer review
9 all applications for projects to be awarded a grant
10 under the pilot program.

11 (g) LIMIT ON FUNDING.—The Secretary shall pro-
12 vide not less than 20 percent and not more than 25 per-
13 cent of the grant funding made available under this sec-
14 tion for the acquisition of ultra-low sulfur diesel vehicles.

15 **SEC. 5043. REPORTS TO CONGRESS.**

16 (a) INITIAL REPORT.—Not later than 2 months after
17 the date grants are awarded under this subtitle, the Sec-
18 retary shall transmit to the Congress a report
19 containing—

20 (1) an identification of the grant recipients and
21 a description of the projects to be funded;

22 (2) an identification of other applicants that
23 submitted applications for the pilot program; and

24 (3) a description of the mechanisms used by the
25 Secretary to ensure that the information and knowl-



1 edge gained by participants in the pilot program are
2 transferred among the pilot program participants
3 and to other interested parties, including other ap-
4 plicants that submitted applications.

5 (b) EVALUATION.—Not later than 3 years after the
6 date of the enactment of this Act, and annually thereafter
7 until the pilot program ends, the Secretary shall transmit
8 to the Congress a report containing an evaluation of the
9 effectiveness of the pilot program, including an assessment
10 of the benefits to the environment derived from the
11 projects included in the pilot program as well as an esti-
12 mate of the potential benefits to the environment to be
13 derived from widespread application of alternative fueled
14 vehicles and ultra-low sulfur diesel vehicles.

15 **SEC. 5044. AUTHORIZATION OF APPROPRIATIONS.**

16 There are authorized to be appropriated to the Sec-
17 retary \$200,000,000 to carry out this subtitle, to remain
18 available until expended.

19 **Subtitle E—Miscellaneous**

20 **SEC. 5051. RAILROAD EFFICIENCY.**

21 (a) ESTABLISHMENT.—The Secretary shall, in con-
22 junction with the Secretary of Transportation and the Ad-
23 ministrator of the Environmental Protection Agency, es-
24 tablish a public-private research partnership involving the
25 Federal Government, the railroad industry, locomotive



1 manufacturers and equipment suppliers, and the research
2 facility owned by the Federal Railroad Administration and
3 operated by contract. The goal of the research partnership
4 shall include developing and demonstrating locomotive
5 technologies that increase fuel economy, reduce emissions,
6 and lower costs.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to carry out the require-
9 ments of this section \$25,000,000 for fiscal year 2003,
10 \$30,000,000 for fiscal year 2004, and \$35,000,000 for fis-
11 cal year 2005.

12 **SEC. 5052. MOBILE EMISSION REDUCTIONS TRADING AND**
13 **CREDITING.**

14 Within 180 days after the date of enactment of this
15 Act, the Administrator of the Environmental Protection
16 Agency shall provide a report to the Congress on the Envi-
17 ronmental Protection Agency's experience with the trading
18 of mobile source emission reduction credits for use by own-
19 ers and operators of stationary source emission sources
20 to meet emission offset requirements within a nonattain-
21 ment area. The report shall describe—

22 (1) projects approved by the Environmental
23 Protection Agency that include the trading of mobile
24 source emission reduction credits for use by sta-
25 tionary sources in complying with offset require-



1 ments, including project and stationary sources loca-
2 tion, volumes of emissions offset and traded, a de-
3 scription of the sources of mobile emission reduction
4 credits, and, if available, the cost of the credits;

5 (2) the significant issues identified by the Envi-
6 ronmental Protection Agency in its consideration
7 and approval of trading in such projects;

8 (3) the requirements for monitoring and assess-
9 ing the air quality benefits of any approved project;

10 (4) the statutory authority upon which the En-
11 vironmental Protection Agency has based approval
12 of such projects;

13 (5) an evaluation of how the resolution of issues
14 in approved projects could be utilized in other
15 projects; and

16 (6) any other issues the Environmental Protec-
17 tion Agency considers relevant to the trading and
18 generation of mobile source emission reduction cred-
19 its for use by stationary sources or for other pur-
20 poses.

21 **SEC. 5053. IDLE REDUCTION TECHNOLOGIES.**

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

23 (1) IDLE REDUCTION TECHNOLOGY.—The term
24 “idle reduction technology” means a device or sys-



1 tem of devices utilized to reduce long-duration idling
2 of a heavy-duty vehicle.

3 (2) HEAVY-DUTY VEHICLE.—The term “heavy-
4 duty vehicle” means a vehicle that has a gross vehi-
5 cle weight rating greater than 26,000 pounds and is
6 powered by a diesel engine.

7 (3) LONG-DURATION IDLING.—The term “long-
8 duration idling” means the operation of a main drive
9 engine, for a period greater than 15 consecutive
10 minutes, where the main drive engine is not engaged
11 in gear. Such term does not apply to routine stop-
12 pages associated with traffic movement or conges-
13 tion.

14 (b) STUDIES OF THE BENEFITS OF IDLE REDUCTION
15 TECHNOLOGIES.—

16 (1) POTENTIAL FUEL SAVINGS.—Not later than
17 90 days after the date of enactment of this section,
18 the Secretary of Energy shall, in consultation with
19 the Secretary of Transportation, commence a study
20 to analyze the potential fuel savings resulting from
21 use of idle reduction technologies.

22 (2) RECOGNITION OF BENEFITS OF ADVANCED
23 IDLE REDUCTION TECHNOLOGIES.—Within 90 days
24 after the date of enactment of this section, the Ad-
25 ministrator of the Environmental Protection Agency



1 is directed to commence a review of the Agency's
2 mobile source air emissions models used under the
3 Clean Air Act to determine whether such models ac-
4 curately reflect the emissions resulting from long-du-
5 ration idling of heavy-duty trucks and other vehicles
6 and engines, and shall update those models as the
7 Administrator deems appropriate. Additionally, with-
8 in 90 days after the date of enactment of this sec-
9 tion, the Administrator shall commence a review as
10 to the appropriate emissions reductions credit that
11 should be allotted under the Clean Air Act for the
12 use of advanced idle reduction technologies, and
13 whether such credits should be subject to an emis-
14 sions trading system, and shall revise Agency regula-
15 tions and guidance as the Administrator deems ap-
16 propriate.

17 (3) IDLING TECHNOLOGIES.—Not later than
18 180 days after the date of the enactment of this sec-
19 tion, the Secretary of Energy, in consultation with
20 the Secretary of Transportation and the Adminis-
21 trator of the Environmental Protection Agency, shall
22 commence a study to analyze where heavy duty and
23 other vehicles stop for long duration idling.

24 (c) VEHICLE WEIGHT EXEMPTION.—Section 127(a)
25 of title 23, United States Code, is amended by adding at



1 the end the following: "In instances where an idle reduc-
2 tion technology is installed onboard a motor vehicle, the
3 maximum gross vehicle weight limit and the axle weight
4 limit for any motor vehicle equipped with an idling reduc-
5 tion system may be increased by an amount necessary to
6 compensate for the additional weight of the idling reduc-
7 tion system, except that the weight limit increase shall be
8 no greater than 400 pounds."

9 **SEC. 5054. STUDY OF AVIATION FUEL CONSERVATION AND**
10 **EMISSIONS.**

11 The Administrator of the Federal Aviation Adminis-
12 tration and the Administrator of the Environmental Pro-
13 tection Agency shall jointly commence a study within 60
14 days after the date of enactment of this Act to identify
15 the impact of aircraft emissions on air quality in non-
16 attainment areas and to identify ways to promote fuel con-
17 servation measures for aviation, enhance fuel efficiency,
18 and reduce emissions. As part of this study, the Adminis-
19 trator of the Federal Aviation Administration and the Ad-
20 ministrator of the Environmental Protection Agency shall
21 focus on how air traffic management inefficiencies, such
22 as aircraft idling at airports, result in unnecessary fuel
23 burn and air emissions. Within 180 days after the com-
24 mencement of the study, the Administrator of the Federal
25 Aviation Administration and the Administrator of the En-



1 vironmental Protection Agency shall submit a report to
2 the Committees on Energy and Commerce and Transpor-
3 tation and Infrastructure of the House of Representatives
4 and the Committees on Environment and Public Works
5 and Commerce, Science, and Transportation of the Senate
6 containing the results of the study and recommendations
7 as to how unnecessary fuel use and emissions affecting
8 air quality may be reduced, without impacting safety and
9 security, increasing individual aircraft noise, and taking
10 into account all aircraft emissions and their relative im-
11 pact on human health.

12 **SEC. 5056. DIESEL FUELED VEHICLES.**

13 (a) DIESEL COMBUSTION AND AFTER TREATMENT
14 TECHNOLOGIES.—The Secretary of Energy shall accel-
15 erate efforts to improve diesel combustion and after-treat-
16 ment technologies for use in diesel fueled motor vehicles.

17 (b) GOAL.—

18 (1) COMPLIANCE WITH TIER 2 EMISSION
19 STANDARDS BY 2010.—The Secretary shall carry out
20 subsection (a) with a view to developing and dem-
21 onstrating diesel technology meeting tier 2 emission
22 standards not later than 2010.

23 (2) TIER 2 EMISSION STANDARDS DEFINED.—
24 In this subsection, the term “tier 2 emission stand-
25 ards” means the motor vehicle emission standards



1 promulgated by the Administrator of the Environ-
2 mental Protection Agency on February 10, 2000,
3 under sections 202 and 211 of the Clean Air Act to
4 apply to passenger cars, light trucks, and larger pas-
5 senger vehicles of model years after the 2003 vehicle
6 model year.

7 **TITLE VI—DOE PROGRAMS**

8 **SEC. 6001. PURPOSES.**

9 The purposes of this title are to—

10 (1) contribute to a national energy strategy
11 through Department of Energy programs that pro-
12 mote the production and conservation of energy in
13 partnership with industry;

14 (2) protect and strengthen the Nation's econ-
15 omy, standard of living, and national security by re-
16 ducing dependence on imported energy;

17 (3) meet future needs for energy services at the
18 lowest total cost to the Nation, giving balanced and
19 comprehensive consideration to technologies that im-
20 prove the efficiency of energy end uses and that en-
21 hance energy supply;

22 (4) reduce the environmental impacts of energy
23 production, distribution, transportation, and use;



1 (5) help increase domestic production of energy,
2 increase the availability of hydrocarbon reserves, and
3 lower energy prices; and

4 (6) stimulate economic growth and enhance the
5 ability of United States companies to compete in fu-
6 ture markets for advanced energy technologies.

7 **SEC. 6002. DEFINITIONS.**

8 For purposes of this title:

9 (1) DEPARTMENT.—The term “Department”
10 means the Department of Energy.

11 (2) DEPARTMENTAL MISSION.—The term “de-
12 partmental mission” means any of the functions
13 vested in the Secretary of Energy by the Depart-
14 ment of Energy Organization Act (42 U.S.C. 7101
15 et seq.) or other law.

16 (3) INSTITUTION OF HIGHER EDUCATION.—The
17 term “institution of higher education” has the
18 meaning given that term in section 101(a) of the
19 Higher Education Act of 1965 (20 U.S.C. 1001(a)).

20 (4) JOINT VENTURE.—The term “joint ven-
21 ture” has the meaning given that term under section
22 2 of the National Cooperative Research and Produc-
23 tion Act of 1993 (15 U.S.C. 4301).



1 (5) NATIONAL LABORATORY.—The term “Na-
2 tional Laboratory” means any of the following lab-
3 oratories owned by the Department:

4 (A) Ames National Laboratory.

5 (B) Argonne National Laboratory.

6 (C) Brookhaven National Laboratory.

7 (D) Fermi National Laboratory.

8 (E) Idaho National Engineering and Envi-
9 ronmental Laboratory.

10 (F) Lawrence Berkeley National Labora-
11 tory.

12 (G) Lawrence Livermore National Labora-
13 tory.

14 (H) Los Alamos National Laboratory.

15 (I) National Energy Technology Labora-
16 tory.

17 (J) National Renewable Energy Labora-
18 tory.

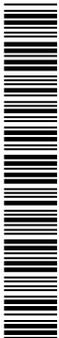
19 (K) Oak Ridge National Laboratory.

20 (L) Pacific Northwest National Labora-
21 tory.

22 (M) Princeton Plasma Physics Laboratory.

23 (N) Sandia National Laboratories.

24 (O) Thomas Jefferson National Accel-
25 erator Facility.



1 (6) NONMILITARY ENERGY LABORATORY.—The
2 term “nonmilitary energy laboratory” means any of
3 the following laboratories of the Department:

4 (A) Ames National Laboratory.

5 (B) Argonne National Laboratory.

6 (C) Brookhaven National Laboratory.

7 (D) Fermi National Laboratory.

8 (E) Lawrence Berkeley National Labora-
9 tory.

10 (F) Oak Ridge National Laboratory.

11 (G) Pacific Northwest National Labora-
12 tory.

13 (H) Princeton Plasma Physics Laboratory.

14 (I) Stanford Linear Accelerator Center.

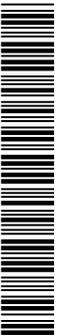
15 (J) Thomas Jefferson National Accelerator
16 Facility.

17 (7) SECRETARY.—The term “Secretary” means
18 the Secretary of Energy.

19 **Subtitle A—Energy Efficiency**

20 **PART 1—AUTHORIZATION OF APPROPRIATIONS**

21 **SEC. 6011. ENERGY EFFICIENCY.**



22 (a) IN GENERAL.—The following sums are author-
23 ized to be appropriated to the Secretary for energy effi-
24 ciency and conservation activities, including activities au-
25 thorized under this subtitle:

1 (1) For fiscal year 2003, \$560,000,000.

2 (2) For fiscal year 2004, \$616,000,000.

3 (3) For fiscal year 2005, \$695,000,000.

4 (4) For fiscal year 2006, \$772,000,000.

5 (5) For fiscal year 2007, \$865,000,000.

6 (b) ALLOCATIONS.—From amounts authorized under
7 subsection (a), the following sums are authorized:

8 (1) LIGHTING SYSTEMS.—For activities under
9 section 6021, \$10,000,000 for fiscal year 2003 and
10 \$50,000,000 for each of fiscal years 2004 through
11 2007.

12 (2) SECONDARY ELECTRIC VEHICLE BATTERY
13 USE PROGRAM.—For activities under section 6032—

14 (A) for fiscal year 2003, \$1,000,000;

15 (B) for fiscal year 2004, \$4,000,000;

16 (C) for fiscal year 2005, \$7,000,000;

17 (D) for fiscal year 2006, \$7,000,000; and

18 (E) for fiscal year 2007, \$7,000,000.

19 (c) EXTENDED AUTHORIZATION.—There are author-
20 ized to be appropriated to the Secretary for activities
21 under section 6021, \$50,000,000 for each of fiscal years
22 2008 through 2012.

23 (d) LIMITS ON USE OF FUNDS.—None of the funds
24 authorized to be appropriated under this section may be
25 used for—



1 (1) the promulgation and implementation of en-
2 ergy efficiency regulations;

3 (2) the Weatherization Assistance Program
4 under part A of title IV of the Energy Conservation
5 and Production Act;

6 (3) the State Energy Program under part D of
7 title III of the Energy Policy and Conservation Act;
8 or

9 (4) the Federal Energy Management Program
10 under part 3 of title V of the National Energy Con-
11 servation Policy Act.

12 **PART 2—LIGHTING SYSTEMS**

13 **SEC. 6021. NEXT GENERATION LIGHTING INITIATIVE.**

14 (a) IN GENERAL.—The Secretary shall carry out a
15 Next Generation Lighting Initiative in accordance with
16 this section to support activities related to advanced solid-
17 state lighting technologies based on white light emitting
18 diodes.

19 (b) OBJECTIVES.—The objectives of the initiative
20 shall be—

21 (1) to develop, by 2012, advanced solid-state
22 lighting technologies based on white light emitting
23 diodes that, compared to incandescent and fluores-
24 cent lighting technologies, are—

25 (A) longer lasting;



1 (B) more energy-efficient; and

2 (C) cost-competitive;

3 (2) to develop an inorganic white light emitting
4 diode that has an efficiency of 160 lumens per watt
5 and a 10-year lifetime; and

6 (3) to develop an organic white light emitting
7 diode with an efficiency of 100 lumens per watt with
8 a 5-year lifetime that—

9 (A) illuminates over a full color spectrum;

10 (B) covers large areas over flexible sur-
11 faces; and

12 (C) does not contain harmful pollutants,
13 such as mercury, typical of fluorescent lamps.

14 (c) CONSORTIUM.—

15 (1) IN GENERAL.—The Secretary shall establish
16 the Next Generation Lighting Initiative through a
17 private consortium (which may include private firms,
18 trade associations and institutions of higher edu-
19 cation), which the Secretary shall select through a
20 competitive process. Each proposed consortium shall
21 submit to the Secretary such information as the Sec-
22 retary may require, including a program plan agreed
23 to by all participants of the consortium.

24 (2) JOINT VENTURE.—The consortium shall be
25 structured as a joint venture among the participants



1 of the consortium. The Secretary shall serve on the
2 governing council of the consortium.

3 (3) ELIGIBILITY.—To be eligible to be selected
4 as the consortium under paragraph (1), an applicant
5 must be broadly representative of United States
6 solid-state lighting research, development, and man-
7 ufacturing expertise as a whole.

8 (4) GRANTS.—(A) The Secretary shall award
9 grants to the consortium, which the consortium may
10 disburse to researchers, including those who are not
11 participants of the consortium.

12 (B) To receive a grant, the consortium must
13 provide a description to the Secretary of the pro-
14 posed activities and list the parties that will receive
15 funding.

16 (5) NATIONAL LABORATORIES.—National Lab-
17 oratories may participate in the activities described
18 in this section, and may receive funds from the con-
19 sortium.

20 (6) INTELLECTUAL PROPERTY.—Participants in
21 the consortium and the Federal Government shall
22 have royalty-free nonexclusive rights to use intellec-
23 tual property derived from activities funded pursu-
24 ant to this subsection.



1 (d) DEVELOPMENT, DEMONSTRATION, AND COM-
2 MERCIAL APPLICATION.—The Secretary shall carry out
3 the development, demonstration, and commercial applica-
4 tion activities of the Next Generation Lighting Initiative
5 through awards to private firms, trade associations, and
6 institutions of higher education. In selecting awardees, the
7 Secretary may give preference to members of the consor-
8 tium selected pursuant to subsection (c).

9 (e) PLANS AND ASSESSMENTS.—(1) The consortium
10 shall formulate an annual operating plan which shall in-
11 clude priorities, technical milestones, and plans for tech-
12 nology transfer, and which shall be subject to approval by
13 the Secretary.

14 (2) The Secretary shall enter into an arrangement
15 with the National Academy of Sciences to conduct periodic
16 reviews of the Next Generation Lighting Initiative. The
17 Academy shall review the priorities, technical milestones,
18 and plans for technology transfer established under para-
19 graph (1) and evaluate the progress toward achieving
20 them. The Secretary shall consider the results of such re-
21 views in evaluating the plans submitted under paragraph
22 (1).

23 (f) AUDIT.—The Secretary shall retain an inde-
24 pendent, commercial auditor to perform an audit of the
25 consortium to determine the extent to which the funds au-



1 thorized by this section have been expended in a manner
2 consistent with the purposes of this section. The auditor
3 shall transmit a report annually to the Secretary, who
4 shall transmit the report to the Congress, along with a
5 plan to remedy any deficiencies cited in the report.

6 (g) SUNSET.—The Next Generation Lighting Initia-
7 tive shall terminate no later than September 30, 2013.

8 (h) DEFINITIONS.—As used in this section:

9 (1) ADVANCED SOLID-STATE LIGHTING.—The
10 term “advanced solid-state lighting” means a
11 semiconducting device package and delivery system
12 that produces white light using externally applied
13 voltage.

14 (2) INORGANIC WHITE LIGHT EMITTING
15 DIODE.—The term “inorganic white light emitting
16 diode” means an inorganic semiconducting package
17 that produces white light using externally applied
18 voltage.

19 (3) ORGANIC WHITE LIGHT EMITTING DIODE.—
20 The term “organic white light emitting diode”
21 means an organic semiconducting compound that
22 produces white light using externally applied voltage.

23 **PART 3—VEHICLES**

24 **SEC. 6031. DEFINITIONS.**

25 For purposes of this part, the term—



1 (1) “battery” means an energy storage device
2 that previously has been used to provide motive
3 power in a vehicle powered in whole or in part by
4 electricity; and

5 (2) “associated equipment” means equipment
6 located where the batteries will be used that is nec-
7 essary to enable the use of the energy stored in the
8 batteries.

9 **SEC. 6032. ESTABLISHMENT OF SECONDARY ELECTRIC VE-**
10 **HICLE BATTERY USE PROGRAM.**

11 (a) PROGRAM.—The Secretary shall establish and
12 conduct a program for the secondary use of batteries.
13 Such program shall be—

14 (1) designed to demonstrate the use of batteries
15 in secondary application, including utility and com-
16 mercial power storage and power quality;

17 (2) structured to evaluate the performance, in-
18 cluding useful service life and costs, of such bat-
19 teries in field operations, and evaluate the necessary
20 supporting infrastructure, including reuse and dis-
21 posal of batteries; and

22 (3) coordinated with ongoing secondary battery
23 use programs at the National Laboratories and in
24 industry.



1 (b) SOLICITATION.—(1) Not later than 6 months
2 after the date of the enactment of this Act, the Secretary
3 shall solicit proposals to demonstrate the secondary use
4 of batteries and associated equipment and supporting in-
5 frastructure in geographic locations throughout the
6 United States. The Secretary may make additional solici-
7 tations for proposals if the Secretary determines that such
8 solicitations are necessary to carry out this section.

9 (2)(A) Proposals submitted in response to a sollicita-
10 tion under this section shall include—

11 (i) a description of the project, including the
12 batteries to be used in the project, the proposed lo-
13 cations and applications for the batteries, the num-
14 ber of batteries to be demonstrated, and the type,
15 characteristics, and estimated life-cycle costs of the
16 batteries compared to other energy storage devices
17 currently used;

18 (ii) the contribution, if any, of State or local
19 governments and other persons to the demonstration
20 project;

21 (iii) the type of associated equipment and sup-
22 porting infrastructure to be demonstrated; and

23 (iv) any other information the Secretary con-
24 siders appropriate.



1 (B) If the proposal includes a lease arrangement, the
2 proposal shall indicate the terms of such lease arrange-
3 ment for the batteries and associated equipment.

4 (c) SELECTION OF PROPOSALS.—(1)(A) The Sec-
5 retary, in cooperation with affected Federal Regulatory
6 agencies, shall, not later than 3 months after the closing
7 date established by the Secretary for receipt of proposals
8 under subsection (b), select at least 5 proposals to receive
9 financial assistance under this section.

10 (B) No one project selected under this section shall
11 receive more than 25 percent of the funds authorized
12 under this section. No more than 3 projects selected under
13 this section shall demonstrate the same battery type.

14 (2) In selecting a proposal under this section, the
15 Secretary shall consider—

16 (A) the ability of the proposer to acquire the
17 batteries and associated equipment and to success-
18 fully manage and conduct the demonstration project,
19 including satisfying the reporting requirements set
20 forth in paragraph (3)(B);

21 (B) the geographic and climatic diversity of the
22 projects selected;

23 (C) the long-term technical and competitive via-
24 bility of the batteries to be used in the project and
25 of the original manufacturer of such batteries;



1 (D) the suitability of the batteries for their in-
2 tended uses;

3 (E) the technical performance of the batteries,
4 including the expected additional useful life and the
5 batteries' ability to retain energy;

6 (F) the environmental effects of the use of and
7 disposal of the batteries proposed to be used in the
8 project selected;

9 (G) the extent of involvement of State or local
10 government and other persons in the demonstration
11 project and whether such involvement will—

12 (i) permit a reduction of the Federal cost
13 share per project; or

14 (ii) otherwise be used to allow the Federal
15 contribution to be provided to demonstrate a
16 greater number of batteries; and

17 (H) such other criteria as the Secretary con-
18 siders appropriate.

19 (3) CONDITIONS.—The Secretary shall require that—

20 (A) as a part of a demonstration project, the
21 users of the batteries provide to the proposer infor-
22 mation regarding the operation, maintenance, per-
23 formance, and use of the batteries, and the proposer
24 provide such information to the battery manufac-



1 turer, for 3 years after the beginning of the dem-
2 onstration project;

3 (B) the proposer provide to the Secretary and
4 the Administrator of the United States Environ-
5 mental Protection Agency such information regard-
6 ing the operation, maintenance, performance, and
7 use of the batteries as the Secretary or the Adminis-
8 trator may request;

9 (C) the proposer provide to the Secretary such
10 information regarding the disposal of the batteries
11 as the Secretary may require to ensure that the pro-
12 poser disposes of the batteries in accordance with
13 applicable law; and

14 (D) the proposer provide at least 50 percent of
15 the costs associated with the proposal.

16 **Subtitle B—Distributed Energy and**
17 **Electric Energy Systems**

18 **PART 1—AUTHORIZATION OF APPROPRIATIONS**

19 **SEC. 6201. DISTRIBUTED ENERGY AND ELECTRIC ENERGY**
20 **SYSTEMS.**

21 The following sums are authorized to be appropriated
22 to the Secretary for distributed energy and electric energy
23 systems activities, including activities authorized under
24 this subtitle:

25 (1) For fiscal year 2004, \$190,000,000.



1 (2) For fiscal year 2005, \$200,000,000.

2 (3) For fiscal year 2006, \$220,000,000.

3 (4) For fiscal year 2007, \$240,000,000.

4 **PART 2—DISTRIBUTED POWER**

5 **SEC. 6221. STRATEGY.**

6 (a) REQUIREMENT.—Not later than 1 year after the
7 date of enactment of this Act, the Secretary shall develop
8 and transmit to the Congress a strategy for a comprehen-
9 sive program to develop hybrid distributed power systems
10 that combine—

11 (1) one or more renewable electric power gen-
12 eration technologies of 10 megawatts or less located
13 near the site of electric energy use; and

14 (2) nonintermittent electric power generation
15 technologies suitable for use in a distributed power
16 system.

17 (b) CONTENTS.—The strategy shall—

18 (1) identify the needs best met with such hybrid
19 distributed power systems and the technological bar-
20 riers to the use of such systems;

21 (2) provide for the development of methods to
22 design, test, integrate into systems, and operate
23 such hybrid distributed power systems;

24 (3) include, as appropriate, activities needed for
25 the adoption of such hybrid distributed power sys-



1 tems, including energy storage devices and environ-
2 mental control technologies; and

3 (4) describe how activities under the strategy
4 will be integrated with other activities supported by
5 the Department of Energy related to electric power
6 technologies.

7 **SEC. 6222. HIGH POWER DENSITY INDUSTRY PROGRAM.**

8 The Secretary shall establish a comprehensive pro-
9 gram to improve energy efficiency of high power density
10 facilities, including data centers, server farms, and tele-
11 communications facilities. Such program shall consider
12 technologies that provide significant improvement in ther-
13 mal controls, metering, load management, peak load re-
14 duction, or the efficient cooling of electronics.

15 **SEC. 6223. MICRO-COGENERATION ENERGY TECHNOLOGY.**

16 The Secretary shall make competitive, merit-based
17 grants to consortia for the development of micro-cogenera-
18 tion energy technology. The consortia shall explore the use
19 of small-scale combined heat and power in residential
20 heating appliances.

21 **PART 3—TRANSMISSION SYSTEMS**

22 **SEC. 6231. TRANSMISSION INFRASTRUCTURE SYSTEMS.**

23 (a) PROGRAM AUTHORIZED.—The Secretary shall de-
24 velop a program to promote improved reliability and effi-



1 ciency of electrical transmission systems. Such program
2 may include—

3 (1) advanced energy technologies, materials,
4 and systems;

5 (2) advanced grid reliability and efficiency tech-
6 nology development;

7 (3) technologies contributing to significant load
8 reductions;

9 (4) advanced metering, load management, and
10 control technologies;

11 (5) technologies to enhance existing grid compo-
12 nents;

13 (6) the development and use of high-tempera-
14 ture superconductors to—

15 (A) enhance the reliability, operational
16 flexibility, or power-carrying capability of elec-
17 tric transmission or distribution systems; or

18 (B) increase the efficiency of electric en-
19 ergy generation, transmission, distribution, or
20 storage systems;

21 (7) integration of power systems, including sys-
22 tems to deliver high-quality electric power, electric
23 power reliability, and combined heat and power;

24 (8) any other infrastructure technologies, as ap-
25 propriate; and



1 (9) technology transfer and education.

2 (b) PROGRAM PLAN.—Not later than 1 year after the
3 date of the enactment of this Act, the Secretary, in con-
4 sultation with other appropriate Federal agencies, shall
5 prepare and transmit to Congress a 5-year program plan
6 to guide activities under this section. In preparing the pro-
7 gram plan, the Secretary shall consult with utilities, en-
8 ergy services providers, manufacturers, institutions of
9 higher education, other appropriate State and local agen-
10 cies, environmental organizations, professional and tech-
11 nical societies, and any other persons the Secretary con-
12 siders appropriate.

13 (c) REPORT.—Not later than 2 years after the trans-
14 mittal of the plan under subsection (b), the Secretary shall
15 transmit a report to Congress describing the progress
16 made under this section and identifying any additional re-
17 sources needed to continue the development and commer-
18 cial application of transmission infrastructure tech-
19 nologies.

20 **Subtitle C—Renewable Energy**

21 **PART 1—AUTHORIZATION OF APPROPRIATIONS**

22 **SEC. 6301. RENEWABLE ENERGY.**

23 (a) IN GENERAL.—The following sums are author-
24 ized to be appropriated to the Secretary for renewable en-



1 ergy activities, including activities authorized under this
2 subtitle:

3 (1) For fiscal year 2004, \$460,000,000.

4 (2) For fiscal year 2005, \$510,000,000.

5 (3) For fiscal year 2006, \$560,000,000.

6 (4) For fiscal year 2007, \$609,000,000.

7 (b) BIOENERGY.—From the amounts authorized
8 under subsection (a), the following sums are authorized
9 to be appropriated to carry out section 6321 and other
10 bioenergy activities:

11 (1) For fiscal year 2004, \$135,425,000.

12 (2) For fiscal year 2005, \$155,600,000.

13 (3) For fiscal year 2006, \$167,650,000.

14 (4) For fiscal year 2007, \$180,000,000.

15 (c) USE OF FUNDS.—

16 (1) BIOENERGY.—Of the funds authorized
17 under subsection (b), not less than \$5,000,000 for
18 each fiscal year shall be made available for grants to
19 Historically Black Colleges and Universities, Tribal
20 Colleges, and Hispanic-Serving Institutions.

21 (2) RURAL AND REMOTE LOCATIONS.—In car-
22 rying out this section, the Secretary, in consultation
23 with the Secretary of Agriculture, shall demonstrate
24 the production and use of energy from advanced
25 wind power technology, biomass, geothermal energy



1 systems, and other renewable energy technologies in
2 order to assist in delivering electricity to rural and
3 remote locations.

4 **PART 2—BIOENERGY**

5 **SEC. 6321. BIOENERGY PROGRAMS.**

6 The Secretary shall conduct a program to facilitate
7 the production of bioenergy, including—
8 (1) biopower energy systems;
9 (2) biofuels;
10 (3) integrated applications of both biopower and
11 biofuels;
12 (4) feedstocks; and
13 (5) economic analysis.

14 **Subtitle D—Nuclear Energy**

15 **PART 1—AUTHORIZATION OF APPROPRIATIONS**

16 **SEC. 6411. NUCLEAR ENERGY.**

17 (a) CORE PROGRAMS.—The following sums are au-
18 thorized to be appropriated to the Secretary for nuclear
19 energy activities, regulation of research and development
20 activities and nuclear regulatory research, including activi-
21 ties authorized under this subtitle, other than those de-
22 scribed in subsection (b):

- 23 (1) For fiscal year 2004, \$200,000,000.
24 (2) For fiscal year 2005, \$233,000,000.
25 (3) For fiscal year 2006, \$266,000,000.



1 (4) For fiscal year 2007, \$300,000,000.

2 (b) NUCLEAR INFRASTRUCTURE SUPPORT.—The fol-
3 lowing sums are authorized to be appropriated to the Sec-
4 retary for activities under section 6421(f):

5 (1) For fiscal year 2004, \$120,000,000.

6 (2) For fiscal year 2005, \$125,000,000.

7 (3) For fiscal year 2006, \$130,000,000.

8 (4) For fiscal year 2007, \$135,000,000.

9 (c) ALLOCATIONS.—From amounts authorized under
10 subsection (a), the following sums are authorized:

11 (1) ADVANCED FUEL RECYCLING PROGRAM.—

12 For activities under section 6431—

13 (A) for fiscal year 2004, \$80,000,000;

14 (B) for fiscal year 2005, \$93,000,000;

15 (C) for fiscal year 2006, \$106,000,000;

16 and

17 (D) for fiscal year 2007, \$120,000,000.

18 (2) UNIVERSITY PROGRAMS.—For activities
19 under section 6441—

20 (A) for fiscal year 2004, \$25,000,000;

21 (B) for fiscal year 2005, \$33,900,000;

22 (C) for fiscal year 2006, \$37,900,000; and

23 (D) for fiscal year 2007, \$43,600,000.



1 (d) LIMIT ON USE OF FUNDS.—None of the funds
2 authorized under this section may be used for decommis-
3 sioning the Fast Flux Test Facility.

4 **PART 2—NUCLEAR ENERGY RESEARCH**

5 **PROGRAMS**

6 **SEC. 6421. NUCLEAR ENERGY RESEARCH PROGRAMS.**

7 (a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The
8 Secretary shall carry out a Nuclear Energy Research Ini-
9 tiative for research and development related to nuclear en-
10 ergy.

11 (b) NUCLEAR ENERGY PLANT OPTIMIZATION PRO-
12 GRAM.—The Secretary shall carry out a Nuclear Energy
13 Plant Optimization Program to support research and de-
14 velopment activities addressing reliability, availability, pro-
15 ductivity, and component aging in existing nuclear power
16 plants.

17 (c) NUCLEAR POWER 2010 PROGRAM.—The Sec-
18 retary shall carry out a Nuclear Power 2010 Program,
19 consistent with recommendations in the October 2001 re-
20 port entitled “A Roadmap to Deploy New Nuclear Power
21 Plants in the United States by 2010” issued by the Nu-
22 clear Energy Research Advisory Committee of the Depart-
23 ment. The Program shall—



1 (1) rely on the expertise and capabilities of the
2 National Laboratories in the areas of advanced nu-
3 clear fuels cycles and fuels testing;

4 (2) pursue an approach that considers a variety
5 of reactor designs;

6 (3) include participation of international col-
7 laborators in research, development, and design ef-
8 forts as appropriate; and

9 (4) encourage industry participation.

10 (d) GENERATION IV NUCLEAR ENERGY SYSTEMS
11 INITIATIVE.—The Secretary shall carry out a Generation
12 IV Nuclear Energy Systems Initiative to develop an over-
13 all technology plan and to support research and develop-
14 ment necessary to make an informed technical decision
15 about the most promising candidates for eventual commer-
16 cial application. The Initiative shall examine advanced
17 proliferation-resistant and passively safe reactor designs,
18 including designs that—

19 (1) are economically competitive with other elec-
20 tric power generation plants;

21 (2) have higher efficiency, lower cost, and im-
22 proved safety compared to reactors in operation on
23 the date of enactment of this Act;



1 (3) use fuels that are proliferation resistant and
2 have substantially reduced production of high-level
3 waste per unit of output; and

4 (4) utilize improved instrumentation.

5 (e) REACTOR PRODUCTION OF HYDROGEN.—The
6 Secretary shall carry out research to examine designs for
7 high-temperature reactors capable of producing large-scale
8 quantities of hydrogen using thermochemical processes.

9 (f) NUCLEAR INFRASTRUCTURE SUPPORT.—The
10 Secretary shall develop and implement a strategy for the
11 facilities of the Office of Nuclear Energy, Science, and
12 Technology and shall transmit a report containing the
13 strategy along with the President's budget request to the
14 Congress for fiscal year 2005. Such strategy shall provide
15 a cost-effective means for—

16 (1) maintaining existing facilities and infra-
17 structure, as needed;

18 (2) closing unneeded facilities;

19 (3) making facility upgrades and modifications;

20 and

21 (4) building new facilities.

22 **PART 3—ADVANCED FUEL RECYCLING**

23 **SEC. 6431. ADVANCED FUEL RECYCLING PROGRAM.**

24 (a) IN GENERAL.—The Secretary, through the Direc-
25 tor of the Office of Nuclear Energy, Science and Tech-



1 nology, shall conduct an advanced fuel recycling tech-
2 nology research and development program to evaluate pro-
3 liferation-resistant fuel recycling and transmutation tech-
4 nologies which minimize environmental or public health
5 and safety impacts as an alternative to aqueous reprocess-
6 ing technologies deployed as of the date of enactment of
7 this Act in support of evaluation of alternative national
8 strategies for spent nuclear fuel and the Generation IV
9 advanced reactor concepts, subject to annual review by the
10 Secretary's Nuclear Energy Research Advisory Committee
11 or other independent entity, as appropriate. Opportunities
12 to enhance progress of this program through international
13 cooperation should be sought.

14 (b) REPORTS.—The Secretary shall report on the ac-
15 tivities of the advanced fuel recycling technology research
16 and development program, as part of the Department's
17 annual budget submission.

18 **PART 4—UNIVERSITY PROGRAMS**

19 **SEC. 6441. UNIVERSITY NUCLEAR SCIENCE AND ENGINEER-**
20 **ING SUPPORT.**

21 (a) ESTABLISHMENT.—The Secretary shall support
22 a program to invest in human resources and infrastructure
23 in the nuclear sciences and engineering and related fields
24 (including health physics and nuclear and radiochemistry),



1 consistent with departmental missions related to civilian
2 nuclear research and development.

3 (b) DUTIES.—In carrying out the program under this
4 section, the Secretary shall—

5 (1) establish a graduate and undergraduate fel-
6 lowship program to attract new and talented stu-
7 dents;

8 (2) establish a Junior Faculty Research Initi-
9 ation Grant Program to assist institutions of higher
10 education in recruiting and retaining new faculty in
11 the nuclear sciences and engineering;

12 (3) support fundamental nuclear sciences and
13 engineering research through the Nuclear Engineer-
14 ing Education Research Program;

15 (4) encourage collaborative nuclear research
16 among industry, National Laboratories, and institu-
17 tions of higher education through the Nuclear En-
18 ergy Research Initiative; and

19 (5) support communication and outreach re-
20 lated to nuclear science and engineering.

21 (c) MAINTAINING UNIVERSITY RESEARCH AND
22 TRAINING REACTORS AND ASSOCIATED INFRASTRUC-
23 TURE.—Activities under this section may include—

24 (1) converting research reactors currently using
25 high-enrichment fuels to low-enrichment fuels, up-



1 grading operational instrumentation, and sharing of
2 reactors among institutions of higher education;

3 (2) providing technical assistance, in collabora-
4 tion with the United States nuclear industry, in reli-
5 censing and upgrading training reactors as part of
6 a student training program; and

7 (3) providing funding for reactor improvements
8 as part of a focused effort that emphasizes research,
9 training, and education.

10 (d) UNIVERSITY-NATIONAL LABORATORY INTER-
11 ACTIONS.—The Secretary shall develop—

12 (1) a sabbatical fellowship program for profes-
13 sors at institutions of higher education to spend ex-
14 tended periods of time at National Laboratories in
15 the areas of nuclear science and technology; and

16 (2) a visiting scientist program in which Na-
17 tional Laboratory staff can spend time in academic
18 nuclear science and engineering departments.

19 The Secretary may provide fellowships for students to
20 spend time at National Laboratories in the area of nuclear
21 science with a member of the Laboratory staff acting as
22 a mentor.

23 (e) OPERATING AND MAINTENANCE COSTS.—Fund-
24 ing for a research project provided under this section may
25 be used to offset a portion of the operating and mainte-



1 nance costs of a research reactor at an institution of high-
2 er education used in the research project.

3 **Subtitle E—Fossil Energy**

4 **PART 1—AUTHORIZATION OF APPROPRIATIONS**

5 **SEC. 6501. FOSSIL ENERGY.**

6 There are authorized to be appropriated to the Sec-
7 retary for fossil energy activities, including activities au-
8 thorized under this subtitle—

9 (1) \$523,000,000 for fiscal year 2004;

10 (2) \$542,000,000 for fiscal year 2005;

11 (3) \$558,000,000 for fiscal year 2006; and

12 (4) \$585,000,000 for fiscal year 2007.

13 **PART 2—ULTRA-DEEPWATER AND UNCONVEN-**
14 **TIONAL NATURAL GAS AND OTHER PETRO-**
15 **LEUM RESOURCES**

16 **SEC. 6521. PROGRAM AUTHORITY.**

17 (a) IN GENERAL.—The Secretary shall carry out a
18 program under this part for ultra-deepwater and uncon-
19 ventional natural gas and other petroleum resource explo-
20 ration and production, including safe operations and envi-
21 ronmental mitigation.

22 (b) PROGRAM ELEMENTS.—The program under this
23 part shall address the following areas, including improving
24 safety and minimizing environmental impacts of activities
25 within each area:



1 (1) Ultra-deepwater technology.

2 (2) Ultra-deepwater architecture.

3 (3) Unconventional natural gas and other petro-
4 leum resource exploration and production tech-
5 nology.

6 (c) LIMITATION ON LOCATION OF FIELD ACTIVI-
7 TIES.—Field activities under the program under this part
8 shall be carried out only—

9 (1) in—

10 (A) areas in the territorial waters of the
11 United States not under any Outer Continental
12 Shelf moratorium as of September 30, 2002;

13 (B) areas onshore in the United States on
14 public land administered by the Secretary of the
15 Interior available for oil and gas leasing, where
16 consistent with applicable law and land use
17 plans; and

18 (C) areas onshore in the United States on
19 State or private land, subject to applicable law;
20 and

21 (2) with the approval of the appropriate Fed-
22 eral or State land management agency or private
23 land owner.

24 (d) NATIONAL ENERGY TECHNOLOGY LABORA-
25 TORY.—The Secretary, through the National Energy



1 Technology Laboratory, shall carry out activities com-
2 plementary to activities under subsection (b)(1).

3 (e) CONSULTATION WITH SECRETARY OF THE INTE-
4 RIOR.—In carrying out this part, the Secretary shall con-
5 sult regularly with the Secretary of the Interior.

6 **SEC. 6522. ULTRA-DEEPWATER PROGRAM.**

7 (a) IN GENERAL.—The Secretary shall carry out the
8 activities under paragraphs (1) and (2) of section 6521(b),
9 to maximize the value of the ultra-deepwater natural gas
10 and other petroleum resources of the United States by in-
11 creasing the supply of such resources and by reducing the
12 cost and increasing the efficiency of exploration for and
13 production of such resources, while improving safety and
14 minimizing environmental impacts.

15 (b) ROLE OF THE SECRETARY.—The Secretary shall
16 have ultimate responsibility for, and oversight of, all as-
17 pects of the program under this section.

18 (c) ROLE OF THE PROGRAM CONSORTIUM.—

19 (1) IN GENERAL.—The Secretary shall contract
20 with a consortium to—

21 (A) manage awards pursuant to subsection

22 (f)(4);

23 (B) make recommendations to the Sec-
24 retary for project solicitations;



1 (C) disburse funds awarded under sub-
2 section (f) as directed by the Secretary in ac-
3 cordance with the annual plan under subsection
4 (e); and

5 (D) carry out other activities assigned to
6 the program consortium by this section.

7 (2) LIMITATION.—The Secretary may not as-
8 sign any activities to the program consortium except
9 as specifically authorized under this section.

10 (3) CONFLICT OF INTEREST.—(A) The Sec-
11 retary shall establish procedures—

12 (i) to ensure that each board member, offi-
13 cer, or employee of the program consortium
14 who is in a decisionmaking capacity under sub-
15 section (f)(3) or (4) shall disclose to the Sec-
16 retary any financial interests in, or financial re-
17 lationships with, applicants for or recipients of
18 awards under this section, including those of
19 his or her spouse or minor child, unless such re-
20 lationships or interests would be considered to
21 be remote or inconsequential; and

22 (ii) to require any board member, officer,
23 or employee with a financial relationship or in-
24 terest disclosed under clause (i) to recuse him-
25 self or herself from any review under subsection



1 (f)(3) or oversight under subsection (f)(4) with
2 respect to such applicant or recipient.

3 (B) The Secretary may disqualify an applica-
4 tion or revoke an award under this section if a board
5 member, officer, or employee has failed to comply
6 with procedures required under subparagraph
7 (A)(ii).

8 (d) SELECTION OF THE PROGRAM CONSORTIUM.—

9 (1) IN GENERAL.—The Secretary shall select
10 the program consortium through an open, competi-
11 tive process.

12 (2) MEMBERS.—The program consortium may
13 include corporations, institutions of higher edu-
14 cation, National Laboratories, or other research in-
15 stitutions. After submitting a proposal under para-
16 graph (4), the program consortium may not add
17 members without the consent of the Secretary.

18 (3) TAX STATUS.—The program consortium
19 shall be an entity that is exempt from tax under sec-
20 tion 501(c)(3) of the Internal Revenue Code of
21 1986.

22 (4) SCHEDULE.—Not later than 90 days after
23 the date of enactment of this Act, the Secretary
24 shall solicit proposals for the creation of the pro-
25 gram consortium, which must be submitted not less



1 than 180 days after the date of enactment of this
2 Act. The Secretary shall select the program consor-
3 tium not later than 240 days after such date of en-
4 actment.

5 (5) APPLICATION.—Applicants shall submit a
6 proposal including such information as the Secretary
7 may require. At a minimum, each proposal shall—

8 (A) list all members of the consortium;

9 (B) fully describe the structure of the con-
10 sortium, including any provisions relating to in-
11 tellectual property; and

12 (C) describe how the applicant would carry
13 out the activities of the program consortium
14 under this section.

15 (6) ELIGIBILITY.—To be eligible to be selected
16 as the program consortium, an applicant must be an
17 entity whose members collectively have demonstrated
18 capabilities in planning and managing programs in
19 natural gas or other petroleum exploration or pro-
20 duction.

21 (7) CRITERION.—The Secretary may consider
22 the amount of the fee an applicant proposes to re-
23 ceive under subsection (g) in selecting a consortium
24 under this section.

25 (e) ANNUAL PLAN.—



1 (1) IN GENERAL.—The program under this sec-
2 tion shall be carried out pursuant to an annual plan
3 prepared by the Secretary in accordance with para-
4 graph (2).

5 (2) DEVELOPMENT.—(A) Before drafting an
6 annual plan under this subsection, the Secretary
7 shall solicit specific written recommendations from
8 the program consortium for each element to be ad-
9 dressed in the plan, including those described in
10 paragraph (4). The Secretary may request that the
11 program consortium submit its recommendations in
12 the form of a draft annual plan.

13 (B) The Secretary shall submit the rec-
14 ommendations of the program consortium under
15 subparagraph (A) to the Ultra-Deepwater Advisory
16 Committee established under section 6525(a) for re-
17 view, and such Advisory Committee shall provide to
18 the Secretary written comments by a date deter-
19 mined by the Secretary. The Secretary may also so-
20 licit comments from any other experts.

21 (C) The Secretary shall consult regularly with
22 the program consortium throughout the preparation
23 of the annual plan.

24 (3) PUBLICATION.—The Secretary shall trans-
25 mit to the Congress and publish in the Federal Reg-



1 ister the annual plan, along with any written com-
2 ments received under paragraph (2)(A) and (B).
3 The annual plan shall be transmitted and published
4 not later than 60 days after the date of enactment
5 of an Act making appropriations for a fiscal year for
6 the program under this section.

7 (4) CONTENTS.—The annual plan shall describe
8 the ongoing and prospective activities of the pro-
9 gram under this section and shall include—

10 (A) a list of any solicitations for awards
11 that the Secretary plans to issue to carry out
12 activities, including the topics for such work,
13 who would be eligible to apply, selection cri-
14 teria, and the duration of awards; and

15 (B) a description of the activities expected
16 of the program consortium to carry out sub-
17 section (f)(4).

18 (f) AWARDS.—

19 (1) IN GENERAL.—The Secretary shall make
20 awards to carry out activities under the program
21 under this section. The program consortium shall
22 not be eligible to receive such awards, but members
23 of the program consortium may receive such awards.

24 (2) PROPOSALS.—The Secretary shall solicit
25 proposals for awards under this subsection in such



1 manner and at such time as the Secretary may pre-
2 scribe, in consultation with the program consortium.

3 (3) REVIEW.—The Secretary shall make awards
4 under this subsection through a competitive process,
5 which shall include a review by individuals selected
6 by the Secretary. Such individuals shall include, for
7 each application, Federal officials, the program con-
8 sortium, and non-Federal experts who are not board
9 members, officers, or employees of the program con-
10 sortium or of a member of the program consortium.

11 (4) OVERSIGHT.—(A) The program consortium
12 shall oversee the implementation of awards under
13 this subsection, consistent with the annual plan
14 under subsection (e), including disbursing funds and
15 monitoring activities carried out under such awards
16 for compliance with the terms and conditions of the
17 awards.

18 (B) Nothing in subparagraph (A) shall limit the
19 authority or responsibility of the Secretary to over-
20 see awards, or limit the authority of the Secretary
21 to review or revoke awards.

22 (C) The Secretary shall provide to the program
23 consortium the information necessary for the pro-
24 gram consortium to carry out its responsibilities
25 under this paragraph.



1 (g) FEE.—

2 (1) IN GENERAL.—To compensate the program
3 consortium for carrying out its activities under this
4 section, the Secretary shall provide to the program
5 consortium a fee in an amount not to exceed 7.5
6 percent of the amounts awarded under subsection (f)
7 for each fiscal year.

8 (2) ADVANCE.—The Secretary shall advance
9 funds to the program consortium upon selection of
10 the consortium, which shall be deducted from
11 amounts to be provided under paragraph (1).

12 (h) AUDIT.—The Secretary shall retain an inde-
13 pendent, commercial auditor to determine the extent to
14 which funds provided to the program consortium, and
15 funds provided under awards made under subsection (f),
16 have been expended in a manner consistent with the pur-
17 poses and requirements of this part. The auditor shall
18 transmit a report annually to the Secretary, who shall
19 transmit the report to Congress, along with a plan to rem-
20 edy any deficiencies cited in the report.

21 **SEC. 6523. UNCONVENTIONAL NATURAL GAS AND OTHER**
22 **PETROLEUM RESOURCES PROGRAM.**

23 (a) IN GENERAL.—The Secretary, after consulting
24 with appropriate Federal regulatory agencies, shall carry
25 out activities under section 6521(b)(3), to maximize the



1 value of the onshore unconventional natural gas and other
2 petroleum resources of the United States by increasing the
3 supply of such resources and by reducing the cost and in-
4 creasing the efficiency of exploration for and production
5 of such resources, while improving safety and minimizing
6 environmental impacts.

7 (b) AWARDS.—

8 (1) IN GENERAL.—The Secretary shall carry
9 out this section through awards made through an
10 open, competitive process.

11 (2) CONSORTIA.—In carrying out paragraph
12 (1), the Secretary shall give preference to making
13 awards to consortia.

14 (c) AUDIT.—The Secretary shall retain an inde-
15 pendent, commercial auditor to determine the extent to
16 which funds provided under awards made under this sec-
17 tion have been expended in a manner consistent with the
18 purposes and requirements of this part. The auditor shall
19 transmit a report annually to the Secretary, who shall
20 transmit the report to Congress, along with a plan to rem-
21 edy any deficiencies cited in the report.

22 (d) FOCUS AREAS.—Awards under this section may
23 focus on areas including advanced coal-bed methane, deep
24 drilling, natural gas production from tight sands, natural
25 gas production from gas shales, innovative exploration and



1 production techniques, enhanced recovery techniques, and
2 environmental mitigation of unconventional natural gas
3 and other petroleum resources exploration and production.

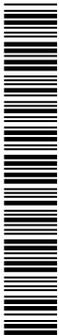
4 (e) ACTIVITIES BY THE UNITED STATES GEOLOGI-
5 CAL SURVEY.—The Secretary of the Interior, through the
6 United States Geological Survey, shall, where appropriate,
7 carry out programs to complement the programs under
8 this section.

9 **SEC. 6524. ADDITIONAL REQUIREMENTS FOR AWARDS.**

10 (a) DEMONSTRATION PROJECTS.—An application for
11 an award under this part for a demonstration project shall
12 describe with specificity the intended commercial use of
13 the technology to be demonstrated.

14 (b) FLEXIBILITY IN LOCATING DEMONSTRATION
15 PROJECTS.—Subject to the limitation in section 6521(c),
16 a demonstration project under this part relating to an
17 ultra-deepwater technology or an ultra-deepwater architec-
18 ture may be conducted in deepwater depths.

19 (c) INTELLECTUAL PROPERTY AGREEMENTS.—If an
20 award under this part is made to a consortium (other than
21 the program consortium), the consortium shall provide to
22 the Secretary a signed contract agreed to by all members
23 of the consortium describing the rights of each member
24 to intellectual property used or developed under the award.



1 (d) TECHNOLOGY TRANSFER.—Each recipient of an
2 award under this part shall conduct technology transfer
3 activities, as appropriate.

4 **SEC. 6525. ADVISORY COMMITTEES.**

5 (a) ULTRA-DEEPWATER ADVISORY COMMITTEE.—

6 (1) ESTABLISHMENT.—Not later than 270 days
7 after the date of enactment of this section, the Sec-
8 retary shall establish an advisory committee to be
9 known as the Ultra-Deepwater Advisory Committee.

10 (2) MEMBERSHIP.—The advisory committee
11 under this subsection shall be composed of members
12 appointed by the Secretary and including—

13 (A) individuals with extensive experience or
14 operational knowledge of offshore natural gas
15 and other petroleum exploration and produc-
16 tion;

17 (B) individuals broadly representative of
18 the affected interests in ultra-deepwater natural
19 gas and other petroleum production, including
20 interests in environmental protection and safe
21 operations;

22 (C) no individuals who are Federal employ-
23 ees; and



1 (D) no individuals who are board members,
2 officers, or employees of the program consor-
3 tium.

4 (3) DUTIES.—The advisory committee under
5 this subsection shall—

6 (A) advise the Secretary on the develop-
7 ment and implementation of programs under
8 this part related to ultra-deepwater natural gas
9 and other petroleum resources; and

10 (B) carry out section 6522(e)(2)(B).

11 (4) COMPENSATION.—A member of the advi-
12 sory committee under this subsection shall serve
13 without compensation but shall receive travel ex-
14 penses, including per diem in lieu of subsistence, in
15 accordance with applicable provisions under sub-
16 chapter I of chapter 57 of title 5, United States
17 Code.

18 (b) UNCONVENTIONAL RESOURCES TECHNOLOGY
19 ADVISORY COMMITTEE.—

20 (1) ESTABLISHMENT.—Not later than 270 days
21 after the date of enactment of this section, the Sec-
22 retary shall establish an advisory committee to be
23 known as the Unconventional Resources Technology
24 Advisory Committee.



1 (2) MEMBERSHIP.—The advisory committee
2 under this subsection shall be composed of members
3 appointed by the Secretary and including—

4 (A) individuals with extensive experience or
5 operational knowledge of unconventional nat-
6 ural gas and other petroleum resource explo-
7 ration and production, including independent oil
8 and gas producers;

9 (B) individuals broadly representative of
10 the affected interests in unconventional natural
11 gas and other petroleum resource exploration
12 and production, including interests in environ-
13 mental protection and safe operations; and

14 (C) no individuals who are Federal employ-
15 ees.

16 (3) DUTIES.—The advisory committee under
17 this subsection shall advise the Secretary on the de-
18 velopment and implementation of activities under
19 this part related to unconventional natural gas and
20 other petroleum resources.

21 (4) COMPENSATION.—A member of the advi-
22 sory committee under this subsection shall serve
23 without compensation but shall receive travel ex-
24 penses, including per diem in lieu of subsistence, in
25 accordance with applicable provisions under sub-



1 chapter I of chapter 57 of title 5, United States
2 Code.

3 (c) PROHIBITION.—No advisory committee estab-
4 lished under this section shall make recommendations on
5 funding awards to consortia or for specific projects.

6 **SEC. 6526. LIMITS ON PARTICIPATION.**

7 (a) IN GENERAL.—An entity shall be eligible to re-
8 ceive an award under this part only if the Secretary
9 finds—

10 (1) that the entity's participation in the pro-
11 gram under this part would be in the economic in-
12 terest of the United States; and

13 (2) that either—

14 (A) the entity is a United States-owned en-
15 tity organized under the laws of the United
16 States; or

17 (B) the entity is organized under the laws
18 of the United States and has a parent entity or-
19 ganized under the laws of a country which
20 affords—

21 (i) to United States-owned entities op-
22 portunities, comparable to those afforded
23 to any other entity, to participate in any
24 cooperative venture similar to those au-
25 thorized under this part;



1 (ii) to United States-owned entities
2 local investment opportunities comparable
3 to those afforded to any other entity; and
4 (iii) adequate and effective protection
5 for the intellectual property rights of
6 United States-owned entities.

7 (b) SENSE OF CONGRESS AND REPORT.—It is the
8 Sense of the Congress that ultra-deepwater technology de-
9 veloped under this part is to be developed primarily for
10 production of ultra-deepwater natural gas and other petro-
11 leum resources of the United States, and that this priority
12 is to be reflected in the terms of grants, contracts, and
13 cooperative agreements entered under this part. As part
14 of the annual Departmental budget submission, the Sec-
15 retary shall report on all steps taken to implement the pol-
16 icy described in this subsection.

17 **SEC. 6527. FUND.**

18 There is hereby established in the Treasury of the
19 United States a separate fund to be known as the “Ultra-
20 Deepwater and Unconventional Natural Gas and Other
21 Petroleum Products Fund”.

22 **SEC. 6528. SUNSET.**

23 The authority provided by this part shall terminate
24 on September 30, 2010.



1 **SEC. 6529. DEFINITIONS.**

2 In this part:

3 (1) DEEPWATER.—The term “deepwater”
4 means a water depth that is greater than 200 but
5 less than 1,500 meters.

6 (2) PROGRAM CONSORTIUM.—The term “pro-
7 gram consortium” means the consortium selected
8 under section 6522(d).

9 (3) REMOTE OR INCONSEQUENTIAL.—The term
10 “remote or inconsequential” has the meaning given
11 that term in regulations issued by the Office of Gov-
12 ernment Ethics under section 208(b)(2) of title 18,
13 United States Code.

14 (4) ULTRA-DEEPWATER.—The term “ultra-
15 deepwater” means a water depth that is equal to or
16 greater than 1,500 meters.

17 (5) ULTRA-DEEPWATER ARCHITECTURE.—The
18 term “ultra-deepwater architecture” means the inte-
19 gration of technologies for the exploration for, or
20 production of, natural gas or other petroleum re-
21 sources located at ultra-deepwater depths.

22 (6) ULTRA-DEEPWATER TECHNOLOGY.—The
23 term “ultra-deepwater technology” means a discrete
24 technology that is specially suited to address one or
25 more challenges associated with the exploration for,



1 or production of, natural gas or other petroleum re-
2 sources located at ultra-deepwater depths.

3 (7) UNCONVENTIONAL NATURAL GAS AND
4 OTHER PETROLEUM RESOURCE.—The term “uncon-
5 ventional natural gas and other petroleum resource”
6 means natural gas and other petroleum resource lo-
7 cated onshore in an economically inaccessible geo-
8 logical formation.

9 **Subtitle F—Miscellaneous**

10 **SEC. 6601. WASTE REDUCTION AND USE OF ALTERNATIVES.**

11 (a) GRANT AUTHORITY.—The Secretary is author-
12 ized to make a single grant to a qualified institution to
13 examine and develop the feasibility of burning post-con-
14 sumer carpet in cement kilns as an alternative energy
15 source. The purposes of the grant shall include
16 determining—

17 (1) how post-consumer carpet can be burned
18 without disrupting kiln operations;

19 (2) the extent to which overall kiln emissions
20 may be reduced;

21 (3) the emissions of air pollutants and other
22 relevant environmental impacts; and

23 (4) how this process provides benefits to both
24 cement kiln operations and carpet suppliers.



1 (b) QUALIFIED INSTITUTION.—For the purposes of
2 subsection (a), a qualified institution is a research-inten-
3 sive institution of higher education with demonstrated ex-
4 pertise in the fields of fiber recycling and logistical mod-
5 eling of carpet waste collection and preparation.

6 (c) WASTE REDUCTION AND USE OF ALTER-
7 NATIVES.—There are authorized to be appropriated to the
8 Secretary to carry out activities under this section
9 \$500,000 for fiscal year 2004.

10 **SEC. 6602. COAL GASIFICATION.**

11 The Secretary is authorized to provide loan guaran-
12 tees for a project to produce energy from a plant using
13 integrated gasification combined cycle technology of at
14 least 400 megawatts in capacity that produces power at
15 competitive rates in deregulated energy generation mar-
16 kets and that does not receive any subsidy (direct or indi-
17 rect) from ratepayers.

18 **SEC. 6603. PETROLEUM COKE GASIFICATION.**

19 The Secretary is authorized to provide loan guaran-
20 tees for at least one petroleum coke gasification
21 polygeneration project.

22 **SEC. 6604. OTHER BIOPOWER AND BIOENERGY.**

23 The Secretary shall conduct a program to assist in
24 the planning, design, and implementation of projects to



1 convert rice straw, rice hulls, sugarcane bagasse, forest
2 thinnings, and barley grain into biopower and biofuels.

3 **SEC. 6605. TECHNOLOGY TRANSFER.**

4 There are authorized to be appropriated to the Sec-
5 retary \$1,000,000 for a competitively awarded contract,
6 to an entity with offshore oil and gas management experi-
7 ence, for the transfer of technologies relating to ultra-
8 deepwater research and development developed at the
9 Naval Surface Warfare Center, Carderock Division.

10 **TITLE VII—ELECTRICITY**

11 **Subtitle A—Transmission Capacity**

12 **SEC. 7011. TRANSMISSION INFRASTRUCTURE IMPROVE-**
13 **MENT RULEMAKING.**

14 Part II of the Federal Power Act (16 U.S.C. 824 et
15 seq.) is amended by adding the following new section at
16 the end thereof:

17 **“SEC. 215. TRANSMISSION INFRASTRUCTURE IMPROVE-**
18 **MENT RULEMAKING.**

19 **“(a) RULEMAKING REQUIREMENT.—**Within 1 year
20 after the enactment of this section, the Commission shall
21 establish, by rule, incentive-based (including but not lim-
22 ited to performance-based) transmission rate treatments
23 to promote capital investment in the enlargement and im-
24 provement of facilities for the transmission of electric en-
25 ergy in interstate commerce as appropriate to—



1 “(1) promote economically efficient trans-
2 mission and generation of electricity;

3 “(2) provide a return on equity that attracts
4 new investment in transmission facilities and reason-
5 ably reflects the risks taken by public utilities in re-
6 structuring control of transmission assets; and

7 “(3) encourage deployment of transmission
8 technologies and other measures to increase the ca-
9 pacity and efficiency of existing transmission facili-
10 ties and improve the operation of such facilities.

11 The Commission may, from time to time, revise such rule.

12 “(b) FUNDING OF CERTAIN FACILITIES.—The rule
13 promulgated pursuant to this section shall provide that,
14 upon the request of a regional transmission organization
15 or other Commission-approved transmission organization,
16 new transmission facilities that increase the transfer capa-
17 bility of the transmission system shall be participant fund-
18 ed. In such rules, the Commission shall also provide guid-
19 ance as to what types of facilities may be participant fund-
20 ed.

21 “(c) JUST AND REASONABLE RATES.—With respect
22 to any transmission rate filed with the Commission on or
23 after the effective date of the rule promulgated under this
24 section, the Commission shall, in its review of such rate
25 under sections 205 and 206, apply the rules adopted pur-



1 suant to this section, including any revisions thereto.
2 Nothing in this section shall be construed to override,
3 weaken, or conflict with the procedural and other require-
4 ments of this part, including the requirement of sections
5 205 and 206 that all rates, charges, terms, and conditions
6 be just and reasonable and not unduly discriminatory or
7 preferential.”.

8 **SEC. 7012. SITING OF INTERSTATE ELECTRICAL TRANS-**
9 **MISSION FACILITIES.**

10 (a) AMENDMENT OF FEDERAL POWER ACT.—Part
11 II of the Federal Power Act is amended by adding at the
12 end the following:

13 **“SEC. 216. SITING OF INTERSTATE ELECTRICAL TRANS-**
14 **MISSION FACILITIES**

15 “(a) TRANSMISSION STUDIES.—Within one year
16 after the enactment of this section, and every 3 years
17 thereafter, the Secretary of Energy shall conduct a study
18 of electric transmission congestion. After considering al-
19 ternatives and recommendations from interested parties
20 the Secretary shall issue a report, based on such study,
21 which may designate one or more geographic areas experi-
22 encing electric energy transmission congestion as ‘inter-
23 state congestion areas’.

24 “(b) CONSTRUCTION PERMIT.—The Commission is
25 authorized, after notice and an opportunity for hearing,

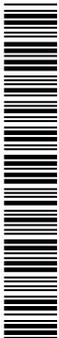


1 to issue permits for the construction or modification of
2 electric transmission facilities in interstate congestion
3 areas designated by the Secretary under subsection (a) if
4 the Commission makes each of the following findings:

5 “(1) A finding that—

6 “(A) the State in which the transmission
7 facilities are to be constructed or modified is
8 without authority to approve the siting of the
9 facilities, or

10 “(B) a State commission or body in the
11 State in which the transmission facilities are to
12 be constructed or modified that has authority to
13 approve the siting of the facilities has withheld
14 approval, conditioned its approval in such a
15 manner that the proposed construction or modi-
16 fication will not significantly reduce trans-
17 mission congestion in interstate commerce and
18 is otherwise not economically feasible, or de-
19 layed final approval for more than one year
20 after the filing of an application seeking ap-
21 proval or one year after the designation of the
22 relevant interstate congestion area, whichever is
23 later.



1 “(2) A finding that the facilities to be author-
2 ized by the permit will be used for the transmission
3 of electric energy in interstate commerce.

4 “(3) A finding that the proposed construction
5 or modification is consistent with the public interest.

6 “(4) A finding that the proposed construction
7 or modification will significantly reduce transmission
8 congestion in interstate commerce.

9 The Commission may include in a permit issued under this
10 section conditions consistent with the public interest.

11 “(c) PERMIT APPLICATIONS.—Permit applications
12 under subsection (b) shall be made in writing to the Com-
13 mission and verified under oath. The Commission shall
14 issue rules setting forth the form of the application, the
15 information it is to contain, and the manner of service of
16 notice of the permit application upon interested persons.

17 “(d) COMMENTS.—In any proceeding before the
18 Commission under subsection (b), the Commission shall
19 afford each State in which a transmission facility covered
20 by the permit is or will be located, each affected Federal
21 agency and Indian tribe, private property owners, and
22 other interested persons, a reasonable opportunity to
23 present their views and recommendations with respect to
24 the need for and impact of a facility covered by the permit.



1 “(e) RIGHTS-OF-WAY.—In the case of a permit under
2 subsection (b) for electric transmission facilities to be lo-
3 cated on property other than property owned by the
4 United States or a State, if the permit holder cannot ac-
5 quire by contract, or is unable to agree with the owner
6 of the property to the compensation to be paid for, the
7 necessary right-of-way to construct or modify such trans-
8 mission facilities, the permit holder may acquire the right-
9 of-way by the exercise of the right of eminent domain in
10 the district court of the United States for the district in
11 which the property concerned is located, or in the appro-
12 priate court of the State in which the property is located.
13 The practice and procedure in any action or proceeding
14 for that purpose in the district court of the United States
15 shall conform as nearly as may be with the practice and
16 procedure in similar action or proceeding in the courts of
17 the State where the property is situated.

18 “(f) STATE LAW.—Nothing in this section shall pre-
19 clude any person from constructing any transmission fa-
20 cilities pursuant to State law.

21 “(g) COMPLIANCE WITH OTHER LAWS.—Commis-
22 sion action under this section shall be subject to the Na-
23 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
24 et seq.) and all other applicable Federal laws.



1 “(h) COMPENSATION.—Any exercise of eminent do-
2 main authority pursuant to this section shall be considered
3 a taking of private property for which just compensation
4 is due. Just compensation shall be an amount equal to
5 the full fair market value of the property taken on the
6 date of the exercise of eminent domain authority, except
7 that the compensation shall exceed fair market value if
8 necessary to make the landowner whole for decreases in
9 the value of any portion of the land not subject to eminent
10 domain. Any parcel of land acquired by eminent domain
11 under this subsection shall be transferred back to the
12 owner from whom it was acquired (or his heirs or assigns)
13 if the land is not used for power line construction or modi-
14 fication within a reasonable period of time after the acqui-
15 sition. Property acquired under this subsection may not
16 be used for any heritage area, recreational trail, or park,
17 or for any other purpose (other than power line construc-
18 tion or modification, and for power line operation and
19 maintenance) without the consent of the owner of the par-
20 cel from whom the property was acquired (or his heirs or
21 assigns).

22 “(i) ERCOT.—Nothing in this section shall be con-
23 strued to authorize any interconnection with any facility
24 owned or operated by an entity referred to in section
25 212(k)(2)(B).”.



1 “(j) RIGHTS OF WAY ON FEDERAL LANDS.—

2 “(1) LEAD AGENCY.—If an applicant, or pro-
3 spective applicant, for Federal authorization related
4 to an electricity transmission or distribution facility
5 so requests, the Department of Energy (DOE) shall
6 act as the lead agency for purposes of coordinating
7 all applicable Federal authorization and related envi-
8 ronmental review of the facility. The term “Federal
9 authorization” shall mean any authorization re-
10 quired under Federal law in order to site a trans-
11 mission or distribution facility, including but not
12 limited to such permits, special use authorizations,
13 certifications, opinions, or other approvals as may be
14 required, whether issued by a Federal or a State
15 agency. To the maximum extent practicable under
16 applicable Federal law, the Secretary of Energy shall
17 coordinate this Federal authorization and review
18 process with any Indian tribes, multi-State entities,
19 and State agencies that are responsible for con-
20 ducting any separate permitting and environmental
21 reviews of the facility, to ensure timely and efficient
22 review and permit decisions.

23 “(2) AUTHORITY TO SET DEADLINES.—As lead
24 agency, the Department of Energy, in consultation
25 with other Federal and, as appropriate, with Indian



1 tribes, multi-State entities, and State agencies that
2 are willing to coordinate their own separate permit-
3 ting and environmental reviews with the Federal au-
4 thorization and environmental reviews, shall estab-
5 lish prompt and binding intermediate milestones and
6 ultimate deadlines for the review of and Federal au-
7 thorization decisions relating to the proposed facil-
8 ity. The Secretary of Energy shall ensure that once
9 an application has been submitted with such data as
10 the Secretary deems necessary, all permit decisions
11 and related environmental reviews under all applica-
12 ble Federal laws shall be completed within 1 year or,
13 if a requirement of another provision of Federal law
14 makes this impossible, as soon thereafter as is prac-
15 ticable. The Secretary of Energy also shall provide
16 an expeditious pre-application mechanism for pro-
17 spective applicants to confer with the agencies in-
18 volved to have each such agency determine and com-
19 municate to the prospective applicant within 60 days
20 of when the prospective applicant submits a request
21 for such information concerning—

22 “(A) the likelihood of approval for a poten-
23 tial facility; and

24 “(B) key issues of concern to the agencies
25 and public.



1 “(3) CONSOLIDATED ENVIRONMENTAL REVIEW
2 AND RECORD OF DECISION.—The Secretary of En-
3 ergy, in consultation with the affected agencies, shall
4 prepare a single environmental review document,
5 which shall be used as the basis for all decisions on
6 the proposed project under Federal law. The docu-
7 ment may be an environmental assessment or envi-
8 ronmental impact statement under the National En-
9 vironmental Policy Act if warranted, or such other
10 form of analysis as may be warranted. DOE and
11 other agencies shall streamline the review and per-
12 mitting of transmission and distribution facilities
13 within corridors designated under Section 503 of the
14 Federal Land Policy and Management Act (43
15 U.S.C. Section 1763) by fully taking into account
16 prior analyses and decisions as to the corridors.

17 “(4) APPEALS.—In the event that any agency
18 has denied a Federal authorization required for a
19 transmission or distribution facility, or has failed to
20 act by the deadline established by the Secretary pur-
21 suant to this section for deciding whether to issue
22 the authorization, the applicant or any State in
23 which the facility would be located may file an ap-
24 peal with the Secretary of Energy, who shall, in con-
25 sultation with the affected agency, review the denial



1 or take action on the pending application. Based on
2 the overall record and in consultation with the af-
3 fected agency, the Secretary may then either issue
4 the necessary authorization with any appropriate
5 conditions, or deny the application. The Secretary
6 shall issue a decision within 90 days of the filing of
7 the appeal.

8 “(5) CONFORMING REGULATIONS AND MEMO-
9 RANDA OF AGREEMENT.—Not later than 18 months
10 after the date of enactment of this section, the Sec-
11 retary of Energy shall issue any regulations nec-
12 essary to implement the foregoing provisions. Not
13 later than 1 year after the date of enactment of this
14 section, the Secretary and the heads of all relevant
15 Federal departments and non-departmental agencies
16 shall, and interested Indian tribes, multi-State enti-
17 ties, and State agencies may, enter into Memoranda
18 of Agreement to ensure the timely and coordinated
19 review and permitting of electricity transmission and
20 distribution facilities. The head of each Federal de-
21 partment or non-departmental agency with approval
22 authority shall designate a senior responsible official
23 and dedicate sufficient other staff and resources to
24 ensure that the DOE regulations and any Memo-
25 randa are fully implemented.



1 “(6) MISCELLANEOUS.—Each Federal author-
2 zation for an electricity transmission or distribution
3 facility shall be issued for a duration, as determined
4 by the Secretary of Energy, commensurate with the
5 anticipated use of the facility and with appropriate
6 authority to manage the right-of-way for reliability
7 and environmental protection. Further, when such
8 authorizations expire, they shall be reviewed for re-
9 newal taking fully into account reliance on such elec-
10 tricity infrastructure, recognizing its importance for
11 public health, safety and economic welfare and as a
12 legitimate use of Federal lands.

13 “(7) MAINTAINING AND ENHANCING THE
14 TRANSMISSION INFRASTRUCTURE.—In exercising
15 the responsibilities under this Section, the Secretary
16 of Energy shall consult regularly with the Federal
17 Energy Regulatory Commission (FERC) and
18 FERC-approved Regional Transmission Organiza-
19 tions and Independent System Operators.

20 “(k) INTERSTATE COMPACTS.—The consent of Con-
21 gress is hereby given for States to enter into interstate
22 compacts establishing regional transmission siting agen-
23 cies to facilitate coordination among the States within
24 such areas for purposes of siting future electric energy
25 transmission facilities and to carry out State electric en-



1 ergy transmission siting responsibilities. The Secretary of
2 Energy may provide technical assistance to regional trans-
3 mission siting agencies established under this subsection.

4 “(l) SAVINGS CLAUSE.—Nothing in this section shall
5 be construed to weaken, override, or modify any require-
6 ment of the environmental laws of the United States, in-
7 cluding, but not limited to, the National Environmental
8 Policy Act of 1969. This section shall not apply to any
9 component of the National Wilderness Preservation Sys-
10 tem, the National Wild and Scenic Rivers System, or the
11 national park system.”.

12 (b) FEDERAL COOPERATION.—

13 (1) IN GENERAL.—The Secretary of the Inte-
14 rior, the Secretary of Energy, the Secretary of Agri-
15 culture, and the Chairman of the Council on Envi-
16 ronmental Quality shall, within 90 days of the date
17 of enactment of this subsection, submit a joint re-
18 port to Congress identifying the following:

19 “(A) all existing designated transmission
20 and distribution corridors on Federal land and
21 the status of work related to proposed trans-
22 mission and distribution corridor designations,
23 the schedule for completing such work, any im-
24 pediments to completing the work, and steps



1 that Congress could take to expedite the proc-
2 ess;

3 (B) the number of pending applications to
4 locate transmission and distribution facilities on
5 Federal lands, key information relating to each
6 such facility, how long each application has
7 been pending, the schedule for issuing a timely
8 decision as to each facility, and progress in in-
9 corporating existing and new such rights-of-way
10 into relevant land use and resource manage-
11 ment plans or their equivalent; and

12 (C) the number of existing transmission
13 and distribution rights-of-way on Federal lands
14 that will come up for renewal within the fol-
15 lowing 5, 10, and 15 year periods, and a de-
16 scription of how the Secretaries plan to manage
17 such renewals.

18 **Subtitle B—Transmission** 19 **Operation**

20 **SEC. 7021. OPEN ACCESS TRANSMISSION BY CERTAIN UTIL-**
21 **ITIES.**

22 Part II of the Federal Power Act (16 U.S.C. 824 et
23 seq.) is amended by inserting after section 211 the fol-
24 lowing:



1 **“SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMIT-**
2 **TING UTILITIES**

3 “(a) IN GENERAL.—Subject to section 212(h), the
4 Commission may, by rule or order, require an unregulated
5 transmitting utility to provide transmission services—

6 “(1) at rates that are comparable to those that
7 the unregulated transmitting utility charges itself,
8 and

9 “(2) on terms and conditions (not relating to
10 rates) that are comparable to those under which
11 such unregulated transmitting utility provides trans-
12 mission services to itself and that are not unduly
13 discriminatory or preferential.

14 “(b) EXEMPTIONS.—

15 “(1) IN GENERAL.—The Commission shall ex-
16 empt from any rule or order under this subsection
17 any unregulated transmitting utility that—

18 “(A)(i) sells no more than 4,000,000
19 megawatt hours of electricity per year; and

20 “(ii) is a distribution utility; or

21 “(B) does not own or operate any trans-
22 mission facilities that are necessary for oper-
23 ating an interconnected transmission system (or
24 any portion thereof); or

25 “(C) meets other criteria the Commission deter-
26 mines to be in the public interest.



1 “(2) LOCAL DISTRIBUTION.— The requirements
2 of subsection (a) shall not apply to facilities used in
3 local distribution.

4 “(c) RATE CHANGING PROCEDURES.—The rate
5 changing procedures applicable to public utilities under
6 subsections (c) and (d) of section 205 are applicable to
7 unregulated transmitting utilities for purposes of this sec-
8 tion.

9 “(d) REMAND.—In exercising its authority under
10 paragraph (1), the Commission may remand transmission
11 rates to an unregulated transmitting utility for review and
12 revision where necessary to meet the requirements of sub-
13 section (a).

14 “(e) SECTION 211 REQUESTS.—The provision of
15 transmission services under subsection (a) does not pre-
16 clude a request for transmission services under section
17 211.

18 “(f) DEFINITIONS.—For purposes of this section—

19 “(1) the term ‘unregulated transmitting utility’
20 means an entity that—

21 “(A) owns or operates facilities used for
22 the transmission of electric energy in interstate
23 commerce, and

24 “(B) is either an entity described in sec-
25 tion 201(f) or a rural electric cooperative,



1 “(2) the term ‘distribution utility’ means an un-
2 regulated transmitting utility that serves at least
3 ninety percent of its electric customers at retail.

4 **SEC. 7022. REGIONAL TRANSMISSION ORGANIZATIONS.**

5 (a) SENSE OF THE CONGRESS ON RTOS.—It is the
6 sense of Congress that, in order to promote fair, open ac-
7 cess to electric transmission service, benefit retail con-
8 sumers, facilitate wholesale competition, improve effi-
9 ciencies in transmission grid management, promote grid
10 reliability, remove opportunities for unduly discriminatory
11 or preferential transmission practices, and provide for the
12 efficient development of transmission infrastructure need-
13 ed to meet the growing demands of competitive wholesale
14 power markets, all transmitting utilities in interstate com-
15 merce should voluntarily become members of independ-
16 ently administered regional transmission organizations
17 that have operational control of interstate transmission fa-
18 cilities and do not own or control generation facilities used
19 to supply electric energy for sale at wholesale.

20 (b) SENSE OF THE CONGRESS ON CAPITAL INVEST-
21 MENT.—It is the sense of the Congress that the Federal
22 Energy Regulatory Commission should provide to any
23 transmitting utility that becomes a member of an oper-
24 ational regional transmitting organization approved by the
25 Commission a return on equity sufficient to attract new



1 investment capital for expansion of transmission capacity,
2 in accordance with sections 205 and 206 of the Federal
3 Power Act (16 U.S.C. 824d and 824e), including the re-
4 quirement that rates be just and reasonable.

5 (c) REPORT ON PENDING APPLICATIONS.—Not later
6 than 120 days after the date of enactment of this section,
7 the Federal Energy Regulatory Commission shall submit
8 to the Committee on Energy and Commerce of the United
9 States House of Representatives and the Committee on
10 Energy and Natural Resources of the United States Sen-
11 ate a report containing the following:

12 (1) A list of all regional transmission organiza-
13 tion applications filed at the Commission pursuant
14 to the Commission's Order No. 2000, including an
15 identification of each public utility and other entity
16 included within the proposed membership of the re-
17 gional transmission organization.

18 (2) A table showing the date each such applica-
19 tion was filed, the date of any revised filings of such
20 application, the date of each preliminary or final
21 Commission order regarding such application, and a
22 statement of whether the application has been re-
23 jected, preliminarily approved, finally approved, or
24 has some other status (including a description of
25 that status).



1 (3) For any application that has not been fi-
2 nally approved by the Commission, a detailed de-
3 scription of every aspect of the application that the
4 Commission has determined does not conform to the
5 requirements of Order No. 2000.

6 (4) For any application that has not been fi-
7 nally approved by the Commission, an explanation
8 by the Commission of why the items described pur-
9 suant to paragraph (3) constitute material non-
10 compliance with the requirements of the Commis-
11 sion's Order No. 2000 sufficient to justify denial of
12 approval by the Commission.

13 (d) FEDERAL UTILITY PARTICIPATION IN RTOS.—

14 (1) DEFINITIONS.—For purposes of this
15 section—

16 (A) The term “appropriate Federal regu-
17 latory authority” means—

18 (i) with respect to a Federal power
19 marketing agency, the Secretary of En-
20 ergy, except that the Secretary may des-
21 ignate the Administrator of a Federal
22 power marketing agency to act as the ap-
23 propriate Federal regulatory authority with
24 respect to the transmission system of that
25 Federal power marketing agency; and



1 (ii) with respect to the Tennessee Val-
2 ley Authority, the Board of Directors of
3 the Tennessee Valley Authority.

4 (B) The term “Federal utility” means a
5 Federal power marketing agency or the Ten-
6 nessee Valley Authority.

7 (C) The term “transmission system”
8 means electric transmission facilities owned or
9 leased by the United States and operated by a
10 Federal utility.

11 (2) TRANSFER.—The appropriate Federal regu-
12 latory authority is authorized to enter into a con-
13 tract, agreement or other arrangement transferring
14 control and use of all or part of the transmission
15 system of a Federal utility to a regional trans-
16 mission organization approved by the Federal En-
17 ergy Regulatory Commission. Such contract, agree-
18 ment or arrangement shall establish—

19 (A) performance standards for operation
20 and maintenance of the transmission system;

21 (B) provisions for monitoring, by the Fed-
22 eral utility, of the regional transmission organi-
23 zation’s fulfillment of the terms and conditions
24 of the contract, agreement or other arrange-
25 ment; and



1 (C) withdrawal rights for the Federal util-
2 ity applicable in the event of a material breach
3 by the regional transmission organization of the
4 contract, agreement, or other arrangement as
5 necessary to allow the Federal utility to trans-
6 mit electric power or to comply with applicable
7 statutory requirements.”.

8 (3) EXISTING STATUTORY AND OTHER OBLIGA-
9 TIONS.—

10 (A) SYSTEM OPERATION REQUIRE-
11 MENTS.—Any statutory provision requiring a
12 Federal utility to transmit electric power or op-
13 erate or maintain its transmission system shall
14 not be construed to prohibit a transfer of con-
15 trol of its transmission system pursuant to, and
16 subject to all requirements of, subsection (a).

17 (B) OTHER OBLIGATIONS.—This sub-
18 section shall not be construed to—

19 (i) suspend, or exempt any Federal
20 utility from, any requirement under exist-
21 ing Federal law, including but not limited
22 to any requirement relating to ratemaking,
23 environmental protection, fish and wildlife
24 protection, flood control, navigation, water
25 delivery, or recreation; or



1 (ii) authorize abrogation of any con-
2 tract or treaty obligation.

3 **Subtitle C—Reliability**

4 **SEC. 7031. ELECTRIC RELIABILITY STANDARDS.**

5 Part II of the Federal Power Act (16 U.S.C 824 et
6 seq.) is amended by inserting the following new section
7 at the end thereof:

8 **“SEC. 217. ELECTRIC RELIABILITY.**

9 “(a) DEFINITIONS.—For purposes of this section—

10 “(1) The term ‘bulk-power system’ means—

11 “(A) facilities and control systems nec-
12 essary for operating an interconnected electric
13 energy transmission network (or any portion
14 thereof); and

15 “(B) electric energy from generation facili-
16 ties needed to maintain transmission system re-
17 liability.

18 The term does not include facilities used in the local
19 distribution of electric energy.

20 “(2) The terms ‘Electric Reliability Organiza-
21 tion’ and ‘ERO’ mean the organization certified by
22 the Commission under subsection (c) the purpose of
23 which is to establish and enforce reliability stand-
24 ards for the bulk-power system, subject to Commis-
25 sion review.



1 “(3) The term ‘reliability standard’ means a re-
2 quirement, approved by the Commission under this
3 section, to provide for reliable operation of the bulk-
4 power system. The term includes requirements for
5 the operation of existing bulk-power system facilities
6 and the design of planned additions or modifications
7 to such facilities to the extent necessary to provide
8 for reliable operation of the bulk-power system, but
9 the term does not include any requirement to en-
10 large such facilities or to construct new transmission
11 capacity or generation capacity.

12 “(4) The term ‘reliable operation’ means oper-
13 ating the elements of the bulk-power system within
14 equipment and electric system thermal, voltage, and
15 stability limits so that instability, uncontrolled sepa-
16 ration, or cascading failures of such system will not
17 occur as a result of a sudden disturbance or unan-
18 ticipated failure of system elements.

19 “(5) The term ‘Interconnection’ means a geo-
20 graphic area in which the operation of bulk-power
21 system components is synchronized such that the
22 failure of one or more of such components may ad-
23 versely affect the ability of the operators of other
24 components within the system to maintain reliable
25 operation of the facilities within their control.



1 “(6) The term ‘transmission organization’
2 means a regional transmission organization, inde-
3 pendent system operator, independent transmission
4 provider, or other transmission organization finally
5 approved by the Commission for the operation of
6 transmission facilities.

7 “(7) The term ‘regional entity’ means an entity
8 having enforcement authority pursuant to subsection
9 (e)(4).

10 “(b) JURISDICTION AND APPLICABILITY.—(1) The
11 Commission shall have jurisdiction, within the United
12 States, over the ERO certified by the Commission under
13 subsection (c), any regional entities, and all users, owners
14 and operators of the bulk-power system, including but not
15 limited to the entities described in section 201(f), for pur-
16 poses of approving reliability standards established under
17 this section and enforcing compliance with this section. All
18 users, owners and operators of the bulk-power system
19 shall comply with reliability standards that take effect
20 under this section.

21 “(2) The Commission shall issue a final rule to imple-
22 ment the requirements of this section not later than 180
23 days after the date of enactment of this section.

24 “(c) CERTIFICATION.—Following the issuance of a
25 Commission rule under subsection (b)(2), any person may



1 submit an application to the Commission for certification
2 as the Electric Reliability Organization (ERO). The Com-
3 mission may certify one such ERO if the Commission de-
4 termines that such ERO—

5 “(1) has the ability to develop and enforce, sub-
6 ject to subsection (e)(2), reliability standards that
7 provide for an adequate level of reliability of the
8 bulk-power system;

9 “(2) has established rules that—

10 “(A) assure its independence of the users
11 and owners and operators of the bulk-power
12 system, while assuring fair stakeholder rep-
13 resentation in the selection of its directors and
14 balanced decisionmaking in any ERO com-
15 mittee or subordinate organizational structure;

16 “(B) allocate equitably reasonable dues,
17 fees, and other charges among end users for all
18 activities under this section;

19 “(C) provide fair and impartial procedures
20 for enforcement of reliability standards through
21 the imposition of penalties in accordance with
22 subsection (e) (including limitations on activi-
23 ties, functions, or operations, or other appro-
24 priate sanctions);



1 “(D) provide for reasonable notice and op-
2 portunity for public comment, due process,
3 openness, and balance of interests in developing
4 reliability standards and otherwise exercising its
5 duties; and

6 “(E) provide for taking, after certification,
7 appropriate steps to gain recognition in Canada
8 and Mexico.

9 “(d) RELIABILITY STANDARDS.—(1) The Electric
10 Reliability Organization shall file each reliability standard
11 or modification to a reliability standard that it proposes
12 to be made effective under this section with the Commis-
13 sion.

14 “(2) The Commission may approve, by rule or order,
15 a proposed reliability standard or modification to a reli-
16 ability standard if it determines that the standard is just,
17 reasonable, not unduly discriminatory or preferential, and
18 in the public interest. The Commission shall give due
19 weight to the technical expertise of the Electric Reliability
20 Organization with respect to the content of a proposed
21 standard or modification to a reliability standard and to
22 the technical expertise of a regional entity organized on
23 an Interconnection-wide basis with respect to a reliability
24 standard to be applicable within that Interconnection, but
25 shall not defer with respect to the effect of a standard



1 on competition. A proposed standard or modification shall
2 take effect upon approval by the Commission.

3 “(3) The Electric Reliability Organization shall
4 rebuttably presume that a proposal from a regional entity
5 organized on an Interconnection-wide basis for a reliability
6 standard or modification to a reliability standard to be ap-
7 plicable on an Interconnection-wide basis is just, reason-
8 able, and not unduly discriminatory or preferential, and
9 in the public interest.

10 “(4) The Commission shall remand to the Electric
11 Reliability Organization for further consideration a pro-
12 posed reliability standard or a modification to a reliability
13 standard that the Commission disapproves in whole or in
14 part.

15 “(5) The Commission, upon its own motion or upon
16 complaint, may order the Electric Reliability Organization
17 to submit to the Commission a proposed reliability stand-
18 ard or a modification to a reliability standard that ad-
19 dresses a specific matter if the Commission considers such
20 a new or modified reliability standard appropriate to carry
21 out this section.

22 “(6) The final rule adopted under subsection (b)(2)
23 shall include fair processes for the identification and time-
24 ly resolution of any conflict between a reliability standard
25 and any function, rule, order, tariff, rate schedule, or



1 agreement accepted, approved, or ordered by the Commis-
2 sion applicable to a transmission organization. Such trans-
3 mission organization shall continue to comply with such
4 function, rule, order, tariff, rate schedule or agreement ac-
5 cepted approved, or ordered by the Commission until—

6 “(A) the Commission finds a conflict exists be-
7 tween a reliability standard and any such provision;

8 “(B) the Commission orders a change to such
9 provision pursuant to section 206 of this part; and

10 “(C) the ordered change becomes effective
11 under this part.

12 If the Commission determines that a reliability standard
13 needs to be changed as a result of such a conflict, it shall
14 order the ERO to develop and file with the Commission
15 a modified reliability standard under paragraph (4) or (5)
16 of this subsection.

17 “(e) ENFORCEMENT.—(1) The ERO may impose,
18 subject to paragraph (2), a penalty on a user or owner
19 or operator of the bulk-power system for a violation of a
20 reliability standard approved by the Commission under
21 subsection (d) if the ERO, after notice and an opportunity
22 for a hearing—

23 “(A) finds that the user or owner or operator
24 has violated a reliability standard approved by the
25 Commission under subsection (d); and



1 “(B) files notice and the record of the pro-
2 ceeding with the Commission.

3 “(2) A penalty imposed under paragraph (1) may
4 take effect not earlier than the 31st day after the electric
5 reliability organization files with the Commission notice of
6 the penalty and the record of proceedings. Such penalty
7 shall be subject to review by the Commission, on its own
8 motion or upon application by the user, owner or operator
9 that is the subject of the penalty filed within 30 days after
10 the date such notice is filed with the Commission. Applica-
11 tion to the Commission for review, or the initiation of re-
12 view by the Commission on its own motion, shall not oper-
13 ate as a stay of such penalty unless the Commission other-
14 wise orders upon its own motion or upon application by
15 the user, owner or operator that is the subject of such
16 penalty. In any proceeding to review a penalty imposed
17 under paragraph (1), the Commission, after notice and op-
18 portunity for hearing (which hearing may consist solely
19 of the record before the electric reliability organization and
20 opportunity for the presentation of supporting reasons to
21 affirm, modify, or set aside the penalty), shall by order
22 affirm, set aside, reinstate, or modify the penalty, and,
23 if appropriate, remand to the electric reliability organiza-
24 tion for further proceedings. The Commission shall imple-
25 ment expedited procedures for such hearings.



1 “(3) On its own motion or upon complaint, the Com-
2 mission may order compliance with a reliability standard
3 and may impose a penalty against a user or owner or oper-
4 ator of the bulk-power system, if the Commission finds,
5 after notice and opportunity for a hearing, that the user
6 or owner or operator of the bulk-power system has en-
7 gaged or is about to engage in any acts or practices that
8 constitute or will constitute a violation of a reliability
9 standard.

10 “(4) The Commission shall establish regulations au-
11 thorizing the ERO to enter into an agreement to delegate
12 authority to a regional entity for the purpose of proposing
13 reliability standards to the ERO and enforcing reliability
14 standards under paragraph (1) if—

15 “(A) the regional entity is governed by—

16 “(i) an independent board;

17 “(ii) a balanced stakeholder board; or

18 “(iii) a combination independent and bal-
19 anced stakeholder board.”

20 “(B) the regional entity otherwise satisfies the
21 provisions of subsection (c)(1) and (2); and

22 “(C) the agreement promotes effective and effi-
23 cient administration of bulk-power system reliability.

24 The Commission may modify such delegation. The ERO
25 and the Commission shall rebuttably presume that a pro-



1 posal for delegation to a regional entity organized on an
2 Interconnection-wide basis promotes effective and efficient
3 administration of bulk-power system reliability and should
4 be approved. Such regulation may provide that the Com-
5 mission may assign the ERO's authority to enforce reli-
6 ability standards under paragraph (1) directly to a re-
7 gional entity consistent with the requirements of this para-
8 graph.

9 “(5) The Commission may take such action as is nec-
10 essary or appropriate against the ERO or a regional entity
11 to ensure compliance with a reliability standard or any
12 Commission order affecting the ERO or a regional entity.

13 “(6) Any penalty imposed under this section shall
14 bear a reasonable relation to the seriousness of the viola-
15 tion and shall take into consideration the efforts of such
16 user, owner, or operator to remedy the violation in a time-
17 ly manner.

18 “(f) CHANGES IN ELECTRICITY RELIABILITY ORGA-
19 NIZATION RULES.—The Electric Reliability Organization
20 shall file with the Commission for approval any proposed
21 rule or proposed rule change, accompanied by an expla-
22 nation of its basis and purpose. The Commission, upon
23 its own motion or complaint, may propose a change to the
24 rules of the Electric Reliability Organization. A proposed
25 rule or proposed rule change shall take effect upon a find-



1 ing by the Commission, after notice and opportunity for
2 comment, that the change is just, reasonable, not unduly
3 discriminatory or preferential, is in the public interest, and
4 satisfies the requirements of subsection (c).

5 “(g) RELIABILITY REPORTS.—The Electric Reli-
6 ability Organization shall conduct periodic assessments of
7 the reliability and adequacy of the bulk-power system in
8 North America.

9 “(h) COORDINATION WITH CANADA AND MEXICO.—
10 The President is urged to negotiate international agree-
11 ments with the governments of Canada and Mexico to pro-
12 vide for effective compliance with reliability standards and
13 the effectiveness of the Electric Reliability Organization
14 in the United States and Canada or Mexico.

15 “(i) SAVINGS PROVISIONS.—(1) The Electric Reli-
16 ability Organization shall have authority to develop and
17 enforce compliance with reliability standards for only the
18 bulk-power system.

19 “(2) This section does not authorize the Electric Reli-
20 ability Organization or the Commission to order the con-
21 struction of additional generation or transmission capacity
22 or to set and enforce compliance with standards for ade-
23 quacy or safety of electric facilities or services.

24 “(3) Nothing in this section shall be construed to pre-
25 empt any authority of any State to take action to ensure



1 the safety, adequacy, and reliability of electric service
2 within that State, as long as such action is not incon-
3 sistent with any reliability standard, except that the State
4 of New York may establish rules that result in greater
5 reliability within that State, as long as such action does
6 not result in lesser reliability outside the State than that
7 provided by the reliability standards.

8 “(4) Within 90 days of the application of the Electric
9 Reliability Organization or other affected party, and after
10 notice and opportunity for comment, the Commission shall
11 issue a final order determining whether a State action is
12 inconsistent with a reliability standard, taking into consid-
13 eration any recommendation of the Electric Reliability Or-
14 ganization.

15 “(5) The Commission, after consultation with the
16 Electric Reliability Organization and the State taking ac-
17 tion, may stay the effectiveness of any State action, pend-
18 ing the Commission’s issuance of a final order.

19 “(j) REGIONAL ADVISORY BODIES.—The Commis-
20 sion shall establish a regional advisory body on the petition
21 of at least two-thirds of the States within a region that
22 have more than one-half of their electric load served within
23 the region. A regional advisory body shall be composed or
24 of one member from each participating State in the region,
25 appointed by the Governor of each State, and may include



1 representatives of agencies, States, and provinces outside
2 the United States. A regional advisory body may provide
3 advice to the Electric Reliability Organization, a regional
4 entity, or the Commission regarding the governance of an
5 existing or proposed regional entity within the same re-
6 gion, whether a standard proposed to apply within the re-
7 gion is just, reasonable, not unduly discriminatory or pref-
8 erential, and in the public interest, whether fees proposed
9 to be assessed within the region are just, reasonable, not
10 unduly discriminatory or preferential, and in the public
11 interest and any other responsibilities requested by the
12 Commission. The Commission may give deference to the
13 advice of any such regional advisory body if that body is
14 organized on an Interconnection-wide basis.

15 “(k) APPLICATION TO ALASKA AND HAWAII.—The
16 provisions of this section do not apply to Alaska or Ha-
17 waii.”

18 **Subtitle D—PUHCA Amendments**

19 **SEC. 7041. SHORT TITLE.**

20 This subtitle may be cited as the “Public Utility
21 Holding Company Act of 2003”.

22 **SEC. 7042. DEFINITIONS.**

23 For purposes of this subtitle:

24 (1) The term “affiliate” of a company means
25 any company, 5 percent or more of the outstanding



1 voting securities of which are owned, controlled, or
2 held with power to vote, directly or indirectly, by
3 such company.

4 (2) The term “associate company” of a com-
5 pany means any company in the same holding com-
6 pany system with such company.

7 (3) The term “Commission” means the Federal
8 Energy Regulatory Commission.

9 (4) The term “company” means a corporation,
10 partnership, association, joint stock company, busi-
11 ness trust, or any organized group of persons,
12 whether incorporated or not, or a receiver, trustee,
13 or other liquidating agent of any of the foregoing.

14 (5) The term “electric utility company” means
15 any company that owns or operates facilities used
16 for the generation, transmission, or distribution of
17 electric energy for sale.

18 (6) The terms “exempt wholesale generator”
19 and “foreign utility company” have the same mean-
20 ings as in sections 32 and 33, respectively, of the
21 Public Utility Holding Company Act of 1935 (15
22 U.S.C. 79z-5a, 79z-5b), as those sections existed on
23 the day before the effective date of this subtitle.

24 (7) The term “gas utility company” means any
25 company that owns or operates facilities used for



1 distribution at retail (other than the distribution
2 only in enclosed portable containers or distribution
3 to tenants or employees of the company operating
4 such facilities for their own use and not for resale)
5 of natural or manufactured gas for heat, light, or
6 power.

7 (8) The term “holding company” means—

8 (A) any company that directly or indirectly
9 owns, controls, or holds, with power to vote, 10
10 percent or more of the outstanding voting secu-
11 rities of a public utility company or of a holding
12 company of any public utility company; and

13 (B) any person, determined by the Com-
14 mission, after notice and opportunity for hear-
15 ing, to exercise directly or indirectly (either
16 alone or pursuant to an arrangement or under-
17 standing with one or more persons) such a con-
18 trolling influence over the management or poli-
19 cies of any public utility company or holding
20 company as to make it necessary or appropriate
21 for the rate protection of utility customers with
22 respect to rates that such person be subject to
23 the obligations, duties, and liabilities imposed
24 by this subtitle upon holding companies.



1 (9) The term “holding company system” means
2 a holding company, together with its subsidiary com-
3 panies.

4 (10) The term “jurisdictional rates” means
5 rates established by the Commission for the trans-
6 mission of electric energy in interstate commerce,
7 the sale of electric energy at wholesale in interstate
8 commerce, the transportation of natural gas in inter-
9 state commerce, and the sale in interstate commerce
10 of natural gas for resale for ultimate public con-
11 sumption for domestic, commercial, industrial, or
12 any other use.

13 (11) The term “natural gas company” means a
14 person engaged in the transportation of natural gas
15 in interstate commerce or the sale of such gas in
16 interstate commerce for resale.

17 (12) The term “person” means an individual or
18 company.

19 (13) The term “public utility” means any per-
20 son who owns or operates facilities used for trans-
21 mission of electric energy in interstate commerce or
22 sales of electric energy at wholesale in interstate
23 commerce.

24 (14) The term “public utility company” means
25 an electric utility company or a gas utility company.



1 (15) The term “State commission” means any
2 commission, board, agency, or officer, by whatever
3 name designated, of a State, municipality, or other
4 political subdivision of a State that, under the laws
5 of such State, has jurisdiction to regulate public util-
6 ity companies.

7 (16) The term “subsidiary company” of a hold-
8 ing company means—

9 (A) any company, 10 percent or more of
10 the outstanding voting securities of which are
11 directly or indirectly owned, controlled, or held
12 with power to vote, by such holding company;
13 and

14 (B) any person, the management or poli-
15 cies of which the Commission, after notice and
16 opportunity for hearing, determines to be sub-
17 ject to a controlling influence, directly or indi-
18 rectly, by such holding company (either alone or
19 pursuant to an arrangement or understanding
20 with one or more other persons) so as to make
21 it necessary for the rate protection of utility
22 customers with respect to rates that such per-
23 son be subject to the obligations, duties, and li-
24 abilities imposed by this subtitle upon sub-
25 sidiary companies of holding companies.



1 (17) The term “voting security” means any se-
2 curity presently entitling the owner or holder thereof
3 to vote in the direction or management of the affairs
4 of a company.

5 **SEC. 7043. REPEAL OF THE PUBLIC UTILITY HOLDING COM-**
6 **PANY ACT OF 1935.**

7 The Public Utility Holding Company Act of 1935 (15
8 U.S.C. 79 et seq.) is repealed.

9 **SEC. 7044. FEDERAL ACCESS TO BOOKS AND RECORDS.**

10 (a) **IN GENERAL.**—Each holding company and each
11 associate company thereof shall maintain, and shall make
12 available to the Commission, such books, accounts, memo-
13 randa, and other records as the Commission deems to be
14 relevant to costs incurred by a public utility or natural
15 gas company that is an associate company of such holding
16 company and necessary or appropriate for the protection
17 of utility customers with respect to jurisdictional rates.

18 (b) **AFFILIATE COMPANIES.**—Each affiliate of a hold-
19 ing company or of any subsidiary company of a holding
20 company shall maintain, and shall make available to the
21 Commission, such books, accounts, memoranda, and other
22 records with respect to any transaction with another affil-
23 iate, as the Commission deems to be relevant to costs in-
24 curred by a public utility or natural gas company that is
25 an associate company of such holding company and nec-



1 essary or appropriate for the protection of utility cus-
2 tomers with respect to jurisdictional rates.

3 (c) HOLDING COMPANY SYSTEMS.—The Commission
4 may examine the books, accounts, memoranda, and other
5 records of any company in a holding company system, or
6 any affiliate thereof, as the Commission deems to be rel-
7 evant to costs incurred by a public utility or natural gas
8 company within such holding company system and nec-
9 essary or appropriate for the protection of utility cus-
10 tomers with respect to jurisdictional rates.

11 (d) CONFIDENTIALITY.—No member, officer, or em-
12 ployee of the Commission shall divulge any fact or infor-
13 mation that may come to his or her knowledge during the
14 course of examination of books, accounts, memoranda, or
15 other records as provided in this section, except as may
16 be directed by the Commission or by a court of competent
17 jurisdiction.

18 **SEC. 7045. STATE ACCESS TO BOOKS AND RECORDS.**

19 (a) In GENERAL.—Upon the written request of a
20 State commission having jurisdiction to regulate a public
21 utility company in a holding company system, the holding
22 company or any associate company or affiliate thereof,
23 other than such public utility company, wherever located,
24 shall produce for inspection books, accounts, memoranda,
25 and other records that—



1 (1) have been identified in reasonable detail by
2 the State commission;

3 (2) the State commission deems are relevant to
4 costs incurred by such public utility company; and

5 (3) are necessary for the effective discharge of
6 the responsibilities of the State commission with re-
7 spect to such proceeding.

8 (b) LIMITATION.—Subsection (a) does not apply to
9 any person that is a holding company solely by reason of
10 ownership of one or more qualifying facilities under the
11 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
12 2601 et seq.).

13 (c) CONFIDENTIALITY OF INFORMATION.—The pro-
14 duction of books, accounts, memoranda, and other records
15 under subsection (a) shall be subject to such terms and
16 conditions as may be necessary and appropriate to safe-
17 guard against unwarranted disclosure to the public of any
18 trade secrets or sensitive commercial information.

19 (d) EFFECT ON STATE LAW.—Nothing in this sec-
20 tion shall preempt applicable State law concerning the pro-
21 vision of books, accounts, memoranda, and other records,
22 or in any way limit the rights of any State to obtain books,
23 accounts, memoranda, and other records under any other
24 Federal law, contract, or otherwise.



1 (e) COURT JURISDICTION.—Any United States dis-
2 trict court located in the State in which the State commis-
3 sion referred to in subsection (a) is located shall have ju-
4 risdiction to enforce compliance with this section.

5 **SEC. 7046. EXEMPTION AUTHORITY.**

6 (a) RULEMAKING.—Not later than 90 days after the
7 effective date of this subtitle, the Commission shall pro-
8 mulgate a final rule to exempt from the requirements of
9 section 7044 (relating to Federal access to books and
10 records) any person that is a holding company, solely with
11 respect to one or more—

12 (1) qualifying facilities under the Public Utility
13 Regulatory Policies Act of 1978 (16 U.S.C. 2601 et
14 seq.);

15 (2) exempt wholesale generators; or

16 (3) foreign utility companies.

17 (b) OTHER AUTHORITY.—The Commission shall ex-
18 empt a person or transaction from the requirements of
19 section 7044 (relating to Federal access to books and
20 records) if, upon application or upon the motion of the
21 Commission—

22 (1) the Commission finds that the books, ac-
23 counts, memoranda, and other records of any person
24 are not relevant to the jurisdictional rates of a pub-
25 lic utility or natural gas company; or



1 (2) the Commission finds that any class of
2 transactions is not relevant to the jurisdictional
3 rates of a public utility or natural gas company.

4 **SEC. 7047. AFFILIATE TRANSACTIONS.**

5 (a) COMMISSION AUTHORITY UNAFFECTED.—Noth-
6 ing in this subtitle shall limit the authority of the Commis-
7 sion under the Federal Power Act (16 U.S.C. 791a et seq.)
8 to require that jurisdictional rates are just and reasonable,
9 including the ability to deny or approve the pass through
10 of costs, the prevention of cross-subsidization, and the pro-
11 mulgation of such rules and regulations as are necessary
12 or appropriate for the protection of utility consumers.

13 (b) RECOVERY OF COSTS.—Nothing in this subtitle
14 shall preclude the Commission or a State commission from
15 exercising its jurisdiction under otherwise applicable law
16 to determine whether a public utility company, public util-
17 ity, or natural gas company may recover in rates any costs
18 of an activity performed by an associate company, or any
19 costs of goods or services acquired by such public utility
20 company from an associate company.

21 **SEC. 7048. APPLICABILITY.**

22 Except as otherwise specifically provided in this sub-
23 title, no provision of this subtitle shall apply to, or be
24 deemed to include—

25 (1) the United States;



1 (2) a State or any political subdivision of a
2 State;

3 (3) any foreign governmental authority not op-
4 erating in the United States;

5 (4) any agency, authority, or instrumentality of
6 any entity referred to in paragraph (1), (2), or (3);
7 or

8 (5) any officer, agent, or employee of any entity
9 referred to in paragraph (1), (2), or (3) acting as
10 such in the course of his or her official duty.

11 **SEC. 7049. EFFECT ON OTHER REGULATIONS.**

12 Nothing in this subtitle precludes the Commission or
13 a State commission from exercising its jurisdiction under
14 otherwise applicable law to protect utility customers.

15 **SEC. 7050. ENFORCEMENT.**

16 The Commission shall have the same powers as set
17 forth in sections 306 through 317 of the Federal Power
18 Act (16 U.S.C. 825e–825p) to enforce the provisions of
19 this subtitle.

20 **SEC. 7051. SAVINGS PROVISIONS.**

21 (a) IN GENERAL.—Nothing in this subtitle prohibits
22 a person from engaging in or continuing to engage in ac-
23 tivities or transactions in which it is legally engaged or
24 authorized to engage on the date of enactment of this Act,



1 so long as that person continues to comply with the terms
2 of any such authorization, whether by rule or by order.

3 (b) EFFECT ON OTHER COMMISSION AUTHORITY.—

4 Nothing in this subtitle limits the authority of the Com-
5 mission under the Federal Power Act (16 U.S.C. 791a et
6 seq.) (including section 301 of that Act) or the Natural
7 Gas Act (15 U.S.C. 717 et seq.) (including section 8 of
8 that Act).

9 **SEC. 7052. IMPLEMENTATION.**

10 Not later than 12 months after the date of enactment
11 of this subtitle, the Commission shall—

12 (1) promulgate such regulations as may be nec-
13 essary or appropriate to implement this subtitle
14 (other than section 7045, relating to State access to
15 books and records); and

16 (2) submit to the Congress detailed rec-
17 ommendations on technical and conforming amend-
18 ments to Federal law necessary to carry out this
19 subtitle and the amendments made by this subtitle.

20 **SEC. 7053. TRANSFER OF RESOURCES.**

21 All books and records that relate primarily to the
22 functions transferred to the Commission under this sub-
23 title shall be transferred from the Securities and Exchange
24 Commission to the Commission.



1 **SEC. 7054. EFFECTIVE DATE.**

2 This subtitle shall take effect 12 months after the
3 date of enactment of this subtitle.

4 **SEC. 7055. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated such funds
6 as may be necessary to carry out this subtitle.

7 **SEC. 7056. CONFORMING AMENDMENTS TO THE FEDERAL**
8 **POWER ACT.**

9 (a) CONFLICT OF JURISDICTION.—Section 318 of the
10 Federal Power Act (16 U.S.C. 825q) is repealed.

11 (b) DEFINITIONS.—(1) Section 201(g) of the Federal
12 Power Act (16 U.S.C. 824(g)) is amended by striking
13 “1935” and inserting “2003”.

14 (2) Section 214 of the Federal Power Act (16 U.S.C.
15 824m) is amended by striking “1935” and inserting
16 “2003”.

17 **Subtitle E—PURPA Amendments**

18 **SEC. 7061. REAL-TIME PRICING AND TIME-OF-USE METER-**
19 **ING STANDARDS.**

20 (a) ADOPTION OF STANDARDS.—Section 111(d) of
21 the Public Utility Regulatory Policies Act of 1978 (16
22 U.S.C. 2621(d)) is amended by adding at the end the fol-
23 lowing:

24 “(11) REAL-TIME PRICING.—(A) Each electric
25 utility shall, at the request of an electric consumer,
26 provide electric service under a real-time rate sched-



1 ule, under which the rate charged by the electric
2 utility varies by the hour (or smaller time interval)
3 according to changes in the electric utility's whole-
4 sale power cost. The real-time pricing service shall
5 enable the electric consumer to manage energy use
6 and cost through real-time metering and commu-
7 nications technology.

8 “(B) For purposes of implementing this para-
9 graph, any reference contained in this section to the
10 date of enactment of the Public Utility Regulatory
11 Policies Act of 1978 shall be deemed to be a ref-
12 erence to the date of enactment of this paragraph.

13 “(C) Notwithstanding subsections (b) and (c) of
14 section 112, each State regulatory authority shall
15 consider and make a determination concerning
16 whether it is appropriate to implement the standard
17 set out in subparagraph (A) not later than 1 year
18 after the date of enactment of this paragraph.

19 “(12) TIME-OF-USE METERING.—(A) Each elec-
20 tric utility shall, at the request of an electric con-
21 sumer, provide electric service under a time-of-use
22 rate schedule which enables the electric consumer to
23 manage energy use and cost through time-of-use me-
24 tering and technology.



1 “(B) For purposes of implementing this para-
2 graph, any reference contained in this section to the
3 date of enactment of the Public Utility Regulatory
4 Policies Act of 1978 shall be deemed to be a ref-
5 erence to the date of enactment of this paragraph.

6 “(C) Notwithstanding subsections (b) and (c) of
7 section 112, each State regulatory authority shall
8 consider and make a determination concerning
9 whether it is appropriate to implement the standards
10 set out in subparagraph (A) not later than 1 year
11 after the date of enactment of this paragraph.”.

12 (b) SPECIAL RULES.—Section 115 of the Public Util-
13 ity Regulatory Policies Act of 1978 (16 U.S.C. 2625) is
14 amended by adding at the end the following:

15 “(i) REAL-TIME PRICING.—In a State that permits
16 third-party marketers to sell electric energy to retail elec-
17 tric consumers, the electric consumer shall be entitled to
18 receive the same real-time metering and communication
19 service as a direct retail electric consumer of the electric
20 utility.

21 “(j) TIME-OF-USE METERING.—In a State that per-
22 mits third-party marketers to sell electric energy to retail
23 electric consumers, the electric consumer shall be entitled
24 to receive the same time-of-use metering and communica-



1 tion service as a direct retail electric consumer of the elec-
2 tric utility.”.

3 **SEC. 7062. COGENERATION AND SMALL POWER PRODUC-**
4 **TION PURCHASE AND SALE REQUIREMENTS.**

5 (a) **TERMINATION OF MANDATORY PURCHASE AND**
6 **SALE REQUIREMENTS.**—Section 210 of the Public Utility
7 Regulatory Policies Act of 1978 (16 U.S.C. 824a-3) is
8 amended by adding at the end the following:

9 “(m) **TERMINATION OF MANDATORY PURCHASE AND**
10 **SALE REQUIREMENTS.**—

11 “(1) **OBLIGATION TO PURCHASE.**—After the
12 date of enactment of this subsection, no electric util-
13 ity shall be required to enter into a new contract or
14 obligation to purchase electric energy from a quali-
15 fying cogeneration facility or a qualifying small
16 power production facility under this section if the
17 Commission finds that—

18 “(A) the qualifying cogeneration facility or
19 qualifying small power production facility has
20 access to independently administered, auction-
21 based day ahead and real time wholesale mar-
22 kets for the sale of electric energy;

23 “(B) the electric utility is a member of a
24 regional transmission organization approved by
25 the Commission; or



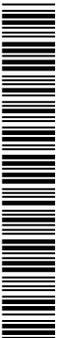
1 “(C) the Commission otherwise finds that
2 the qualifying facility has access to a competi-
3 tive market for wholesale electricity.

4 “(2) REINSTATEMENT OF OBLIGATION TO PUR-
5 CHASE.—

6 “(A) At any time after the Commission
7 makes a finding under paragraph (1) relieving
8 an electric utility of its obligation to purchase
9 electric energy, a qualifying cogeneration facil-
10 ity or a qualifying small power production facil-
11 ity may apply to the Commission for an order
12 reinstating the electric utility’s obligation to
13 purchase electric energy under his section.

14 “(B) After opportunity for a hearing and
15 within 90 days of the filing of an application
16 under subparagraph (A), the Commission shall
17 issue an order reinstating the electric utility’s
18 obligation to purchase electric energy under this
19 section if the Commission finds that the condi-
20 tion in paragraph (1), which terminated the ob-
21 ligation to purchase, no longer exists.

22 “(3) OBLIGATION TO SELL.—After the date of
23 enactment of this subsection, no electric utility shall
24 be required to enter into a new contract or obliga-
25 tion to sell electric energy to a qualifying cogenera-



1 tion facility or a qualifying small power production
2 facility if—

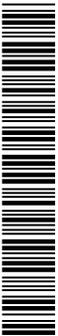
3 “(A) competing retail electric suppliers are
4 willing and able to provide electric energy to the
5 qualifying cogeneration facility or qualifying
6 small power production facility, and,

7 “(B) the electric utility is not required by
8 State law to sell electric energy in its service
9 territory.

10 “(4) NO EFFECT ON EXISTING RIGHTS AND
11 REMEDIES.—Nothing in this subsection affects the
12 rights or remedies of any party under any contract
13 or obligation, in effect or pending approval before
14 the appropriate State regulatory authority or non-
15 regulated electric utility on the date of enactment of
16 this subsection, to purchase electric energy or capac-
17 ity from or to sell electric energy or capacity to a
18 facility under this Act (including the right to recover
19 costs of purchasing electric energy or capacity).

20 “(5) RECOVERY OF COSTS.—

21 “(A) REGULATION.—To ensure recovery
22 by an electric utility that purchases electric en-
23 ergy or capacity from a qualifying facility pur-
24 suant to any legally enforceable obligation en-
25 tered into or imposed under this section of all



1 prudently incurred costs associated with the
2 purchases, the Commission shall issue and en-
3 force such regulations as may be required to en-
4 sure that the electric utility shall recover the
5 prudently incurred costs associated with such
6 purchases.

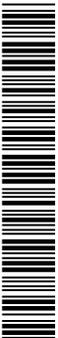
7 “(B) ENFORCEMENT.—A regulation under
8 subparagraph (A) shall be enforceable in ac-
9 cordance with the provisions of law applicable
10 to enforcement of regulations under the Federal
11 Power Act (16 U.S.C. 791a et seq.).”

12 (b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

13 (1) Section 3(17)(C) of the Federal Power Act
14 (16 U.S.C. 796(17)(C)) is amended to read as fol-
15 lows:

16 “(C) ‘qualifying small power production fa-
17 cility’ means a small power production facility
18 that the Commission determines, by rule, meets
19 such requirements (including requirements re-
20 specting minimum size, fuel use, and fuel effi-
21 ciency) as the Commission may, by rule, pre-
22 scribe.”

23 (2) Section 3(18)(B) of the Federal Power Act
24 (16 U.S.C. 796(18)(B)) is amended to read as fol-
25 lows:



1 “(B) ‘qualifying cogeneration facility’
2 means a cogeneration facility that the Commis-
3 sion determines, by rule, meets such require-
4 ments (including requirements respecting min-
5 imum size, fuel use, and fuel efficiency) as the
6 Commission may, by rule, prescribe.”.

7 **Subtitle F—Renewable Energy**

8 **SEC. 7071. NET METERING.**

9 (a) ADOPTION OF STANDARD.—Section 111(d) of the
10 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
11 2621(d)) is amended by adding at the end the following:

12 “(13) NET METERING.—(A) Each electric util-
13 ity shall make available upon request net metering
14 service to any electric consumer that the electric
15 utility serves.

16 “(B) For purposes of implementing this para-
17 graph, any reference contained in this section to the
18 date of enactment of the Public Utility Regulatory
19 Policies Act of 1978 shall be deemed to be a ref-
20 erence to the date of enactment of this paragraph.

21 “(C) Notwithstanding subsections (b) and (c) of
22 section 112, each State regulatory authority shall
23 consider and make a determination concerning
24 whether it is appropriate to implement the standard



1 set out in subparagraph (A) not later than 1 year
2 after the date of enactment of this paragraph.”.

3 (b) SPECIAL RULES FOR NET METERING.—Section
4 115 of the Public Utility Regulatory Policies Act of 1978
5 (16 U.S.C. 2625) is amended by adding at the end the
6 following:

7 “(k) NET METERING.—In undertaking the consider-
8 ation and making the determination under section 111
9 with respect to the standard concerning net metering es-
10 tablished by section 111(d)(13), the term ‘net metering
11 service’ shall mean a service provided in accordance with
12 the following standards:

13 “(1) RATES AND CHARGES.—An electric
14 utility—

15 “(A) shall charge the owner or operator of
16 an on-site generating facility rates and charges
17 that are identical to those that would be
18 charged other electric consumers of the electric
19 utility in the same rate class; and

20 “(B) shall not charge the owner or oper-
21 ator of an on-site generating facility any addi-
22 tional standby, capacity, interconnection, or
23 other rate or charge.

24 “(2) MEASUREMENT.—An electric utility that
25 sells electric energy to the owner or operator of an



1 on-site generating facility shall measure the quantity
2 of electric energy produced by the on-site facility
3 and the quantity of electric energy consumed by the
4 owner or operator of an on-site generating facility
5 during a billing period in accordance with normal
6 metering practices.

7 “(3) ELECTRIC ENERGY SUPPLIED EXCEEDING
8 ELECTRIC ENERGY GENERATED.—If the quantity of
9 electric energy sold by the electric utility to an on-
10 site generating facility exceeds the quantity of elec-
11 tric energy supplied by the on-site generating facility
12 to the electric utility during the billing period, the
13 electric utility may bill the owner or operator for the
14 net quantity of electric energy sold, in accordance
15 with normal metering practices.

16 “(4) ELECTRIC ENERGY GENERATED EXCEED-
17 ING ELECTRIC ENERGY SUPPLIED.—If the quantity
18 of electric energy supplied by the on-site generating
19 facility to the electric utility exceeds the quantity of
20 electric energy sold by the electric utility to the on-
21 site generating facility during the billing period—

22 “(A) the electric utility may bill the owner
23 or operator of the on-site generating facility for
24 the appropriate charges for the billing period in
25 accordance with paragraph (2); and



1 “(B) the owner or operator of the on-site
2 generating facility shall be credited for the ex-
3 cess kilowatt-hours generated during the billing
4 period, with the kilowatt-hour credit appearing
5 on the bill for the following billing period.

6 “(5) SAFETY AND PERFORMANCE STAND-
7 ARDS.—An eligible on-site generating facility and
8 net metering system used by an electric consumer
9 shall meet all applicable safety, performance, reli-
10 ability, and interconnection standards established by
11 the National Electrical Code, the Institute of Elec-
12 trical and Electronics Engineers, and Underwriters
13 Laboratories.

14 “(6) ADDITIONAL CONTROL AND TESTING RE-
15 QUIREMENTS.—The Commission, after consultation
16 with State regulatory authorities and nonregulated
17 electric utilities and after notice and opportunity for
18 comment, may adopt, by rule, additional control and
19 testing requirements for on-site generating facilities
20 and net metering systems that the Commission de-
21 termines are necessary to protect public safety and
22 system reliability.

23 “(7) DEFINITIONS.—For purposes of this sub-
24 section:



1 “(A) The term ‘eligible on-site generating
2 facility’ means—

3 “(i) a facility on the site of a residen-
4 tial electric consumer with a maximum
5 generating capacity of 10 kilowatts or less
6 that is fueled by solar energy, wind energy,
7 or fuel cells; or

8 “(ii) a facility on the site of a com-
9 mercial electric consumer with a maximum
10 generating capacity of 500 kilowatts or
11 less that is fueled solely by a renewable en-
12 ergy resource, landfill gas, or a high effi-
13 ciency system.

14 “(B) The term ‘renewable energy resource’
15 means solar, wind, biomass, or geothermal en-
16 ergy.

17 “(C) The term ‘high efficiency system’
18 means service fuel cells or combined heat and
19 power.

20 “(D) The term ‘net metering’ means serv-
21 ice to an electric consumer under which electric
22 energy generated by that electric consumer
23 from an eligible on-site generating facility and
24 delivered to the local distribution facilities may
25 be used to offset electric energy provided by the



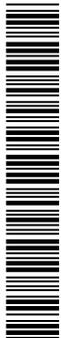
1 electric utility to the electric consumer during
2 the applicable billing period.”

3 **SEC. 7072. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

4 (a) INCENTIVE PAYMENTS.—Section 1212(a) of the
5 Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is
6 amended by striking “and which satisfies” and all that
7 follows through “Secretary shall establish.” and inserting
8 “. If there are insufficient appropriations to make full pay-
9 ments for electric production from all qualified renewable
10 energy facilities in any given year, the Secretary shall as-
11 sign 60 percent of appropriated funds for that year to fa-
12 cilities that use solar, wind, geothermal, or closed-loop
13 (dedicated energy crops) biomass technologies to generate
14 electricity, and assign the remaining 40 percent to other
15 projects. The Secretary may, after transmitting to the
16 Congress an explanation of the reasons therefor, alter the
17 percentage requirements of the preceding sentence.”.

18 (b) QUALIFIED RENEWABLE ENERGY FACILITY.—
19 Section 1212(b) of the Energy Policy Act of 1992 (42
20 U.S.C. 13317(b)) is amended—

21 (1) by striking “a State or any political” and
22 all that follows through “nonprofit electrical cooper-
23 ative” and inserting “a not-for-profit electric cooper-
24 ative, a public utility described in section 115 of the
25 Internal Revenue Code of 1986, a State, Common-



1 wealth, territory, or possession of the United States
2 or the District of Columbia, or a political subdivision
3 thereof, or an Indian tribal government of subdivi-
4 sion thereof,”; and

5 (2) by inserting “landfill gas,” after “wind, bio-
6 mass,”.

7 (c) ELIGIBILITY WINDOW.—Section 1212(c) of the
8 Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is
9 amended by striking “during the 10-fiscal year period be-
10 ginning with the first full fiscal year occurring after the
11 enactment of this section” and inserting “after October
12 1, 2003, and before October 1, 2013”.

13 (d) AMOUNT OF PAYMENT.—Section 1212(e)(1)
14 of the Energy Policy Act of 1992 (42 U.S.C.
15 13317(e)(1)) is amended by inserting “landfill gas,”
16 after “wind, biomass,”.

17 (e) SUNSET.—Section 1212(f) of the Energy
18 Policy Act of 1992 (42 U.S.C. 13317(f)) is amended
19 by striking “the expiration of” and all that follows
20 through “of this section” and inserting “September
21 30, 2023”.

22 (f) AUTHORIZATION OF APPROPRIATIONS.—Section
23 1212(g) of the Energy Policy Act of 1992 (42 U.S.C.
24 13317(g)) is amended to read as follows:

25 “(g) AUTHORIZATION OF APPROPRIATIONS.—



1 “(1) IN GENERAL.—Subject to paragraph (2),
2 there are authorized to be appropriated such sums
3 as may be necessary to carry out this section for fis-
4 cal years 2003 through 2023.

5 “(2) AVAILABILITY OF FUNDS.—Funds made
6 available under paragraph (1) shall remain available
7 until expended.”.

8 **SEC. 7073. RENEWABLE ENERGY ON FEDERAL LANDS.**

9 (a) REPORT TO CONGRESS.—Within 24 months after
10 the date of enactment of this section, the Secretary of the
11 Interior, in cooperation with the Secretary of Agriculture,
12 shall develop and report to the Congress recommendations
13 on opportunities to develop renewable energy on public
14 lands under the jurisdiction of the Secretary of the Inte-
15 rior and National Forest System lands under the jurisdic-
16 tion of the Secretary of Agriculture. The report shall
17 include—

18 (1) 5-year plans developed by the Secretary of
19 the Interior and the Secretary of Agriculture, re-
20 spectively, for encouraging the development of wind
21 and solar energy consistent with applicable law and
22 management plans; and

23 (2) an analysis of—



1 (A) the use of rights-of-ways, leases, or
2 other methods to develop wind and solar energy
3 on such lands;

4 (B) the anticipated benefits of grants,
5 loans, tax credits, or other provisions to pro-
6 mote wind and solar energy development on
7 such lands; and

8 (C) any issues that the Secretary of the
9 Interior or the Secretary of Agriculture have
10 encountered in managing wind or solar energy
11 projects on such lands, or believe are likely to
12 arise in relation to the development of wind or
13 solar energy on such lands;

14 (3) a list, developed in consultation with the
15 Secretary of Energy and the Secretary of Defense,
16 of lands under the jurisdiction of the Department of
17 Energy or Defense that would be suitable for devel-
18 opment for wind or solar energy, and any rec-
19 ommended statutory and regulatory mechanisms for
20 such development; and

21 (4) any recommendations pertaining to the
22 issues addressed in the report.

23 (b) NATIONAL ACADEMY OF SCIENCES STUDY.—

24 (1) IN GENERAL.—Within 90 days after the
25 date of the enactment of this Act, the Secretary of



1 the Interior shall contract with the National Acad-
2 emy of Sciences to—

3 (A) study the potential for the development
4 of wind, solar, and ocean energy on the Outer
5 Continental Shelf;

6 (B) assess existing Federal authorities for
7 the development of such resources; and

8 (C) recommend statutory and regulatory
9 mechanisms for such development.

10 (2) TRANSMITTAL OF RESULTS.—The results of
11 the study shall be transmitted to the Congress with-
12 in 24 months after the date of the enactment of this
13 Act.

14 **SEC. 7074. ASSESSMENT OF RENEWABLE ENERGY RE-**
15 **SOURCES.**

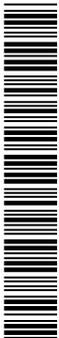
16 (a) RESOURCE ASSESSMENT.—Not later than 3
17 months after the date of enactment of this title, and each
18 year thereafter, the Secretary of Energy shall review the
19 available assessments of renewable energy resources avail-
20 able within the United States, including solar, wind, bio-
21 mass, ocean, geothermal, and hydroelectric energy re-
22 sources, and undertake new assessments as necessary,
23 taking into account changes in market conditions, avail-
24 able technologies, and other relevant factors.



1 (b) CONTENTS OF REPORTS.—Not later than 1 year
2 after the date of enactment of this title, and each year
3 thereafter, the Secretary shall publish a report based on
4 the assessment under subsection (a). The report shall
5 contain—

6 (1) a detailed inventory describing the available
7 amount and characteristics of the renewable energy
8 resources; and

9 (2) such other information as the Secretary be-
10 lieves would be useful in developing such renewable
11 energy resources, including descriptions of sur-
12 rounding terrain, population and load centers, near-
13 by energy infrastructure, location of energy and
14 water resources, and available estimates of the costs
15 needed to develop each resource, together with an
16 identification of any barriers to providing adequate
17 transmission for remote sources of renewable energy
18 resources to current and emerging markets, rec-
19 ommendations for removing or addressing such bar-
20 riers, and ways to provide access to the grid that do
21 not unfairly disadvantage renewable or other energy
22 producers.



1 **Subtitle G—Market Transparency,**
2 **Round Trip Trading Prohibi-**
3 **tion, and Enforcement**

4 **SEC. 7081. MARKET TRANSPARENCY RULES.**

5 Part II of the Federal Power Act is amended by add-
6 ing the following new section at the end thereof:

7 **“SEC. 218. MARKET TRANSPARENCY RULES.**

8 “(a) COMMISSION RULES.—Not later than 180 days
9 after the date of enactment of this section, the Commis-
10 sion shall issue rules establishing an electronic information
11 system to provide the Commission and the public with ac-
12 cess to such information as is necessary or appropriate
13 to facilitate price transparency and participation in mar-
14 kets subject to the Commission’s jurisdiction. Such sys-
15 tems shall provide information about the availability and
16 market price of sales of electric energy at wholesale in
17 interstate commerce and transmission of electric energy
18 in interstate commerce to the Commission, State commis-
19 sions, buyers and sellers of wholesale electric energy, users
20 of transmission services, and the public on a timely basis.
21 The Commission shall have authority to obtain such infor-
22 mation from any person, and any entity described in sec-
23 tion 201(f), who sells electric energy at wholesale in inter-
24 state commerce or provides transmission services in inter-
25 state commerce.



1 “(b) EXEMPTIONS.—The Commission shall exempt
2 from disclosure information it determines would, if dis-
3 closed, (1) be detrimental to the operation of an effective
4 market; or (2) jeopardize system security. This section
5 shall not apply to an entity described in section
6 212(k)(2)(B) with respect to transactions for the purchase
7 or sale of wholesale electric energy and transmission serv-
8 ices within the area described in section 212(k)(2)(A).

9 **SEC. 7082. PROHIBITION ON ROUND TRIP TRADING.**

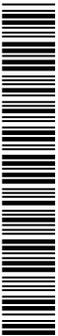
10 Part II of the Federal Power Act is amended by add-
11 ing the following new section at the end thereof:

12 **“SEC. 219. PROHIBITION ON ROUND TRIP TRADING.**

13 “(a) PROHIBITION.—It shall be a violation of this Act
14 for any person, and any entity described in section 201(f),
15 willfully and knowingly to enter into any contract or other
16 arrangement to execute a round-trip trade for the pur-
17 chase or sale of electric energy at wholesale.

18 “(b) DEFINITION OF ROUND-TRIP TRADE.—For the
19 purposes of this section, the term “round-trip trade”
20 means a transaction, or combination of transactions, in
21 which a person or other entity—

22 “(1) enters into a contract or other arrange-
23 ment to purchase from, or sell to, any other person
24 or other entity electric energy at wholesale;



1 “(2) simultaneously with entering into the con-
2 tract described in paragraph (1), arranges a finan-
3 cially offsetting trade with such other person or enti-
4 ty for the same quantity of electric energy so that,
5 collectively, the purchase and sale transactions in
6 themselves result in no financial gain or loss; and

7 “(3) has a specific intent to distort reported
8 revenues, trading volumes, or prices.”.

9 **SEC. 7083. CONFORMING CHANGES.**

10 Sections 201(b)(2) and 201(e) of the Federal Power
11 Act are each amended by striking “or 212” and inserting
12 “212, 215, or 216”. Section 201(b)(2) of such Act is fur-
13 ther amended by striking “and 212” and inserting “, 212,
14 215, and 216”.

15 **SEC. 7084. ENFORCEMENT.**

16 (a) COMPLAINTS.—Section 306 of the Federal Power
17 Act (16 U.S.C. 825e) is amended by—

18 (1) inserting “electric utility,” after “Any per-
19 son,”; and

20 (2) inserting “, transmitting utility,” after “li-
21 censee” each place it appears.

22 (b) REVIEW OF COMMISSION ORDERS.—Section
23 313(a) of the Federal Power Act (16 U.S.C. 8251) is
24 amended by inserting “electric utility,” after “person,” in
25 the first place it appears and by striking “any person un-



1 less such person” and inserting “any entity unless such
2 entity”.

3 (c) CRIMINAL PENALTIES.—Section 316 of the Fed-
4 eral Power Act (16 U.S.C. 825o) is amended—

5 (1) in subsection (a), by striking “\$5,000” and
6 inserting “\$1,000,000”, and by striking “two years”
7 and inserting “five years”;

8 (2) in subsection (b), by striking “\$500” and
9 inserting “\$25,000”; and

10 (3) by striking subsection (c).

11 (d) CIVIL PENALTIES.—Section 316A of the Federal
12 Power Act (16 U.S.C. 825–1) is amended—

13 (1) in subsections (a) and (b), by striking “sec-
14 tion 211, 212, 213, or 214” each place it appears
15 and inserting “Part II”; and

16 (2) in subsection (b), by striking “\$10,000”
17 and inserting “\$1,000,000”.

18 **Subtitle H—Consumer Protections**

19 **SEC. 7091. REFUND EFFECTIVE DATE.**

20 Section 206(b) of the Federal Power Act (16 U.S.C.
21 824e(b)) is amended by—

22 (1) striking “the date 60 days after the filing
23 of such complaint nor later than 5 months after the
24 expiration of such 60-day period” in the second sen-
25 tence and inserting “the date of the filing of such



1 complaint nor later than 5 months after the filing of
2 such complaint”;

3 (2) striking “60 days after” in the third sen-
4 tence and inserting “of”;

5 (3) striking “expiration of such 60-day period”
6 in the third sentence and inserting “publication
7 date”; and

8 (4) in the fifth sentence after “rendered by the”
9 insert “date 60 days after the”.

10 **SEC. 7092. JURISDICTION OVER INTERSTATE SALES.**

11 (a) SCOPE OF AUTHORITY.—Section 206 of the Fed-
12 eral Power Act (16 U.S.C. 824e) is amended by adding
13 the following new subsection at the end thereof:

14 “(f)(1) If an entity that is not a public utility (includ-
15 ing an entity referred to in section 201(f)) voluntarily
16 makes a spot market sale of electric energy and such sale
17 violates Commission rules in effect at the time of such
18 sale, such entity shall be subject to the Commission’s re-
19 fund authority under this section with respect to such vio-
20 lation.

21 “(2) This section shall not apply to any entity
22 that is either—

23 “(A) an entity described in section 201(f);

24 or

25 “(B) a rural electric cooperative



1 that does not sell more than 4,000,000 megawatt
2 hours of electricity per year.

3 “(3) For purposes of this subsection, the term
4 ‘spot market sale’ means an agreement for the sale
5 of electric energy at wholesale in interstate com-
6 merce that is for 24 hours or less and that is en-
7 tered into the day of, or the day prior to, delivery.”.

8 (b) CONFORMING AMENDMENTS.—(1) Section 206 of
9 the Federal Power Act (16 U.S.C. 824e) is amended as
10 follows:

11 (A) In subsection (b), in the seventh sen-
12 tence, by striking “the public utility to make”.

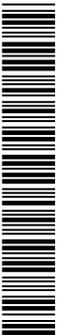
13 (B) In the first sentence of subsection (a),
14 by striking “hearing had” and inserting “hear-
15 ing held”.

16 (2) Section 201(b)(2) of such Act (16 U.S.C. 824(b)(2))
17 is amended as follows:

18 (A) In the first sentence by striking “section
19 210” and inserting “section 206(f), 210,”.

20 (B) In the second sentence by striking “section
21 210” and inserting “206(f), 210,”.

22 (3) Section 201(e) of the Federal Power Act is
23 amended by striking “section 210” and inserting
24 “section 206(f), 210”.



1 (c) UNIFORM INVESTIGATION AUTHORITY.—Section
2 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is
3 amended as follows:

4 (1) By inserting “, electric utility, transmitting
5 utility, or other entity” after “person” each time it
6 appears.

7 (2) By striking the period at the end of the
8 first sentence and inserting the following: “or in ob-
9 taining information about the sale of electric energy
10 at wholesale in interstate commerce and the trans-
11 mission of electric energy in interstate commerce.”.

12 **SEC. 7093. CONSUMER PRIVACY.**

13 The Federal Trade Commission shall issue rules pro-
14 tecting the privacy of electric consumers from the disclo-
15 sure of consumer information obtained in connection with
16 the sale or delivery of electric energy to electric consumers.
17 The Federal Trade Commission shall proceed in accord-
18 ance with section 553 of title 5, United States Code, when
19 prescribing a rule under this section.

20 **SEC. 7094. UNFAIR TRADE PRACTICES.**

21 (a) SLAMMING.—The Federal Trade Commission
22 shall issue rules prohibiting the change of selection of an
23 electric utility except with the informed consent of the
24 electric consumer or if approved by the appropriate State
25 regulatory authority.



1 (b) CRAMMING.—The Federal Trade Commission
2 shall issue rules prohibiting the sale of goods and services
3 to an electric consumer unless expressly authorized by law
4 or the electric consumer.

5 (c) RULEMAKING.—The Federal Trade Commission
6 shall proceed in accordance with section 553 of title 5,
7 United States Code, when prescribing a rule under this
8 section.

9 **Subtitle I—Redundant Reviews**

10 **SEC. 7101. REPEAL OF CERTAIN PROVISIONS OF FEDERAL** 11 **POWER ACT REGARDING DISPOSITION OF** 12 **PROPERTY, CONSOLIDATION, AND PURCHASE** 13 **OF SECURITIES.**

14 Section 203 of the Federal Power Act (16 U.S.C.
15 824b) is repealed.

TITLE VIII—COAL

16 **SEC. 8001. AUTHORIZATION OF APPROPRIATIONS.**

17 (a) CLEAN COAL POWER INITIATIVE.—Except as
18 provided in subsection (b), there are authorized to be ap-
19 propriated to the Secretary to carry out the activities au-
20 thorized by this title \$200,000,000 for each of the fiscal
21 years 2005 through 2013, to remain available until ex-
22 pended.

23 (b) LIMIT ON USE OF FUNDS.—The Secretary shall
24 transmit to the Congress the report required by this sub-



1 section not later than September 30, 2004. Notwith-
2 standing subsection (a), no funds may be used to carry
3 out the activities authorized by this title after September
4 30, 2004, unless the report has been transmitted. The re-
5 port shall include, with respect to subsection (a), a 10-
6 year plan containing—

7 (1) a detailed assessment of whether the aggre-
8 gate funding levels provided under subsection (a) are
9 the appropriate funding levels for that program;

10 (2) a detailed description of how proposals will
11 be solicited and evaluated, including a list of all ac-
12 tivities expected to be undertaken;

13 (3) a detailed list of technical milestones for
14 each coal and related technology that will be pur-
15 sued; and

16 (4) a detailed description of how the program
17 will avoid problems enumerated in General Account-
18 ing Office reports on the Clean Coal Technology
19 Program, including problems that have resulted in
20 unspent funds and projects that failed either finan-
21 cially or scientifically.

22 (c) APPLICABILITY.—Subsection (b) shall not apply
23 to any project begun before September 30, 2003.



1 **SEC. 8002. PROJECT CRITERIA.**

2 (a) IN GENERAL.—The Secretary shall not provide
3 funding under this title for any project that does not ad-
4 vance efficiency, environmental performance, and cost
5 competitiveness well beyond the level of technologies that
6 on a full scale are in operation or have been demonstrated
7 as of the date of the enactment of this Act.

8 (b) TECHNICAL CRITERIA FOR CLEAN COAL POWER
9 INITIATIVE.—

10 (1) GASIFICATION.—(A) In allocating the funds
11 made available under section 8001(a), the Secretary
12 shall ensure that up to 80 percent of the funds are
13 used only for coal-based gasification technologies, in-
14 cluding gasification combined cycle, gasification fuel
15 cells, gasification coproduction and hybrid gasifi-
16 cation/combustion.

17 (B) The Secretary shall set technical milestones
18 specifying emissions levels for projects funded under
19 this paragraph. The milestones shall be designed to
20 increasingly restrict emission levels through the life
21 of the program. The milestones shall be designed to
22 achieve by 2020 coal gasification projects able—

- 23 (i) to remove 99 percent of sulfur dioxide;
24 (ii) to emit no more than .05 lbs of NOx
25 per million BTU;



1 (iii) to achieve substantial reductions in
2 mercury emissions; and

3 (iv) to achieve a thermal efficiency of—

4 (I) 60 percent for coal of more than
5 9,000 Btu;

6 (II) 59 percent for coal of 7,000 to
7 9,000 Btu; and

8 (III) 50 percent for coal of less than
9 7,000 Btu.

10 (2) OTHER PROJECTS.—For projects not de-
11 scribed in paragraph (1), the Secretary shall set
12 technical milestones specifying emissions levels. The
13 milestones shall be designed to increasingly restrict
14 emission levels through the life of the program. The
15 milestones shall be designed to achieve by 2010
16 projects able—

17 (A) to remove 97 percent of sulfur dioxide;

18 (B) to emit no more than .08 lbs of NO_x
19 per million BTU;

20 (C) to achieve substantial reductions in
21 mercury emissions; and

22 (D) except as provided in paragraph (4),
23 to achieve a thermal efficiency of—

24 (i) 45 percent for coal of more than
25 9,000 Btu;



1 (ii) 44 percent for coal of 7,000 to
2 9,000 Btu; and

3 (iii) 42 percent for coal of less than
4 7,000 Btu.

5 (3) CONSULTATION.—Before setting the tech-
6 nical milestones under paragraphs (1)(B) and (2),
7 the Secretary shall consult with the Administrator of
8 the Environmental Protection Agency and interested
9 entities, including coal producers, industries using
10 coal, organizations to promote coal or advanced coal
11 technologies, environmental organizations, and orga-
12 nizations representing workers.

13 (4) EXISTING UNITS.—In the case of projects
14 at existing units, in lieu of the thermal efficiency re-
15 quirements set forth in paragraph (1)(B)(iv) and
16 (2)(D), the projects shall be designed to achieve an
17 overall thermal design efficiency improvement com-
18 pared to the efficiency of the unit as operated, of not
19 less than—

20 (A) 7 percent for coal of more than 9,000
21 Btu;

22 (B) 6 percent for coal of 7,000 to 9,000
23 Btu; or

24 (C) 4 percent for coal of less than 7,000
25 Btu.



1 “(5) PERMITTED USES.—In allocating funds
2 made available under section 8001, the Secretary
3 may fund projects that include, as part of the
4 project, the separation and capture of carbon diox-
5 ide.

6 (c) FINANCIAL CRITERIA.—The Secretary shall not
7 provide a funding award under this title unless the recipi-
8 ent has documented to the satisfaction of the Secretary
9 that—

10 (1) the award recipient is financially viable
11 without the receipt of additional Federal funding;

12 (2) the recipient will provide sufficient informa-
13 tion to the Secretary for the Secretary to ensure
14 that the award funds are spent efficiently and effec-
15 tively; and

16 (3) a market exists for the technology being
17 demonstrated or applied, as evidenced by statements
18 of interest in writing from potential purchasers of
19 the technology.

20 (d) FINANCIAL ASSISTANCE.—The Secretary shall
21 provide financial assistance to projects that meet the re-
22 quirements of subsections (a), (b), and (c) and are likely
23 to—

24 (1) achieve overall cost reductions in the utiliza-
25 tion of coal to generate useful forms of energy;



1 (2) improve the competitiveness of coal among
2 various forms of energy in order to maintain a diver-
3 sity of fuel choices in the United States to meet elec-
4 tricity generation requirements; and

5 (3) demonstrate methods and equipment that
6 are applicable to 25 percent of the electricity gener-
7 ating facilities, utilizing different types of coal, that
8 use coal as the primary feedstock as of the date of
9 the enactment of this Act.

10 (e) FEDERAL SHARE.—The Federal share of the cost
11 of a project funded by the Secretary under this title shall
12 not exceed 50 percent.

13 (f) APPLICABILITY.—No technology, or level of emis-
14 sion reduction, shall be treated as adequately dem-
15 onstrated for purposes of section 111 of the Clean Air Act,
16 achievable for purposes of section 169 of that Act, or
17 achievable in practice for purposes of section 171 of that
18 Act solely by reason of the use of such technology, or the
19 achievement of such emission reduction, by one or more
20 facilities receiving assistance under this title.

21 **SEC. 8003. REPORT.**

22 Not later than 1 year after the date of the enactment
23 of this Act, and once every 2 years thereafter for the fol-
24 lowing 8 years, the Secretary, in consultation with other



1 appropriate Federal agencies, shall transmit to the Con-
2 gress a report describing—

3 (1) the technical milestones set forth in section
4 8002 and how those milestones ensure progress to-
5 ward meeting the requirements of subsections
6 (b)(1)(B) and (b)(2) of section 8002; and

7 (2) the status of projects funded under this
8 title.

9 **SEC. 8004. CLEAN COAL CENTERS OF EXCELLENCE.**

10 As part of the program authorized in section 8001,
11 the Secretary shall award competitive, merit-based grants
12 to universities for the establishment of Centers of Excel-
13 lence for Energy Systems of the Future. The Secretary
14 shall provide grants to universities that can show the
15 greatest potential for advancing new clean coal tech-
16 nologies.

17 **TITLE IX—AUTOMOBILE**
18 **EFFICIENCY**

19 **SEC. 9001. AUTHORIZATION OF APPROPRIATIONS FOR IM-**
20 **PLEMENTATION AND ENFORCEMENT OF**
21 **FUEL ECONOMY STANDARDS.**

22 In addition to any other funds authorized by law,
23 there are authorized to be appropriated to the National
24 Highway Traffic Safety Administration to implement and



1 enforce average fuel economy standards \$5,000,000 for
2 fiscal years 2004 through 2006.

3 **SEC. 9002. STUDY OF FEASIBILITY AND EFFECTS OF RE-**
4 **DUCING USE OF FUEL FOR AUTOMOBILES.**

5 (a) IN GENERAL.—Not later than 30 days after the
6 date of the enactment of this Act, the Secretary of Trans-
7 portation shall enter into an arrangement with the Na-
8 tional Academy of Sciences under which the Academy
9 shall study the feasibility and effects of reducing by model
10 year 2012, by a significant percentage, the use of fuel for
11 automobiles.

12 (b) SUBJECTS OF STUDY.—The study under this sec-
13 tion shall include—

14 (1) examination of, and recommendation of al-
15 ternatives to, the policy under current Federal law
16 of establishing average fuel economy standards for
17 automobiles and requiring each automobile manufac-
18 turer to comply with average fuel economy standards
19 that apply to the automobiles it manufactures;

20 (2) examination of how automobile manufactur-
21 ers could contribute toward achieving the reduction
22 referred to in subsection (a);

23 (3) examination of the potential of fuel cell
24 technology in motor vehicles in order to determine
25 the extent to which such technology may contribute



1 to achieving the reduction referred to in subsection
2 (a); and

3 (4) examination of the effects of the reduction
4 referred to in subsection (a) on—

5 (A) gasoline supplies;

6 (B) the automobile industry, including
7 sales of automobiles manufactured in the
8 United States;

9 (C) motor vehicle safety; and

10 (D) air quality.

11 (c) REPORT.—The Secretary shall require the Na-
12 tional Academy of Sciences to submit to the Secretary and
13 the Congress a report on the findings, conclusion, and rec-
14 ommendations of the study under this section by not later
15 than 1 year after the date of the enactment of this Act.

